

## **MEETING NOTICE**

A meeting of the **Bayside Planning Panel**  
will be held on Level 1, Rockdale Town Hall  
448 Princes Highway, Rockdale  
**on Tuesday 14 November 2017 at 6.00 pm.**

## **ON-SITE INSPECTIONS**

The on-site inspections will precede the meeting.

## **MEETING AGENDA**

### **1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

Bayside Council respects the traditional custodians of the land, and elders past and present, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

### **2 APOLOGIES**

### **3 CONFLICTS OF INTEREST**

### **4 MINUTES OF PREVIOUS MEETINGS**

4.1 Bayside Planning Panel – 24 October 2017

### **5 REPORTS – DEVELOPMENT APPLICATIONS**

5.1 DA-2016/65 – 95 Preddys Road, Bexley North

5.2 DA-2017/360 – 1 Market Street, Rockdale

5.3 DA-2016/41/02 – 405-409 Gardeners Road, Rosebery

5.4 DA-2017/1120 – 63 Dougherty Street, Rosebery – FSR Exceedance

5.5 DA-2017/1127 – 9 Cranbrook Street, Botany – FSR Exceedance

### **6 REPORTS – PLANNING PROPOSALS**

6.1 Post-Exhibition Report, Planning Proposal for 177 Russell Avenue, Dolls Point

Members of the public, who have requested to speak at the meeting, will be invited to address the Panel by the Chairperson.

Meredith Wallace  
**General Manager**

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## **Bayside Planning Panel**

**14/11/2017**

Item No	4.1
Subject	<b>Minutes of Bayside Planning Panel – 24 October 2017</b>
Report by	Fausto Sut, Manager Governance
File	SC17/69

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### **Officer Recommendation**

That the Minutes of the Bayside Planning Panel meeting held on 24 October 2017 be confirmed as a true record of proceedings.

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### **Present**

Jan Murrell, Chairperson and Independent Specialist Member  
Ross Bonthorne, Independent Specialist Member  
Michael McMahon, Independent Specialist Member  
Dustin Moore, Community Representative  
Jesse Hanna, Community Representative

### **Also present**

Michael McCabe, Director City Futures  
Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance and Risk  
Marta Gonzalez-Valdes, Coordinator Major Assessments  
Michael Maloof, Senior Development Assessment Planner  
Eric Alessi, Development Assessment Planner  
Adam Iskander, Development Assessment Planner  
James Arnold, CPS Consulting  
Helen Lai, Student Planner  
Teresita Chan, Student Planner  
Ian Vong, IT Support Officer  
Anne Suann, Governance Officer

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The Chairperson opened the meeting in the Rockdale Town Hall at 6.00 pm.

## **1 Acknowledgement of Traditional Owners**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, and elders past and present, on which this meeting takes place, and acknowledged the Gadigal and Bidjigal clans of the Eora Nation.

## **2 Apologies**

There were no apologies received.



### 3 Conflicts of Interest

There were no conflicts of interest.

### 4 Minutes of Previous Meetings

#### 4.1 Bayside Planning Panel – 10 October 2017

##### Panel Decision

That the Minutes of the Bayside Planning Panel meeting held on 10 October 2017 be confirmed as a true record of proceedings.

### 5 Reports

#### 5.1 DA-2017/353 – 47 Churchill Street, Bardwell Park

An on-site inspection took place at the property earlier in the day.

At the meeting the following person spoke:

- Mr Michael Kitmiridis, applicant, spoke for the officer's recommendation of approval and responded to the Panel's questions.

##### Panel Determination

That this item be deferred for the applicant to consider the Panel's comments on the application, and the matter be referred back to the next meeting if possible.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### 5.2 S82-2017/8 – 40A Stoney Creek Road Bexley

An on-site inspection took place at the property earlier in the day.

At the meeting the following person spoke:

- Mr Matthew Benson, Town Planning Consultant from MB Town Planning, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

### Panel Determination

That Development Application S82A-2017/8 for the adaptive reuse and additions and alterations including first floor to convert to residential dwelling at 40A Stoney Creek Road, Bexley be REFUSED on a merit assessment and the Panel agrees with the reasons for the officer's recommendation of refusal.

The Panel considers the development represents an overdevelopment of the site and the Panel considers that the public benefit of a permissible development replacing the existing use of a shop does not warrant approval of an application that is an overdevelopment and will still remain as the built form of the existing use.

The fundamental reason for refusal is that the site is not suitable for the proposed development under S79C(1)(c).

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 5.3 DA-1997/49/F – 339-377 Forest Road, Bexley

An on-site inspection took place at the property earlier in the day.

At the meeting the following people spoke:

- Mr Maurice Devoy, affected neighbour, spoke against the officer's recommendation of approval.
- Mr Doug Doyle, affected neighbour, spoke for the officer's recommendation of approval.
- Messrs Sam Nicola and Talaat Nasralla and Father Samuel Girguis from the Coptic Orthodox Church spoke for the officer's recommendation of approval and responded to the Panel's questions.

### Panel Determination

The matter is deferred as the development application sought the removal of 10 trees and there is insufficient information to make a determination at this point.

### Panel Note

This item is deferred to allow the applicant, as a matter of urgency, to consider amending this development application and to identify the trees that represent a danger or risk or require tree management as assessed by an arborist.

Following the above, the applicant must consider an overall landscape master plan for the total site that shows existing landscaping and trees with reference to the landscaping carried out in accordance with the approved landscape plan in the previous development consent and any amendments sought.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### **5.4 DA-2017/227 – 6-8 Cecil Street, Monterey**

An on-site inspection took place at the property earlier in the day.

At the meeting the following people spoke:

- Mr Anthony Di Stefano, affected neighbour, spoke against the officer's recommendation of approval and responded to the Panel's questions.
- Mr George Lloyd, Consulting Town Planner, spoke for the officer's recommendation of approval on behalf of the applicant, Design Studio 407, and responded to the Panel's questions.
- Mr Leo Sokias, architect for Design Studio 407, spoke for the officer's recommendation of approval, and responded to the Panel's questions.

#### **Panel Determination**

- 1 That Development Application DA-2017/227 for the Construction of a four (4) storey residential flat building comprising nine (9) residential units, basement carparking and demolition of existing buildings at 6 and 8 Cecil Street, Monterey be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions of consent attached to this report, and the deletion of Condition 53.
- 2 That the Panel notes that the driveway on the western boundary adjoining No 10 is conditioned to have a 1.6 m landscaping area and this requires the submission of an amended plan to the Council. Such plan is to also include appropriate screening to balconies on the western elevation, and the suitability of tree species and distance from the western boundary must also be addressed.
- 3 That the objectors be advised of the Bayside Planning Panel's decision.

<b>Name</b>	<b>For</b>	<b>Against</b>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### **5.5 DA-2017/394 – 23 Earlwood Crescent, Bardwell Park**

An on-site inspection took place at the property earlier in the day.

At the meeting the following people spoke:

- Mr Anthony James, applicant, spoke for the officer's recommendation of approval and responded to the Panel's questions.
- Mr Boris Markovski, applicant, spoke for the officer's recommendation of approval and responded to the Panel's questions.

#### **Panel Determination**

- 1 That the Bayside Planning Panel supports the variation to Clause 4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011 in accordance with the Clause 4.6 variation request submitted by the applicant.
- 2 That Development Application DA-2017/394 for the construction of a split level residential dwelling at 23 Earlwood Crescent, Bardwell Park be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 3 That the objectors be advised of the Bayside Planning Panel's decision.

<b>Name</b>	<b>For</b>	<b>Against</b>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 5.6 DA-2017/429 – 3 Holland Avenue, Rockdale

An on-site inspection took place at the property earlier in the day.

At the meeting the following people spoke:

- Ms Saidie Mir, affected neighbour, spoke against the officer's recommendation of approval.
- Mr John Tsekenes, affected neighbour, spoke against the officer's recommendation of approval.
- Ms Karen Wong, owner, spoke for the officer's recommendation of approval.
- Mr Warren Chan, owner, spoke for the officer's recommendation of approval.
- Mr Paul Lamb, architect, spoke for the officer's recommendation of approval and responded to the Panel's questions.

### Panel Determination

- 1 That this Development Application be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions of consent attached to this report, and subject to:
  - an amendment to the plans to set the dressing room external wall back to the blade;
  - the requirement for an amended landscape plan to show the whole of the site including landscaping to soften the garage and frontage and landscaping to the northern and southern boundaries, and including necessary retaining walls on the boundaries.
- 2 That the objectors be advised of the Bayside Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael McMahon	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Chairperson closed the meeting at 9.35 pm.

Jan Murrell  
Chairperson  
Bayside Planning Panel

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## **Bayside Planning Panel**

**14/11/2017**

Item No	5.1
Application Type	Development Application
Application Number	DA-2016/65
Lodgement Date	17/08/2015
Property	<b>95 Preddy's Road Bexley North NSW 2207</b>
Owner	Ms S Hashem
Applicant	Ms A Salameh
Proposal	Proposed detached dual occupancy. Retaining existing dwelling and construction of a new two storey dwelling with basement. Consolidation of 4 lots into 2 lots & Torrens Title subdivision
No. of Submissions	No submissions
Cost of Development	\$400,000
Report by	Michael Maloof, Senior Development Assessment Planner

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## **Background**

On Tuesday 27 June 2017 the current application was put before the Bayside Planning Panel (BPP) with a recommendation for approval subject to conditions (please refer to the Planning Assessment Report attached). The Bayside Planning Panel considered the application and resolved the following:

*That Development Application DA-2016/65 for a proposed detached dual occupancy, retaining the existing dwelling and construction of a new two storey dwelling with basement and consolidation of 4 lots into 2 lots and Torrens Title subdivision be DEFERRED to allow the applicant to submit further information to allow a comprehensive assessment of the development given its proximity to a major stormwater channel.*

*The Panel requires the applicant to submit details as follows within a period of three months:*

- *Details of site levels (spot levels and RLs).*
- *A minimum of three cross-sections through the site to also show the stormwater channel and the boundary conditions.*
- *A minimum of three cross-sections as above showing the relationship of the proposed dwelling.*
- *Details of the proposed new garage for the existing dwelling (plans, sections, elevations including street elevations).*
- *A long section of the driveway.*

- *Details of the extent and finished levels of the proposed fill including any retaining wall structure, in particular to the canal.*
- *Landscape plan showing suitable replacement plantings.*
- *Details of fencing to all boundaries.*

*The Council is to send a follow up letter to Sydney Water for comment given the proximity to the stormwater channel. The Panel unanimously decided that the matter be deferred to allow the applicant to submit additional information and for this to be referred back to the Panel following Council officer's assessment report.*

On Wednesday 28 June 2017 the application was referred to Sydney Water who considered the application and the very next day objected to the scheme. Below is a summary of the grounds of objection.

*Sydney Water object to the current proposal as it appears there are filling and building structures within the Sydney Water easement.*

- *Filling the Sydney Water easement and adjacent to Sydney Water's Open Stormwater Chanel*
- *No changes to the existing surface level within Sydney Water easement are to be made as part of this development.*
- *Proponent is required to provide survey details to ensure that this requirement is met.*
- *No driveway is to be proposed within 1m from the outside face of the stormwater channel. The proposed driveway is to be revised to satisfy this requirement.*
- *Fencing along the Sydney Water's stormwater channel is to be pool fence or similar where flood water and overland flow should be able to flow both direction across the fence. No masonry fence or similar would be permitted along the Sydney Water's stormwater channel.*
- *No building or permanent structure is to be constructed within the easement. This clearance requirement would apply for unlimited depth and height.*
- *The applicant is required to submit the elevation drawings with the easement boundary, to ensure that the proposed buildings and permanent structures are away from the easement.*
- *Some of the submitted drawings suggest that building walls and roof eve may be encroached into the Sydney Water easement.*
- *Council as the flood plain authority, is to ensure that any filling away from the Sydney Water's easement does not have any impact on adjoining properties.*
- *The applicant is required to submit a Flood Impact Assessment report based on a current flood model for the proposed development and identify flood hazards.*
- *The FIA must demonstrate that there are no potential adverse flood impacts offsite due to the development; and evaluate the impacts of flooding on the proposed development.*

On 29 June 2017 the applicant was requested to address the above concerns of Sydney Water in respect to the scheme.

On 30 August 2017 a written letter was forwarded to the applicant to remind them of the Panel's request for amended plans and information and to resubmit before the expiration of the three month period which was on 27 September 2017.

On 22 September 2017 the applicant advised that they were having difficulty in complying with the requirements of Sydney Water due to site constraints and requested a further extension of one month in which to submit the amended plans. On that afternoon the applicant was contacted and given an additional period of 2 weeks in which to submit the information which expired on 11 October 2017.

To date, no amended plans or information have been submitted to Council in respect of the application.

Based on the above, the application is referred back to the Bayside Planning Panel for determination. The application is recommended for Refusal.

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## **Officer Recommendation**

That Development Application DA-2016/65 for a proposed detached dual occupancy, retaining the existing dwelling and construction of a new two storey dwelling with basement and consolidation of 4 lots into 2 lots & Torrens Title subdivision be REFUSED pursuant to Section 80(1)(b) of the Act for the following reasons:

- 1 Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the zone objectives of the R2 Low Density Residential Zone, as per Rockdale Local Environmental Plan 2011 (as amended) given the proposal would adversely impact upon the adjoining properties in respect to stormwater and drainage.
- 2 Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the requirements of Sydney Water in respect to a stormwater channel and as such, the site is not deemed suitable for the proposed residential development given its significant constraints.
- 3 Having regard to the previous reasons noted above, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

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## **Attachments**

- 1 Planning Assessment Report
  - 2 Clause 4.6 Variation – Building Height
  - 3 Site Plan and Elevations
  - 4 Proposed Subdivision Plan
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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/65
<b>Date of Receipt:</b>	17 August 2015
<b>Property:</b>	95 Preddy's Road, BEXLEY NORTH NSW 2207 Lot 1 DP 455499 Lot 2 DP 455499 Lot 3 DP 455499 Lot 4 DP 455499
<b>Owner:</b>	Ms Sandra Hashem
<b>Applicant:</b>	Ms Amani Salameh
<b>Proposal:</b>	Proposed detached dual occupancy. Retaining existing dwelling and construction of a new two storey dwelling with basement. Consolidation of 4 lots into 2 lots & torrens title subdivision
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	No submissions received
<b>Author:</b>	Michael Maloof
<b>Date of Report:</b>	13 June 2017

### Key Issues

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The key issues related to this application are:

- The proposed development fails to satisfy Clause 4.3 of Rockdale Local Environmental Plan 2011 (RLEP2011), which prescribes a maximum height of buildings of 8.5m.
- The application is accompanied by a written Clause 4.6 submission which seeks to vary the numerical provision of Clause 4.3. The proposed maximum height of buildings is 9.475m, which exceeds a 10% variation of the development standard. Accordingly, this application is reported to the Bayside Planning Panel.
- The site is flood affected

### Recommendation

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That this Development Application be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

### Background

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## History

Council's records show that the following applications were previously lodged on the subject site:

- DA-2009/331, Consolidation of 4 lots and Torrens title subdivision into two lots - Approved on 21 May 2010 - this plan included a concept plan for the proposed lot
- CC-2011/297, Construction of driveway retaining wall, drainage and guard rail- Approved on 11 September 2012

The current application the subject of this report (DA-2016/65) was lodged with Council on 17 August 2015 and seeks to retain the existing dwelling house and construct a detached dual occupancy dwelling to the rear comprising a two storey dwelling house with basement storage and attached garage, construct a double garage at the front of the site and consolidate the site (four lots) into 2 lots under Torrens Tittle subdivision.

## Proposal

Council is in receipt of a development application DA-2016/65 at 95 Preddy's Road BEXLEY NORTH NSW 2207, which seeks consent for a detached dual occupancy which will retain the existing dwelling house at the front of the site and construct a new two storey dwelling with basement at the rear fronting Coveney Street with consolidation of 4 existing lots and Torrens Title subdivision into 2 new lots.

The proposal consists of:

- The new dwelling will include an entry, lounge, kitchen, dining/family room, bathroom/laundry on the ground floor, and four bedrooms, ensuite, bathroom and one balcony on the first floor
- A basement storage room (not car parking) which is accessible from within the dwelling house
- One attached single car garage attached to the dwelling with an open single car parking space in front of the dwelling on the driveway and a detached double garage for the front dwelling in the front setback which is lower than the street level
- Vehicular access to site via a driveway directly from Preddy's Road to both dwellings
- Pedestrian entry to the proposed dwelling will be at the end of the driveway (from Preddy's Road) with visitors walking up the driveway to the front door

## Site location and context

The subject site is known as Lots 1, 2, 3 and 4 in DP 455499 at 95 Preddy's Road, BEXLEY NORTH NSW 2207. The site is a triangular shape with a front boundary width of 39.15m which is at an angle resulting in the rear boundary having a width of 2.43m at the Coveney Street frontage. The side boundaries are 52.88m deep (south) and the angled combined boundary (north) is 63.79m. The total site area is 590 sq.m. The topography of the site is such that it has a moderate fall to the front at Preddy's Road from Coveney Street of 1.8m (RL 25.3 to RL 23.5).

The subject site contains a one-storey dwelling house and detached garage at the side of the dwelling along the northern boundary. The site is located on the western side of Preddy's Road between Stoney Creek Road and Alston Street. Adjoining development to both sides of the site includes open space land which is undeveloped and contains an unformed street (Soudan St) to the south and park to the north at 12A Coveney Street. To the west on the opposite side of Coveney Street are single storey dwelling houses and opposite the site to the east on Preddy's Road is the Bexley Swimming Pool entry and car park. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

The proposal will involve the removal of three existing mature trees. However appropriate conditions are to be included in the Draft Notice of Determination regarding protection of existing trees and/or provision of compensatory planting.

## Statutory Considerations

### *Environmental Planning and Assessment Act, 1979*

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration - General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 637192S.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 52 %

Reduction in Water Consumption 42 %

Thermal Comfort Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

#### **Rockdale Local Environmental Plan 2011**

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

### 2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a rear detached dual occupancy development which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

### 2.6 Subdivision - consent requirements

The proposal will include the consolidation of the existing four (4) lots which make up the site into one lot and then the subdivision of the land into two lots under Torrens Title. The proposed lots will have areas of 511m<sup>2</sup> (front) and 464m<sup>2</sup> (rear battle axe lot). As such, the proposal seeks to comply with the requirements of this clause.

### 4.3 Height of buildings

The height of the proposed building is 9.475m (RL 32.375 - NGL RL 22.9) measured from natural ground level which exceeds the maximum height control of 8.5m (by 0.975m or 11.5%) permitted in Clause 4.3 (Height of buildings) of RLEP 2011.

The applicant's request to vary the development standard Clause 4.3 (height of buildings) has been discussed later in this report in accordance with section 4.6 of the Rockdale LEP 2011.

### 4.4 Floor space ratio - Residential zones

The gross floor area of the total residential development on the site has been calculated as 435m<sup>2</sup> over a site area of 1,050m<sup>2</sup>. In this regard, the proposed floor space ratio (FSR) for the entire development is 0.414:1 and therefore does not exceed the maximum FSR for the land (0.5:1) as shown on the Floor Space Ratio Map.

The gross floor area of the proposed rear detached dwelling has been calculated as 275m<sup>2</sup> over a site area of 590m<sup>2</sup> (which includes part of the battle axe handle). In this regard, the proposed floor space ratio (FSR) for the proposed development is 0.47:1 and therefore does not exceed the maximum FSR for the land (0.5:1) as shown on the Floor Space Ratio Map.

Further, the proposed density is in accordance with the desired future character of Rockdale, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in RLEP 2011.

### 4.6 Exceptions to development standards

The applicant seeks to vary the development standard relating to maximum permissible height of building in accordance with Clause 4.6 of the RLEP 2011. The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

With regards to the above, the consent authority is required to consider a written request from the applicant justifying a variation to the standard by demonstrating:

- (3)(a) that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and*
- (3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Further, Clause 4.6(4) requires that development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.*

### **Development Standard to be Varied**

The proposal seeks to vary the maximum height control of 8.5m under clause 4.3 of Council's LEP 2011 which applies to the site. The development proposes a maximum building height of 9.475 metres (RL 32.375), which exceeds the maximum permissible height of 8.5m by 0.975 metres (11.5%).

The objectives of Clause 4.3 of the RLEP 2011 are as follows:

- (a) to establish the maximum height limit within which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and public domain*
- (d) to nominate heights that will provide an appropriate transition in building form and land use intensity.*

### **Justification of the Variation**

Within the Applicant's submitted justification, the following statement is provided:.

- *The height has been increased to meet the flood levels applying to the site (minimal habitable*

floor level)

- *The proposal does not impact on any existing views and does not obstruct sky exposure as the bulk of the building is setback 3m from the existing dwelling and 17m from the nearest street.*
- *The neighboring properties are vacant land have a varying slope with a significant fall. As such, there are no adverse impacts on adjoining dwellings.*
- *Strict compliance with the standard would hinder the economic development of the land despite the proposal having a similar building scale to other recently constructed residential developments*
- *The site is in a unique location with flood management requirements and the variation would have no impacts on any adjoining properties or the amenity of the locality*
- *In this circumstances of the case, strict application of the development standard is unreasonable and inappropriate due to the existing use of land and current environmental character of the locality.*
- *Clause 4.3 has not been excluded from the operation of clause 4.6 of the RLEP 2011*
- *The proposal is consistent with the objectives of the standard being varied.*
- *In this instance, the application of clause 4.6 of the RLEP would provide flexibility and enhance the amenity of the proposed dwelling for the future occupants of the site*
- *Given the context of the site which is located in a valley the proposed variation to the height control is minor and not likely to result in any loss of views from the adjoining properties. It will also allow the use of the rear of the site.*
- *Strict application of the standard is not appropriate in this instance given the unique location and site constraints.*

### **Council's Comments:**

The development seeks consent for a permissible form of development, with Council consent, and is accompanied by a Clause 4.6 submission to vary the maximum permissible height of the building. The development has provided a minimum habitable floor level in accordance with Council's Flood Management Plan dated December 2015 and designed the dwelling house in a manner which is sympathetic to its surrounds. Accordingly, the departure to the standard, as discussed in the applicant's submission above, has successfully demonstrated to have no material impacts on the site or its immediate surrounds. Given the location of the site in the valley along this part of Preddy's Road Council accepts variations to the maximum permissible height of building on the basis of flood affectation.

Strict compliance with the development standard relating to maximum permissible height of building is considered unreasonable and unnecessary in this instance. Insistence upon achieving the relevant development standard for height would thwart the attainment of the objectives of Clause 6.6 of the RLEP 2011 relating to flood planning, namely Clause 6.6(1a) to minimise the flood risk to life and property associated with the use of the land.

Given the location of the subject site the proposed height variation will have minimal adverse impact on the adjoining properties in terms of building dominance, solar access, light and air and therefore the proposed height of 9.475m satisfies the relevant objectives of Clause 4.3 in RLEP 2011.

The proposal satisfies the objectives of the R2 - Low Density Residential Zone by providing for the ongoing housing needs of the community as well as satisfying the objectives of Clause 4.3. The proposed development is, therefore, in the public interest and recommended for approval. Further, the

proposal is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

#### 6.2 Earthworks

Earthworks including excavation are required on site for the proposed basement level. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 90m AHD. The building height is at 9.475m (RL 32.375) and in this regard, it is considered that the proposed building will have minimal adverse impact on the OLS.

#### 6.6 Flood Planning Land

The site is affected by flooding and the proposal has therefore been designed to ensure that the driveway crossing, habitable floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

#### 6.7 Stormwater

The proposal involves the construction of an on site detention system to manage stormwater. The proposed stormwater system was referred to and has been considered by Council's Development Engineer however it did not comply with the requirements of the latest flood study submitted for the site. As such, the stormwater plans submitted with the application are not consistent with the requirements of this clause. The application was referred to Council's Development Engineer who carefully considered the scheme in respect to function and flood affectation. An amended flood study and corresponding amendments to the architectural plans were required to address the flood matters on the site. Based on a revised flood study submitted with the application and the latest amendments to the design of the rear detached dwelling, the amended application was referred to Council's Stormwater Projects Engineer who raised no objections as the design corresponded to the flood study.

Notwithstanding this, Council's DCP Technical Specification - Stormwater Management requires the provision of a rainwater tank for each dwelling and this has not been provided in the latest stormwater plans. As such, a suitable condition has been imposed in the draft Determination Notice requiring the submission of a revised stormwater plan details of which are to be submitted with the Construction Certificate. Accordingly, the proposal, as conditioned, will satisfy the requirements of this clause.



### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

#### **Rockdale Development Control Plan 2011**

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.3 Flood Risk Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.6 Development on Sloping Sites	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Dual Occupancy	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - Low and medium density residential	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.6 Parking Rates - Dual Occupancy	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling	Yes	Yes - see discussion
5.1 Frontage Setback - Rear Lane	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion
5.1 Residential Subdivision	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The site and adjoining properties are located within a valley and have a fall to the north with minimal views out over the curtilage of each parcel of land and the adjacent properties. In this regard, they do not contain any iconic or significant view corridors. As such, the siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

#### 4.1.3 Water Management

The roofwater and runoff is to be directed to an detention tank for each dwelling. A stormwater plan has been submitted with the application. However, as stated previously in section 6.7 of this report, the proposal does not contain a stormwater tank for each dwelling. As such, the current stormwater plans have not been approved and amended plans are required to be submitted with the Construction Certificate. This has been addressed through the imposition of a condition of development consent. Hence, as conditioned, the proposal will comply with the requirements of this clause.

#### 4.1.3 Flood Risk Management

The amended application was referred to Council's Stormwater Projects Engineer who raised no objections to it as it is consistent with the details set out in the flood study report. The application was also referred to Council's Development Engineer who raised no objections to the proposal as it complied with the relevant floor levels. However, the stormwater plans require improvement and subject to the imposition of the draft conditions of development consent will comply with the requirements of this clause. Such conditions include the provision of a stormwater detention tank for each dwelling and submission of details relating to the verification of the hydraulic design. As such, the proposal is acceptable in respect to flood risk management and subject to the imposition of the conditions of development consent, complies with the requirements of this clause.

#### 4.1.4 Soil Management

The Soil & Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

#### 4.1.6 Development on Sloping Sites

The objectives of this clause are to limit site excavation and minimise cut and fill by allowing the building mass to step in accordance with the slope of the land; and to protect the amenity of adjoining properties. In this regard, the topography of the site is unique, such that the site falls significantly to the north adjacent to the water channel. The site falls steeply away from each street frontage at the front (Preddy's Road) and rear (Coveney Street) of the site. The subject site is flood affected and it is proposed to fill part of the site in order for the proposed dwelling to comply with the minimum flood levels applying to the site. In this regard, the proposed dwelling house has been designed appropriately on the flood affected land given the fall of the site.

The dwelling house design includes an appropriate location of a first floor balcony, setbacks, and stepped design to occupy the triangular part of the site at the rear of the existing dwelling. As such, the proposal includes an appropriate design that is not likely to result in any significant adverse amenity impacts. As such, the proposal is acceptable in respect to its design notwithstanding the topography of the site.

Taking into consideration the above, the proposed development appropriately responds to the slope of the land, minimising environmental impacts and amenity impacts on adjoining properties.

#### 4.1.9 Lot size and Site Consolidation - Dual Occupancy

The minimum lot size required by Council's DCP 2011 is 700sq.m with a minimum frontage of 15m for the site. The subject site has a lot size of 1,050 sq.m, which complies with the minimum lot size

requirement. The site has a 39.15m frontage to Preddy's Road and complies with the minimum frontage requirement. The site is made up of four separate lots which are to be consolidated and then subdivided into two lots with one dwelling on the front lot and the rear detached dwelling on the rear lot. In this regard, the subject site complies with the requirements of this clause.

#### 4.2 Streetscape and Site Context - General

The proposal is located in an R2 Low Density Residential Zone. The immediate context is relatively low scale consisting of single and two storey dwellings and dual occupancy developments in a residential precinct. However, the area is undergoing change, as reflected in a number of new two storey residential developments. The proposed development comprises a two storey detached dwelling with a basement storage level and is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context.

The proposed dwelling will be located in the rear yard of the subject site and is not visible from Preddy's Road. It will be located lower than street level but will be partially visible from Coveney Street (west) at the rear of the site. The Coveney Street elevation (west) has been designed with increased articulation including windows, a first floor balcony and visible pedestrian entry door. As such, the proposal will have an appropriate external appearance to the rear. In addition, the proposal has a suitable presentation to the internal driveway with increased pedestrian legibility for people accessing the site from Preddy's Road. In this regard, the proposal has been designed to suit the fall of the land and relates well with the context of the site. In this regard the residential streetscape will be retained and complemented along both Preddy's Road and Coveney Street.

The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of a balcony, pedestrian and vehicular entry at ground level and range materials which adds visual interest to the facades. The dwelling will be constructed in masonry with concrete floors and a tile pitched roof which is consistent with the existing streetscape. The basement storage level is not visible from outside the site and will be accessed internally.

The proposed development will have a front door and lounge room window addressing Coveney Street to the rear, with the building's frontage and entry points being readily apparent from the driveway. The proposed development has been designed with a suitable front balcony and window openings on the first floor that will provide casual surveillance of Coveney street. Further, the proposed fences, landscaping, and other features have been sited so as to provide clearly defined public, semi public and private spaces.

#### 4.3.1 Open Space & Landscape Design - Low & medium density residential

The proposal provides adequate landscaping which exceeds the minimum required open space area of 80m<sup>2</sup> and minimum dimension of 3m for each dwelling (85m<sup>2</sup> and 115m<sup>2</sup>) under clause 4.3.2 of Council's DCP. The landscape areas will provide a suitable curtilage with an appropriate aspect and have the capability to contain storm water runoff. Private open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping.

#### 4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate for the proposed development. The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

#### 4.4.2 Solar Access - Low and medium density residential

Shadow diagrams were submitted with the application and appear to be accurate. The plans indicate the proposed detached dual occupancy will cast a shadow to the south over the unformed road (Soudan Street) during the day in mid winter. However, the proposal affords more than 3 hours of direct solar access to the adjoining residential properties and generally complies with Council's requirements in respect to overshadowing. As such, the proposed development will have minimum impact of the level of sunlight currently received by adjoining and neighbouring residential properties and within the development site.

#### 4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieve natural ventilation and lighting, incorporating minimum ceiling heights of 2.95m and 2.7m to the ground and first floors, respectively.

#### 4.4.5 Visual privacy

The proposed detached dwelling to the rear of the site has been designed with ample setbacks and appropriate window locations which minimise the overlooking of adjoining properties. The building has been sited with ample separation that complies with Council's DCP both between the existing dwelling on the site and those on the adjoining properties.

While the southern side setback is non compliant, the building will only overlook the existing grass of the unformed road (Soudan Street). As such, the proposed dwelling will not result in any significant overlooking and is screened by existing mature trees both within the site and adjoining unformed road to the south.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties and complies with Council's DCP in this regard.

#### 4.4.5 Acoustic privacy

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

#### 4.6 Parking Rates - Dual Occupancy

The development will have minimal impact on access, parking and traffic in the area. Two car parking spaces are proposed for each dwelling in accordance with Council's DCP 2011. The front dwelling will contain a separate double garage while the rear dwelling will contain a single car garage and open car parking space. The proposal is satisfactory in regards to traffic and parking.

#### 4.6 Car Park Location and Design

The proposed car parking spaces for both resultant lots will be accessed from the single driveway along the northern side boundary of the site (off Preddy's Road) which is adjacent to the open stormwater channel on the site. The driveway will be fenced along the northern boundary to ensure vehicles do not enter the channel.

Given the location of the driveway from Preddy's Road at the bottom of the valley which has an acute angle to the street and that cars are parked on either side of Preddy's Road, it is required that vehicles entering and exiting the site do so in a forward direction. The proposal includes an appropriate design that will ensure this can be complied with and a condition of development consent has been imposed in this regard. The parking spaces comply with the minimum dimension and area requirements under

Council's DCP 2011. Accordingly, the proposal is acceptable in respect to car parking location and design.

#### 4.6 Driveway Widths

The existing driveway contains sufficient width of 3.2m to allow vehicular access to and from both dwellings from Preddy's Road. The current vehicle crossing and layback corresponds to the existing driveway and shall be reconstructed according to Council's latest design requirements. This has been addressed by way of a condition of development consent and the application is acceptable in respect to driveway widths.

#### 4.7 Air Conditioning and Communication Structures

The proposal will include residential air conditioners, TV antennas and ancillary structures. A condition has been imposed to ensure that the air conditioning units do not result in "offensive noise" being emitted from the site. The proposal complies with the requirements of clause 4.7 of Council's DCP 2011 and is acceptable in this regard.

#### 5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling

The proposed dwelling is located to the rear of the existing dwelling house and has an internal separation of 3m from the proposed dividing boundary and a separation of 5.5m to the rear of the existing dwelling house at the front of the site. In this regard, the proposed dwelling has a suitable location on the site and will not alter the existing prevailing street setback within Preddy's Road.

Council's DCP 2011 requires a 0.9m ground floor and 1.5m first floor side setback with a minimum 3m ground floor and 6m first floor rear setback. The proposal involves a 0.9m side setback to both the ground and first floors to the south and a minimum of 3m to the northern side boundary along the stormwater canal with a 17.08m rear setback to both the ground and first floors. While the proposal complies with the rear and northern side setback requirement it does not comply with the southern side setback control.

Council's DCP states the following objectives of the side setback control:

- A. To encourage development of a high standard of architectural merit and design*
- B. To ensure the size and location of new dwellings allow for the sharing of views and preserve privacy and sunlight for neighbouring and new residents*
- C. To minimise the impacts of dual occupancy and multi dwelling housing in areas where there is substantial detached housing*
- D. To encourage innovative housing which is pleasant to live in, relates to the existing and future neighbourhood character, is responsive to the site and is environmentally sensitive*
- E. To ensure orderly development of land on large sites and promote good economic use of land with a high standard of site layout and design*
- F. To improve the range and quality of housing and residential environments which meet the diversity of peoples' needs and community expectations about health, safety and amenity*

The subject site adjoins an open space area to the south which is Soudan Street that is unformed road. In this regard, the proposed non compliance with the southern side setback control is not likely to result in any adverse impacts on neighbouring dwellings. In addition, the dwelling house at the front of the site contains a high masonry fence along the southern side boundary at the front and the proposal will continue this fencing along the side boundary to the rear. The unformed street contains significant mature trees which will screen this non compliance setback to the south. As such, the proposal will

have minimal impact on any adjoining property despite the non compliance and will promote good economic use of the land with an appropriate layout and design. Furthermore, the proposal is consistent with the objectives of the side setback control being varied. As such, the proposal is acceptable in respect to the southern side setback control.

The proposal is not considered to adversely impact upon the adjoining dwelling by way of overshadowing and overlooking, and will not significantly reduce the solar access, light and air received by the adjoining dwelling. Therefore, the proposed setbacks are consistent with the objectives of this control. Accordingly, the proposal is consistent with the objectives of and is acceptable in respect to the setback controls applying to the site.

#### 5.1 Frontage Setback - Rear Lane

The subject site fronts Preddy's Road however it has a 2.43m frontage to Coveney Street at the rear.

The site contains an open stormwater channel which crosses underneath the rear boundary at the narrow part of the site. As such, the original scheme submitted to Council included access to Coveney Street. However, due to the change in levels and limited access to the rear, site was amended to include vehicular access from Preddy's Road. As such, the proposal does not include any rear lane access and is acceptable in this regard.

#### 5.1 Building Design - General

The proposed detached dual occupancy development is compatible with the style and design of the surrounding precinct and responds in a positive manner to the context of the site. In this regard, the proposal does not involve any large expanse of walls that are overly dominant and the proposed building contains a northern aspect which steps in and out. The two storey built form is acceptable and appropriately designed such that it does not dominate the site. The proposal complies with the floor space control applying to the land and includes a suitable height with an appropriately designed garage and internal staircase. The development contains a pitched tile roof consistent with the context of the site.

Based on the above, the proposal is consistent with the requirements of clause 5.1 of Council's DCP 2011 in respect to building design.

#### 5.1 Residential Subdivision

The proposal will result in the consolidation of the four (4) existing lots that make up the site and the subdivision into two lots with the front lot (Lot 700) having an area of 511m<sup>2</sup> and a rear lot (Lot 701) having an area of 464m<sup>2</sup>. The subdivision will include a battle axe handle adjacent to the stormwater channel being accessed by each lot which will have direct frontage to Preddy's Road. As such, the proposal will comply with the minimum size lots required under this clause.

The proposed driveway will have a width of 3.2m allowing vehicles to and from both dwellings to enter and exit the site in a forward direction via the same driveway. While the individual battle axe handle has a lot width of less than 3.5m as required by clause 5.1, the proposal will include easements for access over the battle axe handle and front lot to provide a right of way for vehicles via the 3.2m wide driveway on the site. As such, the proposal will comply with the access and subdivision objectives of clause 5.1 of Council's DCP 2011 and is acceptable in this regard.

### **S.79C(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS

*2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

The fire safety matters under the BCA have been considered and conditions of consent are recommended.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

### **S.79C(1)(b) - Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

#### **Natural Hazards**

The property is affected by flooding and the applicant has submitted a flood study as requested by Council. Council's Stormwater Projects Engineer has stated the flood report and corresponding architectural design plans are acceptable with minimal or no impact likely on the adjoining properties. In this regard, the amended scheme is acceptable in respect to natural hazards.

#### **Construction**

The residential building is to be constructed in brick and roof tiles with concrete floors. There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

#### **General**

The proposed detached dwelling house has been assessed against the relevant DCP and found to comply with the controls apart from the height. In this instance, the proposal will have an acceptable height given the site's location in the valley and the flood constraints applying to the land. Appropriate conditions of consent will be included in the consent.

### **S.79C(1)(c) - Suitability of the site**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

### **S.79C(1)(d) - Public submissions**

The development has been notified in accordance with the provisions of Rockdale DCP 2011. Council did not receive any submissions on this proposal.

### **S.79C(1)(e) - Public interest**

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011.

Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

### **S94 Contribution towards provision or improvement of amenities or services**

A Section 94 Contribution Payment is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

### ***Civil Aviation Act, 1988***

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

### **Civil Aviation (Building Control) Regulations 1988**

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

### **Section 6 Prohibition of the construction of buildings of more than 150 feet in height in certain areas**

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations, however the proposed building height at 9.475m will have minimal impact upon the height requirement in the regulations.

## **Schedule 1 - Draft Conditions of consent**

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### **General Conditions**

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Subdivision Plan, Drawing No. 016, Project No. 010_15, Revision B,	Dezcon	12/09/16	26/10/16



Architectural Plans, Drawing Nos. 001 to 010 inclusive, Project No. 010_15, Revision B,	Dezcon	12/09/16	21/09/16
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3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (637192S) other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
Note: For further information please see <http://www.basix.nsw.gov.au>.
6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
7. The proposed dwelling to the rear of the site shall be used as a single occupancy only.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
10. The dwelling located on the eastern part of the site (front) shall be known as 95 Preddy's Road and the dwelling located on the western part of the site (rear) shall be known as 95A Preddy's Road Bexley North.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

11. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention (rainwater tank) system. The registered proprietor will:
  - (i) permit stormwater to be detention (rainwater tank) by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the

- time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
12. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
  13. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  14. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.

### **Prior to issue of the construction certificate**

The following conditions must be completed prior to the issue of the Construction Certificate.

15. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$2,508.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
16. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
17. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
18. A Section 94 contribution of \$5,160.29 shall be paid to Council. Such contributions

are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$3,373.34
Community Services & Facilities	\$ 552.65
Town Centre & Streetscape Improvements	\$ 383.54
Pollution Control	\$ 819.57
Plan Administration & Management	\$ 31.19

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

19. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i. the footings of the proposed structure;
  - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii. all reinforced concrete floor slabs;
  - iv. all reinforced concrete stairs;
  - v. the piers to natural ground or rock, detailing the size and position of the piers;
  - vi. the proposed retaining wall;
  - vii. the work required to stabilise the excavation;
  - viii. the work required to stabilise the footpath area;
  - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x. all structural steel work;
  - xi. first floor joists;
  - xii. fire rated ceilings/fire protective ceilings.
20. A landscape plan, prepared by a qualified Landscape Architect or Landscape Designer/Consultant, shall be submitted to Council or the accredited certifier (AC) for approval with or before the application for a Construction Certificate. The plan shall be at a scale of 1:100 or 1:200 and comply with Rockdale Technical Specification Landscape and all other relevant conditions of this Consent.
21. A suitable qualified engineer is to certify that all new structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
22. All new building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power

points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

23. (a) Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.  
Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

(b) Written approval shall be obtained from Sydney Water for the new drainage connection to the Sydney Water Channel. Stormwater drainage plan shall include all the required connection details to Sydney Water channel accordingly.

Above documents to be submitted to the Certifying Authority prior to the issue of the construction certificate and a copy shall be forwarded to Council as part of Construction Certificate.

24. Prior to issue of the Construction Certificate, longitudinal driveway profiles shall be submitted to Principal Certifying Authority for assessment and approval. The profiles shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
25. Any part of the proposed building within 3m of the proposed detention tank (belowground rainwater tank) shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
26. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.  
Stormwater drainage plan shall be amended as following:
1. Minimum 9,500 litre rainwater tank to be provided for both existing and proposed dwelling.
  2. Minimum 75% of the roof water runoff shall be collected with rainwater tank.
  3. An approval from Sydney Water is required for the final discharge connection to the Sydney Water Channel. Connection details to be included in the detailed stormwater plan.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

27. "A written verification (Flooding/Hydraulic Engineering Design Certificate) from a suitably qualified flooding/hydraulic engineer shall be obtained stating that the Construction certificate plans comply with the Flood Study Report (17/9180) and associated HEC-RAS modelling, dated 23.01.2017 prepared by Pavel Kozarovski

of Kozarovski and Partners, and the development has no adverse impact on flood levels and/or adjoining properties.

The Written verification shall be submitted to and approved by Principal Certifying Authority prior to the issue of a Construction Certificate and a copy shall be forwarded to Council as part of Construction Certificate.”

28. Lot 1, 2 ,3 & 4 of DP 455499 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to the issue of the construction certificate.
29. Prior to the issue of the construction, flood management plan shall be provided in accordance with the flood report prepared by prepared by Pavel Kozarovski of Kozarovski and Partners dated 23/1/2017.

## **Prior to commencement of works**

The following conditions must be completed prior to the commencement of works.

30. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
31. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

32. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
33. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

34. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected around each tree or group of trees which is required to be retained as recommended in the Arborist Assessment Report by McArdle Arboricultural Consultancy dated 20<sup>th</sup> February 2016. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
35. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
36. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
37. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.

### **During demolition / excavation / construction**

The following conditions must be complied with during demolition, excavation and or construction.

38. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
39. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
40. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i) after excavation for, and prior to the placement of, any footings,
    - a. Trench and steel for footings
    - b. Pier/pad holes, and
  - ii) prior to pouring any in-situ reinforced concrete building element,
    - a. Ground floor steel
    - b. First floor steel, and
  - iii) prior to covering the framework for any floor, wall, roof or other building element,
    - a. Bearers and joists
    - b. First floor joists
    - c. Framework
    - d. Damp proof course, and
  - iv) prior to covering waterproofing in any wet areas, and

v) prior to covering any stormwater drainage connections, and  
vi) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request. If Council is appointed as the Principal Certifying Authority, 48 hours notice is to be given that the above works is ready for inspection.

41. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
42. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
43. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
44. When soil conditions require it:
  - i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
45. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
46. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit.

Permits can be obtained from Council's Customer Service Centre.

- A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

47. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

48. The following conditions are necessary to ensure minimal impacts during construction:

- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - a) spraying water in dry windy weather
  - b) cover stockpiles



c) fabric fences

- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
49. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
50. All existing trees located within the site may be removed.
51. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
52. All recommendations contained in the Arborist Assessment Report by McArdle Arboricultural Consultancy dated 20<sup>th</sup> February 2016 shall be implemented and complied with.

### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

53. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
54. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
55. All excess excavated material, demolition material, vegetative matter and builder's

rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.

Note: Burning on site is prohibited.

56. The approved recommendations from the Flood Management plan shall be implemented prior to occupation.
57. At least four (4) locally indigenous native trees of at least 100lt pot size, including one port Jackson Fig (*Ficus rubiginosa*) shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
58. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
59. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
60. Prior to completion of the building works, existing vehicular crossing to be re-constructed to service the property. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
61. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
62. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
63. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the new habitable floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
64. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the garage floor/parking level is either constructed at or above 1% A.E.P Annual Exceedance Probably (AEP) Flood Level OR [in the case of the garage floor/parking level being below the 1% A.E.P Annual Exceedance Probability (AEP) Flood Level] the garage floor/parking level is protected from inundation to a minimum of 500mm above the 1% A.E.P Annual Exceedance Probability (AEP)Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
65. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
66. The owner of the premises is required to comply with the following requirements

when installing a rainwater tank:

- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
- The overflow from the rainwater tank shall be directed to the storm water system.
- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

### **Prior to issue of subdivision certificate**

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

67. Reciprocal rights of carriageway shall be provided over both allotments to allow manoeuvring into and out of the garages. Driveway access handle and area in front of the new garage locate within the proposed Lot 700 shall be shown as right of of reciprocal carriage way in subdivision plan. These provisions are to be put into effect prior to release of the Subdivision Certificate.
68. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
69. The endorsed subdivision certificate shall not be released until completion of the development and the issue of the Final Occupation Certificate.
70. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
71. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

72. The new lots created are to be numbered lot 700 and lot 701.
73. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a

Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.

74. A positive covenant shall be provided over the on-site detention (rainwater tank system) system. A Section 88B Instrument and four copies shall be lodged with the Subdivision Certificate.

## **Roads Act**

75. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) re-construction of existing vehicular crossing;
  - ii) removal of redundant paving;
  - iii) smooth transition with new driveways and footpath areas
76. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
77. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
78. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
79. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

## **Development consent advice**

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- c. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- d. Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to

Council endorsing the Instrument.

- e. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- f. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

## **95 Preddys Road, Bexley 2207**

### **Clause 4.6 Application to vary a development standard Height of Building**

**1. What is the name of the environmental planning instrument that applies to the land.**

Rockdale LEP 2011

**2. What is the zoning of the land.**

R2 Low density residential

**3. What are the objectives of the zone**

To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

**4. What is the development standard being varied.**

Height of building

**5. Under what clause is the development standard listed in the environmental planning instrument.**

Clause 4.3 Height of building

**6. What are the objectives of the development standard**

(a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,

(b) to permit building heights that encourage high quality urban form,

(c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

**7. What is the numeric value of the development standard in the environmental planning instrument.**

Height 8m

**8. What is proposed numeric value of the development standard in the development application.**

Height 9.775m

**9. What is the percentage variation (between the proposal and the environmental planning instrument).**

Height 22.1875%

**10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case**

The variation is for the height of building which has been varied by the requirement to meet the required 1% AEP flood level (RL 24.55 + 500mm= RL 25.05).

This minimum habitable level requires the site to have landfill to allow this RL to function for the proposed dwelling.

The proposal does not impact on existing views and does not obstruct sky exposure as it the bulk of the building is set back 3m from the existing dwelling and 17m from the nearest street. The neighbouring sites are not residential sites; they are vacant lands that have varying slopes in topography. Therefore the variation has no adverse impact on adjoining dwellings.

**11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.**

Strict compliance would hinder the economic development of the land to a similar scale enjoyed by other recent residential developments.

**12. Is the development standard a performance based control.**

No

**13. Would strict compliance with the standard, in this particular case, would be unreasonable or unnecessary.**

The restrictive development standard is not appropriate for this residential area mainly due to the topography of the land and flood management requirements.

The development is in a unique location and due to the flood requirements, the variation would have no adverse impact on adjoining properties or the amenity of the locality.

**14. Are there sufficient environmental planning grounds to justify contravening the development standard.**

The compliance with the development standard is unreasonable and inappropriate due to existing use of land and current environmental character of the locality.

## **Clause 4.6 Rockdale LEP 2011- Height of Building Variation**

As requested by Council the following are answers to sub clauses 1-8 of clause 4.6.

(1) The possibility of having flexibility in the Height of Buildings development standard for the subject dual occupancy development would enhance the development, greatly improve the amenity for the occupants whilst maintaining and contributing to the overall streetscape amenity.

(2) The development standard Height of Buildings is not excluded from the operation of this clause.

(3) Compliance with the Height of Buildings development standard is unreasonable as it would not allow the development to have sufficient living habitable spaces due to the requirement to meet the required 1% AEP flood level (RL 24.55 + 500mm= RL 25.05). Furthermore the encroachment is minor and insignificant. It is not visibly dominant from Preddys Road being setback 20m from the main street frontage and 17m from Coveney Street. The proposal does not obstruct views and all setbacks are compliant from the side boundaries. The restrictive development standard is not appropriate for this proposal which has a unique location and site constraints that cannot be altered. The nature of the topography is quite low in comparison to the streets on either end of the site so a minor height non-compliance is completely reasonable. A development of this nature would have no adverse impact on adjoining properties or the amenity of the locality. There would be no public benefit in requiring the development to meet the development standard in this instance.

(4) This written request has adequately addressed the matters to be demonstrated by subclause (3) and is consistent with the objectives of the standard.

Clause 4.3.(1)

(b) To permit building heights that encourage high quality urban form. This unique location, lot size and existing recent new development has resulted in a very attractive and desirable urban form.

(c) The proposal does not impede on sky exposure or Daylight access to adjoining buildings nor does it impact or overshadow on the public domain opposite.

(d) The development of the subject site in conjunction with the existing and future development of this unique micro area will provide an appropriate transition and land use intensity for the northern end of the Brighton/Sans Souci beach promenade area.

(5) The limited variation to the Height of Buildings development standard would have no significance for State or regional environmental planning.

(6) Not applicable

(7) A matter for Council.

(8) The proposed variation to the Height of Buildings development standard would not contravene clauses 4.3 (2A) 4.4 (2A) (2B) (2C) or (2D).



GENERAL ARCHITECTURAL NOTES:

ALL DIMENSIONS ARE TO BE CONFIRMED ON SITE BY THE BUILDER/ SUBCONTRACTOR PRIOR TO CONSTRUCTION. ANY INCONSISTENCIES MUST BE REPORTED TO THE ARCHITECT BEFORE COMMENCEMENT OF THE WORKS.

THE BUILDER / SUBCONTRACTOR WILL BE HELD RESPONSIBLE FOR ANY CONSTRUCTION DETAILS WHICH HAVE NOT BEEN APPROVED BY THE ARCHITECT.

THE BUILDER / SUBCONTRACTOR WILL BE HELD RESPONSIBLE FOR THE WATER TIGHTNESS OF THE WHOLE BUILDING FOR A MINIMUM PERIOD OF SEVEN YEARS AFTER THE DATE OF PRACTICAL COMPLETION.

IT IS THE CONTRACTORS RESPONSIBILITY TO HAVE ALL ARCHITECTURAL AND STRUCTURAL DOCUMENTATION INCLUDING ALL SITE INSTRUCTIONS AND ALL DETAILS REQUIRED, ISSUED DURING THE COURSE OF CONSTRUCTION, APPROVED BY THE RELEVANT AUTHOURITIES INCLUDING LOCAL COUNCIL, WATER BOARD ETC. BEFORE ANY WORKS WHATSOEVER, MAY PROCEED.

ALL CONTROL JOINTS AND EXPANSION JOINTS IN WALLS, FLOORS, AND OTHER LOCATIONS SHALL BE IN STRICT ACCORDANCE WITH STRUCTURAL ENGINEERING DETAILS.

MEASUREMENTS FOR THE FABRICATION OF SECONDARY COMPONENTS SUCH AS WINDOWS, DOORS, STRUCTURAL STEEL COMPONENTS AND THE LIKE ARE NOT TO BE TAKEN FROM THESE DOCUMENTS. MEASUREMENTS MUST BE TAKEN OFF SITE TO SUIT THE WORKS AS CONSTRUCTED.

ALL STRUCTURAL COMPONENTS SHALL BE IN STRICT ACCORDANCE WITH THE DETAILS PROVIDED BY THE ENGINEER. DETAILS SPECIFICATIONS AND THOSE DETAILS THAT FORM PART OF THE TOTAL SPECIFICATION MUST BE ADHERED TO.

ALL EXISTING STRUCTURES NEED TO BE EXAMINED FOR STRUCTURAL ADEQUACY. IT IS THE CONTRACTOR’S RESPONSIBILITY TO ENSURE THAT A CERTIFICATE OF STRUCTURAL ADEQUACY IS AVAILABLE PRIOR TO THE COMMENCEMENT OF WORKS.

NO CONSTRUCTION WORKS SHALL COMMENCE UNTIL A SITE SURVEY HAS BEEN COMPLETED.

THIS WORK MUST BE COMPLETED BY A REGISTERED SURVEYOR.

FOUNDATION SETOUT IS TO BE PERFORMED BY A REGISTERED SURVEYOR AND RECOVERY PEGS ARE TO BE PROTECTED AT ALL TIMES DURING CONSTRUCTION.

ALL TIMBER WORK IS TO COMPLY WITH THE REQUIREMENTS OF THE "LIGHT TIMBER FRAMING CODES" S.A.A CODES, AND ANY STRUCTURAL ENGINEERS DETAILS AND SPECIFICATIONS.

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ALL ARCHITECTURAL DOCUMENTS ARE TO BE READ IN CONJUNCTION WITH THE STRUCTURAL ENGINEERS DETAILS AND SPECIFICATIONS.

GENERAL CONSTRUCTION NOTES:

GLAZING TO BE IN ACCORDANCE WITH AS1288–1994.

WET AREAS TO BE IMPERVIOUS TO WATER IE WALL SURFACES AND SUBSTRATES OF SHOWER ENCLOSURES, OR IF UNENCLOSED, WITHIN 1.5M HORIZONTALLY TO A HEIGHT OF 1.8M ABOVE THE FLOOR ; AND BEHIND ANY BATH, BASIN, SINK ETC IF WITHIN 75MM OF A WALL TO A HEIGHT OF 150MM ABOVE THE FIXTURE. EACH BATHROOM AND LAUNDRY FLOOR MUST BE GRADED TO A PERMIT DRAINAGE TO A FLOOR WASTE.

BUILDING ELEMENTS WITHIN CLASS 2 BUILDING SHOULD PROVIDE THE FOLLOWING STC LEVELS.

FLOOR SEPARATING SOLE OCCUPANCY UNITS: 50

WALLS SEPARATING SOLE OCCUPANCY UNITS: 50

WALLS SEPARATING A BATHROOM, LAUNDRY OR KITCHEN IN ONE SOLE OCCUPANCY UNIT FROM A HABITABLE ROOM IN AN ADJOINING SOLE OCCUPANCY UNIT, 55 AND IMPACT RESISTANCE.

SOIL AND WASTE PIPES PASSING THROUGH MORE THAN ONE SOLE OCCUPANCY UNIT: 45 WHERE PASSING THROUGH A HABITABLE.

30 WHERE PASSING THROUGH A BATHROOM, KITCHEN OR LAUNDRY.

NON SLIP FINISHES TO BE PROVIDED TO ALL STEPS, RAMPS AND LANDINGS.

MAXIMUM RISER HEIGHTS TO ALL STEPS NOT TO EXCEED 190MM AND TREADS TO BE MINIMUM OF 250MM. THE RATIO OF TWICE THE RISER HEIGHT PLUS THE TREADS TO BE BETWEEN 550MM AND 700MM. A 1000MM HIGH BALUSTRADE (OR 865 ABOVE THE LINE OF STAIR NOSINGS), IS TO BE PROVIDED TO ALL STAIRS AND LANDINGS WITH MAXIMUM BALUSTRADE OR RISER OPENINGS ARE NOT TO EXCEED 125MM. MINIMUM CLEAR HEIGHT TO STAIRS TO BE 2000MM FOR A MINIMUM CLEAR WIDTH OF 1000MM.

ALL PENETRATIONS THROUGH FIRE RATED MEMBERS ARE TO BE SEALED USING FIRE COLLARS OR FIRE SEAL AS APPROPRIATE.

ALL TIMBER FRAMING TO BE IN ACCORDANCE WITH THE TIMBER FRAMING MANUAL AS 1684 1999.

SEPARATING WALLS WHICH EXTEND UP TO THE ROOF COVERING MUST BE PACKED WITH A SUITABLE FIRE RESISTING MATERIAL.

ANY EXPOSED STRUCTURAL STEELWORK IS TO BE HOT DIP GALVANISED EG. LINTELS, WALL TIES, ETC.

SMOKE ALARMS ARE TO BE WIRED AND IN ACCORDANCE WITH AS 3786–1993.

ALL NEW STORMWATER DOWNPIPES ARE TO BE CONNECTED TO THE EXISTING STROMWATER SYSTEM AND MUST BE SPACED AT ENTRIES NOT EXCEEDING 12 METRES.

EXHAUST FANS ARE TO DISCHARGE AIR DIRECTLY TO OUTSIDE

AT A RATE OF AT LEAST 25L/S

PROTECTION FROM TERMITES IS TO BE INSTALLED IN ACCORDANCE WITH AS 3660.1 – 1995

ARTICULATION JOINTS FOR MASONARY WALLS: MUST NOT EXCEED 6 METRE CENTRES; AND BE NOT CLOSER THAN THE HEIGHT OF THE WALL AWAY FROM CORNERS.

OPENINGS IN EXTERNAL WALLS SHALL BE PROVIDED WITH VERTICAL SEPARATION IN THE FORM OF SPANDRELS OR THE LIKE.

calculations

	CONTROL	ALLOWABLE	PROPOSED
	TOTAL SITE AREA		1050 sqm
	SITE WIDTH		39.15 m
	TOTAL LANDSCAPED AREA		128 sqm = 20%
	TOTAL FSR	50% = 525 sqm	INCL. GARAGES 495 sqm
PROPOSED DWELLING	SITE AREA		460 sqm
	FRONT SETBACK		17080 mm
	MINIMUM SIDE SETBACK		900 mm
	SIDE SETBACK TO DWELLING 1		500 mm
	PRIVATE OPEN SPACE	80 sqm	91 sqm
	GROUND FLOOR AREA		79 sqm
	FIRST FLOOR AREA		89 sqm
	BASEMENT AREA		107 sqm
	GARAGE AREA		18 sqm
	TOTAL AREA EXCLUDING GARAGE		275 sqm
EXISTING DWELLING	SITE AREA		590 sqm
	EXISTING FLOOR AREA		160 sqm
	PROPOSED GARAGE		42 sqm
	PRIVATE OPEN SPACE	80 sqm	103 sqm
	TOTAL AREA EXCLUDING GARAGE		160 sqm

BASIX COMMITMENTS

Water Commitments

Fixtures

The applicant must install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development.

The applicant must install a toilet flushing system with a minimum rating of 5 star in each toilet in the development.

The applicant must install taps with a minimum rating of 5 star in the kitchen in the development.

The applicant must install basin taps with a minimum rating of 5 star in each bathroom in the development.

Alternative water

Rainwater tank

The applicant must install a rainwater tank of at least 1500 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.

The applicant must configure the rainwater tank to collect rain runoff from at least 58 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).

The applicant must connect the rainwater tank to:

- all toilets in the development
- at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)

Thermal Comfort Commitments

Floor, walls and ceiling/roof

The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications:

Construction Additional insulation required (R-Value) Other specifications

floor – concrete slab on ground nil

external wall – cavity brick 0.50 (or 1.17 including construction)

internal wall shared with garage – single skin masonry nil

ceiling and roof – flat ceiling / flat roof, framed ceiling: 2.5 (up), roof: foil/sarking framed; dark (solar absorptance > 0.70)

Windows, glazed doors and skylights

The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. Relevant overshadowing specifications must be satisfied for each window and glazed door.

The dwelling may have 1 skylight (<0.7 square metres) and up to 2 windows/glazed doors (<0.7 square metres) which are not listed in the table.

The following requirements must also be satisfied in relation to each window and glazed door:

- Except where the glass is 'single clear' or 'single toned', each window and glazed door must have a U-value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) +/-10% of that listed. Total system U-values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.
- Vertical external louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.

Energy Commitlments

Hot water

The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 5 stars.

Cooling system

The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 3-phase airconditioning; Energy rating: EER 3.5 – 4.0

The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 3-phase airconditioning; Energy rating: EER 3.5 – 4.0

The cooling system must provide for day/night zoning between living areas and bedrooms.

Heating system

The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 3-phase airconditioning; Energy rating: EER 3.5 – 4.0

The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 3-phase airconditioning; Energy rating: EER 3.5 – 4.0

The heating system must provide for day/night zoning between living areas and bedrooms.

Ventilation

The applicant must install the following exhaust systems in the development:

At least 1 Bathroom: no mechanical ventilation (ie. natural); Operation control: n/a

Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off

Laundry: natural ventilation only, or no laundry; Operation control: n/a

Artificial lighting

The applicant must ensure that the “primary type of artificial lighting” is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word “dedicated” appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps:

- at least 4 of the bedrooms / study;
- at least 2 of the living / dining rooms;

Natural lighting

The applicant must install a window and/or skylight in 2 bathroom(s)/toilet(s) in the development for natural lighting.

Other

The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.

The applicant must construct each refrigerator space in the development so that it is “well ventilated”, as defined in the BASIX definitions.

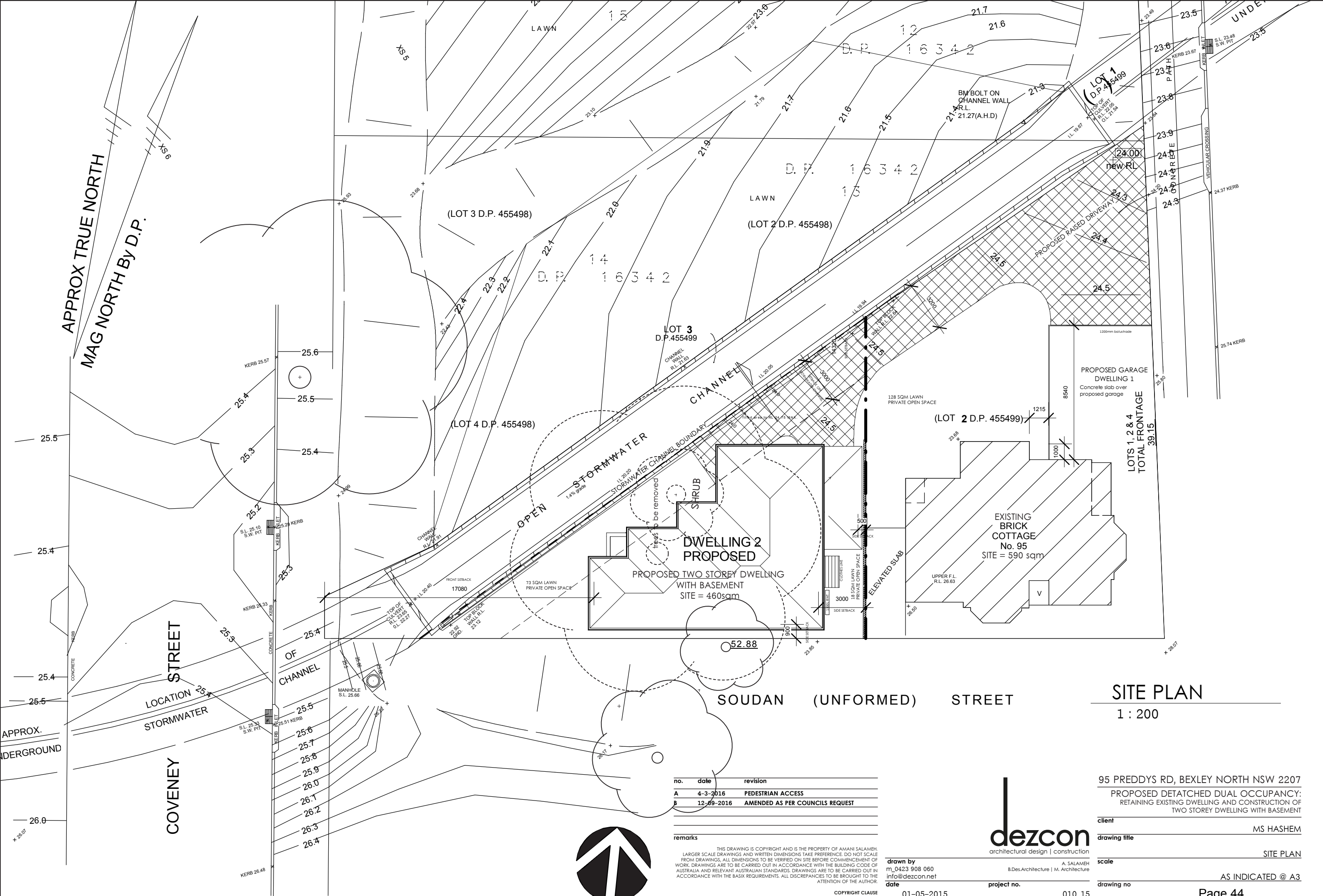
The applicant must install a fixed outdoor clothes drying line as part of the development.

no.	date	revision
<b>A</b>	<b>4-3-2016</b>	<b>FENCE DETAIL ADDED</b>
<b>B</b>	<b>12-09-2016</b>	<b>AMENDED AS PER COUNCILS REQUEST</b>

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<b>date</b> 01-05-2015	<b>checked by</b> AS
<b>revision no.</b> B	

95 PREDDYS RD, BEXLEY NORTH NSW 2207	
PROPOSED DETACHED DUAL OCCUPANCY: RETAINING EXISTING DWELLING AND CONSTRUCTION OF TWO STOREY DWELLING WITH BASEMENT	
<b>client</b>	MS HASHEM
<b>drawing title</b>	SPECIFICATIONS & CALCULATIONS
<b>scale</b>	AS INDICATED @ A3
<b>drawing no</b>	Page 43
001	



SITE PLAN

1 : 200

no.	date	revision
A	4-3-2016	PEDESTRIAN ACCESS
B	12-09-2016	AMENDED AS PER COUNCILS REQUEST

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info@dezcon.net  
date

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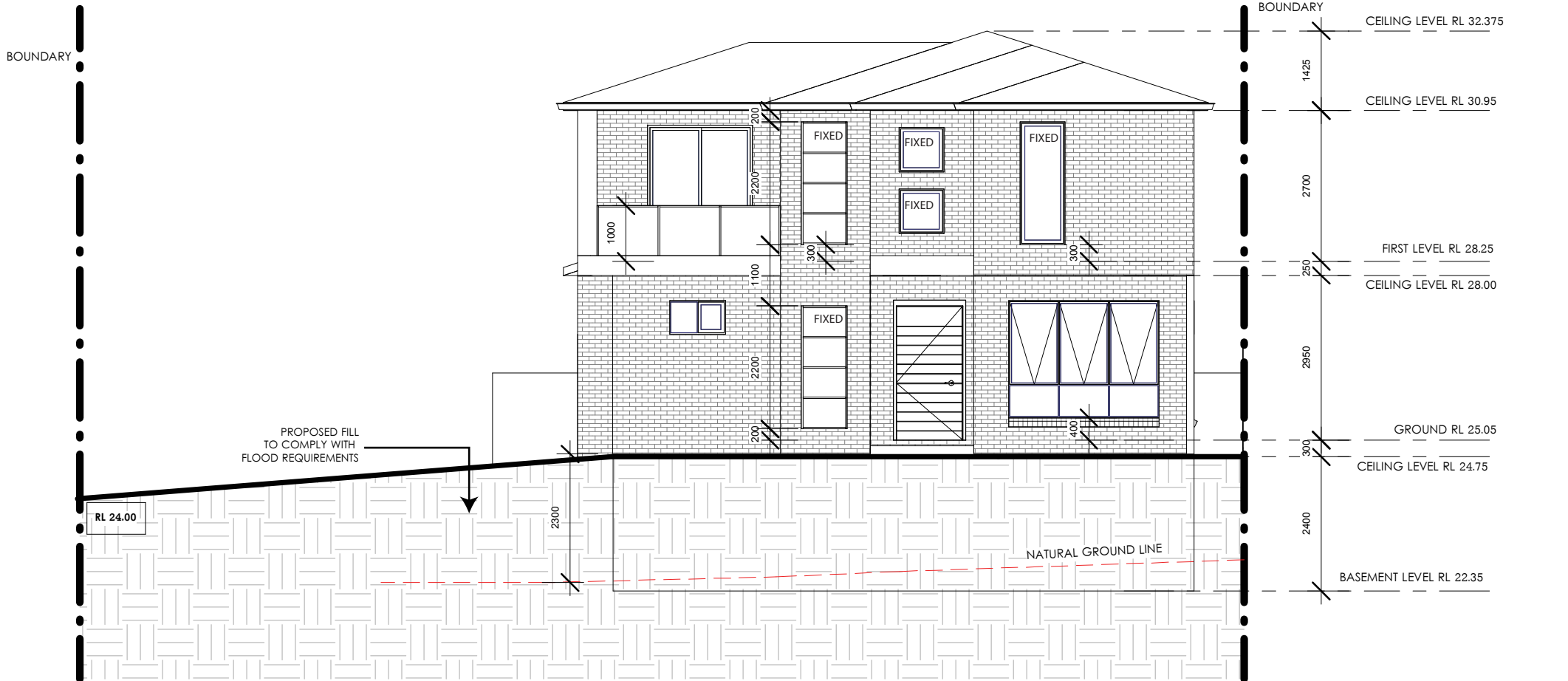
PROPOSED DETACHED DUAL OCCUPANCY:  
RETAINING EXISTING DWELLING AND CONSTRUCTION OF  
TWO STOREY DWELLING WITH BASEMENT

client MS HASHEM

drawing title SITE PLAN

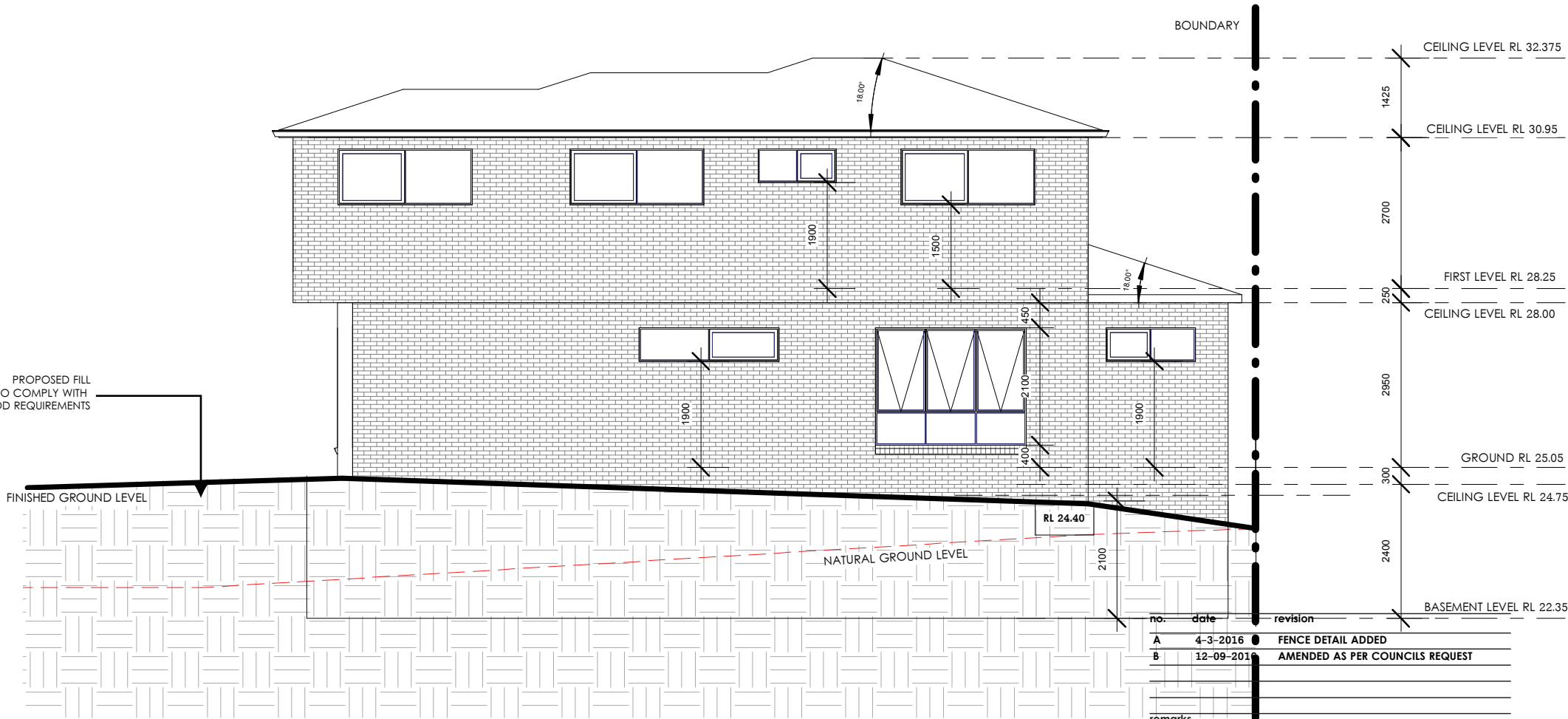
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drawing no



SOUTH WEST ELEVATION

1 : 100



SOUTH EAST ELEVATION

1 : 100

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A	4-3-2016	FENCE DETAIL ADDED
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info@dezcon.net  
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B.Des.Architecture | M. Architecture

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PROPOSED DETACHED DUAL OCCUPANCY:  
RETAINING EXISTING DWELLING AND CONSTRUCTION OF  
TWO STOREY DWELLING WITH BASEMENT

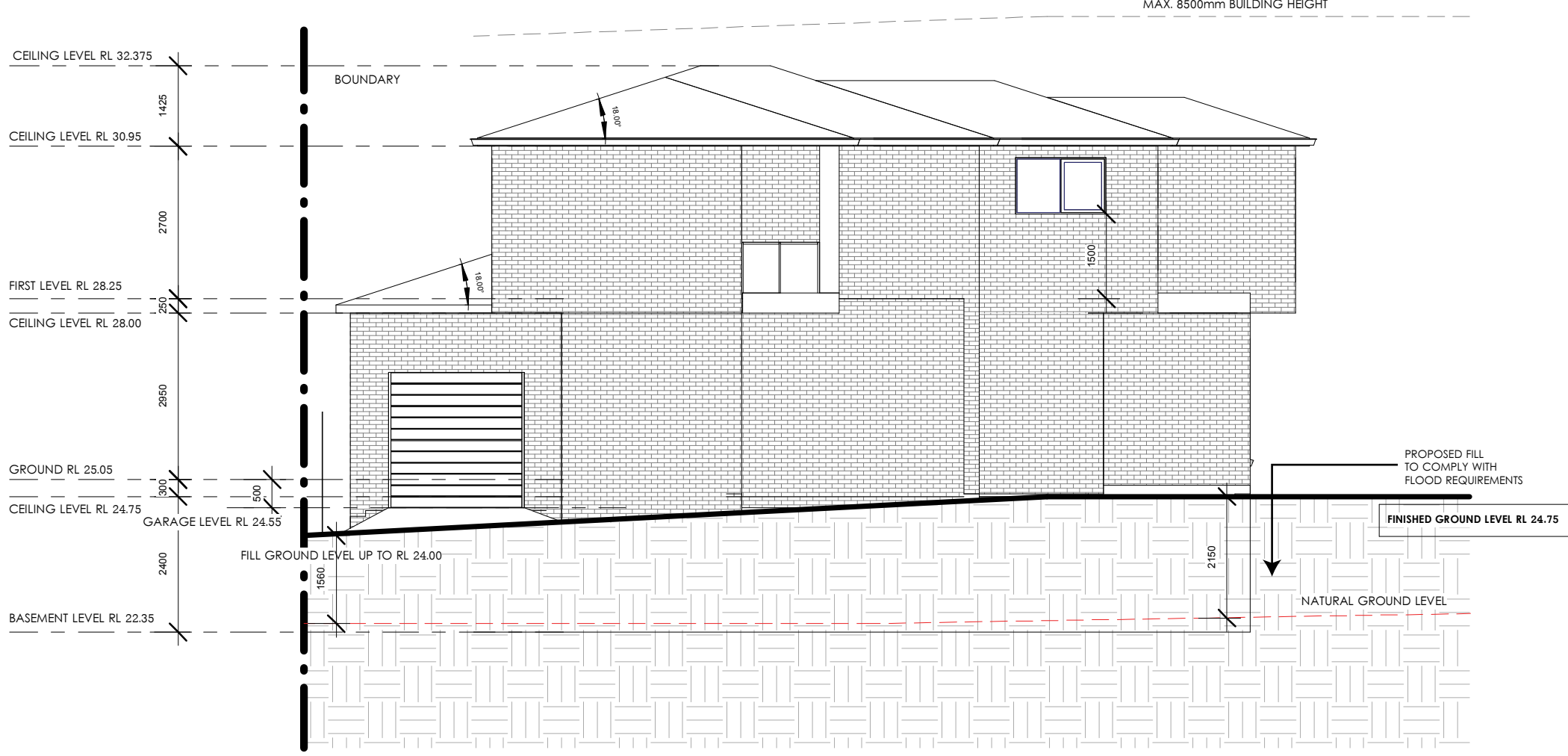
client  
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drawing title  
ELEVATIONS

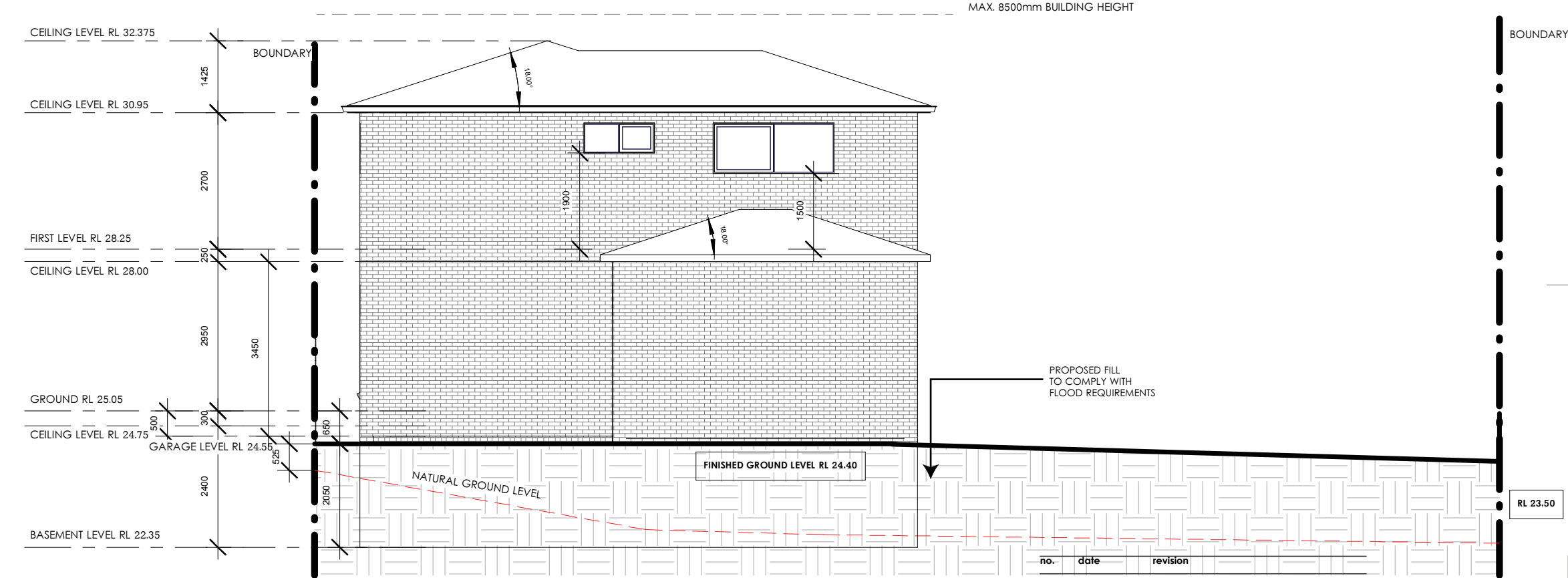
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AS INDICATED @ A3

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NORTH WEST ELEVATION  
1 : 100



NORTH EAST ELEVATION  
1 : 100

no.	date	revision
A	4-3-2016	FENCE DETAIL ADDED
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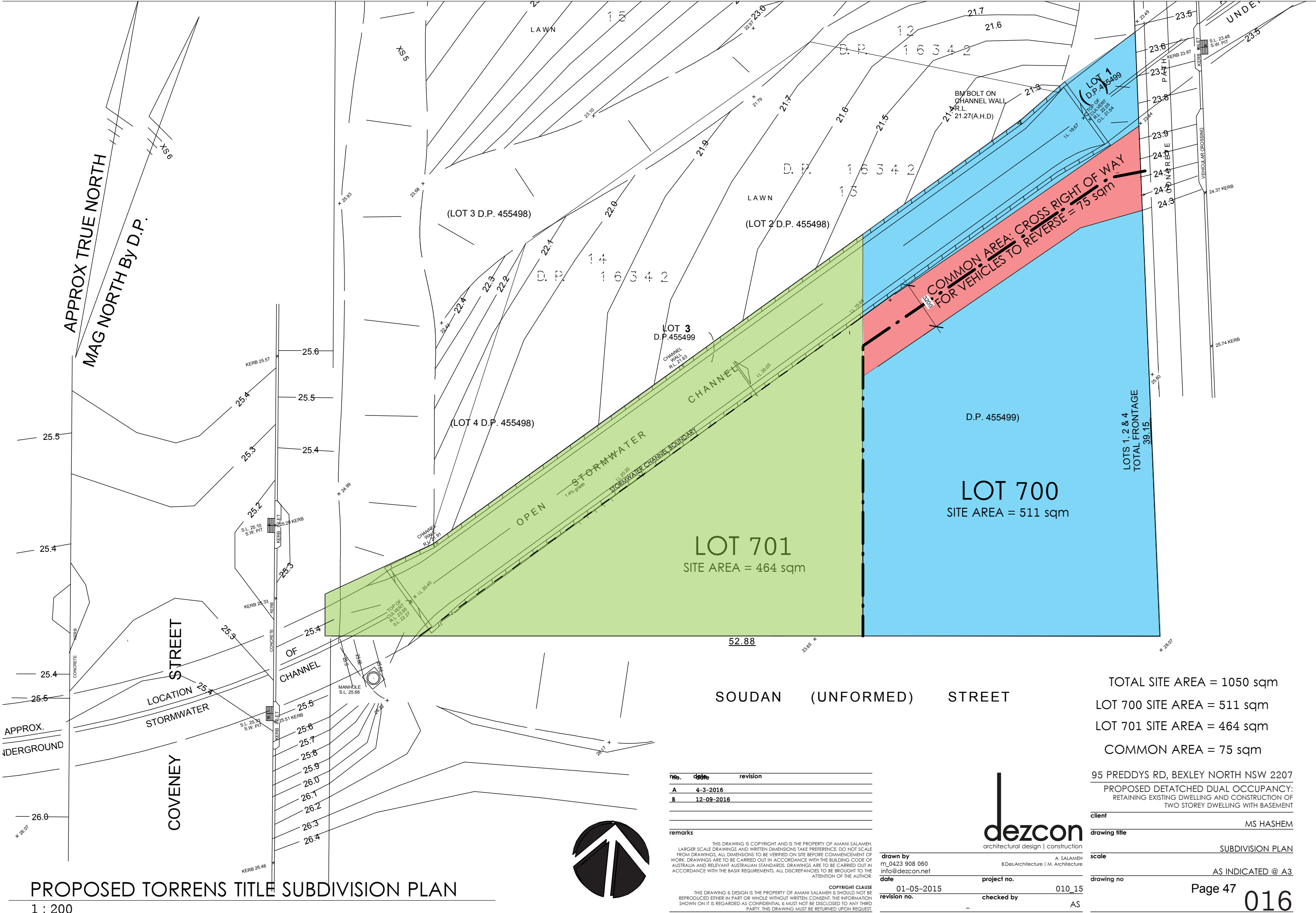
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PROPOSED DETACHED DUAL OCCUPANCY:  
RETAINING EXISTING DWELLING AND CONSTRUCTION OF  
TWO STOREY DWELLING WITH BASEMENT

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ELEVATIONS

scale  
AS INDICATED @ A3

drawing no  
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PROPOSED TORRENS TITLE SUBDIVISION PLAN

1 : 200

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A	4-3-2016	
B	12-09-2016	
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date		AS	
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TOTAL SITE AREA = 1050 sqm  
LOT 700 SITE AREA = 511 sqm  
LOT 701 SITE AREA = 464 sqm  
COMMON AREA = 75 sqm

95 PREDDYS RD, BEXLEY NORTH NSW 2207	
PROPOSED DETACHED DUAL OCCUPANCY: RETAINING EXISTING DWELLING AND CONSTRUCTION OF TWO STOREY DWELLING WITH BASEMENT	
client	MS HASHEM
drawing title	SUBDIVISION PLAN
scale	AS INDICATED @ A3
drawing no	Page 47

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## **Bayside Planning Panel**

**14/11/2017**

Item No	5.2
Application Type	Development Application
Application Number	DA-2017/360
Lodgement Date	25 May 2017
Property	<b>1 Market Street, Rockdale NSW 2216</b>
Owner	Rockdale City Council
Applicant	Paul's Warehouse
Proposal	Business Identification signage for Paul's Warehouse on western elevation
No. of Submissions	Nil
Cost of Development	\$4,000.00
Report by	Patrick Waite, Creative Planning Solutions

---

## **Officer Recommendation**

That development application DA-2017/360 for Business Identification signage for Paul's Warehouse on western elevation of the existing parking structure at 1 Market Street Rockdale be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

---

## **Attachments**

1. Consultant Planning Assessment Report
  2. Sign Elevation Plan Final
  3. Draft Notice of Determination
-

## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2017/360
<b>Date of Receipt:</b>	25 May 2017
<b>Property:</b>	1 Market Street, Rockdale NSW 2216
<b>Owner:</b>	Rockdale City Council
<b>Applicant:</b>	Paul's Warehouse
<b>Proposal:</b>	Business Identification signage for Paul's Warehouse on western elevation.
<b>Recommendation:</b>	Approval, subject to conditions of consent
<b>No. of submissions:</b>	None
<b>Author:</b>	Patrick Waite – Creative Planning Solutions
<b>Date of Report:</b>	25 October 2017

### Key Issues

---

- **Council owned land** – The development application (DA) was referred to Creative Planning Solutions for independent assessment as Council is the land owner on which the proposal is located.

### Recommendation

---

That Development Application DA-2017/360 for the erection of a Paul's Warehouse business identification sign on the existing parking structure that also contains the Paul's warehouse premises at 1 Market Street, ROCKDALE 2216, be **APPROVED** pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* (Act), subject to the conditions of consent attached to this report.

### Background

---

#### History

The relevant history of the subject site (1 Market Street, Rockdale) is summarised as follows:

- The subject building was constructed prior to Council's DA tracker being available.
- On 27 February 2009, Council approved DA-2009/288 for the construction of a new toilet block and Council storage area.



- On 22 March 2009, Council approved the modification of DA-2009/288.
- On 25 May 2017, the subject application DA-2017/360 was lodged with Council.

The assessment history of the subject DA-2017/360 is as follows:

- On 7 June 2017, the DA was notified to adjoining neighbours, for which public submissions could be received until 22 June 2016.
- On 10 August 2017, the DA was referred to Creative Planning Solutions for an independent assessment of the application as Council is the land owner.
- On 29 August 2017, the applicant was informed that the proposal constituted an advertising sign, which pursuant to the *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP 64) is not permitted on an elevation of a building that already includes a business identification sign, as is the case on the western elevation of the subject building. Furthermore, an inconsistency was identified in the intended location of the proposed sign within the submitted DA documentation. In this regard, Council advised the applicant to amend the proposal in order to satisfy SEPP 64, and ensure the location of the signage was consistent within all the DA documentation.
- On 14 September 2017, the applicant submitted an amended Signage Plan.
- On 29 September 2017, Council advised the applicant that the proposal still constituted a 'advertising sign', as marketing phrases and product logos accompanied the Pauls Warehouse business sign. Council requested that the proposal be amended to comply with provisions of SEPP 64 and the objectives of Council's DCP for advertising.
- On 16 October 2017, the applicant submitted an amended Signage Plan, Elevation Diagram and Statement of Environmental Effects (SEE).

The planning assessment contained within this report is based on the amended plans and SEE submitted to Council on 16 October 2017.

## Proposal

The proposal seeks to erect a business identification on an existing Council owned building comprising a three-level multi-level public car parking facility, and a single ground floor retail premises.

### *Details of the sign:*

- The proposed sign is 20m long and 1.4m high, and has a display area of 28m<sup>2</sup>.
- The sign is 3mm deep.
- The sign will be constructed of aluminium composite panels with vinyl display stickers and will be illuminated by four (4) externally placed flood lights.
- The four (4) flood lights shall extend out 200mm from the base of the signage and will be directed upwards at a slight angle to illuminate the display area of the signage.
- The sign will be located on the western wall of the building, at a height of 9.4m above ground level.

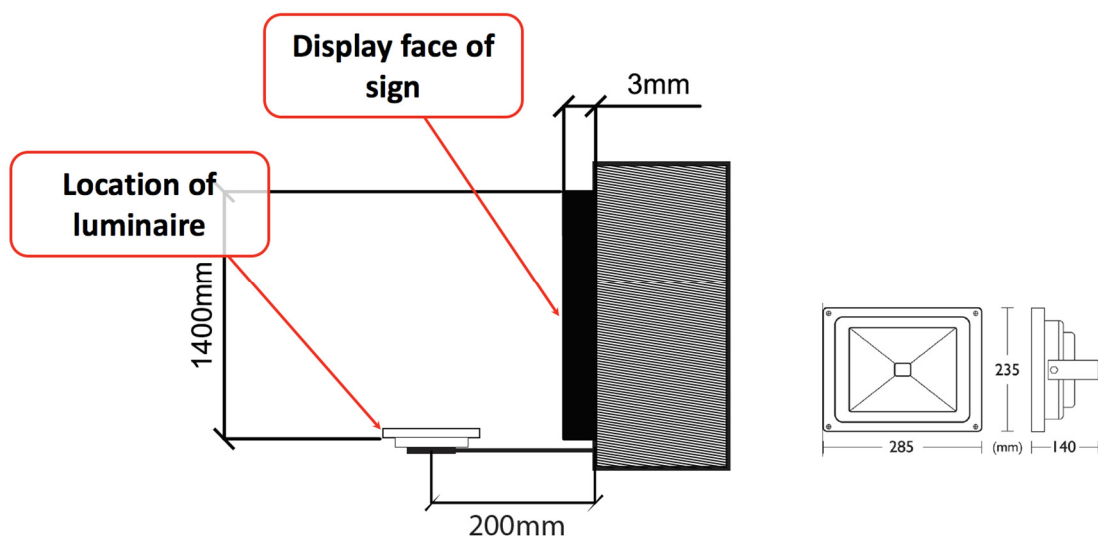
- The sign includes the Paul's Warehouse business name, logo, and operational direction (Now Open, and Located Below).

Refer to **Figure 1** for a diagrammatic representation of the proposed sign, and **Figure 2** for a side view of the sign with upward facing flood light.



**Figure 1 - Proposed Business Sign**

Source: Proposed Signage Elevation diagram, prepared by Viewinside.



**Figure 2 - Side view of the proposed sign with upward facing flood light (luminaire)**

Source: Proposed Signage Elevation diagram, prepared by Viewinside

## Site location and context

The site is located at 1 Market Street, Rockdale, and is comprised of 16 allotments. Refer to **Table 1** for a summary of the allotments, and a corresponding aerial view of the allotment boundaries.

The site is approximately 6,500m<sup>2</sup> in area, and is occupied by a three-level building comprising a public car parking structure, and one (1) retail premises on the eastern side of the ground floor. Refer to **Site Photos 1-6**.


The site has a frontage to Market Street to the east, Pitt Lane to the south, and King Lane to the west. To the north, the site is adjoined by the rear boundary of two (2) shop-top housing premises and a place of public worship (Rockdale Church of Christ), which both front Bryant Street.

In terms of the immediate urban context, the site adjoins the rear of retail premises fronting Princes Highway to the west, and high density residential development in the shape of eight-storey shop-top apartment block developments to the east. Refer to **Figure 3** for an aerial image of the subject area.

In terms of regional significance, the site is zoned B2 Local Centre and is located within the core of the Rockdale Business Centre, about 100m east of the Princes Highway, and approximately 150m from the Rockdale Train Station. Refer to **Figure 4** for a zoning map extract of the subject area.

The proposed signage is positioned to take advantage of the substantial traffic passing along Princess Highway to the east of the subject site, refer to site **Photo 5** and **6**.

*Table 1 – Subject site allotment composition and reference*

Subject site allotment composition	Subject Site Aerial Image of Subject Site
<ul style="list-style-type: none"> <li>• Lot 2 DP 335639</li> <li>• Lot A DP 435898</li> <li>• Lot B DP 435898</li> <li>• Lot C DP 418443</li> <li>• Lot D DP 418443</li> <li>• Lot K DP 418444</li> <li>• Lot L DP 418444</li> <li>• Lot G DP 103282</li> <li>• Lot H DP 103282</li> <li>• Lot I DP 103282</li> <li>• Lot J DP 103282</li> <li>• Lot A DP 327820</li> <li>• Lot B DP 327820</li> <li>• Lot 1 DP 651807</li> <li>• Lot 14 DP 6362</li> </ul>	

Site Inspection photos taken on 18 August 2017, as follows:



**Site Photo 1** – View from King Lane (south) of western façade of subject building.



**Site Photo 2** - View from King Lane (north) of western façade of subject building.



**Site Photo 3** – View from Pitt Lane of southern façade of subject building.



**Site Photo 4** – View from Roof level of subject building overlooking King Lane (view to north).





**Site Photo 5** – View from Geeves Avenue (middle of road) looking west towards Princess Highway. Location of proposed sign can be seen.

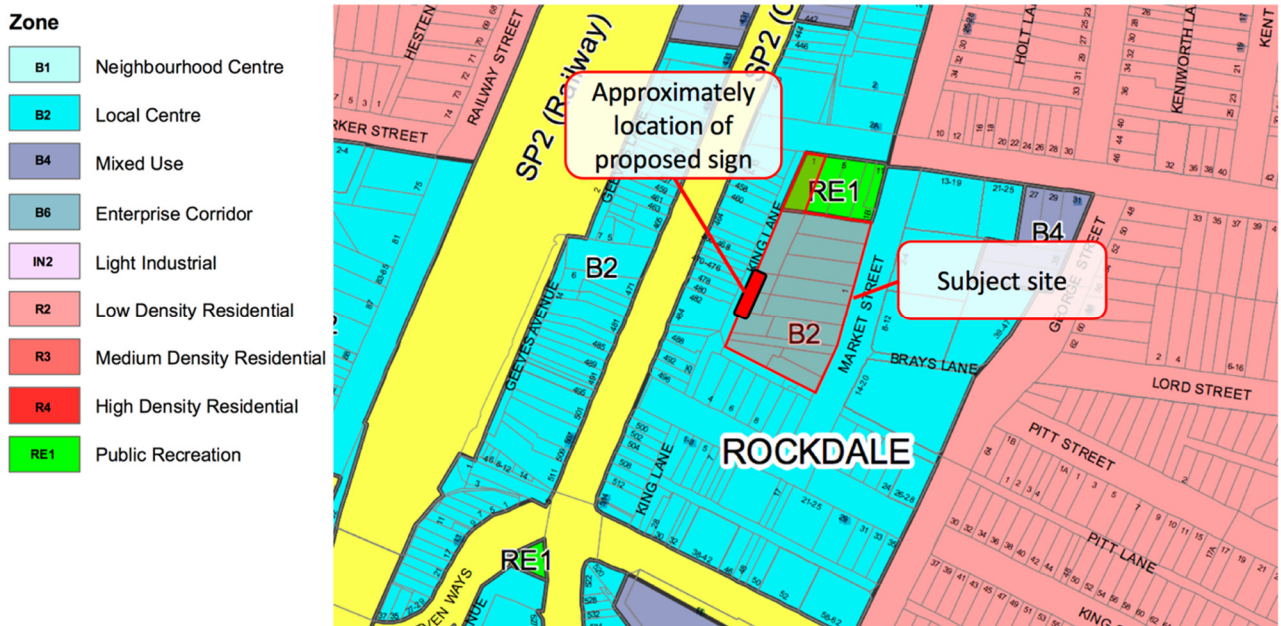


**Site Photo 5** – View from Geeves Avenue (south side of road) looking west towards Princess Highway. Location of proposed sign can be seen.





**Figure 3 - Aerial image of the Locality**  
Source: maps.six.gov.au, adapted by CPS



**Figure 4 - Extract of the RLEP 2011 land use zoning map**  
Source: legislation.nsw.gov.au

# Statutory Considerations

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## *Environmental Planning and Assessment Act, 1979*

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration - General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

#### **State Environmental Planning Policy No 64 – Advertising and Signage**

##### Classification of proposed signage

Under the definitions clause of SEPP 64, signage is defined as:

***signage*** means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements to which Part 3 applies,

but does not include traffic signs or traffic control facilities.

Business identification signs are defined as:

***business identification sign*** means a sign:

- (a) that indicates:
  - (i) the name of the person, and
  - (ii) the business carried on by the person, at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**Assessment response:** The proposed signage display comprises a business identification sign as it indicates the business carried out at the premises, being Paul's Warehouse, and associated information related to the business, i.e. it is 'now open', and the entrance is 'located below the sign'. The associated information is not considered to be 'any advertising relating to a person who does not carry on business at the premises', but instead are physical identifiers for the business, and therefore falls within the consideration of a business identification sign.

##### Part 2 – Signage generally

Part 2 of SEPP 64 outlines that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

**Assessment response:** The proposed signage has been reviewed against the objectives of clause 3(1)(a), and the assessment criteria of Schedule 1. Refer to **Table 2** further below in this report.

### Part 3– Advertisements

This Part applies to all signage to which this Policy applies, other than the following:

- (a) business identification signs,
- (b) building identification signs,
- (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,
- (d) signage on vehicles.

**Assessment response:** The proposal has been assessed as meeting the definition of a business identification sign, and therefore Part 3 of this SEPP does not need to be considered.

### Schedule 1 – Assessment Criteria

As required by clause 8, development consent cannot be granted unless the signage satisfies the assessment criteria of Schedule 1. Refer to **Table 2** below for an assessment of the proposed signage against the objectives and Schedule 1 of the SEPP 64.

*Table 2 – Assessment of SEPP 64 Objectives and Signage Assessment Criteria*

SEPP 64 – Aims and objectives	Proposal
<b>Clause 3 Aims and objectives</b>	
<p>(1) (a) to ensure that signage (including advertising):</p> <ul style="list-style-type: none"> <li>• (i) is compatible with the desired amenity and visual character of an area, and</li> <li>• (ii) provides effective communication in suitable locations, and</li> <li>• (iii) is of high quality design and finish, and</li> </ul>	<p>(i) The signage is suitable for the local centre zoning and area in which it will be located. The signage will not detract from the commercial character that is visually present in the local area.</p> <p>(ii) The graphics on the signage suitably communicates the nature of the business located within the building on which it is located.</p> <p>(iii) The signage is suitably designed for the multi-level car parking facility on which it will be located. The finish of the signage will be of vinyl sticker which will be externally lit by upward facing flood lights, which is not considered to be visually detracting from the functionally designed, concrete dominant car parking structure.</p>



SEPP 64 - Schedule 1 Assessment criteria	Proposal
<b>1 Character of the area</b>	
<ul style="list-style-type: none"> <li>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</li> </ul>	<p>Yes. The proposal supports the operation of a business, which in turn supports the intention of the land use zoning applicable to the local area (Rockdale Town Centre).</p> <p>The character of the Rockdale Town Centre, being predominantly commercial in nature, is not envisaged to change in the foreseeable future.</p>
<ul style="list-style-type: none"> <li>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</li> </ul>	<p>The existing outdoor advertising primarily takes the form of awning, fascia, under-awning signage for business located on Princess Highway. In the immediate vicinity of the subject building are limited wall signs.</p> <p>In this regard, no particular theme has been identified as being apparent within the locality. In this regard, the proposal does not offend or negatively contrast any existing advertising themes, and as such the existing is considered to be suitable.</p>
<b>2 Special areas</b>	
<ul style="list-style-type: none"> <li>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</li> </ul>	<p>The proposal is not located within the visual precinct of any special areas.</p>
<b>3 Views and vistas</b>	
<ul style="list-style-type: none"> <li>Does the proposal obscure or compromise important views?</li> </ul>	<p>No significant views are visible from or towards the subject site.</p>
<ul style="list-style-type: none"> <li>Does the proposal dominate the skyline and reduce the quality of vistas?</li> </ul>	<p>The proposal will be located on an existing structure and will not protrude above.</p> <p>The signage will be perceivable from a limited vantage point on Geeves Avenue, and from certain sections of Princess Highway. Furthermore, as the signage is appropriate for the commercial nature of the area, it is considered to be suitable for the local area vistas.</p>
<ul style="list-style-type: none"> <li>Does the proposal respect the viewing rights of other advertisers?</li> </ul>	<p>The signage is located one street behind from where the view line (from Geeves Ave) is sought to be captured. In this regard, the signage will not impact on the existing signage that is located immediately adjoining the vantage point (Geeves Ave).</p>
<b>4 Streetscape, setting or landscape</b>	
<ul style="list-style-type: none"> <li>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</li> </ul>	<p>Yes. As discussed above, the scale, proportion and form of the signage is appropriate for the following reasons:</p> <ul style="list-style-type: none"> <li>- Commercial nature of the locality,</li> <li>- Distance, position, and scale of the signage from where the sign will be viewed, being</li> </ul>



	one street behind the main active street frontage of Princess Hwy,
<ul style="list-style-type: none"> <li>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</li> </ul>	Proposal supports the commercial nature of the locality.
<ul style="list-style-type: none"> <li>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</li> </ul>	The proposal is not considered to be cluttered. The signage is appropriate to what can reasonably be expected in such a commercial area.
<ul style="list-style-type: none"> <li>Does the proposal screen unsightliness?</li> </ul>	The proposal is to be placed on the wall of a multi-level car parking facility, which while not an overly attractive building in terms of design, could not necessarily be considered unsightly.
<ul style="list-style-type: none"> <li>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</li> </ul>	No, the proposal will not protrude above the wall of the structure on which it will be located.
<ul style="list-style-type: none"> <li>Does the proposal require ongoing vegetation management?</li> </ul>	No vegetation or landscaping is proposed in association with the signage.
<b>5 Site and building</b>	
<ul style="list-style-type: none"> <li>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</li> </ul>	Yes. The proposal will be located on a multi-level car parking facility with a ground floor retail premise. The signage is of a scale that is commensurate to the scale of the car parking building.
<ul style="list-style-type: none"> <li>Does the proposal respect important features of the site or building, or both?</li> </ul>	The subject site and building is not considered to exhibit any significant or important features. The proposal will not detract from the functional style and design of the multi-level car parking facility.
<ul style="list-style-type: none"> <li>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</li> </ul>	The proposal is considered to have a coherent relationship with the building on which it is located, and with due consideration of the nature of the site and surroundings.
<b>6 Associated devices and logos with advertisements and advertising structures</b>	
<ul style="list-style-type: none"> <li>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</li> </ul>	No safety devices etc, are necessary for the proposed signage. No specific logo associated to the signage structure is proposed.
<b>7 Illumination</b>	
<ul style="list-style-type: none"> <li>Would illumination result in unacceptable glare?</li> </ul>	<p>The proposal will be illuminated upwards from the base of the sign. In this regard, the immediate commercial area will not be subject to any glare or obtrusive lighting. The nearest residential development is located 80m to the rear of the proposed signage. This distance is considered sufficient to ensure the residential development will not be affected by any light spill or glare from the proposal, particularly given the relatively light surrounds experienced due to the site's location within the Rockdale Town Centre.</p> <p>However, to ensure the above assessment is the case, the proposed signage will need to comply</p>

	with AS 4282 which covers the control of the obtrusive effects of outdoor lighting.
<ul style="list-style-type: none"> <li>Would illumination affect safety for pedestrians, vehicles or aircraft?</li> </ul>	<p>The illumination is not considered to affect pedestrians or vehicles due to the upward direction of the flood light luminaires.</p> <p>The accompanying SEE submits that the lighting will sit below the security lighting of the car park building.</p> <p>Due to the limited size and power of the floodlights (50W LED Crompton IP65 floodlight) aircrafts are not considered to be affected by the proposal.</p> <p>Again it is reminded that the proposed signage will need to comply with AS 4282 for the control of light spill.</p>
<ul style="list-style-type: none"> <li>Would illumination detract from the amenity of any residence or other form of accommodation?</li> </ul>	<p>As outlined above, the nearest residential development is located a minimum 80m from the signage location. Furthermore, the residential development is located to the rear of the building. In this regard, the signage is not considered to detract from the amenity of the residential developments.</p> <p>To be certain light spill is not an impact, or will not become an issue for adjoining property, the proposed signage will need to comply with AS 4282 for the control off light spill.</p>
<ul style="list-style-type: none"> <li>Can the intensity of the illumination be adjusted, if necessary?</li> </ul>	The proposed flood lights (Crompton IP 65) are not dimmable.
<ul style="list-style-type: none"> <li>Is the illumination subject to a curfew?</li> </ul>	The illumination is not subject to a curfew. This is because of the commercial nature the signage is orientated toward.
<b>8 Safety</b>	
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for any public road?</li> </ul>	Subject to appropriate installation, the proposal is not considered to reduce the safety of any public roads.
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrians or bicyclists?</li> </ul>	Subject to appropriate installation, the proposal is not considered to reduce the safety of any pedestrians or bicyclists.
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</li> </ul>	The proposal will not obscure any sightlines to or from public areas.

## Rockdale Local Environmental Plan 2011

The application is subject to *Rockdale Local Environmental Plan 2011* (RLEP 2011). A compliance table for the proposed development is provided below, with discussions provided on the pertinent parts of the RLEP 2011.

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B2 Local Centre	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Bexley	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soils	Yes	Yes
6.6 Flood Planning	Yes	Yes

### 2.3 Zone B2 Local Centre

The subject site is zoned B2 Local Centre under the provisions of RLEP 2011. The proposed development is defined as 'signage', which is permitted with consent, as it falls within 'any other development' not specifically identified under those land uses permitted without consent or prohibited' in the B2 zone.

The objectives of the B2 zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To accommodate population growth through high density mixed use development that complements the role of retail, commercial, civic and cultural premises in the Rockdale town centre.*
- *To create a lively Rockdale town centre with an amenable and pedestrian focused public domain activated by building uses that engage with the street.*

The proposed signage supports the operation of a business, which in turn supports the intention of zone to provide for retail and business uses that serve the needs of the people living in the local area.

### 4.3 Height of buildings

The maximum building height for the land on the Height of Buildings Map is 28 metres.

The proposed signage will be located on the eastern wall the existing building which is approximately 9.4m in height.

Accordingly, the height of the proposed signage satisfies the maximum height permitted by Clause 4.3 in RLEP 2011.

### 4.4 Floor space ratio - Bexley

A floor space ratio limit has not been applied to the subject site. In any event the proposal is for the purposes of a sign which does not include any gross floor area that would otherwise impact on the floor space ratio of the building.

## 5.9 Heritage conservation

The subject site does not contain or adjoin any heritage listed items or places. The nearest items of heritage include:

- Rockdale Town Hall (I220), located 30m north;
- Brick buildings on platforms, signal box and overhead booking office (I222), located 140m west, across Princess Highway; and
- Rockdale Public School (I219), located 200m east of the site.

The proposal will not change the nature, or use of the building on which it is located. The signage will only be seen from a position to the west of the building. In this regard, the only heritage listed item from which the proposal may be seen is the brick buildings on platforms, signal box and overhead booking office located on Rockdale Train Station. However, considering that the proposed signage is consistent the nature of other signage in the Rockdale Town Centre, and that the heritage item is located 140m away, the proposed is not considered to result in an unacceptable heritage impact.

## 6.1 Acid Sulfate Soils

The subject site is identified as containing class 5 acid sulfate soils, however as no earthworks are proposed. As such there is reason to assume there would be disturbance to acid sulfate containing soils.

## 6.6 Flood Planning

Part of the subject site is identified as being located in a flood planning area. Given the sign is to be affixed to an existing building, the proposal will not affect flood behaviour, or the natural environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. In this regard, the proposal is acceptable from a flood planning perspective.

## **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

From 5 May 2017 and 30 June 2017 draft changes to SEPP 64 were subject to public exhibition, The Department of Planning and Environment is currently considering the submissions received during the exhibition period.

The proposed changes to SEPP 64 and the *Environmental Planning and Assessment Regulation 2000*, as advertised in the public exhibition, are as follows:

- Banning trailer advertising on roads road shoulders footpaths and nature strips.
- Council approval for parked trailer advertising on private land seen from roads, road shoulders, footpaths and nature strips.
- Council can issue fines for trailer advertising on roads, road shoulders, footpaths and nature strips and private land without valid consent.
- Repealing SEPP 64 Clause 16(4)(b) to allow transport corridor advertising with consent.

In this regard, the draft changes to SEPP 64 will have no impact on the signage proposed in the subject DA.

## S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

### Rockdale Development Control Plan 2011

The application is subject to *Rockdale Development Control Plan 2011* (RDCP 2011). A compliance table for the proposed development is provided below, with discussions provided on the pertinent parts of the RDCP 2011.

Relevant parts	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
6.4 Advertising and signage	Yes	Yes - see discussion
7.5 Rockdale Town Centre	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The building on which the signage is proposed to be located is not considered to be exposed to, or influence upon any significant views. The signage will not extend beyond the upper balustrade of the building (car parking facility), and is limited to the western façade of the building.

The proposal seeks to commercialise a view to the building from Princess Highway and Geeves Avenue. Considering the commercial use of the local area and lack of notable public vistas, the proposal is considered to be appropriate in the circumstances.

#### 4.2 Streetscape and Site Context - General

The proposal signifies the location of the premises (ground floor retail tenancy located within the building), and is consistent with the objectives of the B2 Local Centre zoning, and supports the intention to activate the lane way that it immediate fronts. The signage is further sympathetic to the visual character that is present in the local area.

In this regard, the proposal is considered to have an acceptable impact on the streetscapes of King Lane, and the Princess Highway.

#### 6.4 Advertising and signage

The proposed signage does flash, or move, and will be erected below the upper edge of the balustrade of the car parking facility. The size and proportion of the proposal is considered to be commensurate to the scale and proportion of the existing facade, as well as surrounding buildings and signs.

Refer to assessment of SEPP64 objectives and Schedule 1 for full assessment of the proposed signage and its impact on the streetscape, and local amenity.

## 7.5 Rockdale Town Centre

A Masterplan for the future role and character of Rockdale Town Centre was developed in support of the RDCP 2011 with the community and adopted by Council. The proposed signage is considered to be consistent with the principles of the Masterplan, as discussed under the applicable subheadings provided within Part 7.5 of the RDCP 2011:

### *Street Role*

The proposed signage supports the intention of Part 7.5 (Rockdale Town Centre) of the RDCP 2011, as it will support the active use of King Lane, and take advantage of any future pedestrian connections from Princess Highway to King Lane.

### *Commercial Space*

The proposal supports the utilisation of previously vacant commercial space in a portion of the Rockdale Town Centre that has lower pedestrian activity.

### *Street Character*

The proposal does not seek to change the existing setback provided to King Lane, but instead take advantage of the view that is available to the higher portion of the façade.

## **S.79C(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application.

Clause 92 requires the consent authority to consider whether a Government Coastal Policy applies to the site, and the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. The subject site is not subject to a Government Coastal Policy, and as no demolition is proposed as part of this DA, clause 92 does not need to be considered any further.

Clause 93 requires fire safety to be considered for any change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building. The proposal does not seek to change the existing use of the building, and therefore clause 93 does not need to be considered any further.

Clause 94 allows the consent authority to require a building to be upgraded for any development involving rebuilding, alternating, enlargement, or extension of an existing building, where the proposed building works completed in the last 3 years represents more than half the total volume of the building. The proposal is limited to the erection of a business identification sign.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

## **S.79C (1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

No coastal zone management plan applies to the subject site.

## **S.79C(1)(b) - Likely impacts of the development**

### *Likely impacts on the natural and built environment:*

The likely impacts of the development on the natural and built environment have been considered within the assessment of the applicable environmental planning instruments and development control plans.

### *Likely social and economic impacts of the development:*

The proposal is considered to have a positive economic benefit to the tenant of the ground floor retail premises, and to Council being the owner of the building. Furthermore, the use of the building will in turn support the viability of the Rockdale Town Centre west of the Princess Highway.

Standard conditions of consent are proposed to minimise the general impacts of the erection, and operation of the signage.

## **S.79C(1)(c) - Suitability of the site**

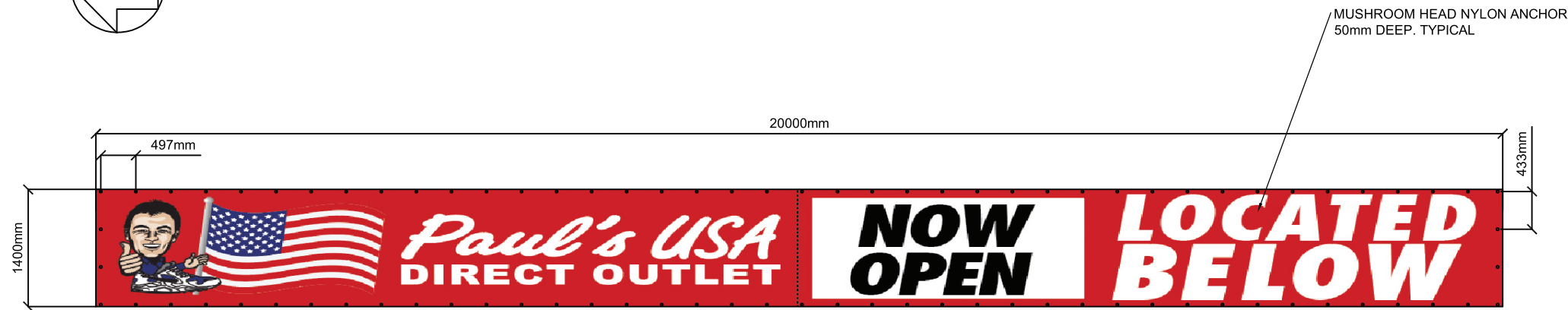
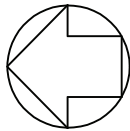
The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. No major physical constraints, environmental impacts, natural hazards or exceptional circumstances were identified that would hinder the suitability of the site for the proposed development.

## **S.79(1)(d) - any submissions made in accordance with this Act or the regulations**

The application was notified to adjoining land owners in accordance with Part 8 of the RDCP 2011 for a period of 14 days. No submissions were received in response to the notification.

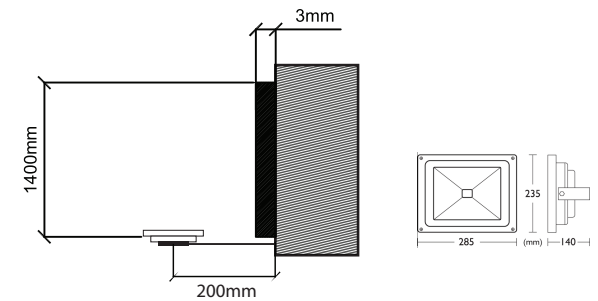
## **S.79(1)(e) - the public interest.**

The proposed development is considered to be in the public interest as it satisfies all the objectives of the applicable planning instruments, and supports the economic use of a commercial premises within the Rockdale Town Centre.

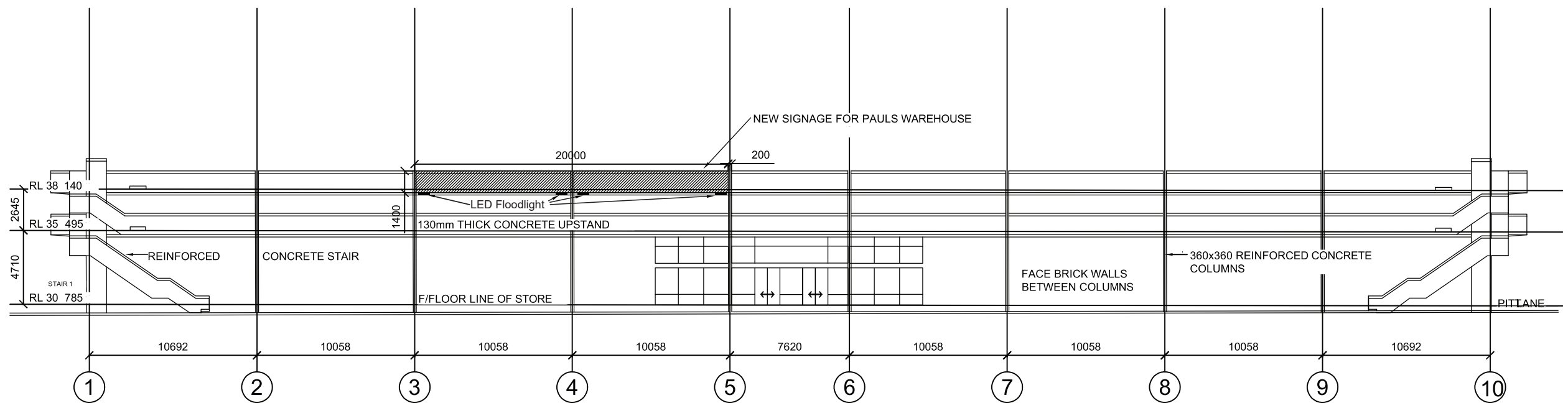


FRONT VIEW OF NEW SIGNAGE  
SCALE: NTS

- NOTE:
1. THE NEW SIGNAGE WILL BE CONSTRUCTED OF ALUMINUM COMPOSITE PANEL.
  2. MUSHROOM HEAD MYLON ANCHOR WILL BE USED TO FIX THE PANEL TO THE CONCRETE WALLS.



SIDE VIEW OF NEW SIGNAGE  
SCALE: NTS



WEST ELEVATION  
KING LANE SCALE 1:300

## Viewinside

2/ 13 Berry St, Clyde  
NSW 2042  
TEL: 02 9637 9665  
EMAIL: Yang@viewinside.com.au

Client

**Paul's**  
**WAREHOUSE**

Rev	Date	Drawn	Description	Ch'k'd	App'd	Title	Drawn		
1	15.05.17	LM	DA	YY	YY	PROPOSED SIGNAGE ELEVATION	Checked		
							Approved		
							Scale at A3 1:300		
						Drawing Number 11644-SIGN02	Security	Status	Rev 1



Our Ref: DA-2017/360  
Contact: Alex Buijs 9562 1666

Paul's Warehouse  
PO BOX 332  
SANS SOUCI NSW 2219

## NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

<b>Application Number:</b>	DA-2017/360
<b>Property:</b>	1 Market Street, ROCKDALE (Lot 2 DP 335639), (Lot A DP 435898), (Lot B DP 435898), (Lot C DP 418443), (Lot D DP 418443), (Lot K DP 418444), (Lot L DP 418444), (Lot G DP 103282), (Lot H DP 103282), (Lot I DP 103282), (Lot J DP 103282), (Lot A DP 327820), (Lot B DP 327820), (Lot 1 DP 651807), (Lot 14 DP 6362)
<b>Proposal:</b>	Business Identification signage for Paul's Warehouse on western elevation
<b>Authority:</b>	Delegated to Bayside Planning Panel
<b>Determination:</b>	Approved
<b>Date of determination:</b>	
<b>Date consent commences:</b>	
<b>Date consent lapses:</b>	

The above development is approved subject to the following conditions:

### General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.

2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Drawing Number 11644-SIGN02, Revision 1,	Viewinside	15/05/17	19/10/17

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**

### Development specific conditions

The following conditions are specific to the Development Application proposal.

5. The installation and use of the signage must not affect the operation of the existing car park.
6. The installation and use of the signage must not affect the operation of the existing stormwater drainage system.
7. The hours of operation of the approved use shall be restricted to between 7 am and 7 pm Mondays to Fridays, Saturdays and Sundays between 7 am and 5 pm .
8. All window signs, permanent or temporary, attached to or displayed on the shop window shall not exceed 40% coverage of that window.
9. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
10. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
11. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

The lighting must not be flashing.

Reason: to ensure the amenity of adjoining properties and/or resident, and safety of nearby motorists, is not impeded.

12. The proposed signs must not have / use:
- flashing lights
  - electronically changeable messages
  - animated display, moving parts or simulated movement

- a method and level of illumination that distracts or dazzles

### **Prior to issue of the construction certificate**

The following conditions must be completed prior to the issue of the Construction Certificate.

13. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
14. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
15. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes.

### **Prior to commencement of works**

The following conditions must be completed prior to the commencement of works.

16. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
17. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
18. (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection of the signage:
  - (i) is likely to cause pedestrian or vehicular traffic in a public place to be

obstructed or rendered inconvenient, or

(ii) building involves the enclosure of a public place,

(b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

(c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

(i) the vertical height above footpath level of the structure being demolished is less than 4m; or

(ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

(i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

(ii) have a clear height above the footpath of not less than 2.1m;

(iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.

(d) The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

## **During demolition / excavation / construction**

The following conditions must be complied with during demolition, excavation and or construction.

19. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
20. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
21. For Class 5-9 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

22. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

23. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
24. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
25. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
26. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

27. The following conditions are necessary to ensure minimal impacts during construction:

- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - a) spraying water in dry windy weather
  - b) cover stockpiles
  - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared

pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.

### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

28. An Occupation Certificate shall be obtained in relation to the approved signage works prior to any use of the signage.
29. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
30. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.

### **Roads Act**

31. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

32. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:

- i) construction of a concrete footpath along the frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance/s;
- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
- v) construction of paving between the boundary and the kerb;
- vi) removal of redundant paving;
- vii) construction of kerb and gutter.

### **Development consent advice**

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- c. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- d. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
  - choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- e. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

## **Additional Information**

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.



- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
  - Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
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Should you have any further queries please contact Alex Buijs on 9562 1666

**Luis Melim**  
**Manager - Development Services**

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## **Bayside Planning Panel**

**14/11/2017**

Item No	5.3
Application Type	Section 96(1A) Application – Modification to Mixed Use Development
Application Number	DA-16/41/02
Lodgement Date	29 June 2017
Property	<b>405-409 Gardeners Road Rosebery</b> Lot 1 in DP 201097 and Lots 5 and 6 in DP 223717
Owner	Pav Investments Pty Ltd
Applicant	Pav Investments Pty Ltd
Proposal	Section 96(1A) Application to modify Development Consent No. 16/41 to delete Condition No. 15 requiring a Bank Guarantee for the protection of the heritage façade.
No. of Submissions	Five submissions (four in opposition and one in support)
Cost of Development	N/A
Report by	Angela Lazaridis- Senior Development Assessment Officer

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## **Officer Recommendation**

1. That Section 96(1A) Application to modify Development Consent No. 16/41 to amend Condition No. 15 reducing the Bank Guarantee for the protection of the heritage façade at 405-409 Gardeners Road, Rosebery be determined in the following manner:
    - a) Amend Condition No. 1 to refer to the amended plans.
    - b) Amend Condition No. 15 to reduce the bank guarantee for the protection of the heritage façade.
    - c) Amend Condition No. 100 to refer to the subject application.
  2. That any objectors be notified of the determination made by the Planning Panel.
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## **Attachments**

1. Planning Assessment Report
  2. QS Report
  3. Construction Methodology Report
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## Location Plan

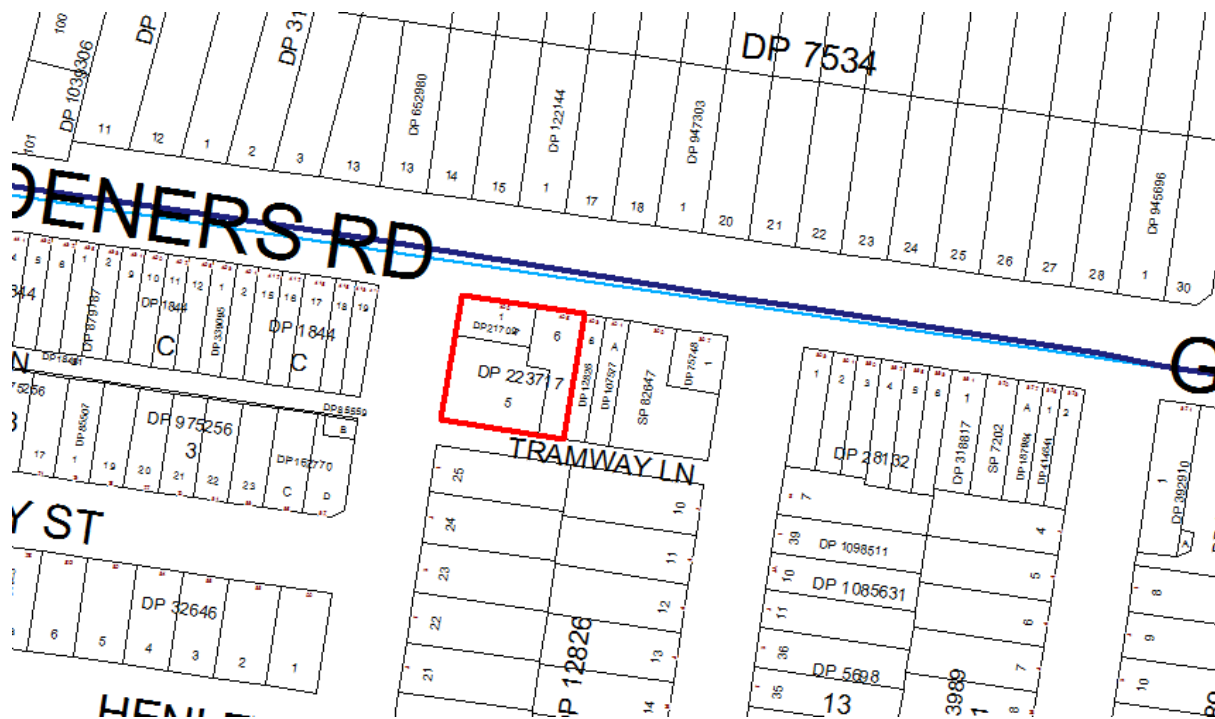


Figure 1: Locality Plan

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	16/41/02
<b>Date of Receipt:</b>	29 June 2017
<b>Property:</b>	405-409 Gardeners Road Rosebery Lot 1 in DP 201097 and Lots 5 and 6 in DP 223717
<b>Owners:</b>	Pav Investments Pty Ltd
<b>Applicant:</b>	Pav Investments Pty Ltd
<b>Proposal:</b>	Section 96(1A) Application to modify Development Consent No. 16/41 to delete Condition No. 15 requiring a Bank Guarantee for the protection of the heritage façade.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	N/A
<b>No. of submissions:</b>	Five objections (four in opposition and one in support)
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	7 November 2017

### Key Issues

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Bayside Council received Section 96(1A) Application on 29 June 2017 seeking consent for the modification of Development Consent No. 16/41 to delete Condition No. 15 requiring a Bank Guarantee for the protection of the heritage façade at 405-409 Gardeners Road Rosebery.

Council does not support the deletion of the Condition therefore has requested from the Applicant additional information in the form of a QS report and construction methodology of the heritage facade to justify a reduction in the Bank Guarantee Fee. On 2 November 2017, the Applicant provided the additional information which demonstrates through the QS report for the heritage wall reconstruction to be approximately \$437,862 (GST included).

The Section 96(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

### Recommendation

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Approve the Section 96(1A) Application to modify Development Consent No. 16/41 to modify Development Consent No. 16/41 to amend Condition No. 15 reducing the Bank Guarantee for the protection of the heritage façade.

It is recommended that Council resolve to modify Development Consent No. 16/41 under Section 96(1A) of the Environmental Planning and Assessment Act 1979 as follows:

1. Amend Condition No. 1 to refer to the amended plans;
2. Amend Condition No. 15 to reduce the bank guarantee for the protection of the heritage façade;
3. Amend Condition No. 100 to refer to the subject application; and
4. That any objectors be notified of the determination made by the Planning Panel.

## Background

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### History

On 7 September 2017, Council issued a deferred commencement consent for the demolition of the existing commercial building at No. 405, in situ retention of the heritage façade fronting Gardeners Road at No. 409, demolition of the remaining parts of the theatre building, excavation to accommodate three basement car parking levels for residential parking, construction of a six (6) storey building across both 405 and 409 Gardeners Road comprising of 40 apartments (being 10 studio apartments), together with five (5) ground floor retail tenancies and associated retail and visitor parking at ground level.

At the Council meeting of 7 September 2017, the Councillors reworded Condition No. 15 to include a \$17 million dollar bank guarantee to retain the heritage façade along Gardeners Road. The fee was calculated based on the original cost of works of the development being \$16,200,000.00.

### Site Description

The subject site consists of three lots being No. 405 Gardeners Road, and No. 409 Gardeners Road, Rosebery.

No. 405 Gardeners Road (Lot 6 in DP 226717) is located on the southern side of Gardeners Road, Rosebery, bounded to the rear by Tramway Lane. The site is a rectangular shaped allotment with a 12.3m frontage to Gardeners Road and a total site area of approximately 315m<sup>2</sup>. The site contains a two storey brick commercial building with a glass frontage and nil setback to Gardeners Road, identified in this report as “the shop”.

No. 409 Gardeners Road (Lot 1 in DP 217097 and Lot 5 in DP 226717) is located on the south-eastern corner of Gardeners Road and Sutherland Street, Rosebery and is bounded to the rear by Tramway Lane. The site has a 20m frontage to Gardeners Road, a 33m frontage to Sutherland Street and a total site area of approximately 772.5m<sup>2</sup>. The site contains a Heritage Item (No. I104 – Former Roxy Theatre [note – there is some dispute that the site was the Roxy Theatre, the preferred reference is to it being the former Marina Theatre) being a three storey brick building covering the entire site with a nil setback to Gardeners Road and parapet front elevation. Both sites are devoid of any significant vegetation.

Surrounding the site are low density single storey residential dwellings to the northern side of Gardeners Road. To the immediate east are located two storey commercial buildings with

retail shopfronts to Gardeners Road. Similar development is located on the western side of Sutherland Street stretching west along Gardeners Road.

To the south, south east and south west along Sutherland Street is located single detached dwellings fronting Sutherland Street, Tramway Street, Henley Street and Harris Street towards Coward Street further south.

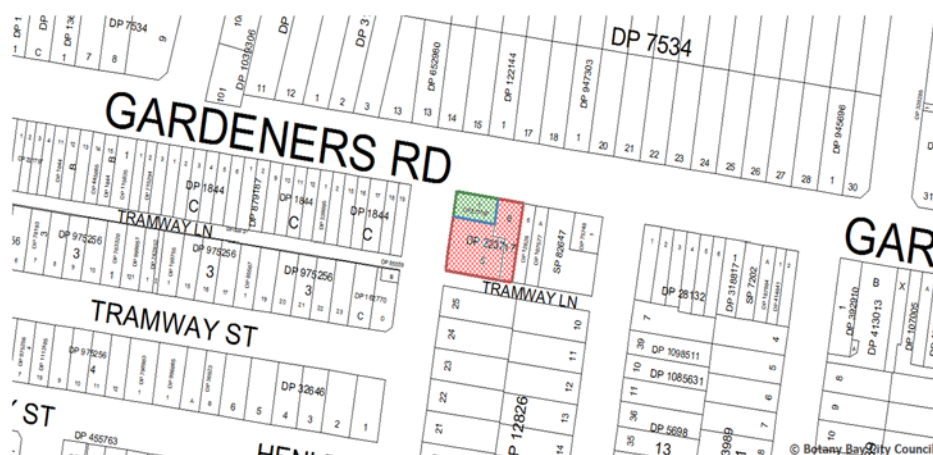


Figure 1. Locality Plan



Figure 2. Heritage Façade fronting onto Gardeners Road

## Description and Assessment of the Proposed S96 Modifications

The Section 96 Application originally sought to delete Condition No. 15 from the consent relating to the bank guarantee for the retention of the heritage façade (Figure 3). Council did not support the description lodged with the application therefore the description has been modified to amend Condition No. 15 reducing the Bank Guarantee fee of \$17 million for the protection of the heritage façade.

The condition in question is worded as follows:

15

- a) *Prior to commencement of any works on site, including any demolition, a bond in the form of a bank guarantee to the value of \$17 million shall be submitted to Council to ensure the retention of the heritage façade during construction work. The bond will*

- only be released by Council once the roof has been placed on the building and maybe be released prior to the internal fitout of the units and tenancies is completed.
- b) The bond is to be irrevocable and unconditional in Council's favour, in the event of destruction or material damage to the heritage item component of the building.

The applicant wishes to amend Condition No. 15 as follows:

15

- a) Prior to commencement of any works on site, including any demolition, a bond in the form of a bank guarantee to the value of ~~\$17 million~~ **\$437,862 (GST included)** shall be submitted to Council to ensure the retention of the heritage façade during construction work. The bond will only be released by Council once the roof has been placed on the building and maybe be released prior to the internal fitout of the units and tenancies is completed.
- b) The bond is to be irrevocable and unconditional in Council's favour, in the event of destruction or material damage to the heritage item component of the building.

The applicant has provided the following information regarding to the condition which has been adopted from their SEE:

*"The condition is completely disproportionate to the value of the property"*

The owners have supplied the Notices of Valuation for the NSW Valuer General dated 1 July 2016 for 405 Gardeners Road and 409 Gardeners Road. These assessments show valuations of the properties of \$800,000 and \$1,050,000 respectively. Given the bank guarantee (BG) only relates to the "heritage item component", on the Valuer General's recent view on the property value is \$1,050,000 meaning the \$17,000,000 Bank Guarantee is clearly disproportionate and unreasonable as it is many times the value of the entire property.

*The condition is completely disproportionate to the value of the development*

The estimated construction cost of the project is \$16,200,000. As such the BG is significantly more than the construction cost of the entire project.

In addition, the provision of a such large BG makes the project practically impossible to progress as it requires the developer to provide \$17,000,000 worth of equity to underpin the BG, which is an amount approaching the whole project value, including land. It is extremely unlikely that this will occur, resulting in the Site remaining derelict.

*The condition is disproportionate to the heritage significance of the building*

As part of the Development Application, a Statement of Heritage Impact was prepared. This report provided the following commentary in relation to its significance. We have underlined for emphasis:

- a) Is the place important in the course or pattern of cultural or natural history, for NSW or for the local area?
- The architectural style, formality and size is an important surviving element of local history and architecture. It is a local landmark. Not an excellent example of its genre and is not a carefully designed or considered building and places all of its architectural efforts into the

*street front façade. It has been poorly altered, stripped of what little refinery it had and has been neglected for many years.*

- b) *Does the place have a strong or special association with the life or works of a person or group of people of importance in the cultural or natural history of NSW or of the local area?*

*There is no one particular group with a strong association or interest in this former cinema. The architectural design quality is not typical of the work of DT Morrow and de Putron.*

- c) *Is the place important in demonstrating an aesthetic characteristic and/or a high degree of creative or technical achievement, in NSW or in the local area?*

*The façade to the street is a locally uncommon example of an inter-war free classical/art deco influenced two and a half storey façade at a corner and is important. Attempts to bring the entry and foyer into a stronger art deco "cinema style" were meagre, executed poorly and cheaply. The place has interest but little significance for its limited aesthetic or technical achievements.*

- d) *Does the place have a strong or special association with a particular community or cultural group (social, cultural or spiritual) in NSW or in the local area?*

*Given the long period of redundancy, no real use and its internal decay any particular community or group association is no longer evident.*

- e) *Does the place have a potential to yield evidence and information that will contribute to an understanding of cultural or natural history, for NSW or for the local area?*

*The methods of construction originally employed are simply and of little technical significance. The former use prior to construction is likely to have been for agricultural purposes. It is recommended that a general photographic record be taken as the roof is dismantled and floor taken up, footings excavated, paint scrapings taken and a copy be provided to the Local Studies Library. The place has no potential for technical significance.*

- f) *Does the place possess an uncommon, rare or endangered aspect of cultural or natural history, for NSW or the local area?*

*Original, suburban single screen cinemas are no longer considered viable in a business sense. Those remaining are often used for storage, antiquities, once as a roller skating venues and a few still struggle with screening movies. Adaptive reuse to a more permanent use is difficult given their configuration. Redevelopment with appropriate display and interpretation for their heritage significance and former use is not uncommon. The place is not rare or uncommon in its history or for its architectural qualities.*

- g) *Is the place important in demonstrating the principal characteristics of a class of cultural place or natural environment, in NSW or in the local area?*

*The Marina Theatre has been one of few cinemas in the Mascot district during its history. It is a representative of an early local cinema type, particularly with its substantial façade on Gardeners Road. It has local grandness and landmark qualities. It is not a particularly refined example of its genre in an overall sense. The place is representative of an era in*



*the development of the local community, the early entertainment and social opportunity it offered.*

*This assessment demonstrates that although the item has heritage significance, it is not particularly rare or so important that it would warrant protection in the manner proposed by Condition 15. In the circumstances, it is disproportionate to the heritage value of the building.*

*Council has many other mechanisms to enforce compliance*

*The provision of the BG is not required to provide Council with a means of enforcing retention of the façade. Council has many other powers and mechanisms to enforce compliance with the approved plans and punish malfeasance. The Land and Environment Court also has a wide range of powers to enforce punitive penalties; and has a demonstrated history of doing such. The BG is an unnecessary additional measure that only serves to stymie the progress of this extremely worthwhile project.”*

The new fee is a result of a QS report submitted to Council to justify the reduction in the bank guarantee cost. The QS report considers the demolition, excavation, concrete, masonry, structural steel and metalwork, painting as well as preliminaries, builder's profit and consultant's fee.

Additionally, the applicant has submitted a reinforcement and slab plans, shoring details, and construction sequencing and construction methodology of the heritage façade which forms part of the deferred commencement requirement. The information provided within the SEE and the bank guarantee being significantly higher than the cost of development and the value of the land, it is considered that the reduction in the bank guarantee fee is acceptable.



**Figure 3. Approved photomontage of the northern heritage façade along Gardeners Road**

## Statutory Considerations

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### Section 96(1A) Modification Considerations

Section 96(1A) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:”

- a) ***It is satisfied that the proposed modification is of minimal environmental impact, and***

The Section 96(1A) modification application relates to the modification of the fee originally imposed for a bank guarantee for the protection of the heritage façade along Gardeners Road. The proposed modification is suitable in the context of the site and the locality and does not result in any radical change from the development already approved and the proposal is considered to remain as substantially the same development as originally approved.

- b) ***It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and***

The Section 96(1A) modification application relates to the modification of a condition relating to a bank guarantee for the protection of the heritage façade along Gardeners Road, therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with: (i) the regulations, if the regulations so require, or; (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of fourteen (14) days between 26 July to 9 August 2017.

- d) ***It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.***

Five (5) submissions were received (4 in opposition and 1 in support) as the application was originally notified for the deletion of the condition. The key issues that were raised in the assessment of the report are as follows:

- *Removal of the bond will take away the fundamental reason for approving something that does not adhere to any of the standards (FSR, height, unit amount)*

Comment: The bank guarantee was imposed to protect the heritage façade and has no relation to the FSR, height or unit mix that was approved within the development. The impacts from non-compliances with the development standards would have been considered as part of the original application.

- *Concern that without a bond in place, the heritage façade will be damaged or removed or knocked down as there will be no penalty involved and subsequently have a detrimental effect on the adjoining property*

Comment: The bond is to be retained however reduced in cost to reflect the cost of reconstruction of the wall should the wall be damaged in the process of demolition/construction. There will continue to be a penalty within the consent to protect the heritage façade.

- *The bond is to remain in the consent to protect the neighbouring property from being demolished as well as being in line with what was previously determined by Council*

Comment: The bond is to remain however the overall bond has been reduced in line with the QS report that was provided by the applicant. As discussed above, the Council's rationale for the original bank guarantee was based on the cost of works proposed for the development.

- *Visual privacy, vehicle access and overshadowing concerns*

Comment: The proposed modification relates to modification of a condition relating to the bank guarantee for the heritage façade. There is no change to the development therefore issues relating to visual privacy, vehicle access and overshadowing fall outside the scope of the development.

- *Concerns that the heritage façade will be demolished*

Comment: The applicant does not wish to demolish the heritage façade but rather reduce the \$17 million bank guarantee that was originally proposed on the consent.

- *Concerns relating to the original heritage façade having architectural issues when marrying with the new development*

Comment: As above, the proposed modification relates to an amendment to a Condition relating to a bank guarantee. Any structural works or additional information to support the structural wall has been conditioned within the consent to be satisfied.

- *The site continues to be an overdevelopment of the site*

Comment: There is no change to the built form of the development. The heritage façade along Gardeners Road is to be retained.

- *The removal of the bank guarantee will remove heritage protections for the facade, which will have a greater environmental impact through increased demolition, and result in a development which is not substantially the same as the development for which consent was originally granted*

Comment: Council does not agree with the removal of the condition however the condition is proposed to reduce the bank guarantee of \$17 million as the original condition was formed based on the overall cost of development for the site. The applicant has provided diagrams and a QS report to justify the reduction in the bank guarantee. The retention of the bank guarantee is considered to be substantially the same as the development for which consent was originally granted.

### **Section 96(3) Modification Considerations**

Section 96(3) of the *Environmental Planning and Assessment Act 1979* states that “*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.*”

An assessment of the application has been carried out under the provisions of Section 79C of the *Environmental Planning and Assessment Act, 1979*. The matters of relevance to this application have been considered.

**a) *Section 79(C)(1)(a) the provisions of any Environmental Planning Instrument and Development Control Plan and any other matters prescribed by the Regulations.***

Botany Bay Local Environmental Plan 2013

The proposed modifications are to amend Condition No. 15 to reduce the bank guarantee for the protection of the heritage façade. There are no relevant provisions of the Botany Bay Local Environmental Plan 2013.

Botany Bay Development Control Plan 2013

The proposed modifications are to amend Condition No. 15 to reduce the bank guarantee for the protection of the heritage façade. There are no relevant provisions of the Botany Bay Development Control Plan 2013.

**b) *Section 79(C)(1)(b) the likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.***

The proposed modifications relate only to the amendment of the condition relating to a reduction in the bank guarantee that was originally proposed on the consent and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. A construction methodology and QS report supports the new bank guarantee figure for the protection of the heritage façade.

**c) *Section 79(C)(1)(c) the suitability of the site for development.***

The proposed modifications do not alter previous conclusions regarding site suitability.

**d) *Section 79(C)(1)(d) any submission made in accordance with the Act or Regulations.***

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of fourteen (14) days between 26 July to 9 August 2017. There were 5 objections that were received and the concerns raised in the submission has been discussed above.

**e) Section 79(C)(1)(e) the public interest.**

The proposed amendment will have no significant adverse impact upon the public interest.

## Conclusion

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Section 96(1A) Application to modify Development Consent No. 16/41 to amend Condition No. 15 to reduce the bank guarantee for the protection of the heritage façade at 405-409 Gardeners Road, Rosebery, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to the conditions of consent.

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## Attachment

### Schedule 1 – Conditions of Consent

**Premises: 405-409 Gardeners Road, Rosebery**

**DA No: 16/41/02**

#### SCHEDULE A CONDITIONS

##### DEFERRED COMMENCEMENT CONDITIONS

- |     |  |
|-----|--|
| DC1 | The applicant is to prepare and submit to Council a Structural Engineers Report and Design Certificate to satisfy Council that the heritage façade of the theatre building can withstand the effects of on-site demolition, excavation, construction of basement levels and above ground works. The report is to also include (for the purposes of the preservation of the neighbouring property at 403 Gardeners Road, Rosebery) details of shoring methods, underpinning details, and constructional methods employed or to be employed to provide support and to protect in the long term the façade and party wall on the boundary shared with No.403 Gardeners Road, Rosebery, together with weatherproofing of that party wall. The design must be certified as compliant with the terms of this condition and adequate for the intended works, by a suitably qualified Structural Engineer. |
| DC2 | The applicant is to submit for Council's approval, a detailed Materials and Colours Sample Board for approval, including all details of the façade restoration, documented by a qualified and experienced heritage architect. The applicant must retain and conserve the northern Gardeners Road elevation of the former cinema above awning level and incorporate facade restoration (including stripping of brickwork and tiles with chemical paint remover), and reinstatement of historic colour scheme.   |
| DC3 | Amended plans are to be submitted to include the following:<br><br>1. Delete the eastern most part of Level 5, to reduce the total number of apartments by four, to reduce the overall height of the eastern part of the building and reduce the GFA and FSR;  |

2. Introduce a rooftop communal terrace to the north east part of Level 5, accessible from the common corridor with perimeter planter beds;
3. Show that all apartments to be provided with at least 50% of the required storage areas, as required by BBDCP 2013 and the ADG internally; and
4. All balcony balustrades are to be treated with obscure glazing.

DC4 Three designs for a mural to be placed at the bottom rendered component of the Sutherland and Tramway Streets elevations representing the cultural contribution of the building to the community; are to be provided for selection by Council.

In the event that Council is not satisfied with any of the three submissions the applicant will be required to submit an alternate proposal to the satisfaction of Council.

The installation is to be prior to occupation certificate being granted.

Such mural is to be maintained by the body corporate.

**Note:** that once the “deferred commencement” conditions is satisfied, that certain draft conditions may need to change when the amended drawings required by the “deferred commencement” conditions are submitted.

## **SCHEDULE B CONDITIONS**

### **GENERAL CONDITIONS**

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council’s stamp, except where amended by other conditions of this consent.

<b>Drawing N°</b>	<b>Author</b>	<b>Date Received</b>
Basement 3, Drawing No. DA 1.97 Issue A	CMT Architects	6 September 2016
Basement 2, Drawing No. DA 1.98 Issue A	CMT Architects	6 September 2016
Basement 1, Drawing No. DA 1.99 Issue A	CMT Architects	6 September 2016
Ground Floor, Drawing No. DA 2.00 Issue A	CMT Architects	6 September 2016
First Floor, Drawing No. DA 2.01 Issue A	CMT Architects	6 September 2016
Second Floor, Drawing No. DA 2.02 Issue A	CMT Architects	6 September 2016
Third Floor, Drawing No. DA 2.03 Issue A	CMT Architects	6 September 2016
Fourth Floor, Drawing No. DA 2.04 Issue A	CMT Architects	6 September 2016
Fifth Floor, Drawing No. DA 2.05, Issue A	CMT Architects	6 September 2016
North Elevation, Drawing No. 4.01, Issue A	CMT Architects	6 September 2016
East Elevation, Drawing No. DA 4.02, Issue A	CMT Architects	6 September 2016

<b>Drawing N°</b>	<b>Author</b>	<b>Date Received</b>
South Elevation, Drawing No, DA 4.03, Issue A	CMT Architects	6 September 2016
West Elevation, Drawing No. DA 4.04, Issue 4	CMT Architects	6 September 2016
External Materials and Finishes	CMT Architects	6 September 2016
Shadow Diagrams, Drawing No. DA2.01	CMT Architects	6 September 2016
Survey Plan, Surveyors Ref No. 202288	W Buxton Pty Ltd Registered Surveyors	21 March 2016
Soil & Water Management Plan, Drawing No. DA6.00	CMT Architects	21 March 2016
Landscape Plan Colour, Drawing No. C100, dated 1 September 2016	Site Image	2 September 2016
Landscape Plan Ground Level, Drawing No. 101, dated 1 September 2016	Site Image	2 September 2016
Landscape Plan Level 1, Drawing No. 102, dated 1 September 2016	Site Image	2 September 2016
Landscape Details and Specifications, Drawing No. 501, dated 1 September 2016	Site Image	2 September 2016
Concept Stormwater Drainage Plans, Drawing Nos. D1-D8, Revision C dated 6 September 2016	LMW Design Group Pty Ltd	7 September 2016

<b>Documents</b>	<b>Author</b>	<b>Date Received</b>
Statement of Environmental Effects	DDC Urban Planning	21 March 2016
SEPP 65 Design Verification Statement	CMT Architects	21 March 2016
Statement of Heritage Impact, Project No. P16-048, dated 21 March 2016	Placemark Architecture and Cultural Heritage	21 March 2016
Waste Management Plan	CTM Architects	21 March 2016
Traffic and Parking Impact Assessment Report, Ref No. 16024 dated 30 August 2016	Terraffic Pty Ltd	6 September 2016
Geotechnical Investigation Report No. G165, dated June 2016	Benviron Group	13 July 2016
Detailed Site Investigation, Job No. E850, Revision 1, dated 29 August 2016	Benviron Group	29 August 2016
BASIX Certificate No. 713773M	Building & Energy Consultants	6 September 2016
Access Report, MSA1151_Rev01	Accessibility Solutions (NSW) Pty Ltd	-

<b>QS Report for the construction of the heritage facade</b>	<b>Mitchell Brandtman Quantity Surveyors</b>	<b>2 November 2017</b>
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**(DA-16/41/02)**

2. This Consent relates to land in Lot 1 in DP 217097 and Lots 5 and 6 in DP 223717, as such, building works must not encroach on to adjoining lands or the adjoining public place, except as otherwise permitted by conditions of this consent.
3.
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) All plumbing stacks, vent pipes, stormwater downpipes including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
  - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2.
4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 713773M for the development are fulfilled.  
 Note: Should the design amendments required by the conditions of this consent require an updated BASIX Certificate, a revised BASIX Certificate shall be submitted with the Construction Certificate.
6. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - i) The consent authority; or
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

#### **CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES**

7. The developer is required to make a formal submission to **Ausgrid** by means of a duly completed Preliminary Enquiry and/or Connection Application Form, to allow Ausgrid to determine the method of electrical supply for the development.



8. Any work undertaken near Overhead Power lines needs to be done in accordance with
  - WorkCover Document ISSC 23 "Working Near Overhead Power Lines";
  - Ausgrid Network Standards;
  - Ausgrid Electrical Safety Rules
9. The location of underground cables by using *Dial Before You Dig* and comply with the requirements of Ausgrids Network Standard 156: *Working Near or Around Underground Cables* before any excavation works are undertaken.
10. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Newtork Standard 143.
11. The approved plans must be submitted to a **Sydney Water** Tap in Service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.
12. The proposed development is to comply with the following requirements issued by **Sydney Airport Corporation Limited** (SACL) dated 24 May 2016. The conditions are as follows:

#### Height Restrictions

- a) The PROPERTY DEVELOPMENT at 405-409 Gardeners Road, Rosebery, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority;
- b) In this instance, Peter Bleasdale, an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number: CASA 229/11 in the capacity as Airfield Design Manager has advised that he has "no objection to the erection of the proposed development to a maximum height of **33** metres above Australian Height Datum (AHD)";
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc;
- d) Should you wish to exceed 33 metres above Australian Height Datum (AHD), a new application must be submitted;
- e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988, No.161;
- f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations;

- g) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- h) Information required by Sydney Airport prior to any approval is to include:
  - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
  - ii) the swing circle of any temporary structure/equipment used during construction;
  - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
  - iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Any application for approval containing the above information, should be submitted to SACL at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996, No.293, which now apply to this Airport;

- i) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by up to 50 penalty units;
- j) The height of the prescribed airspace at the site is approximately 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996, No. 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved.”

#### Bird and Obstacle Hazard Management

- k) To minimise the potential for bird habitation and roosting, the applicant must ensure that non-bird attracting plant species are used in any landscape design;
- l) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site it kept clean regularly, refuse bins are covered and detention ponds are netted.
- m) All trees to be planted shall not be capable of intruding in to the Obstacle Limitation Surface when mature.

### 13. General Terms of Approval from **Water NSW**

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
  - i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

14. The following conditions are imposed by the **NSW Police Service**;

- a) Any proposed landscaping and vegetation should adhere to the following principles:
  - i) Shrubs, bushes, plants should remain under 900mm where possible;
  - ii) Branches of large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.

- b) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- c) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- d) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise.
- e) Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
- f) One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- g) Digital technology should be used to receive, store, and process data. Recording equipment should be secured away from public access areas to restrict tampering with equipment and data. This equipment need to be checked and maintained on a regular basis. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- h) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- i) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- j) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime, including:
  - i) Warning, trespassers will be prosecuted;
  - ii) Warning, these premises are under electronic surveillance
- k) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
- l) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be

obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.

- m) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- n) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks which comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such as a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).

#### **PRIOR TO COMMENCEMENT OF ANY DEMOLITION OR EXCAVATION**

- 15.
  - a) Prior to commencement of any works on site, including any demolition, a bond in the form of a bank guarantee to the value of ~~\$17 million~~ **\$437,862 (GST included)** shall be submitted to Council to ensure the retention of the heritage façade during construction work. The bond will only be released by Council once the roof has been placed on the building and maybe be released prior to the internal fitout of the units and tenancies is completed. **(DA-16/41/02)**
  - b) The bond is to be irrevocable and unconditional in Council's favour, in the event of destruction or material damage to the heritage item component of the building.
- 16. Prior to commencement of any works on-site, a dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant who details the pre-developed condition of the existing public infrastructure in the vicinity of the development site, including Gardeners Road, Sutherland Street and Tramway Lane. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development.

A copy of the dilapidation survey and report must be lodged with the City of Botany Bay by the Certifying Authority with submission of the Construction Certificate documentation.

NOTE: This condition would be satisfied by the dilapidation report submitted prior to demolition provided construction follows directly after demolition.

17. Prior to commencement of any works on-site, a full dilapidation survey and report on the visible and structural condition of all neighbouring structures both at No. 403 Gardeners Road, Rosebery and within the “zone of influence” of the required excavations/works must be submitted to the Certifying Authority for approval prior to the issue of the relevant Construction Certificate. This zone is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer and provided to the owner of affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

NOTE: This condition would be satisfied by the dilapidation reports submitted prior to demolition provided construction follows directly after demolition.

18.

- a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of the Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

19. As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) Protect and support the adjoining premises from possible damage from the excavation, and
- b) Where necessary, underpin the adjoining premises to prevent any such damage.

20. Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction

of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

The statement must be in compliance with: AS2601-1991 Demolition of Structures,” the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
- m) Sewer – common sewerage system;
- n) On site monitoring both during asbestos removal and the remainder of demolition activities.

- 21. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant’s own expense. A certificate from the Applicant’s insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 22. A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately



addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority.

Should any hazardous materials be identified a Work Management Plan shall be submitted to the Principal Certifying in accordance with AS2601 – Demolition of Buildings. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

23. The applicant must, prior to the issue of the Construction Certificate, pay the following fees, bonds and contributions:

a)	Builders Security Deposit	\$295,170.00
b)	Development Control Fee	\$5,000.00
c)	Section 94 Contributions	\$471,515.70

24. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$ **295,170.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

25. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016:

a)	No Bedroom Apartment	\$75,171.60
b)	Two bedroom Apartment	\$396,344.10

This result is a total contribution of **\$471,515.70**, to be paid to Council prior to the issue of the Construction Certificate. The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

26. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

27. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of the construction certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations.

28. All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.

29. Prior to the issue of the Construction Certificate, an acoustic report shall be commissioned to address the impacts of road traffic noise and that the development is designed in accordance with *AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*. The report is to include any required noise attenuation to the structure of the building to meet the above standard and acoustically treated mechanical ventilation, if necessary, to comply with the above standard.

If the applicant chooses to install air conditioning to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the Protection of the Environment Operations (Noise Control) Regulation 2000. (Information attached in the Advisory section). The recommendations of the acoustic report shall be incorporated into the construction certificate drawings to be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.

30. Where any electricity substation is required for the approved development, this must be housed within the building structure. These items reduce the visual amenity of the development, public spaces and the public domain. Above-ground utilities including fire boosters must be appropriately screened in an enclosure. Details of the proposed screen shall be submitted to and approved by the Manager – Statutory Planning, City of Botany Bay prior to the issue of the Construction Certificate.

31.

- a) Building Plan Approval – The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped. For further assistance please telephone 132092 or refer to Sydney water's website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- i) Quick check agent details – see Building and Development then Quick Check; and
- ii) Guidelines for Building Over/adjacent to Sydney Water Assets – see Building and Development then Building and Renovating.

Requirement for a Section 73 Certificate – Sydney Water will assess the impact to the development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development.

The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized and configured according to the Water supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

32. The Landscape Plans by Site Image, Drawing Nos. C100-501 received 2 September 2016 shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
  - a) The raised planter beds must be capable of supporting minimum 1 large canopy tree (in addition to medium sized trees) to provide amelioration of the development in the absence of perimeter deep soil areas. Landscaping within the garden bed shall also incorporate a mix of shrubs and groundcovers of varying heights to ensure there is a dense layered landscape scheme consisting of trees, shrubs and groundcovers.
  - b) Provide elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium to large sized trees.
  - c) Indicate areas of paving, amenity/pedestrian lighting, furniture and fences. Include a schedule of materials.
  - d) Include additional seating opportunities, such as bench seating, within the communal areas.
  
33. A Public Domain Landscape Plan is required for both the Sutherland Street and Gardeners Road areas. The plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the Construction Certificate. The landscape plan shall be in accordance with Council's specifications.
  
34. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the basement car parking area to ensure any visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
  
35. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.  
 The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

36. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;
  - b) Negotiate with the utility authorities (eg Ausgrid, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - i) The additional load on the system; and
    - ii) The relocation and/or adjustment of the services affected by the construction;
  - c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider,
  - d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate; and
  - e) Any costs in the relocation, adjustment, provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
37. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed;
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase;
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
  - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
  - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
  - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;

- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
  - i) Proposed protection for Council and adjoining properties;
  - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
  - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
  - l)
38. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval prior to the issue of the Construction Certificate. The plan shall:
- a) Be prepared by a RMS accredited consultant,
  - b) Nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer, RMS or the Police, and
  - c) If required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
39. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements;
  - b) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure; and
  - c) The crest of the driveways in Tramway Lane shall be a minimum 300mm above the invert of the adjacent kerb and gutter.
40. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.

41. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.

42. Prior to the issue of any Construction Certificate, detailed design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council’s Development Control Plan ‘Stormwater Management Technical Guidelines’, AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to the following:

- a) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition;
  - b) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay’s SMTG;
  - c) If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG;
  - d) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
  - e) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - f) The submission of detailed calculations including computer modelling where required supporting the proposal.
43. Where any Acid Sulfate Soils are encountered during works, an Acid Sulfate Soils Management Report (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate. This report shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The report shall provide details of the following:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- b) Management of acid sulfate soil affected excavated material;
- c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
- d) Run-off control measures for the acid sulfate affected soil.

This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

- 44. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

- 45. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 46. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

- 47. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.



48. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
  - c) Permit to install temporary ground anchors in public land;
  - d) Permit to discharge ground water to Council's stormwater drainage system;
  - e) Permit for roads and footways occupancy (long term/ short term);
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
  - h) Permit to place skip/waste bin on footpath and/or nature strip; and
  - i) Permit to use any part of Council's road reserve or other Council lands.
49. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

#### **CONDITIONS WHICH MUST BE SATISFIED DURING ANY DEVELOPMENT OR WORK**

50. Upon completion of works to stabilise the party wall façade and shop awning on 403 Gardeners Road Rosebery, the council must receive for the public record a certificate from a professional engineer (as defined in the Building Code of Australia) that the stabilisation works complies in all respects with the structural engineers details prepared for the process and the relevant Australian Standards as required by Part B of the Building Code of Australia.
51. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the Accredited Certifier immediately.

52. During the entire construction phase signage shall be fixed on site identifying the PCA and principal contractor (the coordinator of the building work), and providing phone numbers.
  
53. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.  
  
If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
  
54. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
  
55. The Development is to be constructed to meet the following construction noise requirements:
  - a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - c) Time Restrictions
    - i) Monday to Friday 07:00am to 06:00pm;
    - ii) Saturday 08:00am to 04:00pm;
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing

- i) All possible steps should be taken to silence construction site equipment.
- 56. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust, or noise measurements shall be made available to Council Officers upon request throughout the remediation and construction works.
- 57. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 58. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
  - a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 59.
  - a) The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant.
  - b) During excavation and construction and any associated delivery activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc;
  - c) Protection measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction;
  - d) The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times;
  - e) Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
  - f) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;
  - g) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
  - h) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or

other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;

- i) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse;
- j) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer;
- k) During the construction works, the Council footpath shall be maintained in a clean and tidy state at all times;
- l) Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and /or other plant and equipment.

60. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.

61. The Principal Contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing 4th Edition" ('The Blue Book').
- d) Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site," can be down loaded free of charge from Council's website at <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm>, further information on sediment control can be obtained from [www.ssroc.nsw.gov.au](http://www.ssroc.nsw.gov.au).

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

62. The following shall be complied with:
- a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
  - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
  - c) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
  - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
63. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
64. During construction and any associated delivery activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
65. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
66. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
  - b) Approved Construction Traffic Management Plan;
  - c) Approved Construction Management Plan; and
  - d) Approved Waste Management Plan.

67. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out:
- a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - e) any such sign is to be removed when the work has been completed.
- 68.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards;
  - b) All excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
69. If the soil conditions require it:
- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and;
  - b) adequate provision must be made for drainage.
70. Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the development. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
71. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) If the soil conditions required it:

- i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
- ii) Adequate provision must be made for drainage.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

72. Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to the issue of Final Occupation Certificate.
73. Prior to the issue of an Occupation Certificate:
- a) The public footpath in Gardeners Road and Sutherland Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Any pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
  - b) Any new street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
  - c) Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels.
  - d) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
    - i) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
    - ii) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
    - iii) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the



waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

- iv) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- v) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

74. Prior to the issue of any Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

75. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of an Occupation Certificate.

76. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works in Public Domain and Road Reserve areas:

- a) On the Tramway Lane frontage, demolish the existing driveways and driveway laybacks and construct new kerb and gutter as per Council and RMS Infrastructure Specifications;
- b) On the Gardeners Road, Sutherland Street and Tramway Lane frontages, reconstruct existing kerb and gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications;
- c) On the Gardeners Road and Sutherland Street frontages, re-construct existing paved footpath as per Council's Landscape Architect and Council's Infrastructure specifications;

*Note: To ensure satisfactory performance of the completed external public infrastructure works, a maintenance period of twelve (12) months shall apply to all public domain works completed in relation to this application. The performance period shall commence from the issue date of the Final Occupational Certificate.*

77. Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

78. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

79. Prior to the issue of the Occupation Certificate, eighty two (82) off-street car parking bays shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:

	Required Spaces
<b>1 space/ Studio</b>	8
<b>2 spaces/ 2 bedroom</b>	56
<b>1 visitor car space per 5 dwellings</b>	8
<b>1 space/40m<sup>2</sup> commercial floor area</b>	10
<b>TOTAL</b>	<b>82</b>

80. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Sutherland Street and Tramway Lane. The camera and its operation shall comply with the following:
- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
  - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
  - c) Distance from the manholes shall be accurately measured, and
  - d) The inspection survey shall be conducted from manhole to manhole;

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council for review. Any defect/damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

81. Prior to the issue of the Occupation Certificate, the development shall be constructed to meet all recommendations and requirements that have been detailed in the acoustic report required under Condition No. 29 to address road traffic noise and to certify that the development is constructed in accordance with *AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*.
82. Prior to the issue of the Occupation Certificate, the following shall be complied with:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the

owner of the building that residents are not eligible to participate in on-street resident parking schemes;

- b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;
- c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

83.

- a) An Occupation Certificate (Interim or Final) must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of the new building.

#### **CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

84. A separate application shall be lodged for the first use of each of approved commercial tenancies prior to the occupation of those tenancies.

85. The maintenance and upkeep of the Sutherland Street Mural is the ongoing responsibility of the Owner Corporation.

86. The Strata subdivision or otherwise of the development shall be the subject of a further Development Application to Council; and this subdivision application must be accompanied by the following documentation that indicates:

- a) The requirement for the employment of a person to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
- b) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent.
- c) Responsibilities with regard to the operation maintenance of artificial features at the property in accordance with the plans and details approved under this Development Consent.
- d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times.
- e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon.

- f) The Owners Corporation obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
  - g) The prohibition on the sub-leasing of car parking spaces.
  - h) Maintenance of the buildings vital mechanical plant and equipment including but not limited to pumps, ventilation systems, passenger lifts.
  - i) The Owners Corporation/Executive Committee obligations to ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
87. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
88. Ongoing maintenance of the road verge, footpath and nature strip in Gardeners Road, Sutherland Street, and Tramway Lane shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
89. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
90. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired in accordance with the maintenance schedule submitted to Council to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate environmental guidelines.
91. The operation of the site and movements of vehicles shall comply with the following requirements:
- a) All vehicles (including deliveries) shall enter and exit the premises to the public road in a forward direction;
  - b) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;

- c) All parking bays shown on the approved architectural plans shall be set aside for parking and loading/unloading purpose only and shall not be used for other purposes, e.g. storage of goods;
  - d) Any deliveries to the premises or loading and unloading activities associated with the site shall occur via the Tramway Lane access driveway and are not to interfere with pedestrian and vehicular movements on Tramway Lane, public places and road related areas (e.g. footpath, nature strip, road shoulder, road reserve, public carpark, service station etc);
  - e) All deliveries and waste collection to the site shall not occur between the hours of 9:00pm and 7:00am.
92. All waste collection for this development is to be carried out by a private contractor.
93. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
94. No roller shutters are to be installed to any of the commercial premises that front Gardeners Road.
95. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order plan at all times.
96. The hours of operation of any future commercial use must be restricted to the hours of 7:00am to 10:00pm Monday to Saturday and 7:00am to 8:00pm Sunday and public holidays.
- 97.
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
  - b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
  - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces identified by the NSW Police, shall be monitored by CCTV cameras at all times.
98. The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration);
  - b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time;
  - c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time; and
  - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
99. Any air conditioning units shall comply with the following requirements:
- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - ii) Before 7 am or after 10 pm on any other day.
  - c) The transmission of vibration to any place of different occupancy above the requirements of AS2670, Australian Standard AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Australian Standard AS2107 2000: Recommended Design Sound levels and Reverberation levels for Building Interiors.
  - d) Any air-conditioning unit shall comply with the City of Botany Bay's General Noise Criteria detailed above.
100. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/41 received on 23 March 2016 **and as further amended by DA-16/41/02 which was received on 29 June 2017** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. **(DA-16/41/02)**



Ref: 21599

**Executive**

Greg Brandtman JP  
FAIQS RICS AIArbA

David Mitchell  
FAIQS MAIPM

Shane Brandtman  
AAIQS

Andrew Opperman  
AAIQS

Simon Brandtman  
AAIQS

31<sup>st</sup> October 2017

Steve Siganakis  
CMT Architecture  
[steve@cmtarchitects.com](mailto:steve@cmtarchitects.com)

**ATTENTION: STEVE SIGANAKIS**

Dear Steve,

**RE: 405-409 Gardeners Road, Rosebery**

As requested, we have reviewed the available documentation in order to express an opinion regarding an achievable construction budget for the reconstruction of the heritage façade wall part of the proposed development at 405 – 409 Gardeners Rd Rosebery.

Based on rates set against specific areas set out in your supplied documentation, we believe a construction budget of approximately \$398,057.00 + GST should apply.

The costs are inclusive of builders work, labour, materials and plant, preliminaries, profit and overheads and consultant's fees.

Please note however, that the following items are specifically excluded from our calculations:

- ) Escalation from November 2018
- ) Authority fees and contributions
- ) Land costs, legal and stamp duty
- ) Interest & finance costs
- ) Works outside site boundaries
- ) Contingency

We note that the above estimate is classed as indicative only and would recommend a full detailed assessment be carried out as the design documentation progresses.

This budget has been prepared for the purposes of a DA Council Submission only. The use of this budget for Sales or Marketing purposes is strictly prohibited.

We trust this information is sufficient for your purposes at this time.

Yours faithfully  
**MITCHELL BRANDTMAN**

**James Brandtman**  
**SENIOR QUANTITY SURVEYOR**

**Attachment**

Unit 10 / 15-23 Kumulla Road, Miranda NSW 2228 ( PO Box 2915, Taren Point BC NSW 2229 )

T (02) 9525 8000 F (02) 9540 2553 E [syd@mitbrand.com](mailto:syd@mitbrand.com)

Registered Office: Mitbrand NSW ACT Pty Ltd atf Mitbrand NSW ACT Trust trading as Mitchell Brandtman

ABN 38 372 658 067

# ESTIMATE SUMMARY

<b>Job Name :</b>	<u>21599 ROSEBERRY 1</u>	<b>Job Description</b>
<b>Client's Name:</b>	<u>CMT Architects</u>	Heritage Wall Re-construction Construction Budget Estimate 405 - 409 Gardners Rd Rosebery

Trd No.	Trade Description	Trade %	Cost/m2	Sub Total	Mark Up %	Trade Total
1	DEMOLITION	3.14		12,500		12,500
2	EXCAVATION	0.77		3,082		3,082
3	CONCRETE	2.30		9,152		9,152
4	MASONRY	44.07		175,439		175,439
5	STRUCTURAL STEEL & METALWORK	20.54		81,750		81,750
6	PAINTING	3.25		12,950		12,950
7	Subtotal					<u>294,873</u>
8	PRELIMINARIES	13.33		53,078		53,078
9	BUILDERS PROFIT	8.74		34,796		34,796
10	CONSULTANT'S FEES	3.85		15,310		15,310
		<b>100.00</b>		<b>398,057</b>		<b>398,057</b>

<b>Final Total : \$</b>	<b>398,057</b>
<b>G.S.T. 10.00% :</b>	<b>39,805</b>
<b>Final Total Incl. G.S.T. : \$</b>	<b>437,862</b>



# Trade Breakup

<b>Job Name :</b>	<u>21599 ROSEBERRY 1</u>	<b><u>Job Description</u></b>
<b>Client's Name:</b>	<u>CMT Architects</u>	Heritage Wall Re-construction Construction Budget Estimate 405 - 409 Gardners Rd Rosebery

Item No.	Item Description	Quantity	Unit	Rate	Mark Up %	Amount
<i>Trade : 1 DEMOLITION</i>						
	<b>NOTES AND ITEMS</b>					
1	Allow to visit the site to determine the full extent of Demolition work.	1.00	Item			<b>INCL</b>
2	Allow to pay of all fees and costs in connection with the demolition work.	1.00	Item			<b>INCL</b>
3	Allow to carry out site investigation and prepare demolition plan as specified.	1.00	Item			<b>INCL</b>
	<b>DEMOLITION</b>					
4	Allow for demolition works complete.	1.00	Item	12,500.00		12,500.00
<b>DEMOLITION</b>						<b>Total : 12,500.00</b>
<i>Trade : 2 EXCAVATION</i>						
	<b>NOTES AND ITEMS</b>					
1	Allow for keeping excavations free from rain and percolating water by pumping or by other means deemed necessary as specified.	1.00	Item	250.00		250.00
2	Allow for mulching approved vegetation and stockpile for re-use.	1.00	Item			<b>INCL</b>
3	Allow to planking and strutting.	1.00	Item			
4	Allow to restore site.	1.00	Item	500.00		500.00
	<b>DETAIL EXCAVATION in material as found</b>					
5	Excavate trench for strip footing.	22.00	m	106.00		2,332.00
6	Extra over for excavation in rock.	1.00	Item			<b>EXCL</b>
<b>EXCAVATION</b>						<b>Total : 3,082.00</b>
<i>Trade : 3 CONCRETE</i>						
	<b>NOTES AND ITEMS</b>					
1	Allow for taking samples, testing and reporting.	1.00	Item			<b>INCL</b>
2	Allow for curing all surfaces.	1.00	Item			<b>INCL</b>
	<b>GROUND FLOOR LEVEL</b>					
3	1500 x 600mm Reinforced concrete footing including reinforcement.	22.00	m	416.00		9,152.00
<b>CONCRETE</b>						<b>Total : 9,152.00</b>
<i>Trade : 4 MASONRY</i>						

# Trade Breakup

<b>Job Name :</b>	<u>21599 ROSEBERRY 1</u>	<b><u>Job Description</u></b>
<b>Client's Name:</b>	<u>CMT Architects</u>	Heritage Wall Re-construction Construction Budget Estimate 405 - 409 Gardners Rd Rosebery

Item No.	Item Description	Quantity	Unit	Rate	Mark Up %	Amount
<i>Trade : 4 MASONRY</i>						
	<b>BRICKWORK</b>					
	Heritage Work					
1	470mm External wall.	205.00	m2	728.00		149,240.00
	Detailing					
2	Allowance for projected courses and additional heritage detailing.	205.00	Item	50.00		10,250.00
	<b>SUNDRIES</b>					
3	Allow for all lintels, flashings, DPC's, cappings, cavity ties, expansion joints, control joints etc. (10%)	1.00	Item	15,949.00		15,949.00
<b>MASONRY</b>					<b>Total :</b>	<b>175,439.00</b>
<i>Trade : 5 STRUCTURAL STEEL &amp; METALWORK</i>						
	<b>NOTES AND ITEMS</b>					
1	Allow for shop drawings.	1.00	Item			<b>INCL</b>
2	Allow for temporary bracing.	1.00	Item			<b>INCL</b>
3	Allow for site welding as required.	1.00	Item			<b>INCL</b>
4	Allow for the inspection of welds.	1.00	Item			<b>INCL</b>
	<b>STEELWORK</b>					
5	Allow for all steelwork to support new wall.	205.00	m2	150.00		30,750.00
	<b>AWNING</b>					
6	Steel framed awning structure fixed to masonry wall.	60.00	m2	850.00		51,000.00
<b>STRUCTURAL STEEL &amp; METALWORK</b>					<b>Total :</b>	<b>81,750.00</b>
<i>Trade : 6 PAINTING</i>						
	<b>EXTERNALLY</b>					
	Prepare, prime and paint the following:-					
1	Masonry wall and detailing.	205.00	m2	50.00		10,250.00
2	Awning complete.	60.00	m2	45.00		2,700.00
<b>PAINTING</b>					<b>Total :</b>	<b>12,950.00</b>
<i>Trade : 7 Subtotal</i>						

# Trade Breakup

<b>Job Name :</b>	<u>21599 ROSEBERRY 1</u>	<b><u>Job Description</u></b>
<b>Client's Name:</b>	<u>CMT Architects</u>	Heritage Wall Re-construction Construction Budget Estimate 405 - 409 Gardners Rd Rosebery

Item No.	Item Description	Quantity	Unit	Rate	Mark Up %	Amount
<u>Subtotal</u>					Total :	
Trade : 8 PRELIMINARIES						
1						
<u>PRELIMINARIES</u>					Total :	
Trade : 9 BUILDERS PROFIT						
1						
<u>BUILDERS PROFIT</u>					Total :	
Trade : 10 CONSULTANT'S FEES						
1						
<u>CONSULTANT'S FEES</u>					Total :	

# LMW DESIGN GROUP PTY LTD

## STRUCTURAL AND HYDRAULICS ENGINEERS AND BUILDING CONSULTANTS

15 WOODLANDS AV LUGARNO NSW, 2210

Ph:(AH) 02-9533-5778 Fax: 02 9153 7790 Mobile: 0418-285-592

ABN: 73 003 121 784 ACN: 003-121-784

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10/10/2017

Attention: CHRIS  
CMT ARCHITECTS

Dear Sir,

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### RE: PROPOSED DEVELOPMENT AT No. 409 GARDENERS RD ROSEBERY

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#### CONSTRUCTION METHODOLOGY THE FAÇADE RETENTION OF THE MARINA THEATRE

LMW Design Group has been engaged to undertake the design of the façade retention and shoring of the bulk excavation required for the underground car park. The construction methodology is outlined below stage by stage, this construction methodology is to be read in conjunction with the attached drawings numbered SE1, SE1A, SE2, SE3, SE4, SE5, S101, S102, ST1, ST2, ST3

##### Stage 1

B class hoarding shall be erected around the street frontages see attached sketch. The rear section of the Marina will be demolished leaving the front 12metres of the building untouched. The rear section can be demolished by standard processes with the demolisher providing details of scaffolding and demolition methodology.

##### Stage 2

The B Class hoarding adjacent to the frontage along Gardeners Rd and the first 12 of metres of Sutherland St is designed to give the facade lateral support at the levels of first floor and the top of the seat staging. The roof over this front section will be left intact so as to laterally restrain the top of the wall for the front façade and the two 12 metre sections of the return walls. The roof sheeting and ceiling will be stripped of the retained section of the roof leaving all structural connections and members intact.

##### Stage 3

The seat staging internal stairs and first floor structure is to be demolished by hand under the direct supervision of an engineer. The ground floor slab is to be removed by saw cutting and dragging the concrete slabs away from the façade no vibration is to be transmitted to the façade. Test holes are to be hand dug, under the supervision of the engineer adjacent to the footings to establish the founding depth of these footings.

LMW Design Group Pty.Ltd Structural and Hydraulics Engineers and Building Consultants.

Incorporated in New South Wales

Director: Steven W Waters B.E Syd.,M.Eng.Sc. N.S.W., MIE. Aust., C.P.Eng., BUILDING SURVEYOR

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### Stage 4

An AFS wall be installed to the inside of the retained façade to the underside of the first floor slab level Helix ties are to be installed connecting the AFS wall to the retained façade and then the AFS wall is to be filled with concrete.

### Stage 5

A CFA Drilling rig will be used to install a secant pile wall inside the retained façade to a depth 3000mm below the base of the proposed excavation to form a Secant Wall. In addition clusters of 3X 300 diameter piers will be drilled in the location of the first column line in the basement along the Gardiners Rd frontage.

### Stage 6

The ground floor adjacent to Gardiners Rd will be cast either side of the internal return wall that is to be retained in the interim. The slab is to be cast only past the line of the cluster of 3x300 piers. The internal AFS walls are to be cast to the underside of the first floor.

### Stage 7

The first floor is then cast approximately 6000mm wide for the Gardiners Rd frontage.

### Stage 8

The first row of internal horizontal façade retention steel is to be removed. And the internal skin of AFS walling installed and tied to the façade at the underside of the second floor slab. The internal structure to support the second floor for the 6000mm strip poured and the second floor poured. The same process will occur until the third floor slab is poured.

### Stage 9

The AFS wall inner skin will be installed and tied to the façade to the top of the parapet. Internal braces will be installed to the top of the parapet braced to the third floor slab.

### Stage 10

The roof structure will be demolished and then the return wall to the façade on the interior of the site removed under direct supervision of the engineer

### Stage 11

The infill slabs left out of the slabs on Ground, First, Second and Third Floors can be cast

### Stage 12

Level four buttress slab can be poured adjacent to Gardiners Rd

During the above stages from Stage 5 onwards the Secant walling can be

LMW Design Group Pty.Ltd Structural and Hydraulics Engineers and Building Consultants.

Incorporated in New South Wales

Director: Steven W Waters B.E Syd., M.Eng.Sc. N.S.W., MIE. Aust., C.P.Eng., BUILDING SURVEYOR

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# LMW DESIGN GROUP PTY LTD

## STRUCTURAL AND HYDRAULICS ENGINEERS AND BUILDING CONSULTANTS

15 WOODLANDS AV LUGARNO NSW, 2210

**Ph:(AH)** 02-9533-5778 **Fax:** 02 9153 7790 **Mobile:** 0418-285-592

**ABN:** 73 003 121 784 **ACN:** 003-121-784

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### Stage 13

The bulk excavation can commence to the underside of the upper basement level installing ground anchors to the three sides of the basement other than The Gardiners Rd frontage. Tanking in the form of a Bentonite blanket with a sprayed shotcrete wall, for protection is tied to the secant pile walling, this is installed around the perimeter of the basement.

### Stage 14

A buttress upper basement slab is installed by dowelling to the columns and walls, and poured

**Stages 13 and 14** will occur for the middle basement car park level.

### Stage 15

The bulk excavation is completed with a supported buttress propping and supporting the front façade.

### Stage 16

The lower basement support and tie down piers, either bored or screw piers, are installed. A Bentonite blanket is placed and a lower basement slab designed for the hydro static uplift installed.

The rest of the construction sequences consists of normal construction processes tying in with the buttress slabs already poured, adjacent to Gardiners Rd, for each level.

All demolition, propping removal of braces and support structure and excavation works adjacent to the existing building is to be undertaken under the direct supervision of the structural engineer.

Respectfully yours,  
*LMW Design Group Pty. Ltd.*

*Steven W Waters*

B.E.Syd. Civil,

M.Eng.Sc. N.S.W. Struct,

MIE. Aust., C.P.Eng.

RPEQ Civil & Structural REG No 11085

NPER 3 Civil & Structural REG No 417092

**ACCREDITED CERTIFIER Accreditation No. BPB 0429**

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## **Bayside Planning Panel**

**14/11/2017**

Item No	5.4
Application Type	Development Application – Alterations and additions to an existing semi-detached dwelling (Residential Building)
Application Number	DA-2017/1120
Lodgement Date	1 August 2017
Property	<b>63 Dougherty Street, Rosebery</b> (Lot 51 in DP 226180)
Owner	Warwick Bruce Dickinson & Rebecca Mary Vassel
Applicant	Warwick Bruce Dickinson
Proposal	Alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.
No. of Submissions	One (1) objection
Cost of Development	\$250,000.00
Report by	Kim Johnston, Consultant Planner

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## **Officer Recommendation**

1. That the Bayside Planning Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of *Botany Bay Local Environmental Plan 2013* and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
  2. That Development Application No. 17/1120 for the construction of alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport at 63 Dougherty Street, Rosebery be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 

## **Attachments**

1. Planning Assessment Report
  2. Clause 4.6 variation to FSR
  3. Site Plan, Floor plans, Elevation plans, Section plans
  4. Elevational Shadow Diagram Mid-Winter 9am – 12noon (existing and proposed)
  5. Shadow Diagram Mid-Winter 9am – 12noon (existing and proposed)
  6. Survey Plan
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## Location Plan



Figure 1: Locality Plan (Source: Six Maps)



# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	2017/1120
<b>Date of Receipt:</b>	1 August 2017
<b>Property:</b>	63 Dougherty Street, Rosebery Lot 51 DP 226180
<b>Owners:</b>	Warwick Bruce Dickinson & Rebecca Mary Vassel
<b>Applicant:</b>	Warwick Bruce Dickinson
<b>Proposal:</b>	Alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$250,000.00
<b>No. of submissions:</b>	One (1) submission (objection)
<b>Author:</b>	Kim Johnston, Consultant Planner
<b>Date of Report:</b>	9 October 2017

### Key Issues

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Council received Development Application No. 17/1120 on 1 August 2017 seeking consent for the construction of alterations and additions to an existing semi-detached dwelling, including a first floor addition at 63 Dougherty Street, Rosebery.

The application was placed on public exhibition for a fourteen (14) day period from 14 August 2017 to 1 September 2017. There was one (1) submission received.

The key issues in the assessment of the development application included the compatibility of the proposed alterations and additions with the existing development on the site and in the street and the consistency of the proposal with the planning controls. Following a thorough assessment, it is considered that the proposal is satisfactory in relation to these issues.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and is recommended for approval, subject to conditions of consent.

### Recommendation

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As per attached cover page.

## Background

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### History

There are no historic applications relating to the subject site and the site has an extended history of residential use.

#### Development Application History

On 14 August 2017, the application was referred to Council's engineer for comment and was also notified to the adjoining and adjacent property owners. On 20 August 2017, a submission from the adjoining property was received by Council and on 5 September 2017, a site inspection was carried out on the site. The application is referred to the Bayside Planning Panel as the proposal involves a variation to the maximum floor space ratio (FSR) development standard of more than 10%.

### Proposal

The development application seeks consent for alterations and additions to the existing semi-detached dwelling on the site. Specifically, the proposal involves the following:

- Alterations and additions to the existing semi-detached dwelling including the following:
  - Demolition of the awning on the southern side of the dwelling;
  - Relocation and reconstruction of the bathroom, laundry and kitchen areas on the ground floor;
  - Construction of internal stairs to the proposed first floor along the northern elevation;
  - Construction of larger living room (in location of the former awning) with an additional 15m<sup>2</sup> of gross floor area (approx.); and
  - Construction of a paved terrace area adjoining the living area at the rear (east) of the dwelling.
- Construction of a new first floor to the existing semi-detached dwelling comprising two (2) additional bedrooms, a small storage area, a bathroom and a sitting room; and
- Construction of a metal carport adjoining the southern boundary with skylights in the roof to allow light into the dwelling (open on all sides).

The additions are proposed to be constructed of face brick on the ground floor to match the existing dwelling with the first floor to be constructed of cladding on the southern side and face brick to the northern wall adjoining the semi-detached dwelling to the north.

A skillion dark grey colourbond roof is proposed over the first floor addition. Powder coated aluminium windows are also proposed for the new addition to the dwelling.

The height of the proposed building is 7.05 metres, which complies with the maximum permissible building height of 9 metres under Clause 4.3(1) of the *Botany Bay Local Environmental Plan 2013* (BBLEP 2013). The overall gross floor area (GFA) for the proposal is **158.97m<sup>2</sup>** with a resulting FSR of **0.58:1**, exceeding the maximum floor space ratio (FSR) development standard of 0.5:1 under Clause 4.4A (3)(d) of BBLEP 2013. Accordingly, a

Clause 4.6 variation has been submitted (considered below in the BBLEP 2013 assessment). The proposal provides for one (1) car parking space, consistent with the planning controls. In terms of the proposed uses, the proposal is for a *semi-detached dwelling*, which is permissible in the zone with consent.

The proposal is illustrated in **Figures 1, 2 and 3** below.

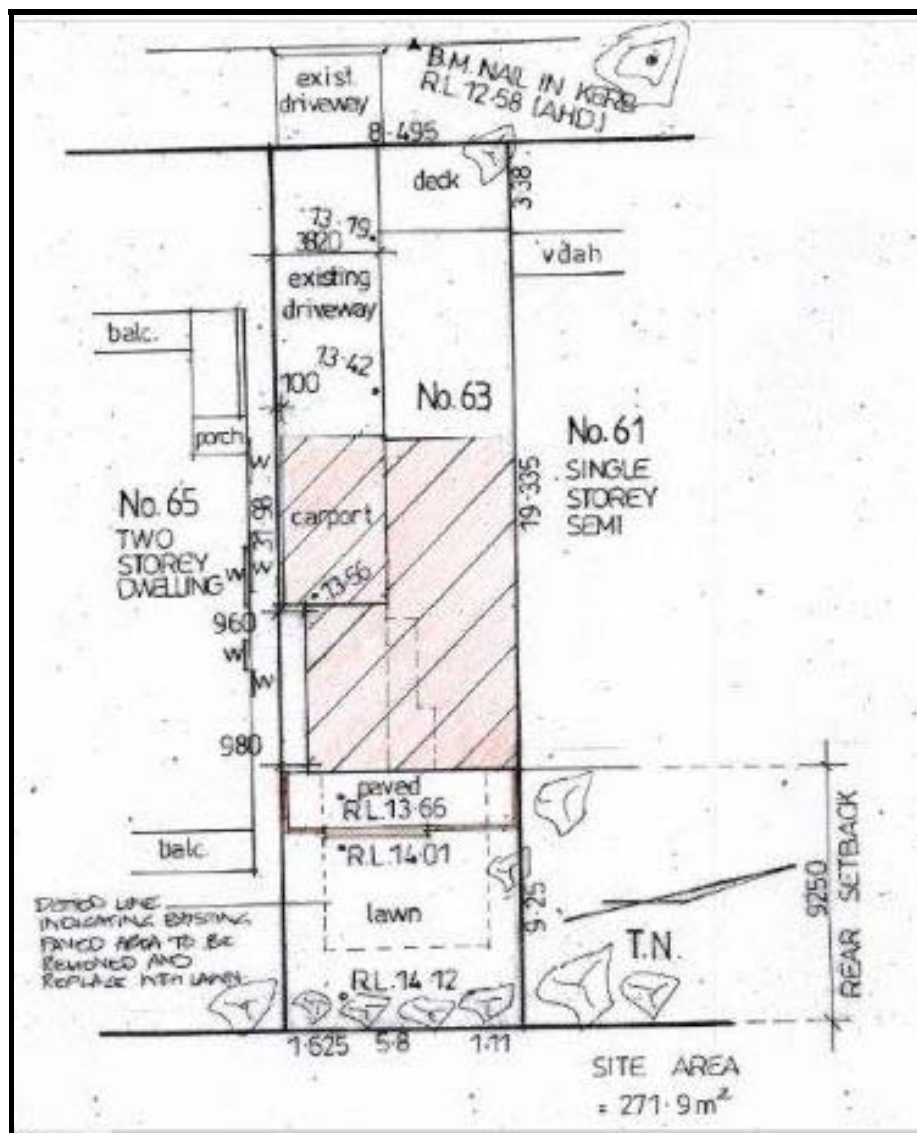


Figure 1: Proposed Site Plan (Source: Peter Banfield, 3 July 2017)

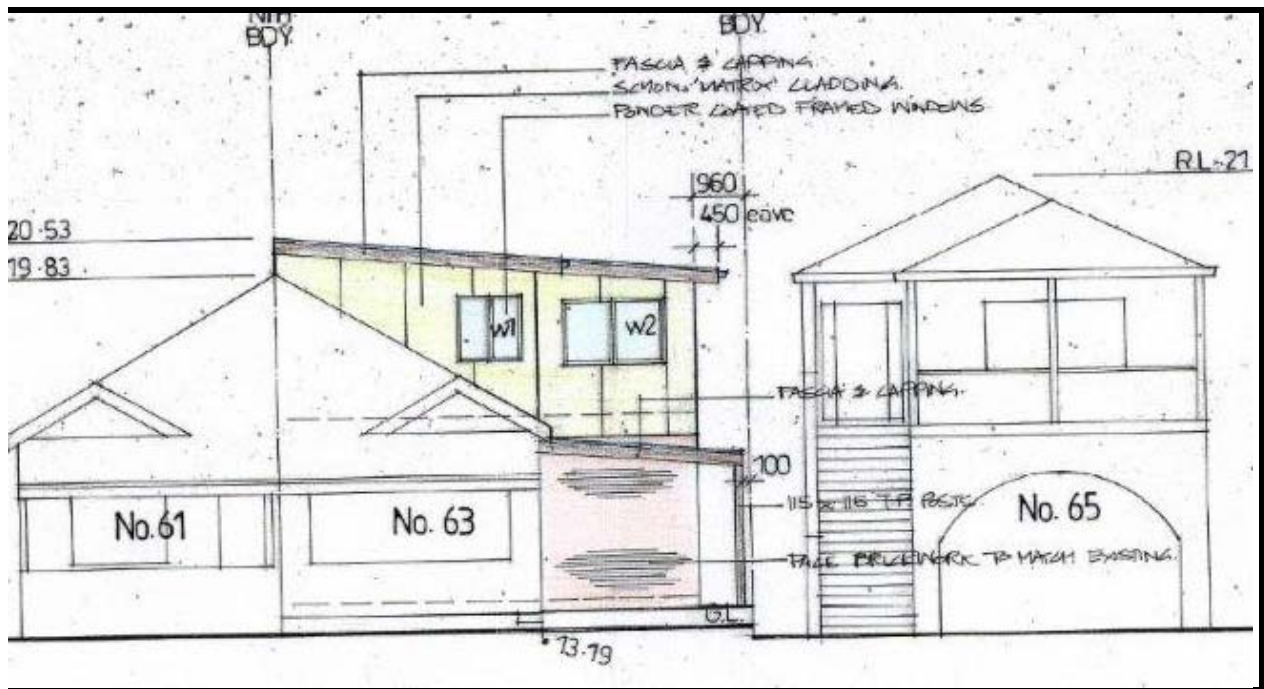


Figure 2: Proposed Streetscape Elevation (Source: Peter Banfield, 3 July 2017)

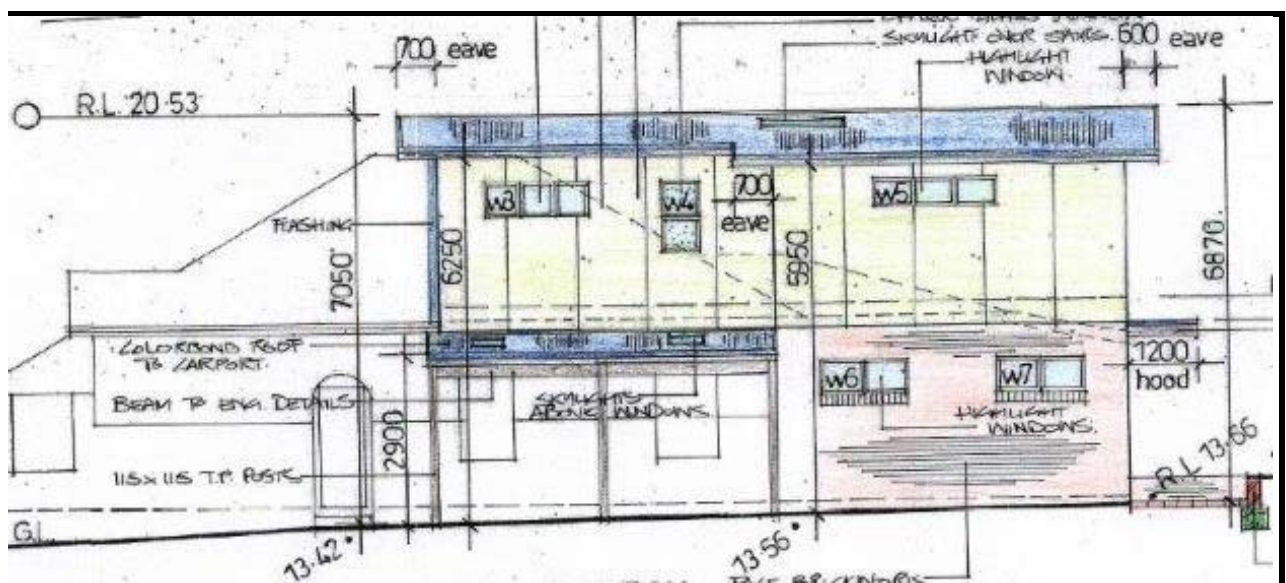


Figure 3: Proposed Southern Elevation (Source: Peter Banfield, 3 July 2017)

### Key Controls

The key controls relevant to the proposal are provided in **Table 1** below:

**Table 1: Key Controls**

Control	Required	Proposal	Complies (Yes/No)
Site Area	-	Site Area: 271.9sqm	N/A
<b>BBLEP 2013</b>			
Zone	R2	Semi-detached dwelling	Yes
FSR/ GFA	0.5:1 (Cl 4.4A) Max GFA = 135.95m <sup>2</sup>	0.58 :1 158.97m <sup>2</sup>	<b>No</b> <b>Refer to</b> <b>Note 1</b>
Height	9 metres (maximum)	7.05 metres	Yes
<b>BBDCP 2013</b>			
Car Parking	<u>Residential</u> 1 space/ semi-detached dwelling	<u>Residential</u> 1 r car spaces provided (carport)	Yes
Site Coverage	60% (Site area = 250m <sup>2</sup> - 300m <sup>2</sup> )	47.8%	Yes
Building Setbacks	Front – prevailing or 6m Side – on merit Rear - 4m	Front – no change (prevailing) Side – 0-960mm Rear – 9.25m	Yes
Landscaped Area	20% (Site area = 250m <sup>2</sup> - 350m <sup>2</sup> )	21.9% (59m <sup>2</sup> )	Yes
Solar Access	2 hours of sunlight to living room windows and 50% of private open space of adjoining properties	Achieved – outlined on shadow diagrams	Yes
Private Open Space	36m <sup>2</sup>	52m <sup>2</sup>	Yes

## Site Description

The site comprises one (1) allotment known as 63 Dougherty Street, Rosebery and is legally described as Lot 51 in DP 226180. The site is located on the eastern side of Dougherty Street, between Want Street to the north and Coward Street to the south, in Rosebery. The site is a regularly shaped allotment with an overall site area of 271.9m<sup>2</sup>. The site has an east-west orientation, with the land falling gently by around 1.2 metres from the south-east corner along the rear boundary to the front south-western corner.



The site location is illustrated in **Figure 4**.

The site has a regular shape and is located within the R2 Low Density Residential zone. The site has an 8.495 metre frontage to Dougherty Street (western boundary) and a side boundary of 31.98 metres (northern and southern boundaries). The rear boundary is 8.535 metres wide (eastern boundary). The site is located in a well-established low density residential area.

There are a number of shrubs on the site, in both the front and rear yards. There are no other natural site features located on the site.



**Figure 4: Site location (Source: SIX Maps)**

Existing development on the site comprises a single storey semi-detached brick dwelling with a tiled roof and an attached awning. A detached timber shed also exists in the rear yard. A low height brick fence with timber panel infills above exists along the front boundary and a driveway exists along the southern boundary.

The existing development on the site is illustrated in **Figures 5 and 6**



**Figure 5: Existing Development on the site**



**Figure 6: The existing semi-detached on the site - No 61 & 63 Dougherty Street**

#### Description of the Surrounding Development

Development surrounding the area comprises of low density detached and semi-detached dwellings.

Adjoining development to the north of the site comprises a single storey brick and rendered cottage with a pitched tiled roof, being the other half of the existing semi-detached dwelling on the subject site (No 61). The adjoining development to the south comprises a two storey brick dwelling with a pitched tiled roof (No 65) (refer to **Figures 7 & 8**).



**Figure 7: Adjoining development (No 61 Dougherty Street – adjoining semi)**



**Figure 8: Adjoining development to the south (No 65)**

Development located opposite the site on the western side of Dougherty Street comprises single storey weatherboard cottages as well as a number of more recent two (2) storey brick dwellings. There is no particular architectural style in the street, with a mix of original and more recent constructions with a number of two (2) storey dwellings existing in the street, as illustrated in **Figures 9 and 10**.





**Figure 9: Existing development on the western side of Dougherty Street comprising other 2 storey dwellings**



**Figure 10: Existing development eastern side of Dougherty Street comprising other 2 storey dwellings**

The site is well serviced with shopping and other commercial uses in the Mascot shopping area to the south-west of the site along Botany Road. Recreational opportunities are provided at Jos Wiggins Park, a short distance to the south-west of the site. The site is also serviced with public transport including various bus stops to the west along Maloney Street which provides services to Eastgardens and the city.

## **Referrals**

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### Internal

The development application was referred to Council's development engineer. Appropriate comments have been provided relating to the stormwater management and construction details.

## External

The development application was not required to be referred to any external agencies for comment.

Relevant conditions have been imposed in Schedule 1 in **Attachment A**.

## **Statutory Considerations**

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An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration – General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

#### **State Environmental Planning Policy (Infrastructure) 2007**

*State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

*Clause 101 – Development with frontage to a Classified Road and Clause 102 – Impact of road noise or vibration on non-road development*

The site does not have frontage to a classified road and is not located near a classified road in relation to acoustic impacts and accordingly, these provisions are not relevant to the current application.

*Clause 104 – Traffic-generating development*

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance the proposal does not meet this criteria and accordingly, a referral to the RMS is not required.

The proposal is consistent with the Infrastructure SEPP.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposal. The application was accompanied by BASIX Certificate No. A287105 dated 14 July 2017 prepared by *Peter Banfield Building Design/Plan Service* committing to environmental sustainable measures. The Certificates demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. Accordingly, a condition has been imposed on the consent to ensure that these requirements are adhered to. The proposal is consistent with the BASIX SEPP.

## State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55), along with the requirements of Part 3K Contamination of the BBDCP 2013, have been considered in the assessment of the development application. Clause 7 of SEPP 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The likelihood of encountering contaminated soils on the subject site is considered to be low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary. The proposal is generally consistent with SEPP 55, with relevant conditions being imposed on the consent to ensure compliance with this Policy.

## Botany Bay Local Environmental Plan 2013

*Botany Bay Local Environmental Plan 2013* (BBLEP 2013) has been considered in the assessment of the Development Application and the following information is provided:

**Table 2: Consideration of BBLEP 2013**

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<i>Land use Zone</i>	N/A	The site is <b>R2 Low Density Residential</b> under the BBLEP 2013.
<i>Is the proposed use/works permitted with development consent?</i>	Yes	The proposed use is permissible with Council's consent under the BBLEP 2013 as a <i>semi-detached dwelling</i> .
<i>Does the proposed use/works meet the objectives of the zones?</i>	Yes	<p>The proposed development is consistent with the following zone objectives in the BBLEP 2013:</p> <ul style="list-style-type: none"><li>• <i>To provide for the housing needs of the community within a low density residential environment.</i></li><li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li><li>• <i>To encourage development that promotes walking and cycling.</i></li></ul> <p>The proposal is generally consistent with these zone objectives in that it provides for</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		the housing needs of the community within a low density environment and encourages walking and cycling being located in an area close to services and public transport (buses).
<i>Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site? If so what additional uses are permitted on the site?</i>	N/A	Schedule 1 does not apply to the site.
<i>Is demolition proposed? Consent is required (CI 2.7)</i>	Yes	Minor demolition is proposed in this application. Relevant conditions have been recommended to be imposed to ensure this is carried out in accordance with the relevant requirements.
<i>What is the height of the building? (CI 4.3)</i>  <i>Does the height of the building exceed the maximum building height?</i>	Yes	A maximum height of 9m applies to the subject site. The proposed maximum height of the proposal is 7.05 metres (highest point of roof at RL 20.53).
<i>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m<sup>2</sup> min and maximum height of 22 metres and maximum FSR of 1.5:1? (CI 4.3(2A))</i>	N/A	The site is not in the R3 or R4 zone.
<i>What is the proposed FSR? (CI 4.4). Does the FSR of the building exceed the maximum FSR?</i>	N/A	The site is located in Area 3 and therefore this clause is not relevant to the proposal.
<i>Is the site within land marked “Area 3” on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?</i>	<b>No Refer to Note 1</b>	The site is located within Area 3. The maximum permissible FSR is 0.50:1 pursuant to CI 4.4A(3)(d) as <i>other development for the purpose of residential accommodation</i> Total site area = 271.9m <sup>2</sup> . Maximum permissible GFA = 135.95m <sup>2</sup> . Proposed overall GFA = 158.97m <sup>2</sup> (0.58:1). Exceedance of 23.02m <sup>2</sup> (16.93% variation).
<i>Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m<sup>2</sup> min; maximum height of 22 metres; affected by ASS, contamination and noise, and maximum FSR of 1.65:1? (CI 4.4B)</i>	N/A	The site is not located within the R3 or R4 zone.
<i>Development in the R3 and R4 zone (CI 4.4C).</i>	N/A	The site is not in the R3 or R4 zone.
<i>Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)</i>	N/A	The site is not affected by any land acquisition.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<i>Trees or vegetation to be removed? (Cl 5.9 &amp; 5.9AA).</i>	Yes	There is no vegetation to be removed for the proposal.
<i>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? (Cl 5.10).</i>	Yes	The subject site is not heritage listed, is not located within a heritage conservation area and there are no heritage items in the vicinity of the site. The proposal will not result in any adverse impact on any heritage values.
<p>The following provisions in Part 6 of the LEP apply to the development–</p> <ul style="list-style-type: none"> <li>6.1 – Acid sulfate soils</li> </ul>	Yes	<ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Sols - The subject site is located on Class 5 land with the following consent requirements:- <p><i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land</i></p> <p>There is limited excavation proposed (only for footings) which is likely to require only 500mm of excavation, and the lowest point on the site is 13.64. There is no requirement for an ASS management Plan.</p> </li> </ul>
<ul style="list-style-type: none"> <li>6.2 – Earthworks</li> </ul>	Yes	<ul style="list-style-type: none"> <li>6.2 – Earthworks - The proposed development involves only minor excavation for footings.</li> </ul>
<ul style="list-style-type: none"> <li>6.3 – Stormwater management</li> </ul>	Yes	<ul style="list-style-type: none"> <li>6.3 – Stormwater Management – The proposal involves discharging stormwater to the existing system. Council's Engineer has reviewed the application and raised no objections, subject to relevant conditions. The development is considered to be consistent with this Clause subject to relevant conditions.</li> </ul>
<ul style="list-style-type: none"> <li>6.8 - Airspace Operations</li> </ul>	Yes	<ul style="list-style-type: none"> <li>6.8 - Airspace operations – The site is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24 metres) above existing ground height without prior approval of the Civil Aviation Safety Authority. The maximum height of the</li> </ul>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> </ul>	Yes	<p>existing dwelling is 7.05 metres and therefore does not exceed this maximum height.</p> <ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise - The subject site is affected by aircraft noise being located within the ANEF 20-25 contour. This issue will need to be addressed prior to the issue of a Construction Certificate with relevant conditions recommended in Schedule 1.</li> </ul>
<ul style="list-style-type: none"> <li>6.15 – Active Street Frontage</li> </ul>	N/A	<ul style="list-style-type: none"> <li>6.15 – Active Street Frontage – The site is not affected by this clause.</li> </ul>
<ul style="list-style-type: none"> <li>6.16 – Design excellence</li> </ul>	N/A	<ul style="list-style-type: none"> <li>6.16 – Design excellence - This clause does not apply to the subject site</li> </ul>

#### **Note 1 – Clause 4.6 variation relating to FSR exceedance**

The site has a maximum Floor Space Ratio (FSR) of 0.5:1 pursuant to Clause 4.4A(3)(d) of BBLEP 2013 as *other development for the purpose of residential accommodation*. The proposal involves a gross floor area of 158.97m<sup>2</sup> and an FSR of 0.58:1, resulting in an exceedance of 23.02m<sup>2</sup> in gross floor area/FSR.

The maximum permissible FSR is lower for the proposal as the site is located within Area 3 and it involves residential accommodation which does not fall within the definition of a dwelling house under BBLEP 2013. A dwelling house would have a maximum FSR of 0.75:1.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

*(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*

*(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) That there are sufficient environmental planning grounds to justify contravening the development standard.*

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written

request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

The Applicant has provided a Clause 4.6 variation to justify contravening the FSR standard. The salient points of their justification are provided below:

*“The bulk and scale of the proposal will be well within the immediate surrounding development due to the setback and size of the proposal will maintain the objectives of the LEP.*

#### Consistency with the FSR Objectives

*The form of development in the immediate and surrounding area is characterised by single and two storey dwellings and in this regard the proposal is modest in bulk and scale.*

*The proposed addition will be screened by the existing dwelling and will provide greater consistency with neighbouring buildings in the area.*

*The proposal is of a simple contemporary design so as not to detract from the original dwelling and keep the bulk and scale to a minimum due to its single scale development to the rear.*

*Due to the design and siting to the rear of the existing dwelling, the proposal will have no adverse effect on the street.*

*The proposal, due to its siting and design, will not have any adverse effect on the amenity of the adjoining premises as it will comfortably comply with the controls for solar access and privacy*

*This objective has been achieved as the proposed FSR marginally exceeds the control. As previously stated, the premises are within area 3 on the FSR map which allows for an FSR of .75:1 for sites between 251 and 300 square metres.*

*The upgrading of the dwelling to accommodate the growing needs of the occupants will ensure that people will remain in the area and patronise shopping and infrastructure.*

#### Consistency with the Zone Objectives

*The proposed FSR variation does not create an inconsistency with the zone objective as the proposed FSR does not result in a bulk or large scale development.*

*While the proposed alterations and additions exceed the FSR control, by definition it is considered unreasonable to comply as the area allows for an FSR of .75:1 for the same site area.*

*The provision of the additional accommodation is in a sympathetic manner and provides a positive outcome.*

#### Consistency with State and Regional Planning Policies

*The proposed FSR variation is not inconsistent with State or Regional Policy. On the contrary, the State Policy of Urban Consolidation seeks to provide for greater heights and densities in areas that are well serviced. Notwithstanding this, the FSR variation does not create any adverse impact with regard to bulk, scale, solar access or shadowing. As stated above, the site is well suited to accommodate an expansion of the dwelling. The definition of a semi-detached cottage is inconsistent with adjoining Council's, which deems a semidetached dwelling to be a dwelling house.*

*Better Planning Outcome*

*While the proposed alterations and additions exceed the FSR control, it is considered acceptable due to the dwelling's siting and footprint. The site is currently dwarfed by neighbouring buildings, which limits development potential. Notwithstanding this, the proposed alterations and additions will not pose any adverse bulk, scale, shadow or privacy impacts due to the first floor addition being 7.05 metres in height. The proposed alterations and additions will provide the subject dwelling with greater consistency with neighbouring buildings in the area and will provide a better utilised site.*

*Sufficient Environmental Grounds*

*The lack of impact to surrounding properties, particularly in relation to privacy and visual amenity demonstrates the suitability of the proposed FSR variation.*

*The Public Interest*

*The proposed FSR variation is considered to be in the public interest as it provides for a better utilisation of the existing dwelling. All proposed alterations and additions will be accommodated to the rear of the site and the increased scale will not have any adverse effect on the streetscape".*

Officers Comment:

The Clause 4.6 variation to the FSR development standard has been assessed in accordance with the BBLEP 2013 as outlined below.

*Is the development standard unreasonable or unnecessary in the circumstances of the case?*

Officer's Comments:

The applicant has provided justification for the variation to the FSR, in that it is viewed as a minor exceedance and that the bulk and scale of the proposal is compatible with existing housing in the area. The additional FSR does not result in a significantly increased bulk given it is only 23 square metres above the development standard and does not result in a significant increase to overlooking or overshadowing. The height of the proposal complies with the development standard, with the increase in FSR allowing for an additional two (2) bedrooms and a sitting room on the first floor of the semi-detached dwelling. The FSR exceedance is approximately the size of the proposed front bedroom.

Locating the proposed addition to the rear of the existing building and the provision of a skillion roof form towards the rear allows for the retention of the existing pitched roof over the front portion of the dwelling, in line with the streetscape. The development standard would therefore be unreasonable in this instance in order to accommodate the proposed additions to the semi-detached dwelling on the subject site.

*Are there sufficient environmental planning grounds to justify contravening the development standard?*



Officer's Comments:

- The proposal, notwithstanding this non-compliance with the FSR controls, does not result in any significant impacts to the adjoining properties.
- The built form proposed is in keeping with similar development in the streetscape, in terms of bulk and scale, given the presence of various other two (2) storey dwellings in the street and is compliant with the height development standard.
- Setbacks to the street, sides and rear are compliant and provide sufficient landscaping to be of an appropriate scale to the proposal and present a positive street form.
- The proposed development incorporates a number of design features and wall articulation to reduce the bulk of the proposal and proposes this variation for a small portion of the dwelling.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 also considered:-

- Objectives of Clause 4.6.
- Objectives of the FSR development standard.
- Public interest and public benefit of maintaining the development standard.
- Concurrence is assumed per planning circular PS 08-003.

*Objectives of Clause 4.6*

The objectives of Clause 4.6 (pursuant to Clause 4.6(1) of BBLEP 2013) are:

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Officer's Comments:

The proposal responds to the site characteristics in terms of the existing building features and location on the site as well as limiting impacts on adjoining properties. Council recognises that the proposal meets the objectives of Clause 4.6 and those of the FSR development standard notwithstanding the proposed non-compliance. The proposal will facilitate a part single and part two (2) storey semi-detached dwelling within the R2 Low Density Residential zone, which generally meets the required desired future character of the Rosebery Precinct.

*Objectives of the FSR Development Standard*

The objectives of Clause 4.4(1) FSR of BBLEP 2013 are:

- (a) *to establish standards for the maximum development density and intensity of land use,*
- (b) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (c) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*

- (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (g) to facilitate development that contributes to the economic growth of Botany Bay.*

Officer's Comments:

The proposal is consistent with the objectives of the FSR development standard for the following reasons:

- The non-compliant FSR does not create inappropriate scale or bulk for the development.
- The proposal is compatible with the bulk and scale of surrounding residential dwellings, with the proposed addition being largely confined to the rear portion of the existing building and therefore limiting the potential impact of the additional FSR on the streetscape and adjoining properties.
- An appropriate visual relationship between this proposal (new development) and the existing character of the area is achieved by the proposal given the proposed additions are largely contained to the rear of the dwelling and similar materials and roof lines are incorporated.
- The proposal will not adversely affect the streetscape, given the front portion of the existing semi-detached dwelling is to be retained, while the bulk of the roof form can be retained due to the addition comprising a skillion roof to the rear of the dwelling.
- The proposal minimises adverse impacts on adjoining properties in that the proposal is adequately setback from the southern boundary and will not result in any significant overlooking given the majority of windows are highlight windows or frosted.
- The proposal provides an appropriate correlation between the size of a site and the extent of the proposed development on the site in that the built form is not of an excessive scale and does not contribute to any significant impacts on adjoining properties.
- The proposal will facilitate development that contributes to the economic growth of the area in that construction of the proposal will assist the local economy.
- The proposal has been designed to be compatible with the streetscape and has taken into consideration the amenity of the adjoining property regarding solar access and privacy and contributes to the Rosebery Precinct desired future character.

*Objectives of the zone*

The Objectives of the R2 Low Density Residential zone is as follows:

- *To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents;*
- *To encourage development that promotes walking and cycling.*

Officer's Comments:

The proposed alterations and additions to the existing semi-detached dwelling are a permissible use within the R2 Low Density Residential Zone and are in keeping with the zone

objectives. The proposal provides low density housing. The proposed development is consistent with the objectives within the zone.

#### *Public Interest and Public Benefit*

The proposed variation is in the public interest as it will facilitate alterations and additions to an existing semi-detached dwelling on the site without adverse impact on the streetscape, locality and adjoining dwellings. The proposal is compatible with the existing development of the street and is in accordance with BBDCP 2013 with regard to the Part 8 Desired Future Character for the Rosebery Precinct. There was one (1) objection received during the public notification period for the proposal, which has been considered in this report. These concerns have been addressed either in the application or in the recommended conditions in Schedule 1 as discussed in this report.

#### Summary

The Clause 4.6 exception to the FSR development standard has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSWLEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' BBLEP2013 and BBDCP 2013 controls which are compliant with the majority.

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard in this case is viewed as unreasonable.

The applicant's Clause 4.6 is well-founded and the minor departure in FSR development standard for 63 Dougherty Street is in the public interest. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4A(3)(d) of BBLEP 2013 should be varied in the circumstances as discussed above.

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

#### Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

The draft State Environmental Planning Policy (Infrastructure) 2016, has been considered in the assessment of the Development Application. The proposed use of the residential development meets the objectives of the draft Infrastructure SEPP and thus satisfies the requirements of the said instrument.

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

#### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the controls contained in the *Botany Bay Development Control Plan 2013* (BBDCP 2013) as follows:

##### *Part 3 - General Provisions*

The development application has been assessed against the controls contained in Part 3 of the DCP – General Provisions as it applies to low density residential development:

**Table 3: Consideration of Part 3 General Controls of BBDCP 2013**

<b>Part</b>	<b>Proposal</b>	<b>Comply</b>
<b>3A Parking &amp; Access</b> <b>3A.2 Parking Provisions of Specific Uses</b> <b>C2 Table 1 –</b> <ul style="list-style-type: none"> <li>Semi-detached dwelling - 1 space/dwelling.</li> </ul>	<p>A single carport is proposed – 1 space.</p>	Yes
<b>3A.3.1 Car Park Design</b> <b>C1</b> All off-street parking designed in accordance with current Australian Standards AS2890.1 & AS2890.6, AS2890.2.	<p>The proposed single carport has an opening of 3.74m and a depth of 6 metres.</p>	Yes
<b>C28</b> Minimum width of the access driveway for dwelling is 3 metres.	<p>The driveway is 3.74 metres wide and is an existing driveway to be retained.</p>	Yes
<b>3C Access and Mobility</b>	<p>The proposal is for alterations and additions to an existing semi-detached dwelling. This Part of the DCP states the following is required:-</p> <ul style="list-style-type: none"> <li><i>Adaptable Housing: Livable housing guidelines is encouraged for all Class 1a and 1b detached and semi detaching housing (including secondary dwellings) –</i> The proposal generally achieves the liveable guidelines.</li> <li><i>General access requirements - Encourage visitor access to the dwelling –</i> The proposal allows level access from the street to the ground floor.</li> <li><i>Accessible Parking: Encourage compliance with AS2890 Part 6 -</i> There is level access to the car parking provided on the site.</li> </ul> <p>The proposal is consistent with this Part of the DCP.</p>	Yes
<b>3E. Subdivision &amp; Amalgamation</b>	<p>The application does not involve any subdivision.</p>	N/A
<b>3G Stormwater Management</b>	<p>Stormwater is proposed to be discharged to the street system. Council's Engineer has raised no objection to this proposed stormwater system and has recommended conditions which have been included. The proposal is consistent with this Part of the DCP subject to the recommended conditions relating to stormwater. Relevant conditions have been imposed in Schedule 1 in the Attachment. The proposal is consistent with this Part of the DCP.</p>	Yes

<b>3H Sustainable Design</b>	A BASIX Certificate has been provided which satisfies the requirements of this Part of the DCP. Refer to the BASIX SEPP assessment.	Yes
<b>3I – Crime Prevention</b>	The proposed development involves an additional storey, which includes bedroom areas overlooking the street, which provides adequate casual surveillance of entry areas. The proposal is consistent with this Part of the DCP.	Yes
<b>3J Aircraft Noise &amp; OLS</b>	The subject site is affected by aircraft noise being located within the ANEF 20 – 25 contour. In relation to the Obstacle limitation surface (OLS), the proposal involves building works below 15 metres and is therefore below the OLS. The proposal is consistent with this Part of the DCP.	Yes
<b>3K Contamination</b>	The provisions of Part 3K of the BBDCP 2013 have been considered above under Section 79(C)(a) <i>State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land</i> . The proposal is satisfactory in terms of Part 3K.	Yes
<b>3L Landscaping &amp; Tree Management</b>	Landscaping is provided in the front and rear yard areas, which is considered to be satisfactory. The proposed landscaping is outlined on the Site Plan. The proposal complies with the objectives of Part 3L of the DCP.	Yes
<b>3N Waste Minimisation &amp; Management</b>		
<b>3N.3.1 General Requirements</b>		Yes
<b>C1</b> Waste management plan required.	A Waste Management Plan will be required prior to the issue of a Construction Certificate as outlined in the recommended conditions in Schedule 1.	
<b>C8</b> Separate containers of sufficient size must be provided to accommodate the storage of waste and recycling likely to be generated on the premises between collections and any associated equipment.	Bins can be stored on the property appropriate for the dwelling.	Yes
<b>3N.3.2 Residential Development</b>		Yes
<b>C1</b> Residential Development must provide recycle/waste bins in accordance with Table 3.	One (1) bin for each – waste, recycling and green waste – is required. These can be provided on the site.	
<b>C2</b> Waste and recycling storage areas must be located in a position convenient for both users	Provided on the site.	Yes

*Part 4A – Dwelling Houses*

The development application has been assessed against the controls contained in Part 4A of the DCP – Dwellings as it applies to low density residential development such as semi-detached dwellings in the R2 Low Density Residential zone (among other zones):

**Table 4: Consideration of Part 4A Controls of BBDCP 2013**

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Comply</b>
<b>4A.2.4 Streetscape Presentation</b>	<b>C1</b> New dwellings designed to reflect relevant Desired Future Character Statement in Part 8 and reinforce architectural features and identity which contributes to its character.	The proposal is compatible with existing development in Dougherty Street where there are other two storey detached and semi-detached dwellings including Nos 51, 52, 53, 56, 58A, 60A & 65 Dougherty, Street. While the street is predominantly characterised by single storey dwellings, there are several two storey dwellings which set a precedent for this proposal.	Yes
	<b>C2</b> Development designed to reinforce and maintain existing character of streetscape.	The proposal is generally consistent with existing development in the street, notwithstanding there are no other current examples of semi-detached dwellings with only one half having a second storey. This is fairly common in the wider area.	Yes
	<b>C3</b> Development must reflect dominant roof lines and patterns of existing streetscape.	The proposal involves a flat roof over the addition to the rear and the proposed first floor, which is evident in other semi-detached dwellings in the wider area. There are minimal changes to the roof line to the street given the majority of the proposed additions are located behind the front roofline.	Yes
	<b>C4</b> Buildings to appropriately address street.	There are no changes to the existing ground floor of the existing streetscape elevation of the existing dwelling which retains the front entry on the side of the dwelling characteristic of semi-detached dwellings. The proposed first floor addition provides windows to the street.	Yes
	<b>C6</b> The entrance to a dwelling must be readily apparent from the street.	The front door/entry is generally in the same location, which is on the side elevation, characteristic of semi-detached dwellings.	Yes
	<b>C7</b> Dwelling houses to have windows to street from a habitable	There are no changes to the existing streetscape elevation of the ground floor of the existing dwelling	Yes

Part	Control	Proposed	Comply
	room to encourage passive surveillance.	which retains a bedroom at the front for surveillance of the street.	
	<b>C8</b> Skylights are to be flush with the roof surface and located to the rear of a building.	Skylights are proposed to the side of the roof away from the street.	Yes
	<b>C10</b> Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window awnings, bay windows, face brickwork or stone details.	Similar building materials are to be used including face brick on the adjoining wall and panelling for detail on the other (southern) wall. The general design and scale of the proposal is consistent with surrounding development. Characteristic features are retained.	Yes
	<b>C11</b> New windows must be in keeping with scale and proportion of original windows. Windows on a first floor extension are to be aligned with those on the ground floor.	Windows are satisfactory and generally do not overlook adjoining properties. There are new windows proposed on the street elevation which are satisfactory whilst the majority of windows to the southern (side) and eastern (rear) are highlight windows. The windows are further discussed below.	Yes
	<b>C12</b> Painting, rendering and bagging of existing face brickwork must be consistent with existing character of street.	There is no rendering or painting of brickwork proposed.	Yes
	<b>C13</b> New extensions must be consistent with existing materials.	The proposed alterations at ground level are to be face brick to match the existing semi-dwelling.	Yes
	<b>Two Storey Dwellings</b> <b>C15</b> A two storey dwelling house is not considered appropriate where the majority of surrounding dwelling houses in a street are single storey.	There are a significant number of single storey dwellings in the street, however, the emerging character is second storeys being added to the existing housing stock or new two (2) storey dwellings being the dominant form in the area.	Yes
	<b>C16</b> Where it is proposed to build a two storey dwelling or carry out a first floor addition to an existing house in a predominantly single storey streetscape, then it is essential that the new additions	The proposed first floor addition is setback from the principal street frontage such that there is a substantial portion of the existing roof unaltered over the front of the building. The proposed first floor is also located behind the main roof to the street frontage.	Yes

Part	Control	Proposed	Comply
	<p>maintain the perceived scale and character of the house and the immediate streetscape as predominantly single storey. This can be achieved by considering one or more of the following design measures:</p> <p>(i) Disguising any proposed first floor addition within the roof form;</p> <p>(ii) Ensuring that any upper floor levels are setback from the principal street frontage of the building, in order to maintain a substantial portion of the existing roof unaltered over the front of the building; and</p> <p>(iii) Ensuring that first floor addition is located behind the main gable or hipped feature of the roof to the street frontage.</p> <p><b>Semi- Detached Dwellings</b></p> <p><b>C17</b> Any alteration to an individual semi-detached dwelling must recognise it as being one of a pair.</p> <p><b>C18</b> Extensions must integrate with the existing building. Extensions must address the likelihood that the adjoining semi may be developed in the future.</p> <p><b>C19</b> Uncharacteristic roof forms and details (such as Mansard roofs) will not be allowed if they have an impact on the streetscape</p> <p><b>C20</b> As identified in <b>Figure 5</b>, the two dwellings that constitute the semi form must be as consistent as possible in scale and material.</p> <p><b>C21</b> Roof design must prevent the flow of stormwater onto the adjoining semi.</p>	<p>The proposal is for a single storey addition to the side and a first floor addition which is considered compatible with the existing semi. There is scope for the same type of extension to be carried out on the other half of the building.</p> <p>There are minor changes to the roof form to the street through the new first floor, although there are no changes to the front portion of the existing roof to the street.</p> <p>The proposal is for a single storey addition to the side and first floor addition, which proposes a skillion roof, which is not considered to adversely impact on the streetscape.</p> <p>The proposal includes a skillion roof with panelling for detail to the street elevation, which is generally consistent in scale and materials to the adjoining semi, which has been rendered.</p> <p>A new box gutter is proposed along the front elevation which will direct the stormwater from the roof to the site (and away from the adjoining site) for disposal to the street system.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



Part	Control	Proposed	Comply
	<b>Special Areas</b>	The subject site is not located in any special areas.	
<b>4A.2.5 Height</b>	<p><b>C1</b> Maximum height of buildings in accordance with the Height of Buildings Map and Clause 4.3 of BBLEP 2013.</p> <p><b>Single Storey Streetscape</b></p> <p><b>C5</b> Where single storey dwellings are the predominant form of housing in the street, the height and scale of the streetscape should be maintained, by undertaking second storey extensions at the rear of the property or undertaking ground floor extensions only.</p>	<p>A maximum building height of 9m metres applies to the site. The maximum height of the proposal is 7.05 metres (proposed highest point of roof).</p> <p>A second storey addition is proposed in a predominately single storey streetscape, however, there are various examples of other two storey dwellings on the street and the proposal is setback from the street to ensure the proposed addition does not overwhelm the existing dwelling on the site (refer to C16 in Part 4A.2.4 above).</p>	<p>Yes</p> <p>Yes</p>
<b>4A.2.6 Floor Space Ratio</b>	<b>C1</b> Max FSR must comply with FSR Map and CI 4.4 & 4.4A of BBLEP 2013.	Maximum permissible FSR is 0.5:1 (CI 4.4A) and proposed FSR is 0.58:1.	<b>No Refer to Note 1</b>
<b>4A.2.7 Site Coverage</b>	<b>C2</b> Sites (250m <sup>2</sup> -300m <sup>2</sup> ) not to exceed site coverage of 60%.	The site area is 271.9m <sup>2</sup> and site coverage is 130m <sup>2</sup> (47.8%).	Yes
<b>4A.2.8 Building Setbacks</b>	<p><b>C1</b> Dwelling houses must comply with following minimum setbacks (lot width &lt;12.5m):-</p> <ul style="list-style-type: none"> <li>• Front – prevailing or 6m;</li> <li>• Side – assessed on merit – depending on visual impact to the street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape.</li> <li>• Rear – 4m;</li> <li>• Eaves – 450mm</li> </ul>	<ul style="list-style-type: none"> <li>• Front – no change – aligns with prevailing setback;</li> <li>• Side – follows alignment of existing which is 0m to the north and 960mm for the ground and first floors to the south. It is considered that this setback is reasonable on merit given there are no privacy impacts due to their being minimal windows, which are highlight windows and no significant overshadowing given the first floor is small and is setback from the ground floor level. There are no impacts on the streetscape as the proposal is predominately located behind the roof line of the existing dwelling</li> <li>• Rear – 9.25m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes Yes</p>

Part	Control	Proposed	Comply
	<p><b>Side and Rear Setbacks</b></p> <p><b>C5</b> To avoid appearance of bulky or long walls side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements, or a variation in materials.</p>	<ul style="list-style-type: none"> <li>Eaves – no eaves on zero side setback side as the roof drains to within the subject site.</li> </ul> <p>The proposed addition to the rear on the ground floor comprises 5.5 metre long wall to the southern boundary while the first floor addition comprises an 11.85 metre length wall to the northern boundary and a 7.615m wall length to the eastern (rear) boundary. Accordingly there will be minimal impacts to the adjoining property.</p>	Yes
<b>4A.2.9 Landscaped Area</b>	<p><b>C2</b> Development shall comply with minimum landscaped area:- (250m<sup>2</sup> – 350m<sup>2</sup> = 20% (min 54.38m<sup>2</sup>).</p> <p><b>C3</b> Landscaped Area to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes.</p> <p><b>C4</b> Any building, ancillary structure such as swimming pools, garages, sheds and cabanas, secondary dwellings, retaining/masonry walls and driveways must be sited to retain and protect existing trees, including street trees and trees on adjoining properties.</p> <p><b>C5</b> Landscape Plan identifying proposed areas of open space and landscaped areas on a site submitted with all applications.</p> <p><b>Landscaping within Setbacks</b></p> <p><b>C8</b> The front setback to be fully landscaped with trees and shrubs and not to contain paved areas other than driveways and entry paths. Paving restricted to max 50% of front setback area.</p> <p><b>C9</b> The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.</p>	<p>Landscaped area = 59m<sup>2</sup> (21.7%).</p> <p>The landscaped area is deep soil.</p> <p>There are no trees proposed to be removed.</p> <p>The proposed landscaping is outlined on the site plan.</p> <p>There are no changes proposed to the front setback area.</p> <p>There is an existing tree in the front setback area which is to be retained by the proposal.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part	Control	Proposed	Comply
<b>4A.3.1 Materials and Finishes</b>	<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade.	The plans indicate the finishes and materials for the proposal.	Yes
	<b>C3</b> Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.	The proposed materials are sympathetic to the surrounding area with brick and panelling proposed.	Yes
<b>4A.3.2 Roofs and Attics/Dormers</b>	<b>Roof Form</b> <b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. Roof pitches are to be between 22.5 degrees and 40 degrees.	The proposed roof over the addition is consistent with the roof lines of existing development in that it is a sloping roof. A full pitched roof cannot be accommodated as the existing roof line of the front of the existing dwelling is to be retained.	Yes
	<b>C2</b> Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from the streetscape.	A skillion roof is proposed over the new first floor towards the rear of the existing dwelling, which is satisfactory.	Yes
	<b>C3</b> A variety of roof forms will be considered, provided that they relate appropriately to the architectural style of the proposed house and respect the scale and character of adjoining dwellings.	The proposed roof is suitable for the site and its location towards the rear of the existing dwelling.	Yes
<b>4A.3.3 Fences</b>	Front Fences and Side and Rear Fences	There is no new front or side fences in front of the site proposed.	N/A
<b>4A.4.1 Visual Privacy</b>	<b>C1</b> The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate incorporate the privacy measures.	Privacy has been considered in that the proposed new windows are generally highlight windows where they face adjoining properties as outlined below:-  To the north, there are no windows proposed as this is the adjoining wall to the adjoining semi-detached dwelling at No 61.  To the south, on the ground floor, are highlight windows to the living room and highlight windows to the bedrooms on the first floor. A frosted window to the bathroom on the first floor is also provided. These windows are unlikely to result in any significant overlooking into the adjoining southern property.	Yes

Part	Control	Proposed	Comply
	<p><b>Balconies</b></p> <p><b>C4</b> First floor balconies are only permitted when adjacent to a bedroom.</p>	<p>To the east (rear), there are sliding doors from the living room to the rear terrace while at the first floor there is a highlight window from the sitting room. These windows will not adversely impact on the privacy of the adjoining eastern neighbour given they are highlight windows or are at ground level which will be screened by fencing and vegetation.</p> <p>Given there are no windows in the adjoining semi facing the subject site, there will be no adverse privacy impacts resulting from these proposed windows.</p> <p>The proposed new windows are generally offset from windows of adjoining dwellings, comprise highlight windows and limit direct views onto adjoining properties.</p> <p>There are no balconies proposed on the first floor.</p>	Yes
<b>4A.4.2 Acoustic Privacy</b>	<p><b>C1</b> Dwellings close to high noise sources such as busy roads, railway lines and airports should be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.</p> <p><b>C4</b> New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).</p>	<p>The subject site is not located on any busy roads or in close proximity to a railway line.</p> <p>Refer to Part 3J of the DCP.</p>	<p>Yes</p> <p>Yes</p>
<b>4A.4.3 Solar Access</b>	<p><b>C1</b> Buildings (incl alts/adds/extensions) to maintain approx... 2 hours of solar access between 9am &amp; 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and to 50% of primary</p>	<p>The proposal is for a small ground floor addition to the southern side of the building and a first floor addition to the rear.</p> <p>The only affected property in terms of overshadowing is the adjoining</p>	<p>Yes</p> <p><b>Refer to Note 2</b></p>

Part	Control	Proposed	Comply
	private open space areas of both site and adjoining properties.	<p>property to the south, No 65 Dougherty Street.</p> <p>This adjoining dwelling to the south receives adequate sunlight to its area of private open space in the rear yard, generally between 9am and midday when the additional shadow resulting from the proposal will be cast towards the front portion of the dwelling at No 65. The front open space area, comprising a balcony, will receive solar access between midday and 3pm.</p> <p>In terms of the living room windows, which are assumed to be the front windows adjoining the front balcony/private open space, these windows will receive solar access from midday until 3pm. Between 9am and midday; the window in the central portion of the ground floor will be overshadowed by the proposal, however, the living areas are likely to be adjoining the balcony areas which receive adequate solar access.</p> <p>Accordingly, there is adequate solar access to these windows throughout the day in mid-winter. There is already some overshadowing of this adjoining dwelling from the existing dwelling on the site, with the increase to this shadow resulting in an acceptable impact on solar access as outlined above. Accordingly, there is sufficient solar access to this adjoining dwelling in mid-winter.</p> <p>There are no solar panels on the adjoining dwelling.</p>	Yes
<b>4A.4.4 Private Open Space</b>	<p><b>C1</b> Each dwelling is to have a private open space that:</p> <p>(i) Has at least one area with a minimum area of 36m<sup>2</sup>;</p> <p><b>C2</b> Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.</p>	<p>The proposed rear terrace has an area of 16.8m<sup>2</sup> while the rear yard has an area of approximately 61.63m<sup>2</sup>, providing a total area of private open space, directly</p>	Yes

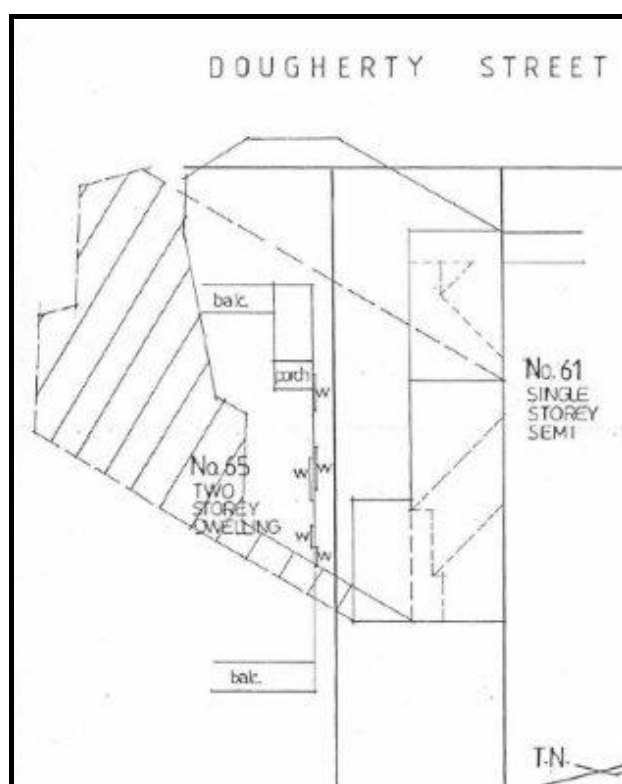
Part	Control	Proposed	Comply
	<p>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</p> <p>(iii) Maximises solar access;</p> <p>(iv) Is visible from a living room door or window of the subject development;</p> <p>(v) Minimises overlooking from adjacent properties;</p> <p>(vi) Is generally level;</p> <p>(vii) Is oriented to provide for optimal year round use;</p> <p>(viii) Is appropriately landscaped; and</p> <p>(ix) Is located or screened to ensure privacy;</p> <p><b>C3</b> For terraces and decks to be included in calculations of areas for private open space, these must be of a usable size (min 10m<sup>2</sup>) with one length or width dimension being a minimum of 2 metres, and be accessible from a communal or living area of the dwelling. Note: To be included in a calculation of private open space, decks are not to be located more than 500mm above natural ground level.</p> <p><b>C4</b> Areas within setbacks are not to be included as private open space unless they have a minimum width of 3 metres.</p> <p><b>C5</b> The primary private open space area is to be located at the rear of the property.</p>	<p>accessible from the rear living area of 78.43m<sup>2</sup>. Adequate solar access is provided to this area and minimises overlooking into adjoining properties given it is provided at ground level.</p> <p>The deck proposed within the addition satisfies this criteria (16.8m<sup>2</sup>)</p> <p>Areas within setbacks have not been included in this calculation.</p> <p>The private open space is located in the rear yard.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>4A.4.5 Safety and Security</b>	<b>C1</b> Comply with Part 3I.	The proposal provides bedrooms facing the street to provide natural surveillance.	Yes
<b>4A.4.7 Vehicle Access</b>	<b>C1</b> Driveways within a property shall have a minimum width of 3 metres.	There is currently an existing driveway and vehicle crossing to the site, which is 3.82m wide. This is to be retained in the proposal and is satisfactory.	Yes
<b>4A.4.8 Car Parking</b>	<b>C1</b> Development to comply with Part 3A - Car Parking.	Refer to Part 3A.	Yes

#### Note 2 - 4A.4.3 Solar Access

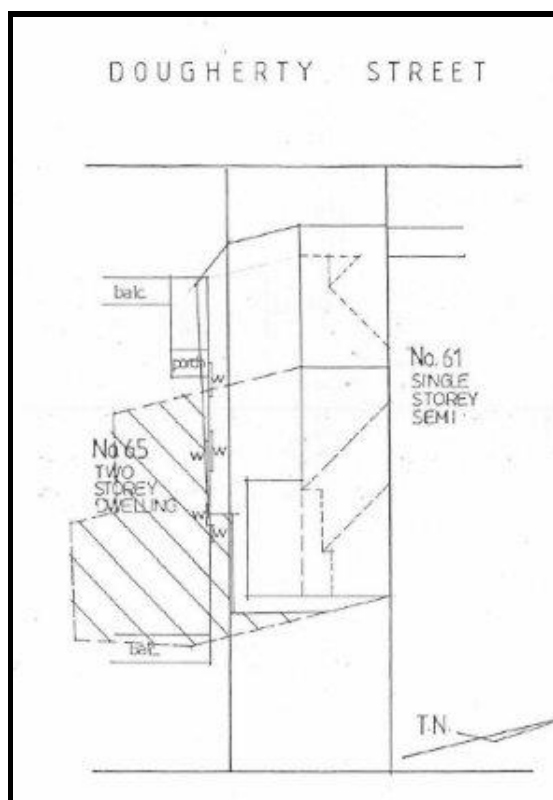
The proposal is considered to allow for sufficient solar access to the adjoining southern

property (No 65 Dougherty Street) as outlined Table 3. The applicant provided the relevant shadow diagrams and elevational shadow plans which demonstrate this (refer figures below). The front and rear private open space areas with balconies will receive adequate solar access throughout the day. The front area receives solar access in the afternoon while the rear open space receives solar access in the morning during mid-winter.

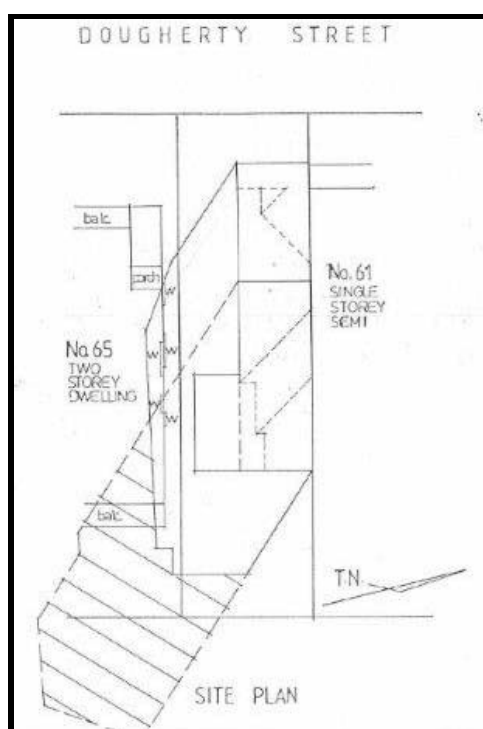
In relation to the living area windows, it is considered that these windows are likely to be those directly behind the front balcony area towards the front of the dwelling which will receive sunlight from midday in mid-winter. The other living areas are considered to be directly adjoining the rear private open space area which does not contain windows on the northern elevation. It is considered that adequate solar access, in accordance with the BBDCP 2013 controls is achieved by the adjoining southern property as demonstrated below.



**Figure 11: Proposed Shadow at 9am in Mid-winter (Source: Peter Banfield, August 2017)**

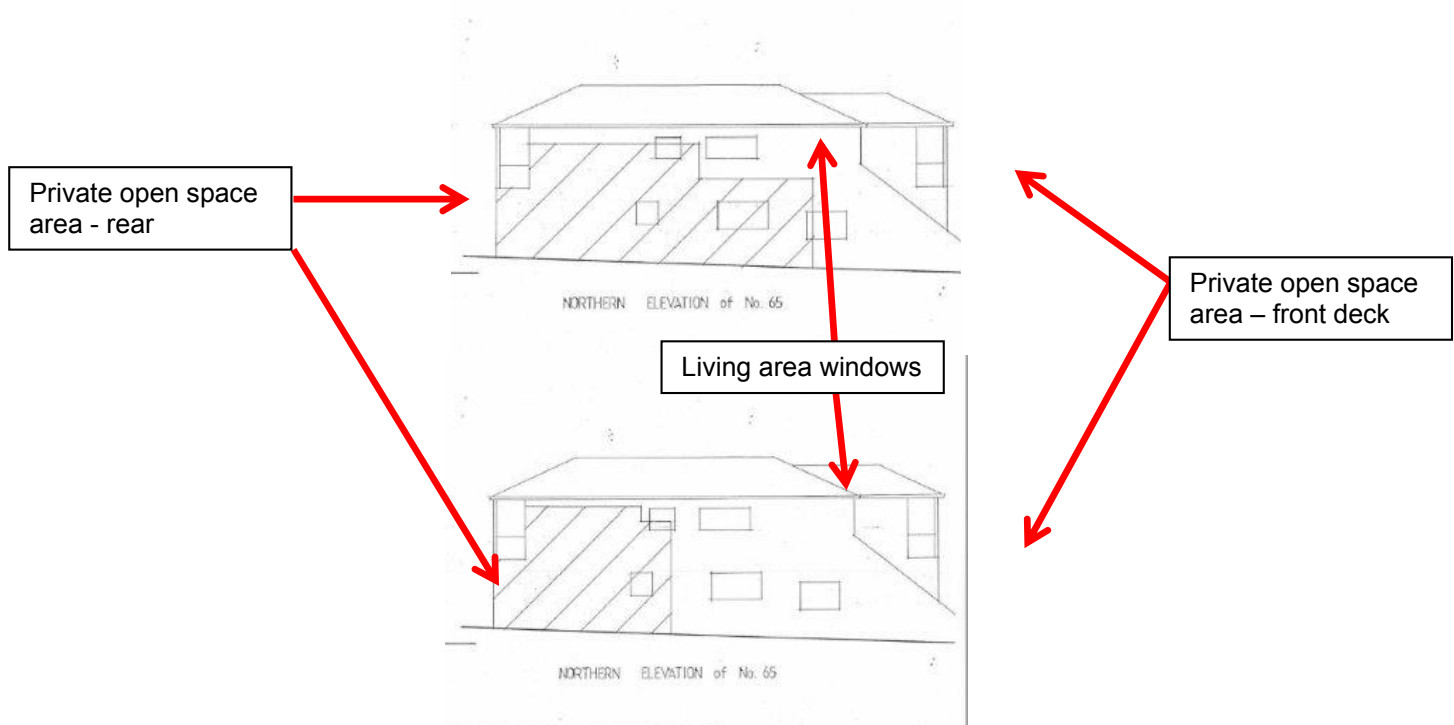


**Figure 12: Proposed Shadow at Midday in Mid-Winter (Source: Peter Banfield, August 2017)**



**Figure 13: Proposed Shadows at 3pm in Mid-winter (Source: *Peter Banfield, August 2017*)**





**Figure 14: Proposed Elevational Shadows at Midday and 3pm in Mid-winter Source: Peter Banfield, August 2017**

#### *Part 8 – Character Precincts*

The development application has been assessed against the relevant controls contained in Part 8.6 of the DCP as the subject site is located in the Rosebery Character Precinct (Note: the subdivision, heritage and risk controls of this Part of the DCP are not relevant to the current proposal).

The subject site is located in a low density area of Rosebery, which is envisaged to remain a low density environment with dwellings of maximum height of two storeys, with roof forms reflecting the characteristics of the prevailing designs in the street. This is achieved by the proposal.

The function and diversity controls encourage new development to enhance the public domain and streetscape within the Precinct as well as enhancing connections of public domain and open space areas with recreational facilities, enhancing neighbourhood amenity and pedestrian comfort. The controls also seek to retain the distinct housing styles of dwelling houses, comprising detached and semi-detached of one and two storey detached dwelling houses.

It is considered that the proposal is consistent with surrounding development in that there are no significant changes to the streetscape as the proposed alterations and additions are generally compatible with existing dwellings in the street by retaining the basic shape of the roof to the street and providing the addition away from the street façade.

The proposal is considered to be consistent with the form, massing, scale and streetscape controls in that the proposal follows the topography of the land and maintains the established

low density residential accommodation in the form of semi-detached dwellings with a maximum height of two storeys. While the street is dominated by single storey dwellings, the height limit allows for two storey dwellings and there are other examples of two storey dwellings in the street.

A skillion roof is proposed, allowing retention of the existing pitched roof across the front of the semi-detached dwelling (including No 61) which is consistent with existing roof lines in the streetscape. The proposal is considered to be of a sympathetic design to maintain and complements the prevalent architectural style of the buildings. The proposal provides vehicle access and car parking which does not dominate the streetscape given the proposed carport is integrated into the dwelling design.

The proposal retains the front setbacks which are consistent within a street and promotes landscaping to soften the built form. The side setbacks are consistent with existing development in the street. The landscaping provided in the front setback is to be retained, which assists in softening the built form and provides privacy to adjoining properties. Street trees are to be retained.

The proposal also allows solar access to be provided to adjoining properties by limiting the height of the building to below the maximum height for solar access to the adjoining southern property. The proposal is also unlikely to have any significant impact on traffic in the area given the proposal is for alterations and additions to an existing semi-detached dwelling incorporating two (2) additional bedrooms. There are no significant views to be obstructed by the proposal.

Accordingly, the proposal is considered suitable for the subject site and is compatible with the desired future character as described in the BBDCP 2013 for the Rosebery Precinct.

### **S.79C(1)(a)(iv) - Provisions of regulations**

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

### **S.79C(1)(b) - Likely Impacts of Development**

As outlined in the assessment above, the proposed development is unlikely to have any significant impacts as outlined below:

- Context and setting – The proposed development has been designed to be a compatible addition to the locality and is of an appropriate size and density to the surrounding development. There is likely to be minimal adverse impacts on the adjoining properties in terms of privacy loss or acoustic impacts given the proposal has limited windows facing the adjoining properties which would allow direct overlooking of the adjoining or nearby residential dwellings (as outlined in this report). There will be no view loss arising from the proposal and the overshadowing towards the adjoining property to the south, are considered acceptable. This adjoining property will receive adequate solar access as outlined in this report.
- Noise generation – The potential for noise generation from the proposed development is likely to be standard residential noise and is unlikely to adversely affect the amenity of the area.

- Access, Traffic and Transport – There is sufficient car parking provided within the site and the level of traffic generated from the proposal would be readily absorbed by the adjacent road network with minimal impact, in terms of traffic flow efficiency, road safety and residential amenity. Public transport is located in close proximity of the site comprising bus stops along Maloney Street. Vehicles can enter and leave the site in a forward direction.
- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas.
- Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.
- Heritage – The proposed development will not adversely affect any heritage values or items.
- Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned and cleared for development and there are no significant healthy trees being removed. All construction will be undertaken having regard to best practice sediment and erosion control techniques.
- Built environment - In relation to potential impacts on the built environment, it is considered that there is adequate articulation of the built form and that the bulk and scale of the proposal is compatible with existing development in the area. The proposal is for residential development which is compatible with existing development in the area. It is considered that the proposal is likely to have a positive impact on the built environment.
- Social impact – The provision of a larger dwelling with additional bedrooms in a well serviced location provides positive social impacts of the proposal to the area.
- Economic Impact – The proposal will provide various short-term beneficial economic impacts in terms of the engagement of building and construction personnel. This will result in the proposal having positive economic impacts in the area.
- Site design and internal design – The proposed development is appropriately set out within the site to minimise adverse impacts on adjoining properties as outlined in this report. The provision of landscaping assists in providing an appropriately designed development.
- Construction – The proposed development will be constructed in accordance with the requirements of the *Building Code of Australia*.
- Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the proposed development generally complies with the zone objectives and development standards and controls as outlined in this report.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development on the site.

### **S.79C(1)(c) - Suitability of the site**

The site is not known to be affected by any site constraints or other natural hazards likely to

have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

### **S.79C(1)(d) - Public Submissions**

In accordance with Part 2 of BBDCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 14 August 2017 to 1 September 2017. One objection was received.

*Issue: Visual Privacy*

*Concern is raised regarding to visual privacy with the location of one of the windows on the first-floor addition looking directly into our kitchen window. The window in question is on the western side of the first-floor addition closest to us. Our first-floor window that is in the centre of our house is our kitchen window. We have taken two photos demonstrating looking out of our window to the north and to the north-east. Due to the proximity of the first-floor addition and it being setback behind our window, the degree of overlooking into our kitchen is significant and as we utilise the kitchen area all the time, we do not want to be looking into their dwelling and vice versa. We recommend that this window be a highlight window with a minimum sill height of 1.5 metres.*

**Comment:** There are three (3) new windows proposed on the first floor along the southern side of the proposed additions which comprise W3 (front bedroom), W4 (bathroom) and W5 (Bedroom). Both bedroom windows are proposed to be highlight windows of 0.6m x 1.8m and 0.5m x 2m dimensions respectively while the bathroom window is proposed to be an opaque glass window. It is considered that these windows will not adversely impact on the privacy of No 65.

There is also a window proposed on the western elevation (W2) of this southern bedroom which, while it faces the street, is located in close proximity to the kitchen window of No. 65, as illustrated in the photographs attached to this submission and in **Figure 15**.

A window in this location has an important streetscape function and therefore the removal of this window and its replacement on the eastern (rear) elevation is undesirable from a streetscape perspective. Therefore, to ensure there is minimal overlooking opportunities into No 65, it is considered warranted that a condition be imposed that this window on the western elevation of the southern bedroom on the first floor, comprise a highlight window with a minimum sill height of 1.5 metres as suggested in this submission.



**Figure 15: Photo from Objector - Existing kitchen window of adjoining property to the south (No 65) looking towards proposed window on the south-western corner of the proposed addition (1st floor)**

*Issue: Location of the Carport*

*The plans demonstrate that the proposed carport located along the southern side of their dwelling has a side setback of what looks to be either nil or 100mm from our boundary. We are concerned that this is not in accordance with the regulations of the Building Code of Australia as the carport will be enclosed on all three sides and there will be issues regarding to fire safety. We recommend that the carport be setback from the boundary at least 500mm or as the BCA requirement allows, if greater. Additionally, setting back the carport away from the boundary will allow for greater sunlight to one of the bedrooms which is directly opposite this carport in mid-winter.*

**Comment:** The objection is concerned with potential BCA non-compliance in terms of fire safety as well as future light penetration being blocked to their dwelling arising from the carport. A standard condition requiring compliance with the Building Code of Australia is imposed on all consents, however there is ample room to accommodate a 500mm setback to this boundary. Therefore, it is considered that matters relating to fire safety and other building matters will be adequately addressed at the Construction Certificate stage. In terms of light penetration to the adjoining dwelling, the proposed carport has an open side along the southern (common) boundary with this adjoining property and therefore it is considered that adequate sunlight will enter this adjoining dwelling at No 65 following the construction of the carport. A condition has been recommended to be imposed to further ensure this southern side of the carport is open form.

*Issue: Retaining wall between the two properties*

*Clarification is required relating to the proposed landscaping in the rear yard. Currently, the neighbouring property at 63 Dougherty Street contains planter beds. The concrete edge of these planter beds form part of a retaining wall. We have taken photographs of this retaining wall from our side of the fence which demonstrates that our colorbond fence has been built above this retaining wall. We are concerned that if the concrete or retaining wall is removed, then there will be a large gap between the two fences. It is not clear from the plans whether the landscaped area will be levelled or reduced. We do not want any soil or debris to fall onto our property.*

Comment: The plans are unclear as to whether this wall is to be removed or retained. There is no reason why this wall needs to be removed. Accordingly, a condition has been recommended to be imposed in Schedule 1 ensuring this concrete edge of the existing planter beds in the rear yard forming part of a retaining wall along the southern boundary is to be retained.

The issues raised in this submission have been adequately addressed and relevant conditions have been recommended to be imposed in Schedule 1 where relevant and discussed above.

### **S.79C(1)(e) - Public interest**

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

### **Section 94 Contributions**

The proposal does not require Section 94 Contributions to be levied as outlined in the *Section 94 Contributions Plan 2016*.

## **Conclusion**

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Development Application No. 17/1120 was received on 1 August 2017 for alterations and additions to an existing semi-detached dwelling, comprising ground floor alterations and additions, a new first floor addition and a carport.

The development departs from the FSR development standard by 23.02m<sup>2</sup>. The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded and should be supported.

Other key issues relating to compatibility with the existing development on the site and in the street have been addressed in the report above and have been found to be acceptable.

The development is suitable for the site as the proposed additions and the adjoining properties will receive adequate solar amenity and privacy, and provides ample private open space. The proposal will be compatible with existing development in the area.

The proposed development generally complies with the future character of the Rosebery Character Precinct and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. The amount of landscaped area provided on the site balances out the built form which is desirable. For these reasons, the development application is recommended for approval subject to conditions of consent.

## Attachment

### Schedule 1 – Conditions of Consent

Premises: 63 Dougherty Street, Rosebery

DA No: 17/1120

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Issue	Author	Dated
Site Plan, Floor plans, Elevations and Sections – Drawing 6/17	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Shadow Diagrams – 21 June	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Shadow Diagrams – 21 September	-	Peter Banfield Building Design/Plan Service	Dated 3 July 2017 Received 1 August 2017
Elevational Shadow Diagrams	-	Peter Banfield Building Design/Plan Service	Dated - Received 1 August 2017

Documents	Author	Dated
Statement of Environmental Effects	Peter Banfield	Dated - Received 1 August 2017
Clause 4.6 Variation - FSR	-	Dated August 2017 Received 1 August 2017
Survey Plan (Ref:9191-17)	Paul A Lawson (Registered Surveyor)	Dated - 27 March 2016 Received 1 August 2017
BASIX Certificate No A287105	Peter Banfield Building Design/Plan Service	Dated 14 July 2017 Received 1 August 2017

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in Lot 51 in DP 226180 as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. A287105 dated 14 July 2017 received by Council on 1 August 2017 for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:-
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,



- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
- iii) The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE**

6. The applicant must prior to the issue of the Construction Certificate pay the following fees:-
  - a) Damage Deposit \$2,570.00
  - b) Development Control \$875.00
7. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$2,570.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
8. Prior to the issue of the Construction Certificate, amended plans must be provided which reflect the following changes:
  - a) The proposed window on the western elevation of the rear (southern) bedroom on the first floor is to comprise a highlight window with a minimum sill height of 1.5 metres.
  - b) The southern side of the carport is to be setback 500mm off the boundary, remain open (with no wall) and to be noted on the plan as having no wall; and
  - c) The concrete edge of the existing planter beds in the rear yard forming part of a retaining wall along the southern boundary is to be retained.
9. Prior to the issue of the Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.
 

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so will result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
10. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence

of the development and associated construction works shall be restored or repaired at the applicant's expense.

11. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
12. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water's Tap in online service (<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>) to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
13. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

14. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

15. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
16. Prior to the issue of the Construction Certificate, a Waste Management Plan in accordance with the requirements of Part 3N - Waste Minimisation and Management of the *Botany Bay Development Control Plan 2013* must be submitted and approved by the Certifying Authority.
17. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

18. The Principal Certifying Authority must be satisfied that:

- a) In the case of work to be done by a licensee under the *Home Building Act 1989*: -
    - i) Has been informed in writing of the licensee name and contractor licence number; and
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*; or
  - b) In the case of work to be done by any other person:
    - i) Has been informed in writing of the person's name and owner-builder permit number; or
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 of the *Home Building Act 1989*.
19. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if:
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
20. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and
    - ii) must be connected:
      - 1 to a public sewer; or
      - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
      - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
21. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
22. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

23. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
24. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993* as appropriate:-  
  
*(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)*
  - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
  - c) Permit for roads and footways occupancy (long term/ short term);
  - d) Permit to install temporary ground anchors in public land;
  - e) Permit to discharge ground water to Council's stormwater drainage system;
  - f) Permit for roads and footways occupancy (long term/ short term);
  - g) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;
  - h) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever such as relocation / re-adjustments of utility services;
  - i) Permit to place skip/waste bin on footpath and/or nature strip;
  - j) Permit to use any part of Council's road reserve or other Council lands.

## **DURING WORKS**

25. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Principal Certifying Authority including an after-hours contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.

26. Precautions to be taken shall include compliance with the requirements of the SafeWork NSW, including but not limited to:
  - a) Protection of site workers and the general public;
  - b) Erection of hoardings where appropriate;
  - c) Asbestos handling and disposal where applicable;
  - d) Any disused service connections shall be capped off;
  - e) The disposal of refuse is to be to an approved waste disposal depot.
27. Inspections must be conducted by Council's Engineer at the following occasions:
  - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
  - c) Formwork inspection of Council's footpath prior to laying of concrete;
  - d) Final inspection of driveway layback and adjacent kerb and gutter;
  - e) Final inspection of Council's kerb and gutter;
  - f) Final inspection of Council's footpath.
28. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site except where amended by this consent.
29. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
30. Any material containing asbestos found on site shall be removed and disposed of in accordance with:
  - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) *Protection of the Environment Operations Act 1997*;
  - c) *Protection of the Environment Operations (Waste) Regulation 2014*;
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
31. During excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
32. The following shall be complied with during construction:
  - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.

b) Level Restrictions

i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

c) Time Restrictions

i) Monday to Friday 07:00am to 05:00pm

ii) Saturday 08:00am to 01:00pm

iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

All possible steps should be taken to silence construction site equipment.

33.

a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

34. During excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

35. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.

36. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
  - a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - b) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - 1 The additional load on the system; and
    - 2 The relocation and/or adjustment of the services affected by the construction.
  - c) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
37. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
38. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Management Plan at all times.
39. Any new information that comes to light during construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
40. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

41. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the *Environmental Planning and Assessment Act, 1979*.
42. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
43. All landscaping works outlined in the approved Landscape Plan are to be carried out prior to the issue of the Occupation Certificate.

44. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
45. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
46. Prior to release of the Occupation Certificate, the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report required by this consent have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

### **CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE**

47. All intruder alarms shall be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, *Parts 1 and 2 - 1978 Intruder alarm systems*.
48. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - b) Before 7 am or after 10 pm on any other day.
49. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

50. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid



waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

51. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 17/1120 dated as 1 August 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

**CLAUSE 4.6 TO CLAUSE 4.4 OF BOTANY BAY LEP 2013**  
**EXCEPTIONS TO DEVELOPMENT STANDARDS – FSR VARIATION**

**63 DOUGHERTY STREET**

**SUBMITTED TO**

**BOTANY BAY CITY COUNCIL**

**AUGUST, 2017**

## BOTANY BAY LEP 2013 – CLAUSE 4.6 – EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 submission is submitted to Botany Bay City Council to accompany the Statement of Environmental Effects for alterations and additions to 63 Dougherty Street, Rosebery.

The proposal seeks a variation to the development standard contained with Clause 4.4 of Botany Bay LEP 2013 – Maximum FSR of .5:1.

The application proposes an FSR of .585:1 which equates to an excess of 23.02 square metres.

The restriction on floor space comes about as the subject premises is a semi-detached dwelling and does not fall within the definition of a dwelling house under the LEP.

While the proposal exceeds the FSR control, it is considered acceptable as it will not pose any adverse bulk, scale, shadow or privacy impacts. The proposed alterations and additions will provide the subject dwelling with greater consistency with neighbouring buildings in the area.

This area is located within area 3 of the FSR Map, which would allow an FSR of .75:1 for this lot size.

### 1. Consistency with objectives of the FSR Standard in the LEP

The following assessment addresses each of the relevant criteria under Clause 4.6:

Assessment: The bulk and scale of the proposal will be well within the immediate surrounding development due to the setback and size of the proposal will maintain the objectives of the LEP.

### 2. Clause 4.4 Floor Space Ratio

1. The objectives of this clause are as follows:

- a) To establish standards for the maximum density and intensity of land use.
- b) To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.

Assessment: The form of development in the immediate and surrounding area is characterised by single and two storey dwellings and in this regard the proposal is modest in bulk and scale.

The proposed addition will be screened by the existing dwelling and will provide greater consistency with neighbouring buildings in the area.

Continued page 2...

- c) To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are undergoing and are not likely to undergo a substantial transformation.

Assessment: The proposal is of a simple contemporary design so as not to detract from the original dwelling and keep the bulk and scale to a minimum due to its single scale development to the rear.

- d) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.

Assessment: Due to the design and siting to the rear of the existing dwelling, the proposal will have no adverse effect on the street.

- e) To minimise adverse environmental effects on the use or enjoyment of adjoining premises and the public domain.

Assessment: The proposal, due to its siting and design, will not have any adverse effect on the amenity of the adjoining premises as it will comfortably comply with the controls for solar access and privacy

- f) To provide an appropriate correlation between the size of the site and the extent of any development on that site.

Assessment: This objective has been achieved as the proposed FSR marginally exceeds the control. As previously stated, the premises are within area 3 on the FSR map which allows for an FSR of .75:1 for sites between 251 and 300 square metres.

- g) To facilitate development that contributes to the economic growth of Botany Bay.

Assessment: The upgrading of the dwelling to accommodate the growing needs of the occupants will ensure that people will remain in the area and patronise shopping and infrastructure.

# 1. Consistency with the objectives of R2 Low Density Residential Zone.

## Objectives of Zone:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage development that promotes walking and cycling.

Continued page 3...

Assessment: The proposed FSR variation does not create an inconsistency with the zone objective as the proposed FSR does not result in a bulk or large scale development.

While the proposed alterations and additions exceed the FSR control, by definition it is considered unreasonable to comply as the area allows for an FSR of .75:1 for the same site area.

The provision of the additional accommodation is in a sympathetic manner and provides a positive outcome.

## 2. Consistency with State and Regional Planning Policies

The proposed FSR variation is not inconsistent with State or Regional Policy. On the contrary, the State Policy of Urban Consolidation seeks to provide for greater heights and densities in areas that are well serviced. Notwithstanding this, the FSR variation does not create any adverse impact with regard to bulk, scale, solar access or shadowing. As stated above, the site is well suited to accommodate an expansion of the dwelling. The definition of a semi-detached cottage is inconsistent with adjoining Council's, which deems a semi-detached dwelling to be a dwelling house.

## 3. The variation allows for a better planning outcome

While the proposed alterations and additions exceed the FSR control, it is considered acceptable due to the dwelling's siting and footprint. The site is currently dwarfed by neighbouring buildings, which limits development potential. Notwithstanding this, the proposed alterations and additions will not pose any adverse bulk, scale, shadow or privacy impacts due to the first floor addition being 7.05 metres in height. The proposed alterations and additions will provide the subject dwelling with greater consistency with neighbouring buildings in the area and will provide a better utilised site.

## 4. There are sufficient environmental grounds to permit the variation.

The lack of impact to surrounding properties, particularly in relation to privacy and visual amenity demonstrates the suitability of the proposed FSR variation.

## 5. The variation is in the public interest.

The proposed FSR variation is considered to be in the public interest as it provides for a better utilisation of the existing dwelling.

All proposed alterations and additions will be accommodated to the rear of the site and the increased scale will not have any adverse effect on the streetscape.

## **CONCLUSION**

For the reasons mentioned herein, this Clause 4.6 Variation is forwarded to Council in support of the Statement of Environmental Effects to support the proposed alterations and additions to the existing semi-detached dwelling at 63 Dougherty Street and is requested to be looked upon favourably by Council.







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BDY.

STH.  
BDY.

18.8°

No. 63

No. 65

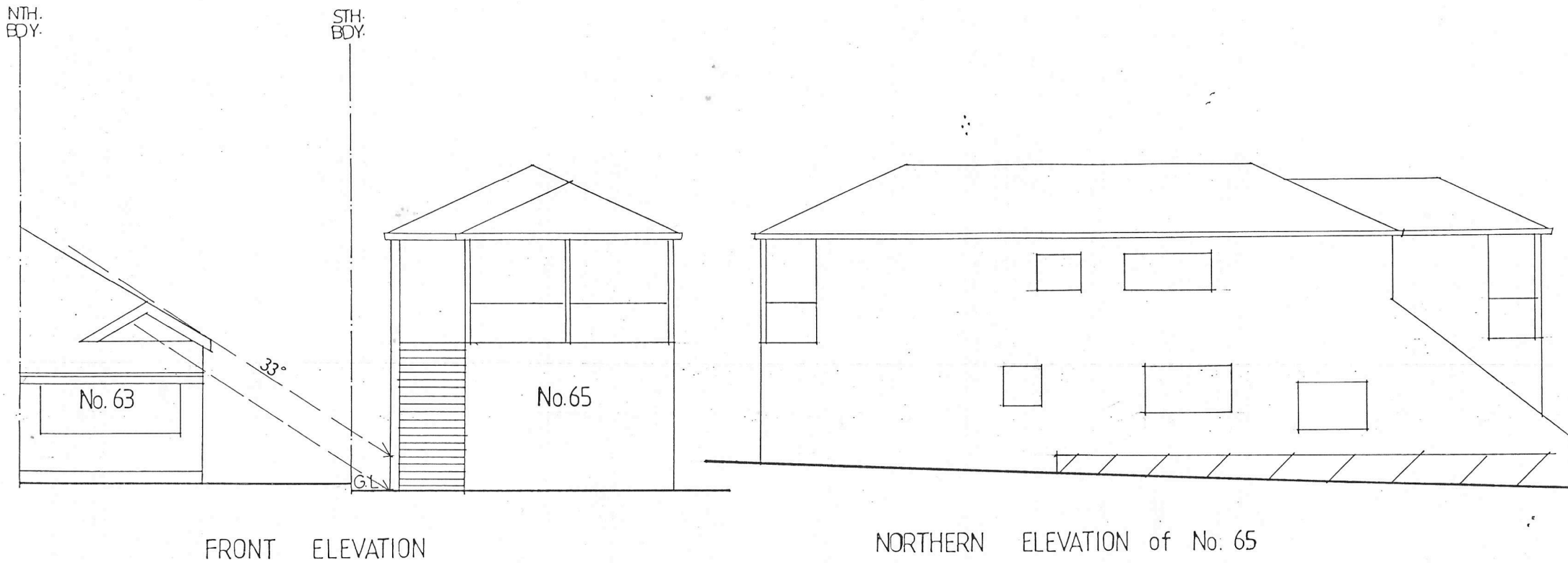
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FRONT ELEVATION

NORTHERN ELEVATION of No. 65

9:00 AM. EXISTING - 21st of JUNE - SCALE: 1: 100

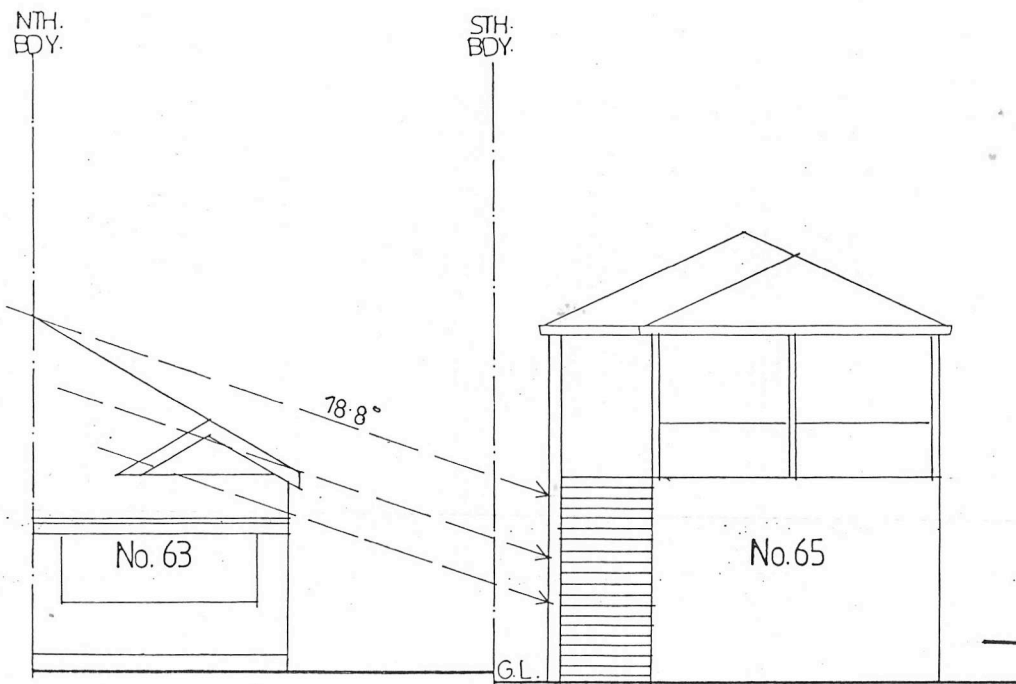
DIAGRAM SHOWING IMPACT OF THE EXPECTED OVERTHROWING  
ON THE NORTHERN FACADE OF NO. 65 DUGHERTY STREET, ROSEBERY.  
NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE  
FOOTPRINT SHADON DIAGRAMS ATTACHED.



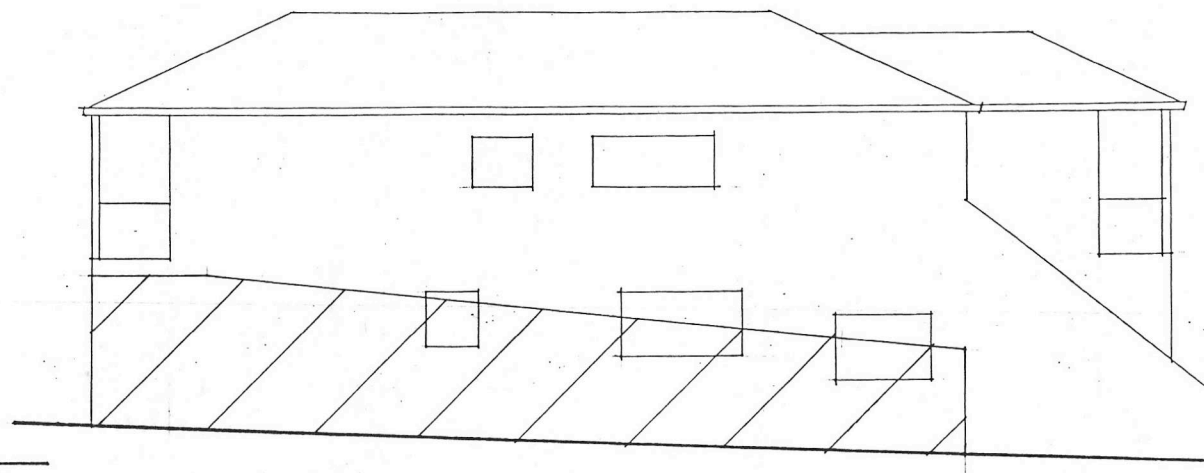
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NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE  
FOOTPRINT SHADOW DIAGRAMS ATTACHED.





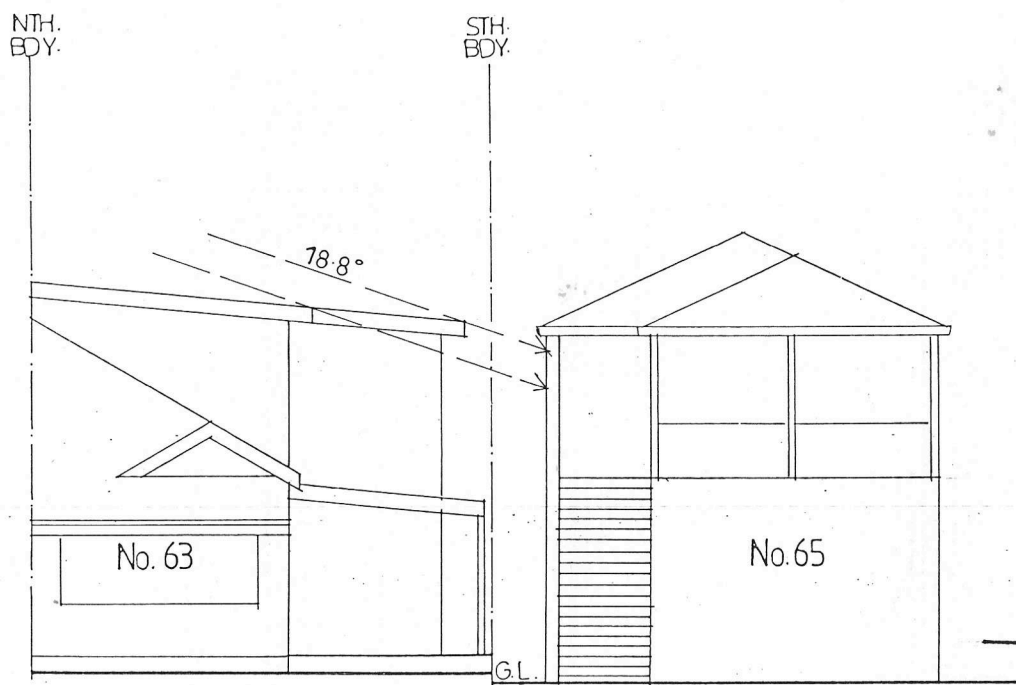
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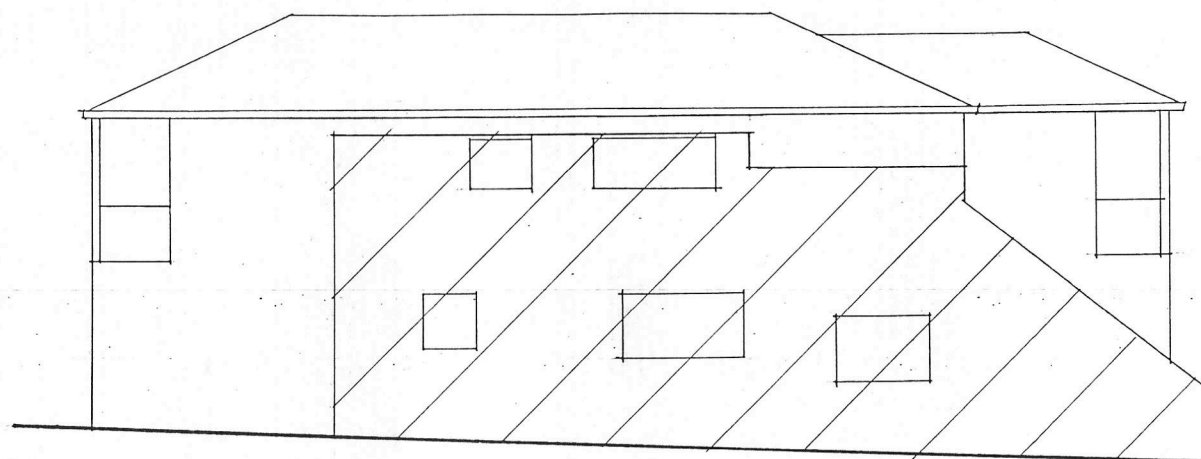
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NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE  
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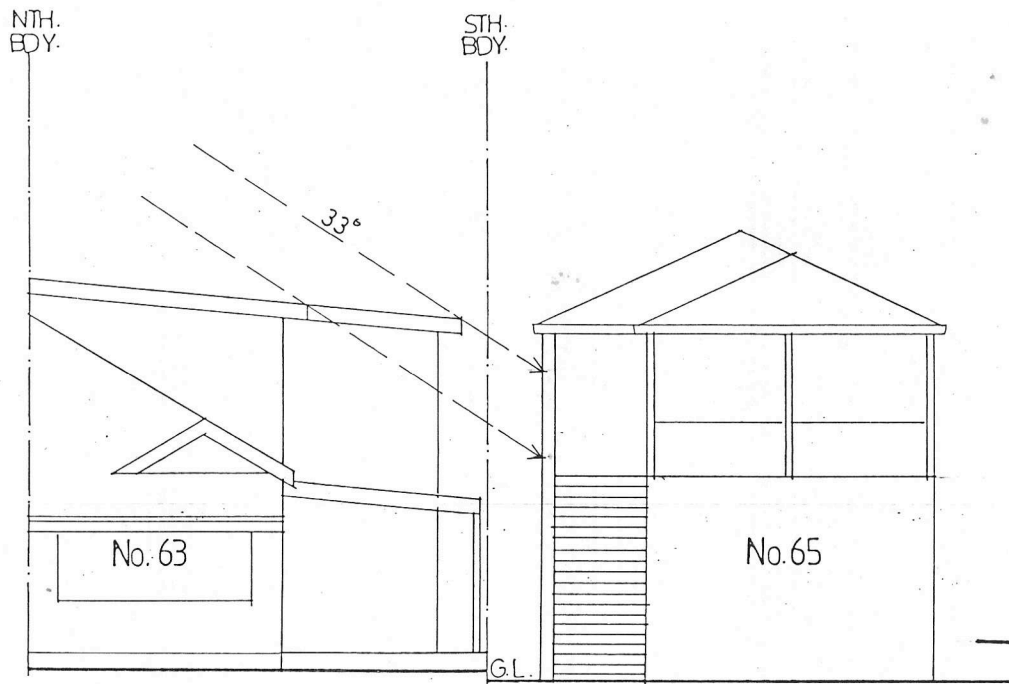
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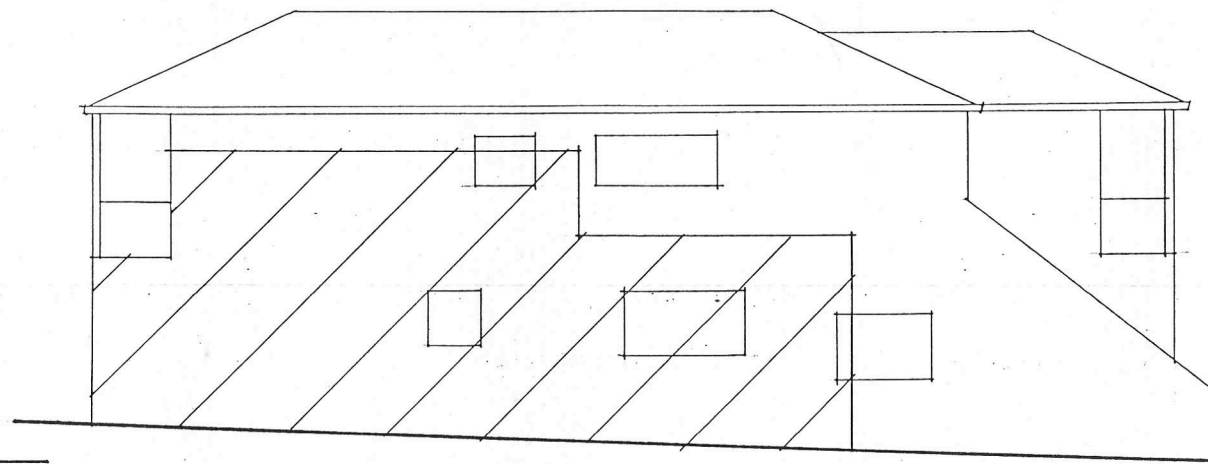
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NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE  
FOOTPRINT SHADOW DIAGRAMS ATTACHED.



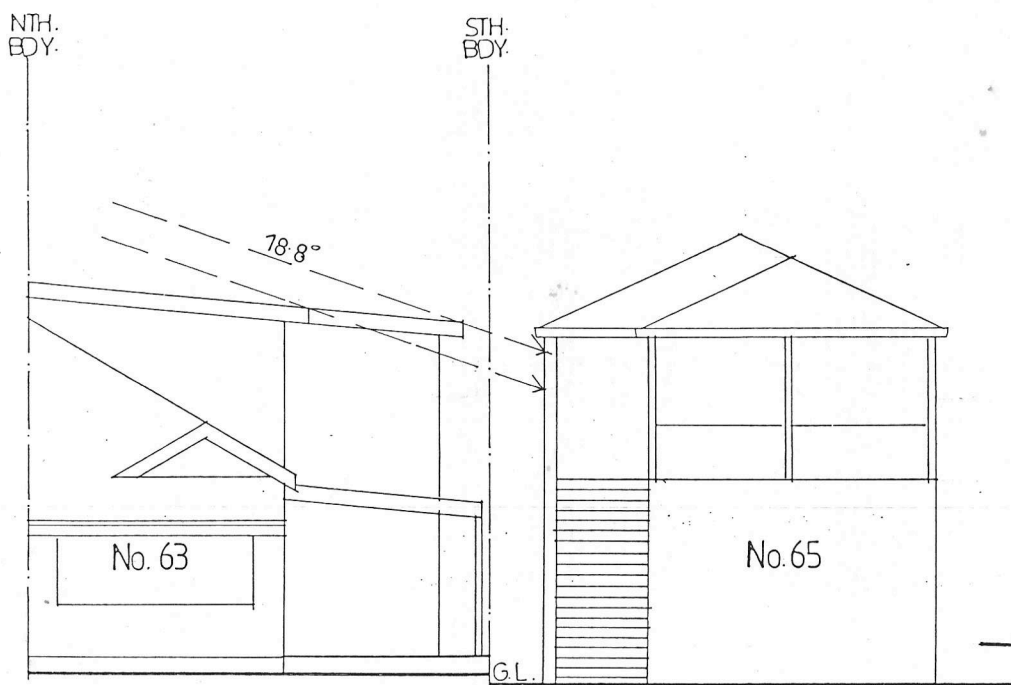
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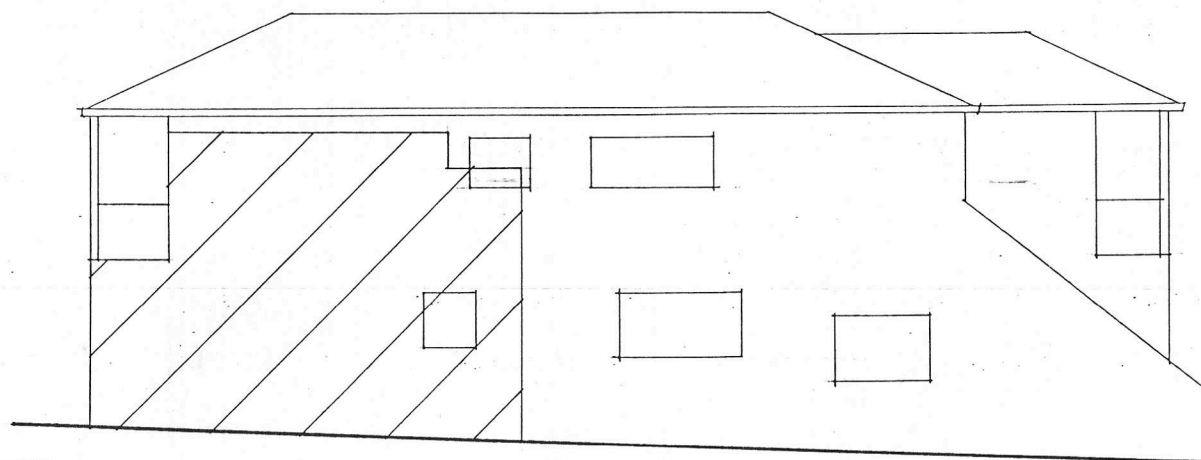
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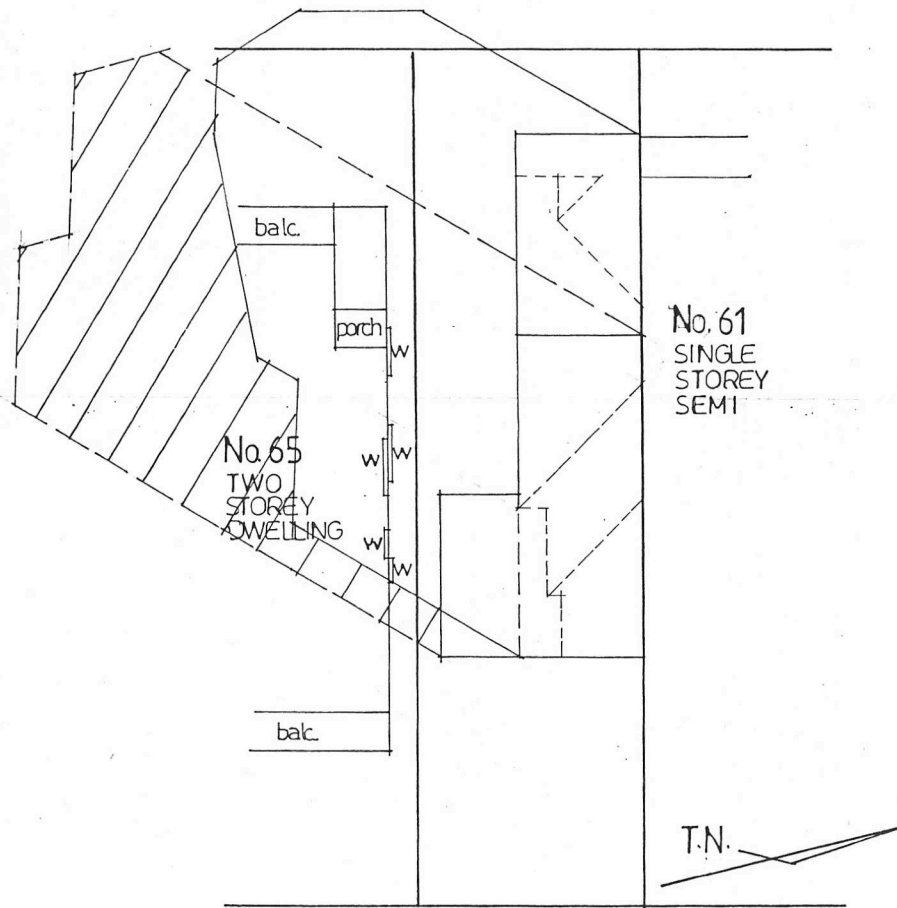


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ON THE NORTHERN FACADE OF No. 65 DOUGHERTY STREET, ROSEBERY.  
NOTE: THESE DIAGRAMS TO BE READ IN CONJUNCTION WITH THE  
FOOTPRINT SHADOW DIAGRAMS ATTACHED.

# DOUGHERTY STREET



SITE PLAN

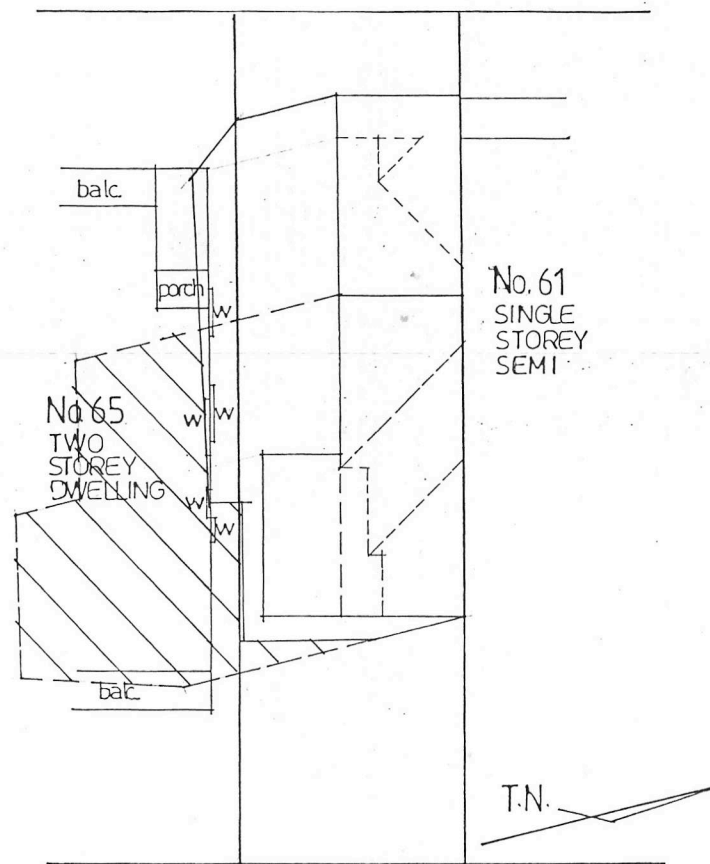
## 9:00 A.M. SHADOWS

KEY	
PROPOSED SHADOWS	-----
EXISTING SHADOWS	—————
NOTE: THE AREA SHOWN HATCHED INDICATES THE ADDITIONAL SHADOW CAST BY THE PROPOSAL.	

SHADOW DIAGRAMS ON THE 21st of JUNE  
AT 63 DOUGHERTY STREET, ROSEBERY  
SCALE: 1: 200

DRAWN: PETER BANFIELD PH: 9662 8287 DATE: 3/7 / 17

# DOUGHERTY STREET



SITE PLAN

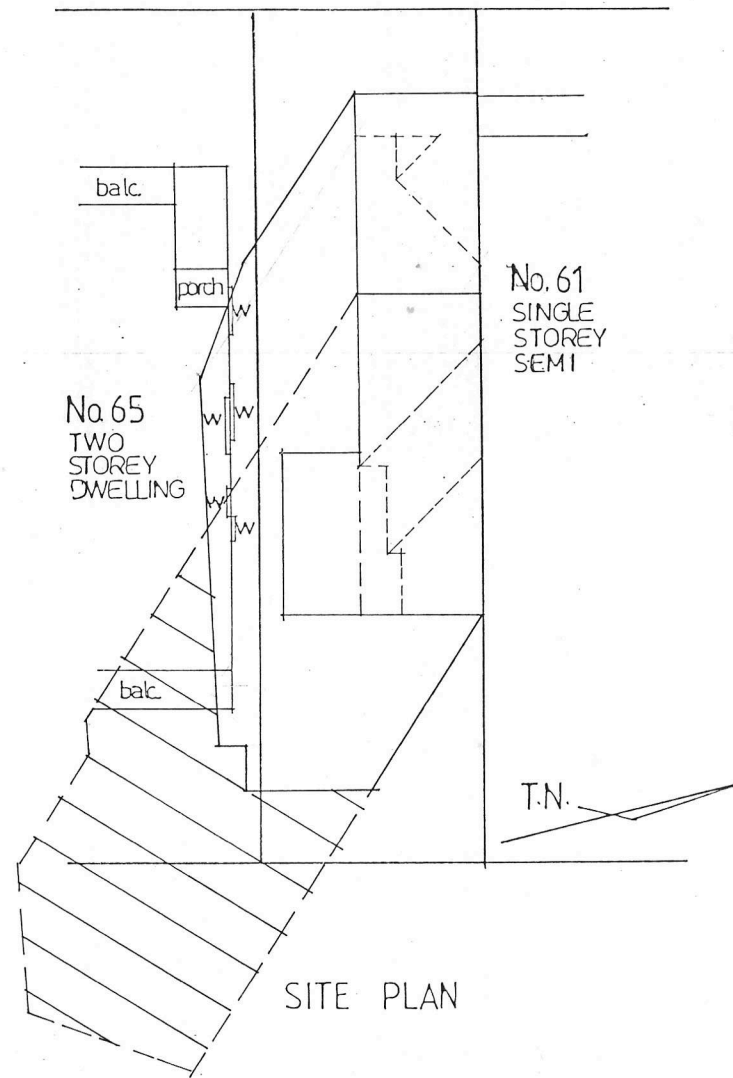
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EXISTING SHADOWS	—————
NOTE: THE AREA SHOWN HATCHED INDICATES THE ADDITIONAL SHADOW CAST BY THE PROPOSAL.	

SHADOW DIAGRAMS ON THE 21st of JUNE  
AT 63 DOUGHERTY STREET, ROSEBERY  
SCALE: 1: 200

DRAWN: PETER BANFIELD PH: 9662 8287 DATE: 3/7/17

# DOUGHERTY STREET



3:00 P.M. SHADOWS

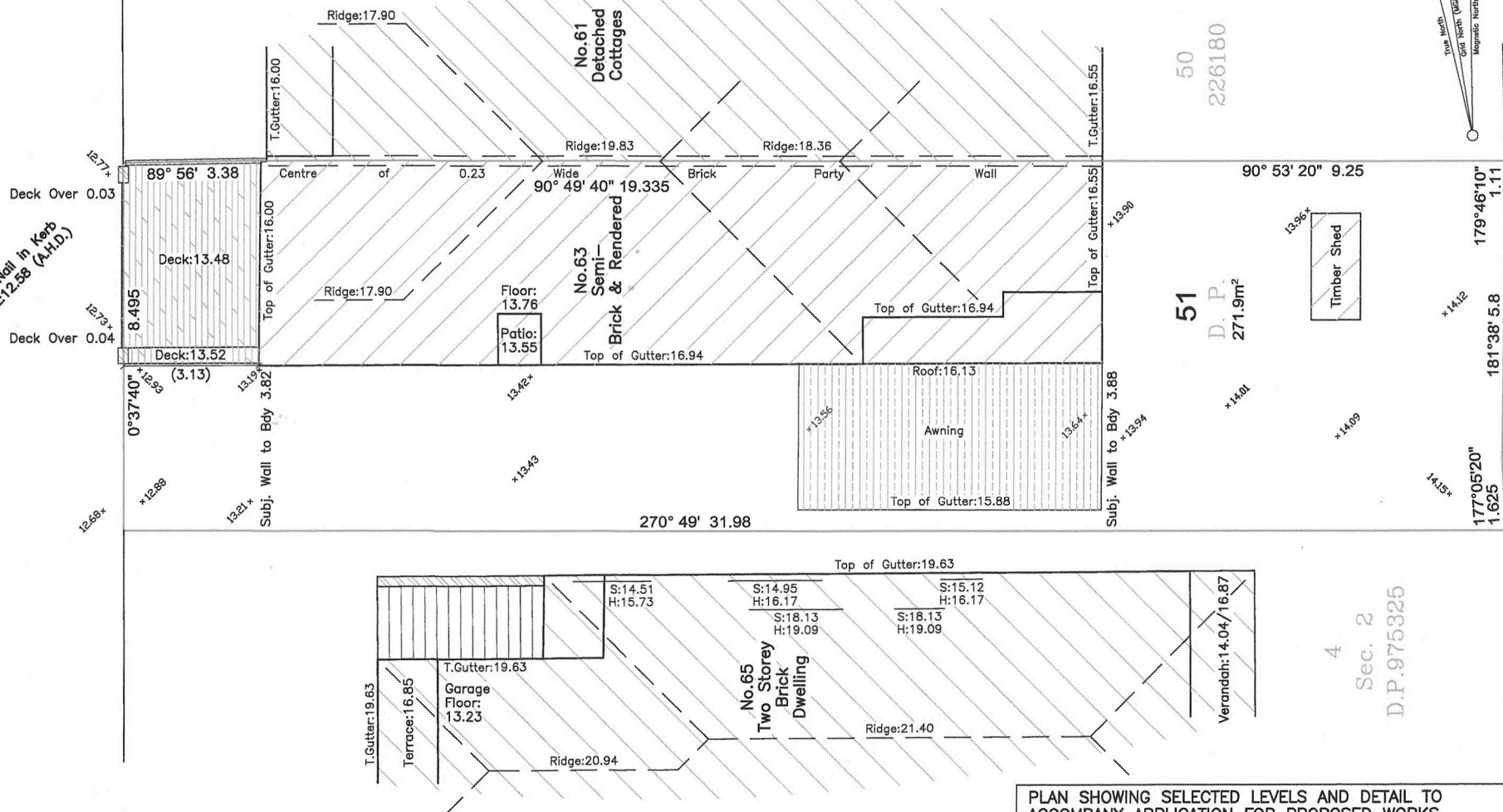
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PROPOSED SHADOWS	-----
EXISTING SHADOWS	—————
NOTE: THE AREA SHOWN HATCHED INDICATES THE ADDITIONAL SHADOW CAST BY THE PROPOSAL.	

SHADOW DIAGRAMS ON THE 21st of JUNE  
AT 63 DOUGHERTY STREET, ROSEBERY  
SCALE: 1: 200

DRAWN: PETER BANFIELD PH: 9662 8287 DATE: 3/7 / 17



DOUGHERTY STREET  
T.M. 12.50  
Concrete  
130mm  
Kerb  
T.M. 12.56  
&  
Gutter  
T.M. 12.61



**NOTE :** If it is intended to build on or near the boundaries of the property further survey should be made to mark the boundaries concerned. Dimensions and areas shown hereon have been compiled from information obtained from the Land Titles Office. Detail shown is diagrammatic and should not be used to determine setbacks from boundaries.



Full details of all services should be obtained from the relevant authorities prior to any demolition, excavation or construction. All distances are in metres. We warrant only the original CAD survey data as retained by this practice. Copies of this data may be corrupted through transfers or interference by others for which we take no responsibility.

PLAN SHOWING SELECTED LEVELS AND DETAIL TO ACCOMPANY APPLICATION FOR PROPOSED WORKS  
63 DOUGHERTY STREET, ROSEBERY  
LOT 51 IN D.P.226180  
L.G.A. : BAYSIDE  
Prepared for Mr Warwick Dickinson

Scale 1 : 100 (A3) Datum : A.H.D.  
Source : PM 29629 (RL:12.081) S.C.I.M.S.

**PAUL A. LAWSON**

SURVEYOR REGISTERED UNDER THE SURVEYING  
AND SPATIAL INFORMATION ACT 2002  
ABN : 11 717 015 476

A : 4 Loch Lomond Crescent  
Burraneer NSW 2230

P : 9501 5800  
M : 0418 214 051  
E : paul@paulalawson.com.au

Date : 27 March 2017

Ref : 9191-17

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Page 1 of 1

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## **Bayside Planning Panel**

**14/11/2017**

Item No	5.5
Application Type	Development Application
Application Number	DA-2017/1127
Lodgement Date	8 August 2017
Property	<b>9 Cranbrook Street, Botany</b> Lot: D DP: 383787
Owner	Gabrielle Kathrin Armstrong & Cameron Jon Armstrong
Applicant	John Spiteri
Proposal	Demolition of a portion of the existing roof, minor ground floor alterations and first floor additions to an existing semi-detached dwelling house.
No. of Submissions	Nil.
Cost of Development	\$165,000.00
Report by	Christopher Lazaro

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## **Officer Recommendation**

1. That the Bayside Planning Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the Floor Space Ratio and the objectives for the R2 Low Density Residential zone.
  2. That Development Application No. 2017/1127 for the Demolition of a portion of the existing roof, minor ground floor alterations and first floor additions to an existing semi-detached dwelling house at 9 Cranbrook Street, Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 

## **Attachments**

1. Planning Assessment Report
  2. Statement of Environmental Effects
  3. Architectural Plans
  4. Shadow Diagrams
-

## Location Plan



**Figure 1: Locality Plan**

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	DA-2017/1127
<b>Date of Receipt:</b>	8 August 2017
<b>Property:</b>	9 Cranbrook St, Botany Lot: D DP: 383787
<b>Owners:</b>	Gabrielle Kathrin Armstrong & Cameron Jon Armstrong
<b>Applicant:</b>	John Spiteri
<b>Proposal:</b>	Ground floor alterations and first floor additions to existing house
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$165,000.00
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Christopher Lazaro
<b>Date of Report:</b>	19 September 2017

### Key Issues

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Bayside Council received Development Application No. 2017/1127 on 8 August 2017 seeking consent for ground floor alterations and first floor additions to existing house at 9 Cranbrook St, Botany. Specifically the proposal consists of the construction of a first floor addition including a bedroom, retreat area, ensuite, closet and staircase.

The key issue with this application is the variation to the floor space ratio development standard. A Clause 4.6 has been submitted which provides a justification for the departure from the floor space ratio provision under Clause 4.6(3)(a), 4.6(3)(b). The first floor addition incorporates a gable end roof which compliments the existing architectural style of the semi-detached dwelling and is consistent with respect to colour and materials. Similar style developments can be found in the surrounding locality including 69/71 Bay Street, Botany.

The application was placed on public exhibition for a fourteen (14) day period from 21 August to 4 September 2017. No objections were received.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

### Recommendation

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As per attached cover page.

## Background

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### History

Development Application	Description	Date of Determination	Issuing Authority
DA-07(270)	Alterations and additions to existing dwelling including ground level rear additions.	8 August 2007	City of Botany Bay
DA-2017/1101	Alterations and first floor additions to existing dwelling. Application was rejected due to no owners consent of adjoining semi-detached dwelling at 7 Cranbrook St.	Withdrawn 10 July 2017	City of Botany Bay

### Proposal

The development application seeks Council consent for ground floor alterations and first floor additions to existing dwelling house at 9 Cranbrook Street Botany.

- Demolition of existing roof to allow for first floor addition;
- Minor ground floor alterations consisting of the provisioning of a staircase; and
- First floor additions consisting of a bedroom, retreat area, ensuite and closet.

### Site Description

The subject site is located on the western side of 9 Cranbrook Street, Botany between Ramsgate Street to the north and Hastings Street to the south. The subject site is rectangular in shape with a total area of 220m<sup>2</sup> and is oriented east to west with east being the front. The northern and southern side boundary have lengths of 38.025m and 38.015m respectively and the eastern front and western rear boundaries have widths of 5.7m and 5.91m respectively. The site gradually slopes towards the rear of the property and consists of a single-storey semi-detached dwelling with a shed at the rear. The site is located in the R2 Low Density Residential zone.

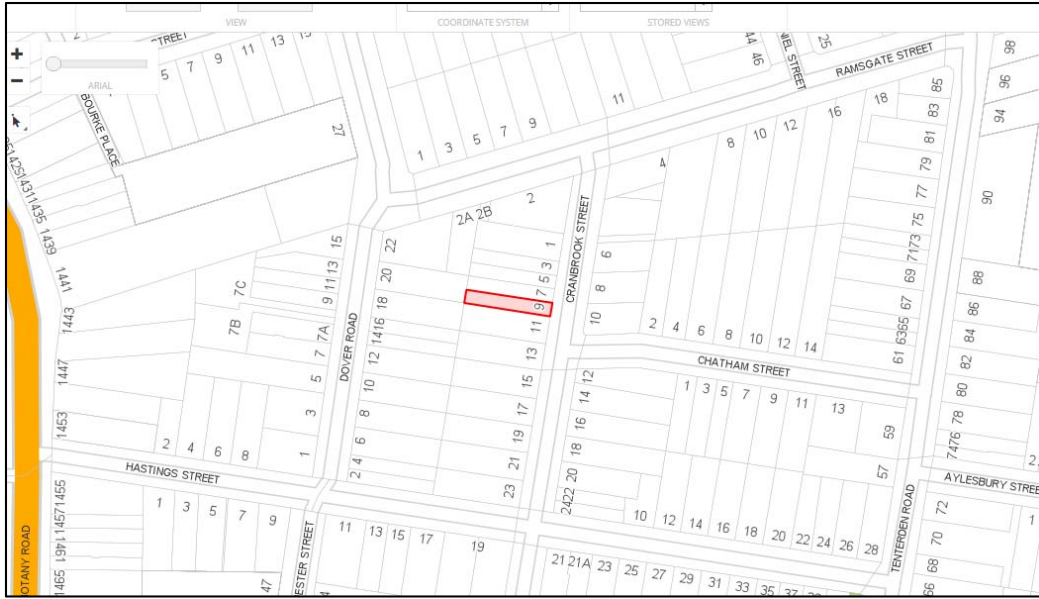
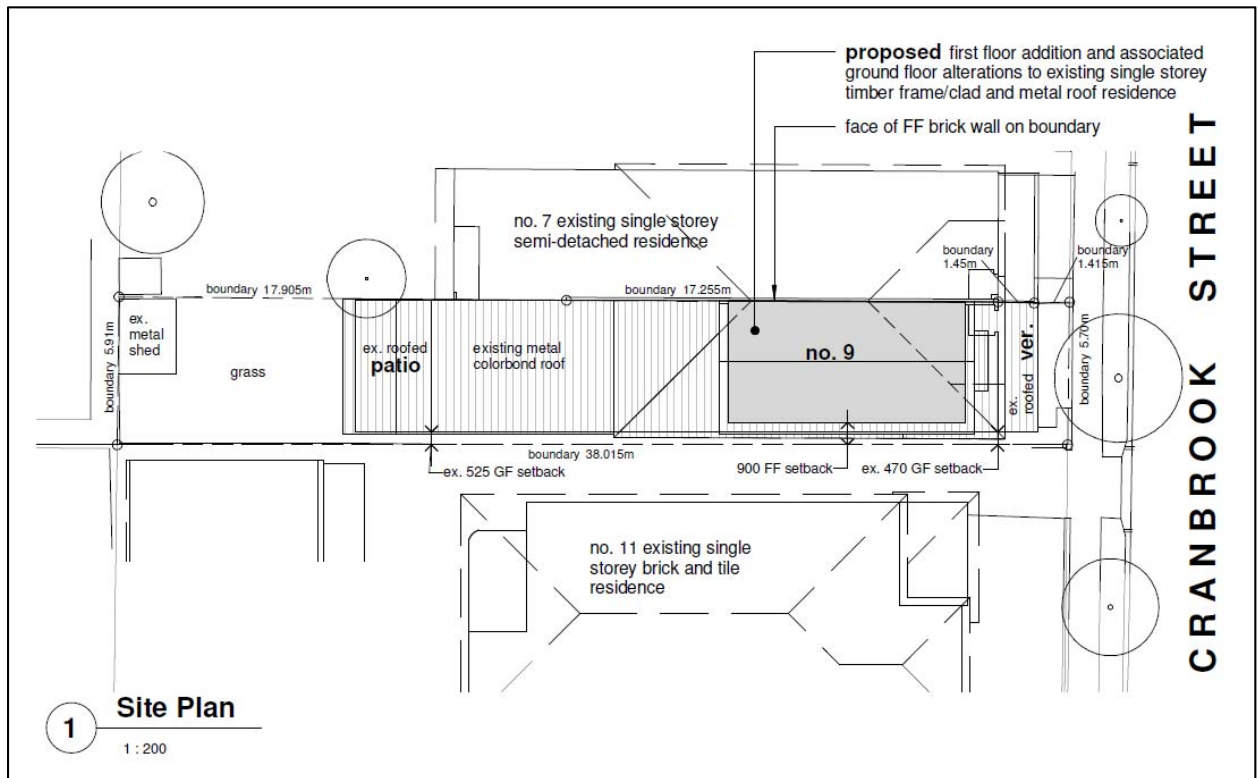
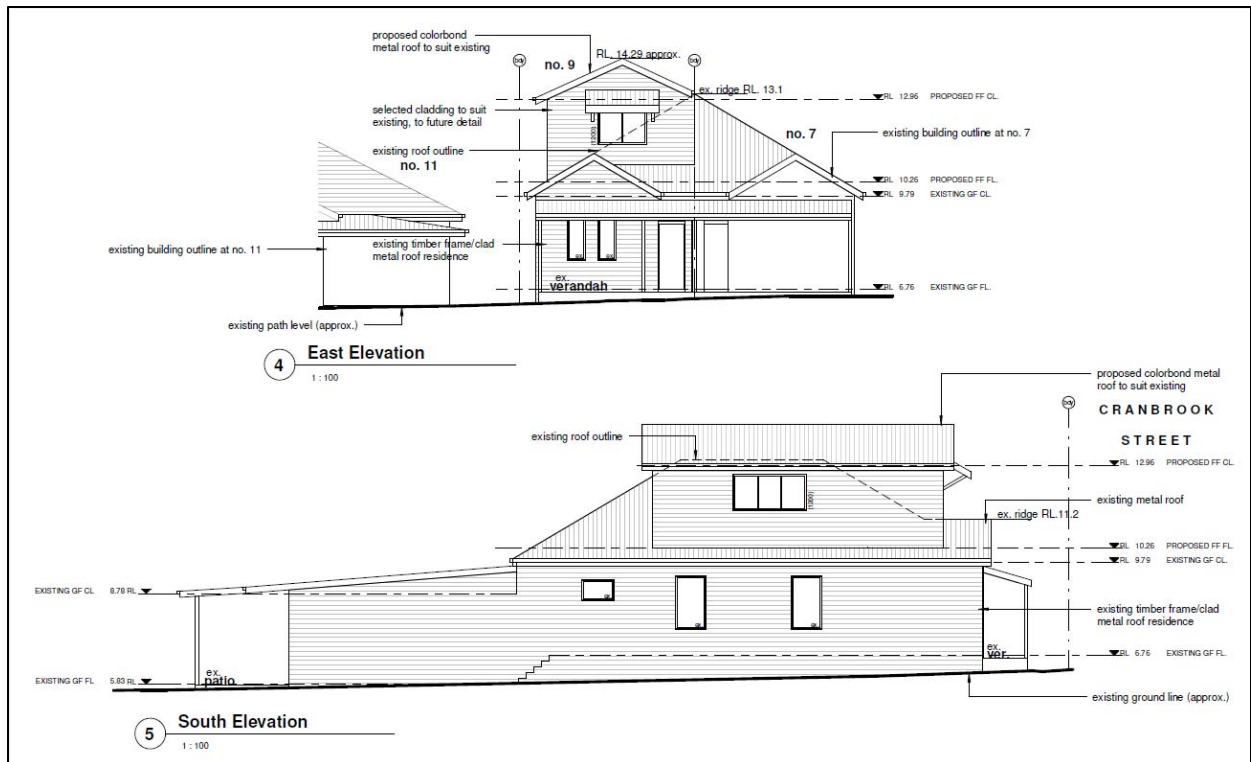


Figure 1 – Site locality







**Figure 3 – East and South Elevation**



**Figure 4 – Southern side and eastern front facades of existing dwelling.**



## Description of the Surrounding Development

The surrounding area consists of a mix of one and two-storey detached and semi-detached dwellings. Development surrounding the subject site consists of the adjoining half of the semi-detached dwelling to the north and single-storey detached dwellings are located to the south and rear of the subject site.

## **Referrals**

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### Internal

The development application was referred to Council's development engineer and building surveyor. Appropriate comments have been provided relating to the stormwater management and structural details.

## **Statutory Considerations**

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An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration – General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A282212\_02 issued on 25 May 2017 committing to environmental sustainable measures.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes.
2. The adjoining and adjacent properties are currently used for residential purposes.
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

### Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the R2 Low Density Residential zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development will continue the existing use of the site as a 'dwelling house', which is permissible with consent in the R2 zone. The proposed alterations and additions to the existing dwelling house is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zones?	Yes	<u>The proposed development is consistent with the following objectives of the R2 – Low Density Residential zone, namely to continue providing for the housing needs of the community within a low density residential environment.</u>
What is the height of the building?  Does the height of the building exceed the maximum building height?	Yes	The maximum building height allowed on the subject site is 8.5m. The original proposal had an overall height of 8.636m which is not compliant with this provision. An amended design was submitted to reduce the height to 8.331m which now complies.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	No – See Clause 4.6	The subject site is located within Area 3 as shown on the FSR map. The site has a total area of 220m <sup>2</sup> which allows a maximum FSR of 0.5:1 as per Clause 4.4A (3)(d) of the BBLEP 2013. The proposed FSR is 0.66:1 which is non-compliant with this provision. Refer to Clause 4.6 discussion.
Is the site within land marked "Area 3" on the FSR Map?  If so, does it comply with the sliding scale for FSR in Clause 4.4A?	Yes	Refer to FSR LEP discussion.
Is the site listed in Schedule 5 as a heritage	Yes	The subject site is not a heritage item or located within a Heritage Conservation Area. Although the site

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
item or within a Heritage Conservation Area?		is in close proximity to the Heritage Conservation Area located along Botany Road, the proposed development will have no impact on this area.
6.1 – Acid sulphate soils	Yes	The site is affected by ASS Class 4 that is defined as works more than 2 metres below the natural ground surface or works by which the water table is likely to be lowered more than 2 metres below the natural ground surface. The proposed works will not involve excavation and will therefore not trigger a requirement for ASS assessment.
6.3 – Stormwater management	Yes	The proposed first floor addition is to be located wholly over the ground floor and will therefore not result in additional impervious area. The water run-off from the proposed first floor roof is to be contained wholly within the subject allotment through the use of a box gutter.
6.9 – Development in areas subject to aircraft noise	Y	The subject site is located within the 20 – 25 ANEF contours and is therefore subject to aircraft noise. In this regard, a condition has been imposed to ensure compliance with this provision.

#### **Note 1 – Clause 4.6 variation relating to floor space ratio standard**

The subject site has a maximum FSR of 0.50:1 as outlined in the BB LEP 2013, however, the proposed FSR of 0.66:1 exceeds this provision.

The calculation for the proposed floor space ratio is as follows:

Ground floor area = 108.15m<sup>2</sup>

First floor area = 37.68m<sup>2</sup>

Total floor area = 145.82m<sup>2</sup>

Site area = 220m<sup>2</sup>

FSR = 0.66:1

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposals variation to the 0.55:1 floor space ratio requirement, stating that it is unnecessary and unreasonable in the particular circumstances, which is considered below.

*“In respect to the above Clauses, it is considered that strict compliance with the maximum floor space ratio standard is unreasonable and unnecessary in the circumstance of the case for the following reasons:*

- *The proposal represents a modest first floor addition that has been skilfully designed to remain consistent with the height, bulk and scale of other two-storey dwelling houses within the immediate vicinity of the site.*
- *The proposed first floor addition is setback from the front elevation behind a substantial portion of the front gabled roof and is well integrated with the existing building by adopting the same roof pitch to ensure the adjoining semi-detached dwelling can be easily developed in future to match the proposed first floor addition.*
- *The proposed development will not result in any significant adverse impacts upon the amenity of the adjoining dwellings in terms of overshadowing, loss of privacy or views. The rear yard of the southern neighbour will continue to receive adequate direct sunlight in mid-winter,*
- *The proposal is sympathetic to the existing and desirable future character of the locality and will contribute to the mixture of building style and sizes in the area*
- *The proposal is consistent with the relevant objectives of the floor space ratio standard, contained in Clause 4.4 of the LEP, in that it will provide an appropriately scaled development that is consistent with the existing surrounding built form.*

*In addition, the proposed contravening of the development standard is considered to be in the public interest and supportable on the following environmental planning grounds:*

- *The proposed development is consistent with the relevant objectives of the R2 – Low Density Residential zone.*
- *The proposed variation to the following to the floor space ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Botany area.*
- *The public benefit would be best served by approval of the development application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.*
- *It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, as argues elsewhere in this objection, adherence to the subject development standard would hinder the attainment of the objects of Section 5(a) (i) and (ii) of the Environmental planning and Assessment Act 1979 (as amended). Further, the proposed development is consistent with the relevant objectives of the floor space ratio standard.*
- *The proposed development has been designed to respect the amenity of the adjoining neighbours and the character of the streetscape. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.*

*For the above reasons, it is considered that the objection under Clause 4.6 of the LEP satisfactorily demonstrates that strict adherence to the maximum floor space ratio standard is unreasonable and unnecessary in the subject application, and consent to the proposed development, would be in the public interest.”*

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the Floor Space Ratio development

standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of Botany Bay Local Environmental Plan 2013, which is considered below. The matter for consideration pursuant to Clause 4.6(4) (ii) is also considered below. Clause 4.6 (5), (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed below:

*Is the development standard unreasonable or unnecessary in the circumstances of the case?*

Officer's Comments:

The applicant has provided justification for the variation to the floor space ratio which is viewed as unreasonable and unnecessary given:

- The maximum FSR for dwelling houses on sites of the same size is 0.80:1 as per the sliding scale under Clause 4.4A (3)(a). The maximum FSR for semi-detached dwellings is 0.50:1 as per Clause 4.4A (3)(d). As a result, development of a larger scale is anticipated for

adjoining sites that do not contain semi-detached dwellings despite being located on similar sized allotments.

- The additional 34.7m<sup>2</sup> of the first floor addition is located wholly over the existing ground floor and therefore does not adversely impact site coverage or landscaping and is compliant with building height. Any overshadowing and visual privacy impacts created by the proposed development have been addressed accordingly and are within acceptable limits.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

Officer's Comments:

Additionally, further justification provided by the applicant proposes the variation of the development standard to be in the public interest given:

- The proposal satisfies the objectives of the floor space ratio standard, namely to ensure buildings are compatible with the bulk and scale of the surrounding locality and do not adversely affect the existing streetscape.
- The proposal satisfies the objectives of the zone, namely, to continue providing for the housing needs of the community within a low density residential environment.

### Summary

The Clause 4.6 exception to the floor space ratio provision has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls which are compliant with the majority.

In this regard, the Floor Space Ratio development standard is considered unreasonable and unnecessary given the proposed FSR is within the limits of what has been anticipated for surrounding sites that consist of dwelling houses. Furthermore, the proposal will ensure bulk and scale of the development is compatible with the streetscape character and will not result in any adverse additional impacts with respect to overshadowing and visual privacy. The proposed variation is considered to satisfy the objectives of the floor space ratio standard and the R2 Low Density Residential zone.

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

There are no current Draft EPIs applicable to this development

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

#### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

### **Part 3A –Parking and Access**

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that dwelling houses with two or more bedrooms are to provide 2 car parking spaces per dwelling.

The proposed development will maintain the existing nil car parking spaces. This is considered acceptable given the narrow width of the allotment and the proposal is not considered to be intensifying the use substantially.

### **Part 3L – Landscaping and Tree Management**

<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3L.1.1 Tree Preservation Bonds</b>		
Tree Preservation Bonds required for significant or heritage trees, or trees with a high potential to be impacted during construction.	No trees are located within close proximity to the proposal.	N/A
<b>3L.2 General Requirements</b>		
<b>C1</b> Existing trees including street trees must be preserved	No street trees affected by the proposal.	Y

### **Part 3N – Waste Minimisation and Management**

A construction waste management statement prepared by John Spiteri has been provided to Council, which addresses the construction works of the proposed development.

### **Part 4A – Dwelling Houses**

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement.	The existing streetscape consists of a mix of one and two-storey detached and semi-detached dwellings with a pitched roof being the most common roof form. In this regard, the proposal will reflect similar developments in the area through providing consistency between roof forms and architectural style.	Y
C2 Development must be designed to reinforce and maintain the existing character of the streetscape.		
C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).		
4A.2.7 Site Coverage		
C1 Refer to Part 3L.1.4 – Definitions for definitions of site coverage, deep soil zones, and soft and hard landscape areas.	Site Coverage – 149.25m <sup>2</sup> Deep Soil zones- 46.58m <sup>2</sup> Soft Landscape Areas – 46.58m <sup>2</sup> Hard Landscape Areas –23.95m <sup>2</sup>	Maintained
C2 For sites over 200m <sup>2</sup> the maximum site coverage is:	Site area = 220m <sup>2</sup> . Site coverage	Maintained



200 – <250m <sup>2</sup> 65% of the lot (143m <sup>2</sup> )	- Existing and proposed = 67.8% (149.25m <sup>2</sup> )  The proposal will maintain the existing amount of site coverage and will therefore not be required to comply with this control.	
<b>4A.2.8 Building Setbacks</b>		
<b>C.1</b> Dwelling houses must comply with the following minimum setbacks as set out in Table 1. Minimum front setback – comply with the prevailing street setback or 6 metres (min) Minimum side setback - Assessed on merit based – depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape  Minimum rear setbacks – 4 metres  Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions Eaves – 450mm minimum setback	Front setback = 1.32m  First floor: - North side setback = 0m - South side setback = 0.9m  The ground floor setbacks will be maintained. A common wall divides the semi-detached dwellings along the northern boundary. Rear setback = 12.51m  None proposed.  250mm	Maintained  Y  Maintained  N/A  Maintained
<b>C5</b> Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	The south facing side wall on the first floor reaches a length of 9.5m. In this regard, the appearance of long and bulky walls have been avoided given the relatively short length of the proposed wall.	Y
<b>4A.3.1 Materials and Finishes</b>		
<b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	A Schedule of Colours and Finishes was not provided.  The proposed external materials and finishes shown on the elevation plans demonstrate consistency with the existing dwelling that are sympathetic to the surrounding locality.	Y
<b>4A.3.2 Roofs and Attics/Dormer</b>		
<b>C1</b> Where roof forms in a street are predominantly pitched, then any	The proposed pitched roof with gable ends is a common roof form	Y

proposed roof should provide a similar roof form and pitch.	and pitch reflected throughout the streetscape.	
<b>4A.4.1 Visual Privacy</b>		
<b>C2</b> Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> <li>▪ using windows which are narrow or glazing</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> <li>▪ Increasing sill heights to 1.5 metres above floor level.</li> </ul>	<p>The window selection and location are considered appropriate in providing internal amenity to the proposed first floor addition, whilst minimising privacy impacts to neighbouring properties.</p> <p>First floor bedroom windows are proposed to the side elevations with a sill height of 1.2m. These are considered to be appropriate given they service low-use rooms, and do not provide direct overlooking into rooms or private open space areas of neighbouring properties.</p>	Y
<b>4A.4.3 Solar Access</b>		
<b>C1</b> Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	Shadow diagrams have been provided with this application. The additional shadow cast by the proposed first floor addition continues to be within acceptable limits of the DCP requirements.	Y
<b>4A.4.4 Private Open Space</b>		
<b>C1</b> Each dwelling is to have a private open space that: <ul style="list-style-type: none"> <li>(i) Has at least one area with a minimum area of 36m<sup>2</sup>;</li> <li>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</li> <li>(iii) Maximises solar access;</li> <li>(iv) Is visible from a living room door or window of the subject development;</li> <li>(v) Minimises overlooking from adjacent properties;</li> <li>(vi) Is generally level;</li> <li>(vii) Is oriented to provide for optimal year round use;</li> <li>(viii) Is appropriately landscaped; and</li> <li>(ix) Is located or screened to ensure privacy;</li> </ul>	<p>Private open space: -Existing and proposed = 56.86m<sup>2</sup></p> <p>The proposal will maintain the existing private open space area which is generally consistent with this control.</p>	Maintained

<p>Note: Private open space is not to include:</p> <ul style="list-style-type: none"> <li>(i) Non-recreational structures (including garages, tool sheds and such like structures);</li> <li>(ii) Swimming pools; and</li> <li>(iii) Driveways, turning areas and car spaces, drying areas and pathways.</li> </ul>		
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## Discussion

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No discussion required.

### **S.79C(1)(a)(iv) - Provisions of regulations**

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

### **S.79C(1)(b) - Likely Impacts of Development**

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

### **S.79C(1)(c) - Suitability of the site**

The site is subject aircraft noise and has been conditioned to comply. The site is also subject to flooding, however, the proposal will not be impacted. The site is not known to be affected by any other site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

### **S.79C(1)(d) - Public Submissions**

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 31 July to 14 August 2017. No submissions were received.

### **S.79C(1)(e) - Public interest**

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

## **Section 94 Contributions**

No contributions are applicable for this proposed development.

## Conclusion

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Development Application No. 2017/1127 for construction of a first floor addition to an existing dwelling at 9 Cranbrook St, Botany has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979. A Clause 4.6 has been provided justifying the departure from the Floor Space Ratio development standard stating that, in this instance, the development standard is unreasonable and unnecessary. In this regard the application is recommended for approval subject to conditions of consent given the Clause 4.6 is well-founded.

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## Attachment

### Schedule 1 – Conditions of Consent

**Premises: 9 Cranbrook St, Botany**

**DA No: 2017/1127**

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Date Received
Site Plan A01 – Issue B	John Spiteri	Dated 12/09/2017; Received 12/09/2017.
Ground Floor Plan A02 – Issue B		Dated 12/09/2017; Received 12/09/2017.
First Floor Plan A03 – Issue B		Dated 12/09/2017; Received 12/09/2017.
Elevations pg 1 A04 – Issue B		Dated 12/09/2017; Received 12/09/2017.
Elevations pg 2 A05 – Issue B		Dated 12/09/2017; Received 12/09/2017.
Sections A06 – Issue B		Dated 12/09/2017; Received 12/09/2017.

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	John Spiteri	Dated: May 2017; Received: 08/08/2017.
BASIX Certificate	Max Brightwell	Dated: 25/05/2017; Received: 08/08/2017
Survey Plan	Ballenden Surveyors	Dated: 01/07/2016; Received: 08/08/2017
Gutter Specifications	John Spiteri	Dated: - Received: 25/10/2017

2. This Consent relates to land in Lot D in DP 383787, and as such, building works must not encroach on to adjoining lands or other public places.
3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - i) The consent authority; or
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

- iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

6. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate measures such as:

- a) Detailed gutter specifications and design for the proposed first floor addition.
7. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

8. The applicant must prior to the issue of the Construction Certificate, pay the following fees:

- |                              |                                       |
|------------------------------|---------------------------------------|
| a) Footpath Crossing Deposit | \$2570.00 (Refer to condition No. 10) |
| b) Development Control       | \$875.00                              |

9. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

10. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$2570.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

11. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other

Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

12. Prior to the issue of any Construction Certificate a dilapidation report of the adjoining semi-detached dwelling (7 Cranbrook Street, Botany), including a photographic survey prepared by a Practising Structural Engineer, must be prepared in respect of the property known as 9 Cranbrook Street, Botany

A copy of the dilapidation report together with the accompanying photographs shall be provided to the above property owner/s of 7 Cranbrook Street, Botany.

Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey to the Accredited Certifier (AC) or Council prior to commencement of works. The insurance cover shall be a minimum of \$10 million.

13. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
14. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

15. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
  - a) Written notice, indicating the date when demolition of the building is to commence.
  - b) This persons full name and address.
  - c) Details of Public Liability Insurance.
16. The Certifying Authority must be satisfied that:
  - a) In the case of work to be done by a licensee under the Home Building Act:
    - i) Has been informed in writing of the licensee name and contractor licence number; and
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or



- b) In the case of work to be done by any other person:
    - i) Has been informed in writing of the persons name and owner-builder permit number; or
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
  - c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
17. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if:
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
18. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
19. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
20. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
21. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
22. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The *Soil and Water Management Plan* if required under this consent;
  - b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
  - c) "*Managing Urban Stormwater – Soils and Construction*" published by the NSW Department of Housing 4<sup>th</sup> Edition" ('The Blue Book').

d) Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site,” can be downloaded free of charge from Council’s website at: <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm>, further information on sediment control can be obtained from [www.ssroc.nsw.gov.au](http://www.ssroc.nsw.gov.au).

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

23. Prior to commencement of any works, relevant application(s) shall be made to Council’s Customer Services Counter and obtained the following approvals and permits on Council’s property/road reserve under Road Act 1993 and Local Government Act 1993:

*(It should be noted that any works shown within Council’s road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)*

- a) Permit to erect hoarding on or over a public place, including Council’s property/road reserve;
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
- c) Permit for roads and footways occupancy (long term/ short term);
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
- f) Permit to place skip/waste bin on footpath and/or nature strip; and
- g) Permit to use any part of Council’s road reserve or other Council lands.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

#### **CONDITIONS TO BE SATISFIED DURING WORKS**

24. Any demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
25. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
26. No demolition materials shall be burnt or buried on the site.
27. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
28. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a the Local Environmental Plan phone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Certifying Authority including an after-hours contact the Local Environmental Plan phone number.
  - b) Any such sign is to be removed when the work has been completed.
29. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

30.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
  - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - 1 The additional load on the system; and
    - 2 The relocation and/or adjustment of the services affected by the construction.
- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

31. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.

32. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

33. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

34. If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:

- a) Must preserve and protect the building/ fence from damage; and,
- b) If necessary, underpin and support such building in an approved manner;
- c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
- d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) If the soil conditions required it:

- i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
    - ii) Adequate provision must be made for drainage.
  - f) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
35. Any dewatering is not permitted on this site without NSW-EPA approval.
36. The following shall be complied with during construction and demolition:
- a) Construction Noise
 

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
 

The  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 28 weeks:
 

The  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - c) Time Restrictions
    - i) Monday to Friday                      07:00am to 05:00pm
    - ii) Saturday                                      08:00am to 01:00pm
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing
 

All possible steps should be taken to silence construction site equipment.
37. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and

- ii) must be connected:
    - 1 to a public sewer; or
    - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
    - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 38. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.
- 39. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 40.
  - a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and
  - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land;
  - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer;
  - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- 41. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery

vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

42. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
43. Inspections must be conducted by Council's Engineer at the following occasions:
  - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
  - c) Formwork inspection of Council's footpath prior to laying of concrete;
  - d) Final inspection of driveway layback and adjacent kerb and gutter;
  - e) Final inspection of Council's kerb and gutter; and

Final inspection of Council's footpath.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

44. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
45. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
46. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
47. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
48. The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
49. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.



**CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

50. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
51. The building is approved as a single dwelling on the site for use and occupation by a single family. The dwelling cannot be used as a secondary dwelling. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
52. The stormwater drainage system (including all gutters, pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
53. All intruder alarms must be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR**

**ALTERATIONS AND FIRST FLOOR ADDITION TO AN  
EXISTING SEMI-DETACHED DWELLING HOUSE**

**AT**

**9 CRANBROOK STREET, BOTANY**

**MAY 2017**

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## **1.0 INTRODUCTION**

This Statement of Environmental Effects (SEE) accompanies a development application to Botany Bay Council for the consent to carry out alterations and first floor addition to an existing semi-detached dwelling house at No. 9 Cranbrook Street, Botany.

This SEE will seek to address a number of issues relating to the proposal including a description of the subject site, the surrounding area and the proposal. The statutory and policy requirements within which the proposal is to be considered are then set out with an assessment of the environmental impact of the proposal, undertaking by reference to Section 79C(1) of the Environmental Planning and Assessment Act, 1979, as amended.

This SEE must be read in conjunction with the architectural plans accompanied with the subject application and prepared by John Spiteri Design and Drafting.

The assessment demonstrates that the proposed development would be acceptable in the context of all the relevant matters for consideration.

## **2.0 DESCRIPTION OF SITE & SURROUNDS**

The subject site is located on the western side of Cranbrook Street in Botany and is occupied by an existing single storey semi-detached dwelling house.

The site is rectangular in shape and has a frontage width of 5.7m to Cranbrook Street, a maximum side boundary depth of 38.015m and an overall site area of 220m<sup>2</sup>. The subject property forms half of a pair of symmetrical semi-detached dwelling house at No. 7 Cranbrook Street, Botany.

The immediate locality is characteristic by predominantly one and two storey freestanding dwelling houses and semi-detached dwellings.

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### **3.0 THE PROPOSAL**

The proposal seeks consent to carry out alterations and first floor addition to the existing semi-detached dwelling house. The existing ground floor level remains largely unaltered except for the provision of a staircase to the new first floor level above. The proposed first floor addition comprises of a bedroom with retreat area, ensuite and walk-in-robe.

### **4.0 PLANNING CONTROLS**

The proposal has been assessed in relation to compliance with the following relevant planning instruments:

- Environmental Planning and Assessment Act, 1979, as amended
- State Environment Planning Policy (Building Sustainability Index: BASIX) 2004
- Botany Bay Local Environmental Plan 2013
- Botany Bay Development Control Plan 2013

### **5.0 SECTION 79C (1) ASSESSMENT**

The following headings provide an assessment of the development application having regard to the relevant matters for consideration under Section 79C (1) of the Environmental Planning and Assessment Act, 1979.

#### **5.1 Section 79C (1) (A) - Statutory Considerations**

##### **5.1.1 Botany Bay Local Environmental Plan 2013 (LEP)**

The site is zoned R2 – Low Density Residential and the proposed development are permissible with consent. The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

- *To encourage development that promotes walking and cycling.*

The proposal is consistent with the above objectives in that the character of the existing residential area will be maintained and the proposal will not result in any significant adverse impact upon the amenity of surrounding residential development or the character of the streetscape.

The following Clauses of the LEP are relevant to the subject application.

Clause	Required	Proposed	Compliance
<b>4.3 – Height of buildings</b>	8.5m (max)	Up to approximately 8.5m	Yes
<b>4.4A(d) – Floor Space Ratio</b>	0.5:1 (max)	0.66:1	No. See Clause 4.6 below.
<b>4.6 Exceptions to development standards</b>	(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of	The proposal involves variation to the floor space ratio standard under Clause 4.4A(d) of the LEP.	See discussion below.

	the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.		
<b>6.1 – Acid Sulfate soils</b>	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	In accordance with the Acid Sulfate Soil Map, the subject land is identified as Class 4 and the proposal does not involve any excavation works. As such, an acid sulfate soils management plan is not required.	Yes
<b>6.9 Development in areas subject to aircraft noise</b>	(2) This clause applies to development that: (a) is on land that: (i) is near the Sydney (Kingsford Smith) Airport, and (ii) is in an ANEF contour of 20 or greater, and (b) the consent authority considers is likely to be adversely affected by aircraft noise.	The subject site is located within the ANEF contour of 25-30.	To be conditioned by Council.



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The following is in relation to the non-compliance with the floor space ratio standard under Clause 4.4A of the LEP.

The proposed variation is summarised in the table below:

Site Area:	220m <sup>2</sup>
Maximum allowable FSR/GFA:	0.50:1 or 110m <sup>2</sup>
Existing FSR/GFA:	0.496:1 or 109.2m <sup>2</sup>
Proposed FSR/GFA:	0.658:1 or 144.65m <sup>2</sup>
Proposed area exceeding maximum FSR/GFA:	0.158:1 or 34.65m <sup>2</sup>

As a result, an objection, under Clause 4.6 of the LEP is provided below to argue that full compliance with the maximum floor space ratio standard contained in the LEP, in the circumstances, is unnecessary and unreasonable.

The objection to the identified standard is based upon Clause 4.6(3) and Clause 4.6(4) of the LEP, which states:

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Director-General has been obtained.*

In respect to the above Clauses, it is considered that strict compliance with the maximum floor space ratio standard is unreasonable and unnecessary in the circumstance of the case for the following reasons:

- The proposal represents a modest first floor addition that has been skilfully designed to remain consistent with the height, bulk and scale of other two storey dwellings within the immediate vicinity of the site.
- The proposed first floor addition is setback from the front elevation behind a substantial portion of the front gabled roof and is well integrated with the existing building by adopting the same roof pitch to ensure the adjoining semi-detached dwelling can be easily developed in future to match the proposed first floor addition.
- The proposed development will not result in any significant adverse impacts upon the amenity of the adjoining dwellings in terms of overshadowing, loss of privacy or views. The rear yard of the southern neighbour will continue to receive adequate direct sunlight in mid winter.
- The proposal is sympathetic to the existing and desirable future character of the locality and will contribute to the mixture of building style and sizes in the area.
- The proposal is consistent with the objectives of the floor space ratio standard, contained in Clause 4.4A of the LEP, in that it will provide an appropriately scaled development that is consistent with the existing surrounding built form.

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In addition, the proposed contravening of the development standard is considered to be in the public interest and supportable on the following environmental planning grounds:

- The proposed development is consistent with the objectives of the R2 – Low Density Residential zone.
- The proposed variation to the floor space ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Botany area.
- The public benefit would be best served by approval of the development application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.
- It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, as argued elsewhere in this objection, adherence to the subject development standard would hinder the attainment of the objects of Section 5(a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (as amended). Further, the proposed development is consistent with the relevant objectives of the floor space ratio standard.
- The proposed development has been designed to respect the amenity of the adjoining neighbours and the character of the streetscape. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.

For the above reasons, it is considered that the objection under Clause 4.6 of the LEP satisfactorily demonstrates that strict adherence to the maximum floor space ratio standard is unreasonable and unnecessary in the subject application, and consent to the proposed development, would be in the public interest.

## 5.1.2 Relevant State Environmental Planning Policies

### 5.1.2.1 State Environment Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

SEPP BASIX aims to promote sustainable residential design to meet water and energy efficiency requirements.

A BASIX certificate is provided for the proposed development demonstrating the applicant's commitments in achieving the objectives of the state government's policy and the compliance with the current targets set for thermal comfort, energy and water conservation and the required measures are shown on the plans to ensure these targets are maintained through to construction stage.

### 5.1.3 Draft Environmental Planning Instruments

None applicable.

### 5.1.4 Botany Bay Development Control Plan 2013 (DCP)

The DCP provides planning controls for various types of development within Botany Bay LGA. The proposal's compliance and non-compliances with the relevant controls and guidelines of the DCP are summarised in the table below:

**Table 1: Compliance Table**

	Controls	Proposed	Compliance (Yes/No/NA)
<b>Part 3A - Parking</b>	Semi-detached dwelling: 1 space per dwelling	Due to the constraint of the site, no car parking can be provided on site.	NA
<b>Part 3J – Aircraft Noise and OLS</b>	Where the building site is classified as "conditional" under Table 2.1 of AS2021-2000, development may take place, subject to Council consent and compliance with the requirements	The subject site is located within the ANEF contour of 25-30.	To be conditioned by Council.

	of AS2021-2000.		
<b>Part 4A.2.4 Streetscape Presentation</b>	<p>Any alteration to an individual semi-detached dwelling must recognise it as being one of a pair.</p> <p>Extensions must integrate with the existing building. Extensions must address the likelihood that the adjoining semi may be developed in the future.</p>	The proposed first floor addition has been designed to respect the symmetry of the adjoining semi-detached dwelling. The first floor level is setback from the front elevation behind the front gabled roof and maintains the same roof pitch of the existing dwelling. The proposed first floor level is well integrated with the existing building and the adjoining semi-detached dwelling can be easily developed to match the proposed first floor addition in future.	Yes
<b>Part 4A.2.5 – Height</b>	The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013 (i.e. 8.5m)	Refer to table under Section 5.1.1 above.	Yes

<b>Part 4A.2.6 – Floor Space Ratio</b>	The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013	Refer to table under Section 5.1.1 above.	Yes
<b>Part 4A.2.7 – Site Coverage</b>	65% of the lot (maximum)	Same as existing as the proposal relates to first floor addition and does not involve any changes to the footprint of the existing building.	Yes
<b>Part 4A.2.8 – Building Setback</b>	<u>Lot width less than 12.5m:</u>  Front setback = comply with the prevailing street setback or 6m (min)  Side setback = assess on merit based  Rear setback = 4m	Front setback = same as existing  Side setback = nil to 900mm from side boundary.  Rear setback = well over 4m	Yes
	<u>Lot width more than 12.5m:</u>  Front setback = comply with the prevailing street setback or 6m (min)  Side setback = 900mm up to 2 floors  Rear setback = 6m	N/A	N/A

<b>Part 4A.2.9 – Landscaped Area</b>	Minimum landscaped area = 15%	Same as existing	NA
<b>Part 4A.4.1 – Visual privacy</b>	The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate incorporate the privacy measures	There are no proposed windows that will overlook into neighbour's internal living area or private open space.	Yes
<b>Part 4A.4.3 – Solar Access</b>	Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	Due to the orientation of the site on an east-west axis, a degree of overshadowing to the southern adjoining property would be unavoidable. Notwithstanding the above, the proposed development has been designed to minimise the overshadowing impact on the southern neighbour by limiting the length of the first floor addition to 9.5m and locating the addition towards the front of the building to	Consistent with the objectives of the control

		<p>minimise the overshadowing impact to the rear yard area of the southern neighbour. It should be also noted that the proposed first floor addition fully complies with the height and setback controls of the DCP.</p>	
<p><b>Part 4A.4.4 – Private Open Space</b></p>	<p>The private open space area is to:</p> <ul style="list-style-type: none"> <li>(i) Have at least one area with a minimum area of 36m;</li> <li>(ii) Be located at ground level with direct access to the internal living areas of the dwelling;</li> <li>(iii) Maximise solar access;</li> <li>(iv) Be overlooked by a living room door or window;</li> <li>(v) Be generally level;</li> <li>(vi) Be oriented to provide for maximum year round use;</li> <li>(vii) Grassed with elements of natural landscaping and paving;</li> <li>(viii) Located or screened to ensure privacy;</li> </ul>	<p>Same as existing</p>	<p>NA</p>



---

## **5.2 Section 79C (1) (B) – Impact of the Development**

The proposal will not result in any significant adverse impact upon the amenity of the adjoining development and the character of the streetscape.

## **5.3 Section 79C (1) (C) – Suitability of the Site**

The proposed development is permissible and is also consistent with the relevant objectives of the R2 – Low Density Residential Zone. There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

## **5.4 Section 79C (1) (D) – Any Submission Made**

None applicable.

## **5.5 Section 79C (1) (E) – The Public Interest**

The proposal will not give rise to any significant environmental impacts on adjoining properties and will not adversely impact the visual amenity and character of the streetscape. The proposal is therefore considered to be in the public interest.

---

## 6.0 CONCLUSION

The proposed development has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant environmental planning instruments.

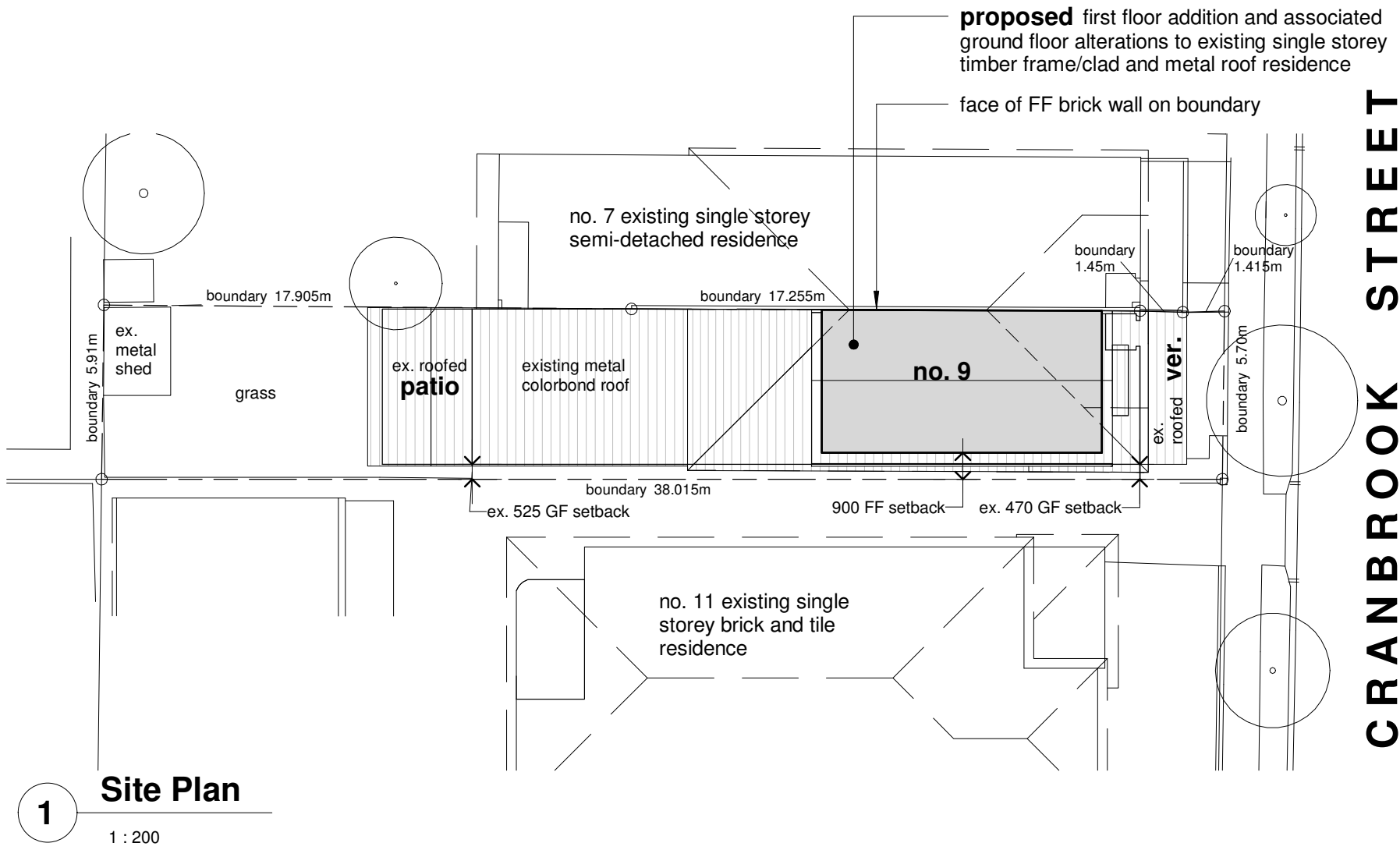
Whilst the proposed development does not strictly comply with the floor space ratio standard contained in Clause 4.4A of the Botany Bay Local Environmental Plan 2013, it nevertheless satisfies the relevant objectives of the development standards and the broader planning objectives for the locality and the Clause 4.6 objections are considered to be well founded in the circumstances of this case.

The proposal is generally consistent with the relevant development controls of the Botany Bay Development Control Plan 2013 except for the solar access control. However, as discussed in this SEE, the potential impact on the neighbouring property has been minimised by the skilful design and remain consistent with the relevant objectives of the DCP control.

The proposal does not contravene the relevant objectives of the R2 – Low Density Residential zone and will not result in any significant adverse impacts to the neighbouring residential properties in terms of overshadowing, privacy, view loss and visual bulk.

The design, materials and finishes of the proposed development are also compatible with the adjoining development and will not detract from the character of the streetscape and the heritage setting and significance of the heritage item in the vicinity of the site.

In light of the merits of the proposal and the absence of any adverse environmental impacts, the subject application is worthy of Council's support.



**General Notes:**

- All dimensions are in millimetres unless stated otherwise, dimensions take preference to scale.
- All dimensions and levels to be confirmed, prior to tender and construction, by builder.
- Notes continued see attachment..

**Construction Notes:**

- All new work to be carried out in accordance with BCA, EPA Act 1979, as amended, Local Government Act 1993, regulations under the acts and council requirements.
- All structural components of proposed construction to engineer's details.
- This plan is to be read in conjunction with BASIX Certificate No.; A282212 - 02
- Dated; 25.05.2017
- The required commitments listed and identified in the BASIX certificate are to be incorporated with the new works.
- Notes continued on sheets A01-A06...

**Site Calculations:**

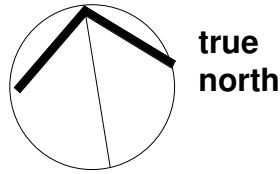
- Site area; 220.0m<sup>2</sup>
- Existing total floor area; 109.20m<sup>2</sup> approx.
- Proposed total floor area; 144.65m<sup>2</sup> approx.
- Proposed floor space ratio; 0.66 to 1

**Issue A (30.05.17)** - alterations to proposed GF and FF plan/layout including reduction to FF area

**Issue B (12.09.17)** - reduction to proposed first floor roof pitch from 30° to 25°

**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
BUS PH/FAX: 612 9349 6422  
MOBILE: 0419 412 299

(C)



**PROJECT NAME**

proposed first floor addition and associated ground floor alterations to existing single storey residence at No. 9 Cranbrook Street, Botany

**CLIENT/S**

DEVELOPMENT APPLICATION

**SCALE:** 1 : 200

**DATE:** 12/09/2017

**DRAWN BY:**LS

**SHEET NAME:**Site Plan

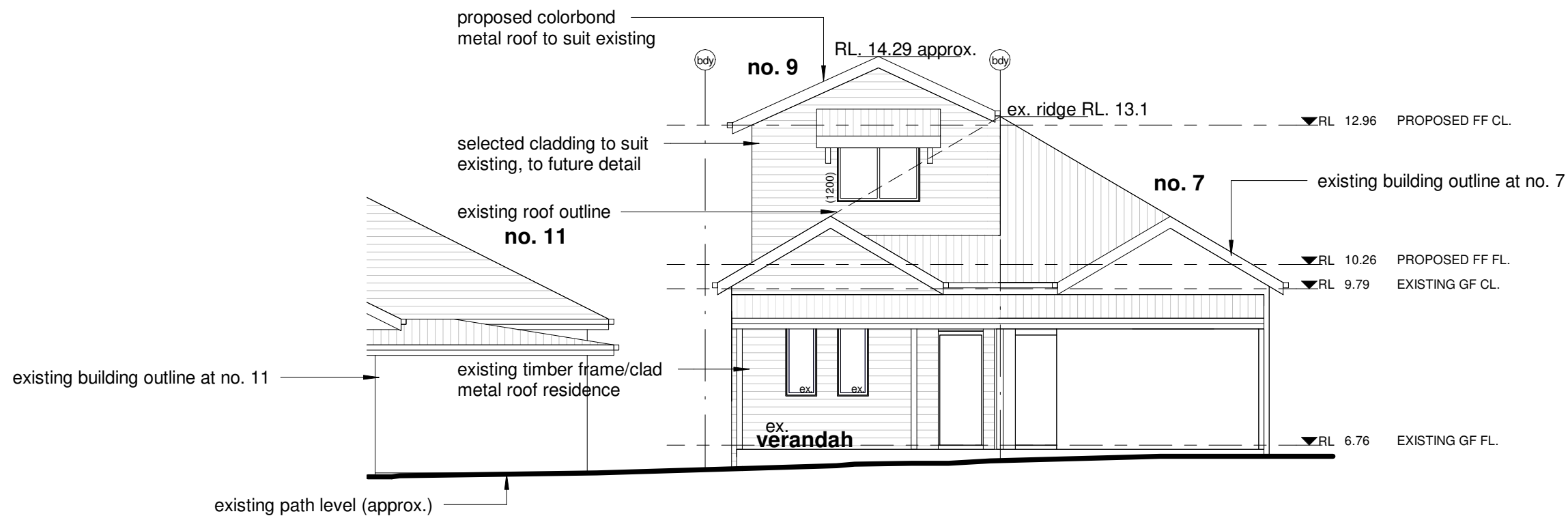
**DRAWING NUMBER**

16.175 B

**SHEET NUMBER**

A01

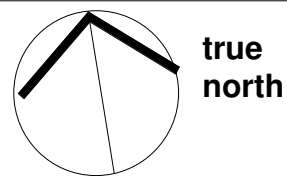
Page 236

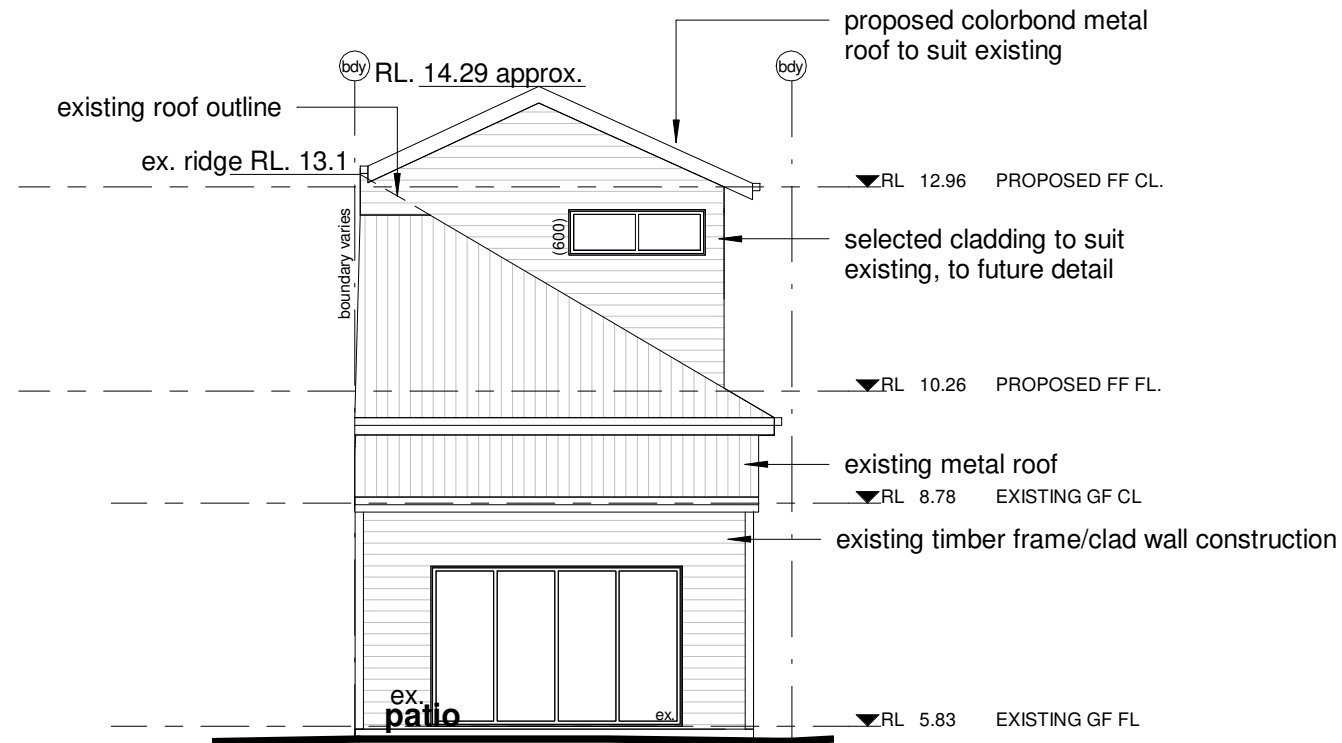


4 East Elevation  
1 : 100



5 South Elevation  
1 : 100

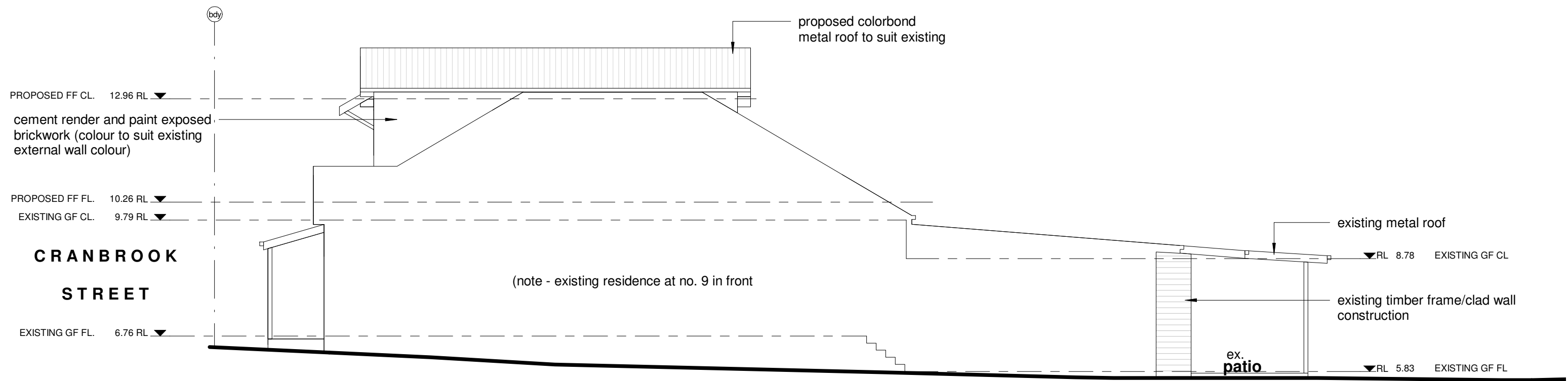




6

West Elevation

1 : 100

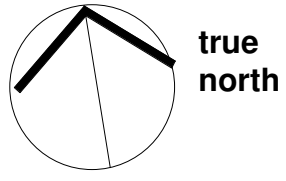


7

North Elevation

1 : 100

**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
BUS PH/FAX: 612 9349 6422  
MOBILE: 0419 412 299  
(C)

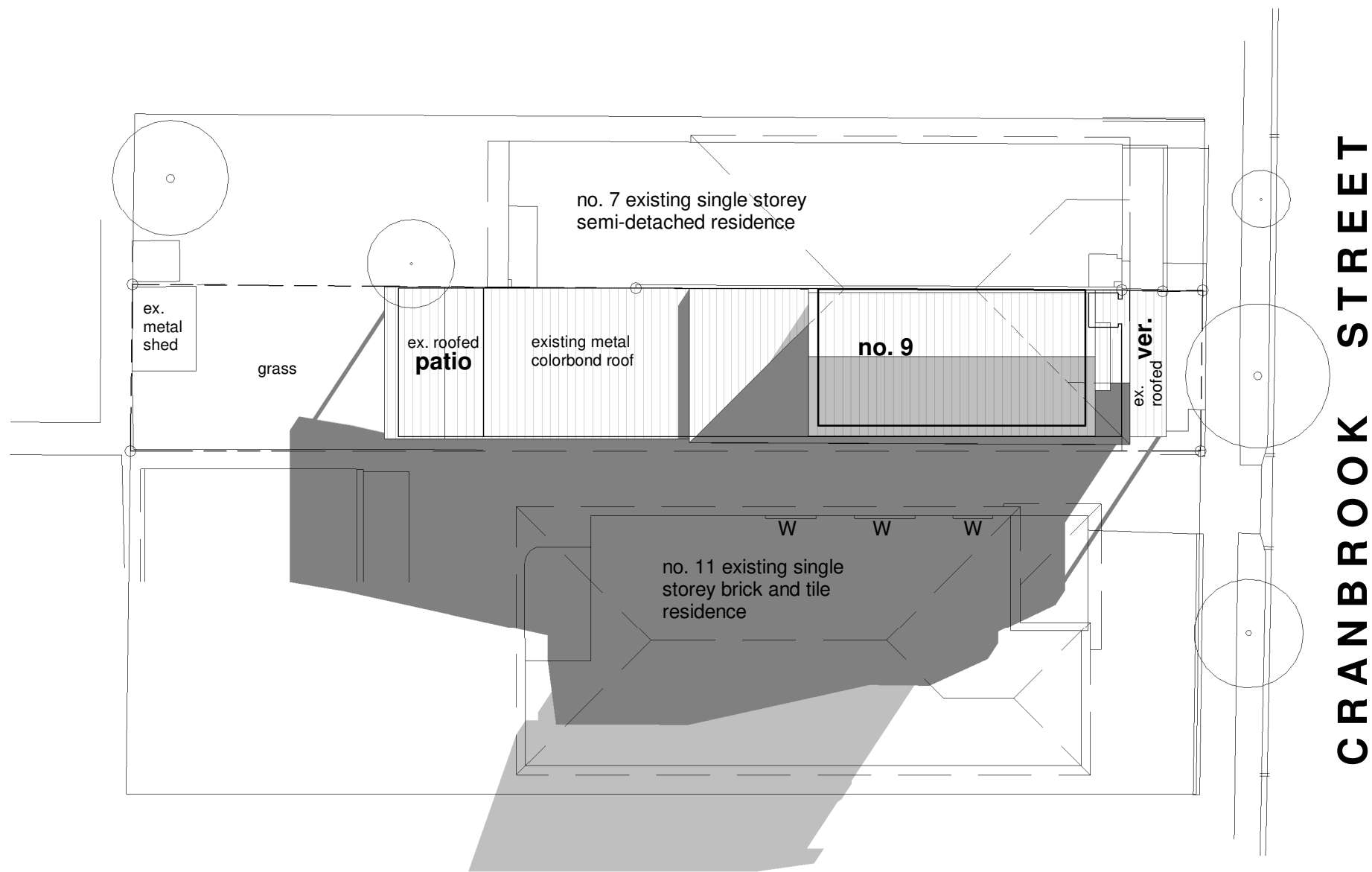


**PROJECT NAME**  
proposed first floor addition and associated ground floor alterations to existing single storey residence at No. 9 Cranbrook Street, Botany  
**CLIENT/S**

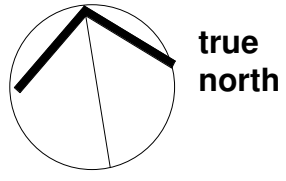
DEVELOPMENT APPLICATION

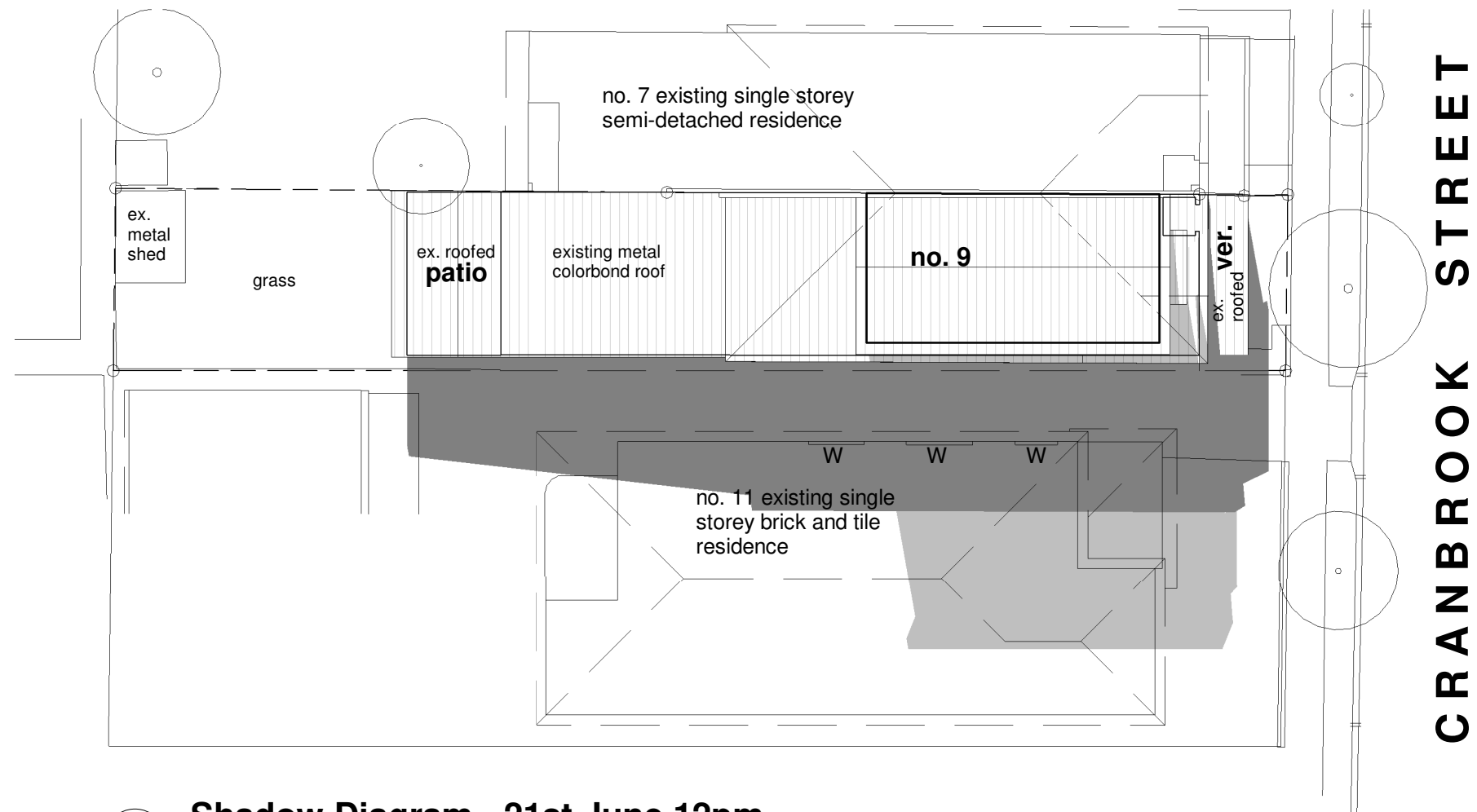
**SCALE:** 1 : 100  
**DATE:** 12/09/2017  
**DRAWN BY:** LS  
**SHEET NAME:** Elevations

**DRAWING NUMBER**  
16.175 B  
**SHEET NUMBER**  
A05



**9** **Shadow Diagram - 21st June 9am**  
1 : 200  
■ denotes existing shadow outline  
■ denotes proposed shadow outline

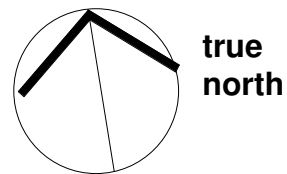


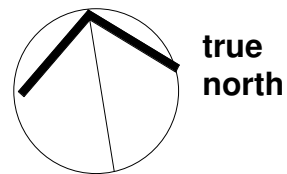
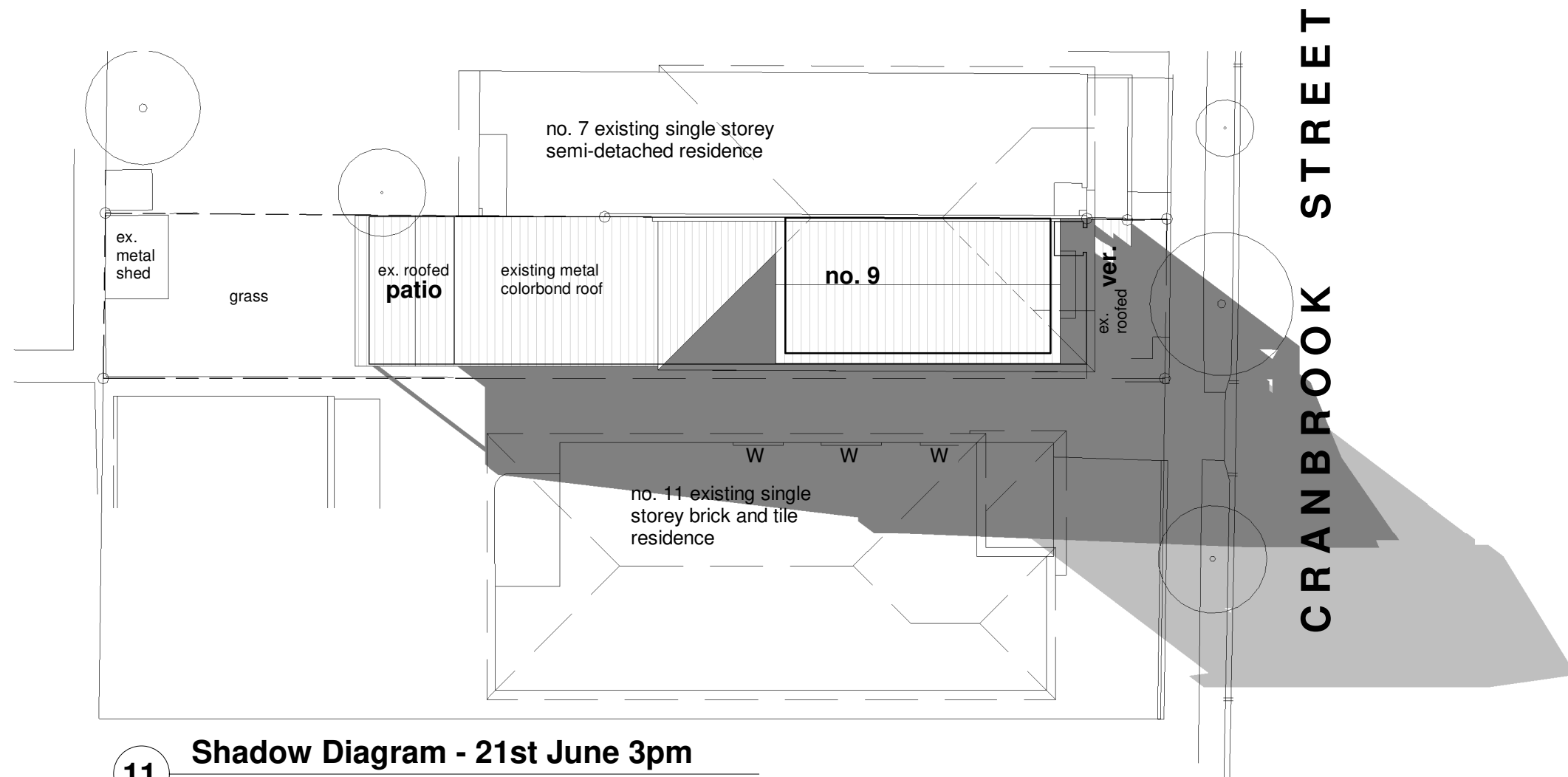


**10** Shadow Diagram - 21st June 12pm

1 : 200

- denotes existing shadow outline
- denotes proposed shadow outline







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## Bayside Planning Panel

28/11/2017

Item No	6.1
Subject	<b>Post-Exhibition Report: Planning Proposal for 177 Russell Avenue, Dolls Point</b>
Report by	Josh Ford, Coordinator Statutory Planning
File	F16/835

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### Summary

The Planning Proposal for land known as 177 Russell Avenue, Dolls Point has been exhibited in accordance with the relevant provisions of the NSW Environmental Planning & Assessment Act, 1979. The aim of this report is to respond to the submissions received during the exhibition period, and to progress the Planning Proposal.

Following a review of the submissions received during the exhibition period, it is recommended that Council requests that the Minister make the LEP, in the form that it was exhibited. While several submissions contain items of planning merit, these are considered to have been addressed in the environmental studies supporting the Planning Proposal. Furthermore, the issues in the submissions largely relate to matters that would be considered in the future as part of any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning & Environment.

A Voluntary Planning Agreement (VPA) was exhibited concurrently with the Planning Proposal.

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### Officer Recommendation

That, in accordance with Section 59 of the Environmental Planning & Assessment Act 1979, the Bayside Planning Panel recommends that Council requests that the Minister makes the LEP amendment, as exhibited.

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### Background

On 9 November 2016, Council resolved to endorse the Planning Proposal for the subject land, and seek a Gateway determination from the NSW Department of Environment & Planning (DPE). Council's resolution supported a change in the maximum building height from 14.5 metres to 17.75 metres, and a change to the maximum floor space ratio from 1:1 to 1.65:1 for the site. The Gateway determination (**Attachment 1**) approved exhibition of the Planning Proposal, subject to the Planning Proposal being revised prior to exhibition to demonstrate consistency with the Draft Central District Plan.

### Exhibition

The Planning Proposal was exhibited from 2 August 2017 to 31 August 2017, satisfying the minimum 28 day community consultation requirement included in the Gateway determination.

A total of 4 public submissions were received, which included some key themes. The key themes related to:

- general objections against the proposal;
- excessive building height;
- site overdevelopment;
- loss of views; and
- traffic and carparking issues.

The NSW Office of Environment & Heritage (OEH) was consulted as per the requirements of the Gateway determination, but no response was received from OEH.

### **Assessment of Submissions**

A summary and response to each of the key points in every submission has been formulated (see **Attachment 2**) to assist Council with identifying the key matters associated with the Planning Proposal.

### ***Objections / Support for the Proposal***

Some submissions stated their objection to the Planning Proposal. These views have been noted in the response to submissions.

### ***Excessive Building Height***

The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor of any future development could be concentrated in the centre of the site, allowing for views around any future proposed development at the upper extent of development. Given that the indicative contextual analysis identifies the aforementioned point, and that approximately 50% of the height of the uppermost storey would be above the existing 14.5 metre building height limit currently applying to the site, the proposed building height control of 17.75 metres is not considered to be dominant or overburdening to the streetscape or broader landscape setting. Furthermore, any lift overrun would be contained to a minimal vertical portion of the uppermost storey.

Given that the site is affected by flooding, the minimum floor levels for any development within the site will need to be raised approximately 1.2 metres above natural ground level. The proposed building height control is appropriate in the circumstances from a flood planning perspective, since a better flood planning outcome will result for the site than currently exists.

Building height, bulk, scale, form and design are just some of the matters that would be assessed in association with any future Development Application (DA) for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning & Environment. Future development of any proposed residential flat building within the site would need to comply with State Environmental Planning Policy 65 (SEPP 65) and the Apartment Design Guide (ADG) referred to in SEPP 65.

## **Loss of Views**

The Planning Proposal includes a change to the height and floor space ratio development standards for the site, not approval of a specific development that would instead be the subject of a DA. Any future DA would need to assess the visual impact of a proposal, including consideration of design, form, bulk, scale and site context. The Planning Proposal includes a maximum building height control of 17.75 metres, being 3.25 metres above the existing height of building control for the site. While existing development at the site is of two storey built form, there is potential to build up to a maximum 14.5 metres within the site, which, if developed to this current maximum allowable height under the RLEP 2011, would impede views from 166 Russell Avenue in any case. In this context, views are considered a current privilege, not a perpetual right. This has been demonstrated through historical planning principles outlined under case law, which have highlighted that property owners do not maintain a right or entitlement to a view. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development.

*Principle 2: Built Form and Scale* under *Schedule 1 - Design Quality Principles* of SEPP 65 states that:

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

Any future DA for a Residential Flat Building within the site would need to comply with SEPP 65, including *Principle 2: Built Form and Scale*. The Planning Proposal only includes amendments to the current height of building and floor space ratio development standards for the subject site. A Planning Proposal does not require Council's approval of a final development outcome, which would instead be a future consideration as part of a DA assessment. The principles outlined under SEPP 65 and the ADG included under SEPP 65 would need to be considered in the design of any future Residential Flat Building within the site, to consider impacts from built form and scale, including, but not limited to, how design can potentially minimise impacts on views. Furthermore, the Development Control Plan applicable at the time of any future DA assessment would need to be considered in the design of the proposed development. Currently, *Chapter 5.2 Residential Flat Buildings* of the Rockdale Development Control Plan 2011 contains development controls relating to building design, including roof form. Any future DA for a Residential Flat Building within the site would need to ensure that the design responds to the development controls in Council's applicable DCP chapters.

## **Site Overdevelopment**

There are examples along Russell Avenue where density exceeds the current height of building and floor space ratio development standards under the Rockdale Local Environmental Plan 2011 (RLEP 2011). This is because some of the higher density developments in the street existed prior to the RLEP 2011. The most notable example is 172-174 Russell Avenue, which is substantially above the 1:1 FSR, estimated to be an FSR of 1.77:1, which is higher than that proposed under the Planning proposal for the subject site. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for a reduction in perceived bulk and scale. Matters like bulk, scale, form and design are matters that would be determined in association with any future Development Application (DA) for the land, if the Planning Proposal is supported by Council and finalised by the NSW Department of Planning & Environment. As stated above, the future development of any

proposed residential flat building within the site would need to comply with SEPP 65 and the ADG.

### ***Traffic & Carparking Issues***

A Traffic & Carparking Impact Assessment supports the Planning Proposal, and highlights that:

- (i) future development could comply with Council's carparking requirements under the Rockdale DCP 2011; and
- (ii) that the level of additional traffic generated by future development of the site would be negligible.

Furthermore, specific traffic and vehicle numbers would be considered in the future as part of any future Development Application for the land, if the Planning Proposal is supported by Council and finalised by the NSW Department of Planning & Environment. In any case, the difference in the number of vehicle movements associated with existing four storey developments in the locality (including that immediately West of the subject site), and a five storey development would be negligible in the context of local traffic movements.

### **Next Step**

Subject to the recommendation of the Bayside Planning Panel and Council resolving to endorse the Planning Proposal, it will be forwarded to the Department of Planning & Environment with a request that the Minister make the LEP amendment in full, subject to any amendments resolved by Council.

---

## **Community Engagement**

The community engagement actions in relation to this Planning Proposal were:

- Exhibition for 29 days from 2 August 2017 to 31 August 2017
- Hard copies of the information were made available to the Sans Souci branch library and the Rockdale Customer Service Centre.
- An advertisement was published in the St George Leader, notifying of the exhibition period and where exhibition materials could be viewed, including Council's 'Have Your Say' website.
- Letters were sent to all adjoining landowners, as well as the NSW Office of Environment & Heritage, as stipulated in the Gateway determination.

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## **Attachments**

- 1 Gateway Determination
- 2 Response to Submissions





Ms Meredith Wallace  
General Manager  
Bayside Council  
PO Box 21  
ROCKDALE NSW 2216

Our ref: PP\_2017\_BSIDE\_002\_00 (16/15859)  
Your ref: F16/835

Attention: Mr John McNally

BAYSIDE COUNCIL  
RECEIVED

09 FEB 2017

AUSTRALIAN POST

Dear Ms Wallace

**Planning proposal to amend Rockdale Local Environmental Plan 2011**

I am writing in response to your Council's letter dated 18 November 2016 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 (the Act) in respect of the planning proposal to increase the height of buildings from 14.5 metres to 17.75 metres, and increase the floor space ratio from 1:1 to 1.65:1 in relation to 177 Russell Avenue, Dolls Point.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with S117 Direction 4.1 – Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Rachel Johnston of the Department's regional office to assist you. Ms Johnston can be contacted on (02) 9274 6325.

Yours sincerely

  
**Karen Armstrong** ✓ 24/1/17  
**Director, Sydney Region East**  
**Planning Services**

Encl:  
Gateway Determination  
Written Authorisation to Exercise Delegation  
Attachment 5 – Delegated Plan Making Reporting Template



## Gateway Determination

**Planning proposal (Department Ref: PP\_2017\_BSIDE\_002\_00):** to increase the height of buildings from 14.5 metres to 17.75 metres and increase the floor space ratio from 1:1 to 1.65:1 in relation to 177 Russell Avenue, Dolls Point.

I, the Director, Sydney Region East at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Rockdale Local Environmental Plan (LEP) 2011 to increase the height of buildings from 14.5 metres to 17.75 metres and increase the floor space ratio from 1:1 to 1.65:1 in relation to 177 Russell Avenue, Dolls Point should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal is to be revised to demonstrate consistency with the Draft Central District Plan.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Infrastructure 2016)*.
3. Consultation is required with the Office of Environment and Heritage under section 56(2)(d) of the Act. The Office of Environment and Heritage is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 24th day of JANUARY 2017



Karen Armstrong  
Director, Sydney Region East  
Planning Services

Department of Planning and Environment

Delegate of the Greater Sydney Commission



**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Bayside Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_BSIDE_002_00	Planning proposal to increase the height of buildings from 14.5 metres to 17.75 metres and increase the floor space ratio from 1:1 to 1.65:1 in relation to 177 Russell Avenue, Dolls Point.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 24TH JANUARY 2017



**Karen Armstrong**  
**Director, Sydney Region East**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Greater Sydney Commission**



## Attachment 5 – Delegated plan making reporting template

### Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

**Table 1 – To be completed by Department of Planning and Environment**

Stage	Date/Details
Planning Proposal Number	PP_2017_BSIDE_002_00
Date Sent to DoP&E under s56	09/01/2017
Date considered at LEP Review Panel	N/A
Gateway determination date	24/01/2017

**Table 2 – To be completed by the RPA**

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

**Table 3 – To be completed by Department of Planning and Environment**

Stage	Date/Details
Notification Date and details	

### Additional relevant information:

Response to Submissions – Planning Proposal: 177 Russell Avenue, Dolls Point		
Submission	Issues	Council Officer Response
Community Submission 1	<ul style="list-style-type: none"> <li>• Long-term residents of Dolls Point for more than 15 years</li> <li>• Strongly object to the planning proposal</li> <li>• Firstly, and importantly the overall height being is (sic) 3.25 meters (sic) over and above the currently allowable maximum height. Why should this limit be exceeded? There could only be one reason – pure developer greed and hence a profit driven focus</li> <li>• The entirety of the surround (sic) street/s are no more than ‘standard’ 3-4 level buildings constructed in 1960-1980s (with the minor single exception of 174-176 Russell). Thereby there is a form of harmony and balance in that no one building is dominant or over burdens the streetscape</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• Noted.</li> <li>• The Planning Proposal includes a maximum building height control of 17.75 metres, being 3.25 metres above the <i>existing</i> height of building control for the site. While existing development at the site is of two storey built form, there is currently potential to build up to a maximum 14.5 metres within the site.</li> <li>• The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development on the upper extent of development. Given that the indicative contextual analysis identifies the aforementioned point, and that approximately 50% of the height of the upper storey is above the existing 14.5 metre building height limit currently applying to the site, the additional height is not considered to be dominant or overburdening.</li> </ul> <p>Given that the site is affected by flooding, the minimum floor levels for any development within the site will need to be raised approximately 1.2 metres above natural ground level. The proposed building height control is considered warranted in the circumstances of the case from a safety improvement perspective, since a better flood planning outcome will result for the site than what currently exists for the existing built form/residents within the site.</p>

	<ul style="list-style-type: none"> <li>• The reality is that the trees grow, get damaged in storms or die meanwhile the building remains unchanged. So for some arbitrary period, the trees may briefly match the proposed 17.75m height, but over the longer term this will not be the enduring case</li> <li>• What sort of precedent would it set for approving this planning application as then other locations will see it as a green light to argue to a similar outcomes and therefore fundamentally the allowed design style of this 'high density' residential area would be compromised quite dramatically</li> <li>• Rules are rules, and no exceptions should be granted. The FSR being applied for is simply too dense for this location and if that means that the profit percentage is not high enough, let the developers look for a more balanced design</li> </ul>	<p>Bulk, scale, form and design are matters that would be determined in association with any future Development Application (DA) for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment.</p> <ul style="list-style-type: none"> <li>• The proponent provided an Arborist's Report to support the Planning Proposal, which was included in the exhibition materials. The issues raised in relation to trees and landscaping within the site are relevant to any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment.</li> <li>• There are examples along Russell Avenue where density exceeds the current development standards, given the historic nature of some of the higher density developments in the street. The most notable example is 172-174 Russell Avenue, which is substantially above the 1:1 FSR. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for a reduction in perceived bulk and scale. Matters like bulk, scale, form and design are matters that would be determined in association with any future Development Application (DA) for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment.</li> <li>• As above.</li> </ul>
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	<p>that takes into account blending in with the neighbourhood overall heights better</p> <ul style="list-style-type: none"> <li>Other issues do exist such as risks to ground disturbance, noise and vibration levels caused by the construction of the below ground 2-level basement car park. This could affect adjoining buildings and structures and solutions have not yet been addressed however is clearly identified in the Geotechnical Report dated 12 April 2017 (doc reference: 9353Srptrev2). The following are quotations extracted from that report: <ul style="list-style-type: none"> <li>Para 4.5 - Retention at Page 10 of the Geotechnical Report dated 12 April 2017 quotes "If anchors are to be installed, they will extend beyond the site boundaries, and permission of the owners and authorities must be obtained before installation. If approval is not forthcoming then walls will need to be laterally supported by alternative methods, such as berms or props which would cause difficulties in construction within the excavation." - And further on page 11, "Only expert contractors should be used for this type of anchor construction as poor techniques can result in damage to adjoining properties."</li> <li>Para 4.7 – Basement Slab at Page 14, "The proof-rolling should be carried out under the direction of an experienced earthworks superintendent to assist in the detection of unstable areas which were not disclosed by this investigation and to be sure that vibrations do not affect adjoining properties."</li> </ul> </li> <li>Construction activity may adversely affect the street to the North of the site, the adjacent complex immediately to the <u>West</u> of the 177 Russell Avenue, and likely our property, given the above risks of vibrational and soil disturbances to adjoining properties are highlighted in several paragraphs in the geotechnical report</li> </ul>	<ul style="list-style-type: none"> <li>The issues raised in relation to ground disturbance, noise and vibration are relevant to any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment. These are not key considerations at the Planning Proposal stage.</li> <li>As above. Adjoining landowners would be notified of any future DA and could provide further submissions at that point in time in relation to any concerns relating to the specific proposal.</li> </ul>
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	<ul style="list-style-type: none"> <li>• If the vertical scale of the proposal were scaled back to a more sensible FSR limit of 1.1, then the top (5th) level would be removed, thus avoiding the planning application and a much smaller basement car park could be constructed on perhaps a single level which would not likely experience this complexities and risks of this proposal</li> <li>• The VPA is taken by us a nothing more than a blatant bribe pretending to compensate the community for significantly breaking the rules over height and FSR. We can rather much do without these bribes and we just want the development rules enforced fairly and equally for everyone</li> <li>• Furthermore, the existing two separated buildings on the proposed site are currently spaced apart letting more some views of the parkland and natural coastal breezes to pass through, over and around the land and to our neighbourhood. This proposal, if approved, would dramatically alter this opportunity by the removal of all views to the parklands from No 166 Russell Ave (even from our top most units) and also the surrounding properties adjacent to 166.</li> </ul>	<ul style="list-style-type: none"> <li>• There are examples along Russell Avenue where FSR is above 1:1, given the historic nature of some of the higher density developments in the street. The most notable example is 172-174 Russell Avenue, which is substantially above the 1:1 FSR. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development. This would be considered in the future as part of any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment.</li> <li>• A Voluntary Planning Agreement (VPA) has been submitted, and considered, in association with the Planning Proposal. VPAs enable proponents to negotiate with Council on items that can provide community benefits. The contents of the VPA are to be considered in a separate report to Council. VPAs cannot be used to leverage outcomes relating to Planning Proposals, it is illegal under NSW legislation to do so.</li> <li>• Loss of views is just one consideration in the assessment of a Planning Proposal. The Planning Proposal includes a maximum building height control of 17.75 metres, being 3.25 metres above the existing height of building control for the site. While existing development at the site is of two storey built form, there is currently potential to build up to a maximum 14.5 metres within the site, which, if developed to this current maximum allowable height, would impede views from 166 Russell Avenue in any case. In this context, views are considered a current privilege, not a perpetual right. The indicative contextual analysis submitted with the Planning Proposal</li> </ul>
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	<ul style="list-style-type: none"> <li>• The apartment complex on the Western side would lose views and the predominantly Easterly breezes by virtue of the additional height of the proposal;</li> <li>• We respectfully request that under no circumstances approval be granted for this proposal.</li> </ul>	<p>demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development. Any future design would need to consider the prevailing breezes and ventilation, and how building layout and design can respond to this.</p> <ul style="list-style-type: none"> <li>• As above.</li> <li>• Noted.</li> </ul>
Community Submission 2	<ul style="list-style-type: none"> <li>• Several design issues: The proposal states no privacy impact on 173-175 Russell Ave, yet a lot said about the impact on the park</li> <li>• No diagrams of Western side of proposed building that give an accurate display of balconies and windows that would impact on the privacy of those home units in 153 Russell Ave</li> <li>• As the proposed building would be much higher than 153 Russell Ave, it would impact in many ways. Not only restricting views of the park, but most importantly the western 177 Russell unit's balconies and windows would view from a greater height directly into the living rooms and bedrooms of those in 153 Russell Ave</li> <li>• Could you please supply western side diagrams and privacy impact report of proposed building at 177 Russell Ave</li> </ul>	<ul style="list-style-type: none"> <li>• The concerns raised in this submission are matters that would be determined in association with any future Development Application (DA) for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment. A DA would need to comply with the relevant Local and State planning policies relating to development of the site, including any LEP &amp; DCP controls relating to matters like privacy, view corridors, solar access and overshadowing. The purpose of the Planning Proposal is to consider whether there is potential for the development standards to be amended so that DAs for higher density development could be considered. Adjoining landowners would be notified of a future DA, and would have the opportunity to raise comments relating to specific design elements or issues at that time. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development.</li> </ul>

<p>Community Submission 3</p>	<ul style="list-style-type: none"> <li>• We are writing to express our dismay at the proposed amendment of the Rockdale Local Environmental Plan 2011</li> <li>• Council has sought public feedback on this proposal and we now submit our complete disapproval of a proposed five-story building that will dwarf surrounding apartment blocks in Russell Avenue at Dolls Point</li> <li>• This 5-story building will block the pleasant view we currently have from our balconies and will, seemingly, create an atmosphere of claustrophobia to many residents in this apartment block</li> <li>• Not only will such a large building appear out of place in the gentle surroundings of the park, over which it will completely dominate, but, additionally, this apartment block would increase the number of permanent cars in Russell Avenue to another 68 vehicles, all of which will enter and leave the premises directly opposite our block of units (166 Russell Avenue) on an almost daily basis</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• There are several examples of existing higher density residential buildings in close proximity to the subject site, including the established property immediately West of the subject site, which is of four storey built form.</li> <li>• Loss of views is just one consideration in the assessment of a Planning Proposal. The Planning Proposal includes a maximum building height control of 17.75 metres, being 3.25 metres above the <i>existing</i> height of building control for the site. While existing development at the site is of two storey built form, there is currently potential to build up to a maximum 14.5 metres within the site. In this context, views are considered a current privilege, not a perpetual right. The indicative contextual analysis submitted with the Planning Proposal demonstrates that the bulk of the upper floor could be concentrated in the centre of the site, allowing for views around any future proposed development.</li> <li>• A Traffic &amp; Carparking Impact Assessment supports the Planning Proposal, and highlights that (i) future development could comply with Council's carparking requirements under the Rockdale DCP 2011; and (ii) that the level of additional traffic generated by future development of the site would be negligible. Furthermore, specific traffic and vehicle numbers would be considered in the future as part of any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment. In any case, the difference in the number of vehicle movements associated with existing four storey developments in the locality (including that immediately</li> </ul>
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	<ul style="list-style-type: none"> <li>Russell Avenue is a difficult place to find a park for any vehicle at the best of times and, more particularly, on weekends and public holidays. With a well-used recreational park on its doorstep and a popular children's playground only metres from the proposed over-development, we are fearful for children's future road safety, the unwanted additional traffic on Russell Avenue, an increase in vehicle noise levels and the subsequent pollution from many new residents vehicles and their visitors</li> <li>And what is council prepared to do to address the obvious increase needed in street parking when the Scots School opens at the easternmost end of Russell Avenue in 2018?</li> <li>We appeal to the councillors of Bayside Council to please consider carefully the affect your decision will have upon the current residences of Russell Avenue, Dolls Point</li> </ul>	<p>West of the subject site), and a five storey development would be negligible in the context of local traffic movements.</p> <ul style="list-style-type: none"> <li>As stated above, further detailed analysis of vehicle movements and carparking requirements would be required in conjunction with any future DA.</li> <li>Any future detailed traffic and carparking assessment for a specific use of the land would need to consider any new developments in the locality, and how these affect the local road network.</li> <li>Noted, this is not for consideration by Council's planning staff.</li> </ul>
Community Submission 4	<ul style="list-style-type: none"> <li>Object to any proposal that includes raising the height of buildings/increasing density that contradicts the current rulings</li> <li>The current low rise guidelines add to the real estate value and charm of the area.</li> <li>Creating higher density through high rise apartment dwellings in this location is objectionable and opportunistic.</li> </ul>	<ul style="list-style-type: none"> <li>The Planning Proposal includes a maximum building height control of 17.75 metres, being 3.25 metres above the <i>existing</i> height of building control for the site. While existing development at the site is of two storey built form, there is currently potential to build up to a maximum 14.5 metres within the site.</li> <li>Assessment of a Planning Proposal cannot take into consideration of real estate value.</li> <li>There are several examples of existing higher density buildings in close proximity to the subject site, including</li> </ul>

	<ul style="list-style-type: none"> <li>• Infrastructure cannot be improved to support high rises and big apartment blocks, there is one road in and out of Dolls Point. We already have to deal with the constant "hoon" factor in Russell Ave, and we have a Primary School opening in 2018.</li> <li>• What happens to the current residents?</li> <li>• Seems like there is quid pro quo between the developer and Council plans for upgrading Peter Depena Park.</li> </ul>	<p>the established property immediately West of the subject site, which is of four storey built form.</p> <ul style="list-style-type: none"> <li>• Infrastructure improvements for a site of this scale would be determined by the relevant agencies in association with any future Development Application for the land, if the Planning Proposal was to be supported by Council and finalised by the NSW Department of Planning &amp; Environment.</li> <li>• The landowner is a private entity. It is not Council's role to become involved in private land transactions, or in future arrangements for existing tenants. These are not matters of planning merit that Council can consider as part of the Planning Proposal process.</li> <li>• A Voluntary Planning Agreement (VPA) has been submitted, and considered, in association with the Planning Proposal. VPAs enable proponents to negotiate with Council on items that can provide community benefits. The contents of the VPA are to be considered in a separate report to Council. VPAs cannot be used to leverage outcomes relating to Planning Proposals. So, in response to this issue raised in the submission, no, there is no "quid pro quo" between the developer and Council.</li> </ul>
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