

## **MEETING NOTICE**

The **Ordinary Meeting** of  
**Bayside Council**  
will be held in Council Chambers, Rockdale Town Hall,  
448 Princes Highway, Rockdale  
**on Wednesday 9 November 2016 at 7.00 pm**

## **AGENDA**

- 1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**
- 2 OPENING PRAYER**
- 3 APOLOGIES**
- 4 MINUTES OF PREVIOUS MEETING**
  - 4.1 Council Meeting - 12 October 2016
- 5 DISCLOSURES OF INTERESTS**
- 6 ADMINISTRATOR MINUTES**
  - 6.1 Vale Bill Bately
  - 6.2 Update on Botany Historical Trust and Other Committees
- 7 PUBLIC FORUM**
- 8 REPORTS**
  - 8.1 Appointment of External Auditor – Former Rockdale
  - 8.2 Privacy Management Plan
  - 8.3 Botany Bay Health Centre – Arthur Park, Botany
  - 8.4 Australia Day Sporting Grants
- 9 PLANNING REPORTS**
  - 9.1 Planning Proposal – 177 Russell Avenue, Dolls Point  
East Bayside Planning Office
  - 9.2 DA-2016/105 - 153 Bay Street Botany - Subdivision and Semi-Detached Dwellings
  - 9.3 DA-2015/231 - 16A Vernon Avenue Eastlakes - s.82A Review of Determination for Construction of Secondary Dwelling
  - 9.4 DA-2016/081 - 25 Hicks Avenue Mascot- Construction of New Two-Storey Dwelling

West Bayside Planning Office

- 9.5 DA-2016/388 - 44 Wilson Street, Kogarah
- 9.6 DA-2016/394 - 56 Terry Street, Arncliffe
- 9.7 DA-2016/164 - 1 Duke Street, Brighton Le Sands
- 9.8 DA-2015/427 - 4 Warialda Street, Kogarah
- 9.9 DA-2016/119 - 1/20-22 Princes Highway, Wolli Creek
- 9.10 DA-2017/156 - Request for Development Application Fees for DA-2017/156 to be waived

**10 MINUTES OF COMMITTEES**

- 10.1 Bayside Traffic Committee - 2 November 2016
- 10.2 Local Representation Committee Meeting - 2 November 2016

**11 CONFIDENTIAL ITEMS**

- 11.1 Closed Council Meeting
- 11.2 CONFIDENTIAL – Court of Appeal Proceedings – Council and V-Corp (Builder), Council and Armani (Private Certifier)
- 11.3 CONFIDENTIAL – Proceedings Brought Against the Council by Savvas
- 11.4 CONFIDENTIAL - Supply and Delivery of Industrial Footwear
- 11.5 Resumption of Open Council Meeting

Meredith Wallace  
**General Manager**



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## **Council Meeting**

**9/11/2016**

Item No	4.1
Subject	<b>Minutes of Council Meeting - 12 October 2016</b>
Report by	Evan Hutchings, Acting Manager Governance Liz Rog, Acting Manager Governance
File	(R) SF16/1003

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## **Officer Recommendation**

That the Minutes of the Council Meeting of 12 October 2016 be confirmed as a true record of proceedings.

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## **Present**

Greg Wright (Administrator)

## **Also Present**

Meredith Wallace, Interim General Manager  
Lara Kirchner, Deputy General Manager  
Stuart Dutton, Director City Infrastructure  
Karin Hartog, Director City Operations  
Evan Hutchings, Acting Director Corporate & Community  
Fausto Sut, Acting Director Corporate & Community  
Michael McCabe, Acting Director City Planning & Development  
Heather Warton, Director City Planning & Environment  
Daniel Fabri, Acting Chief Financial Officer  
Bobbi Mayne, Acting Manager Risk and Audit  
Cathy McMahon, Manager of Strategic Planning  
Luis Melim, Manager Development Services  
Pheobe Mikheil, Manager of Compliance  
Erika Roka, Manager Place Outcomes  
Liz Rog, Acting Manager Governance  
Vince Carrabs, Coordinator City Media & Events  
Heather Davis, Executive Services Support Officer  
Anne Suann, Executive Services Support Officer  
Lauren Thomas, Governance Officer  
Greg Baker, Team Leader Regulatory Services

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The Administrator opened the meeting in the Botany Town Hall at 7:00 p.m.

## **1 Acknowledgement of Traditional Owners**

The Administrator acknowledged the traditional custodians of the land, the Gadigal and Bidjigal clans.

## **2 Opening Prayer**

Reverend Kurt Peters, of St Matthews Anglican Church Botany, opened the meeting in prayer.

## **3 Apologies**

There were no apologies.

## **4 Minutes of Previous Meeting**

Minute 2016/012

Resolved by the Administrator:

That the Minutes of the Extraordinary meeting of Council held on 14 September 2016 be confirmed as a true record of proceedings and the recommendations contained therein be approved and adopted.

## **5 Disclosures of Interest**

There were no disclosures of interest.

## **6 Administrator Minute**

### **6.1 Update on the Transition of Bayside Council and Progress.**

Minute 2016/013

Resolved by the Administrator:

That the Minute be received and noted.

The Administrator advised those present that Lara Kirchner has decided to leave Council on 28 October 2016.

In her previous role, Lara led the City of Botany Bay as General Manager for over five years, including a period which was both challenging and difficult for Councillors, Council staff and the local community. More recently, following the NSW Government's proclamation of Bayside Council, Lara has been an invaluable support and generous contributor to our initial efforts to transition to a successful new organisation.

The Administrator acknowledged Lara's professionalism and assistance during the past few weeks and wished her the very best for the future. He also thanked her on behalf of the former City of Botany Bay for her leadership as General Manager five years prior and particularly during the recent and difficult times.

## **7 Public Forum**

The Administrator invited the following public speakers to address the Council:

- 1 Mrs Maryanne Ververis speaking against Officer's recommendation (Item 9.2)
- 2 Mr Brian Manton speaking against Officer's recommendation (Item 9.2)
- 3 Mr Michael Manton speaking against Officer's recommendation (Item 9.2)
- 4 Mr Scott Lester speaking for the Officer's recommendation (Item 9.2)
- 5 Mr Hong Cai speaking for the Officer's recommendation (Item 9.2)
- 6 Mr Howard Lister speaking against Officer's recommendation (Item 9.3)
- 7 Mr Anthony Boskovitz speaking against Officer's recommendation (Item 9.3)
- 8 Ms Catherine Jackson speaking against Officer's recommendation (Item 9.7)
- 9 Mr Tristan Kell speaking for the Officer's recommendation (Item 9.9)
- 10 Mr Tristan Kell speaking for the Officer's recommendation (Item 9.12)
- 11 Mr Paul Walter speaking for the Officer's recommendation (Item 9.12)
- 12 Mr Anthony Vavayis speaking for the Officer's recommendation (Item 9.12)

AT THIS STAGE, the Administrator dealt with the items that had been addressed during the public forum being Items 9.2, 9.3, 9.7, 9.9 and 9.12; prior to considering all other Officer Reports.

## **8 Officer Reports**

### **8.1 Delegates to External Bodies**

Minute 2016/014

Resolved by the Administrator:

- 1 That the Administrator be appointed as Council's delegate to:
  - Southern Sydney Regional Organisation of Councils (SSROC)
  - Australian Mayoral Aviation Council
- 2 That the Interim General Manager, or her nominee, be appointed to the other external bodies listed in the table.

## **8.2 Advisory Committees Update**

Minute 2016/016

Resolved by the Administrator:

That, with the exception of the Botany Historical Trust Committee due to separate circumstances requiring review, the Local Representation Committee of Bayside Council provide advice on community participation and advocacy in the development and delivery of council's services, policies and programs until the September 2017 Local Government Elections, when consideration of options for Advisory Committees will be open to the newly elected, incoming Council.

The Administrator advised Council that separate circumstances are to be reviewed in respect of the Botany Historical Trust Committee.

## **8.3 Audit and Risk Committee**

Minute 2016/017

Resolved by the Administrator:

- 1 That Council note the consolidation and continuity of the Internal Audit functions of Bayside east and west.
- 2 That Council adopts the Bayside Council Audit Committee Charter.
- 3 That Council endorses the process for the appointment of four independent members of Audit Committee by an advertised Expression of Interest process.

## **8.4 Preliminary Certificate of Cash and Investments – 9 September 2016**

Minute 2016/018

Resolved by the Administrator:

That the preliminary Certificate of Cash and Investments be received and noted.

## **8.5 Common Seal**

Minute 2016/019

Resolved by the Administrator:

- 1 That, in accordance with clause 400 of the Local Government (General) Regulation 2005, the Bayside Council seal design as included in this report be adopted.
- 2 That the draft Common Seal Policy tabled at the Council meeting be adopted.

## **8.6 Annual Lodgement of Pecuniary Interest Returns (1 July 2015 – 30 June 2016)**

The Administrator advised Council that, at the time of publication of the report, Council was waiting upon receipt of one outstanding form which has today been lodged with Council and all Annual Lodgement of Pecuniary Interest Returns are now finalised.

Minute 2016/020

Resolved by the Administrator:

That the information be received and noted.

## **8.7 Community Grant for the Bayside Community Garden at Lance Studdert Reserve**

Minute 2016/021

Resolved by the Administrator:

That Council supports the granting of \$10,000 to The Bay Community Group, through Council's Financial Assistance Policy, for a one off grant to initiate Bayside Council's first community garden in Lance Studdert Reserve, Kyeemagh.

# **9 Planning Matters**

## **9.1 Bayside Independent Hearing and Assessment Panel**

Minute 2016/022

Resolved by the Administrator:

- 1 That this item be deferred for one month so that further information can be provided in the report.
- 2 That a presentation, by an expert, on the relative merits of an Independent Hearing and Assessment Panel be provided to the November meeting of the Local Representation Committee.
- 3 That feedback on the presentation to the Local Representation Committee be provided to the subsequent Council meeting.

## **9.2 Development Application 16(52) – 15 Aloha Street, Mascot**

Minute 2016/023

Resolved by the Administrator:

1. That Council 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 because it is consistent with the objectives of the FSR standard and the objectives for the R2 Low Density Residential zone; and
2. That Council approve Development Application No. 16/52 for the demolition of the existing dwelling and structures, subdivision of the site into two Torrens Title allotments and construction of two x two storey semi-detached dwelling houses at 15 Aloha Street, Mascot, subject to conditions in the attached Schedule.

## **9.3 Refusal of Planning Proposal – 51-53 Rhodes Street, Hillsdale**

Minute 2016/024

Resolved by the Administrator:

That this item be deferred for one month so that further discussions can take place between Council staff and the applicant.

## **9.4 Report on Submissions – BBDCP 2013 (Amendment 7) – Caretaker Dwellings**

Minute 2016/025

Resolved by the Administrator:

- 1 That the amendment to the DCP in Attachments 1 and 2 of this report be adopted by Council in accordance with the *Environmental Planning & Assessment Act 1979* and Clause 21(1)(a) of the *Environmental Planning & Assessment Regulation 2000*; and
- 2 That Council give public notice of its adoption of the DCP as amended within 28 days in accordance with the *Environmental Planning & Assessment Act 1979* and Clause 21 of the *Environmental Planning & Assessment Regulation 2000*.

## **9.5 Report on Submissions – Reclassification – Planning Proposal – Henry Kendall Crescent, Mascot**

Minute 2016/026

Resolved by the Administrator:

- 1 That Council resolve to reclassify Council owned land at Henry Kendall Crescent, Mascot (Lot 126A, DP 21810) from Community Land to Operational Land;
- 2 That the Planning Proposal dated October 2016 be forwarded to the Department of Planning & Environment for gazettal; and
- 3 That Council officers continue negotiations for the sale of the site with the owner of the adjoining land.

## **9.6 Update on New Roads and Parks in Wilson and Pemberton Street Precinct**

Minute 2016/027

Resolved by the Administrator:

- 1 That Council note the approval from the Geographical Names Board of the three new park names for the Wilson/Pemberton Street Precinct – being Hillier Park, Mahroot Reserve and Tannery Park; and
- 2 That Council refer the names – Mahroot Street, Saxby Close and Bagnall Path to the Geographic Names Board for gazettal.

## **9.7 DA-2016/310 – 1 Bowood Avenue, Bexley**

Minute 2016/028

Resolved by the Administrator:

- 1 That Development Application DA-2016/310 for the construction of a two-storey dual occupancy, a front boundary fence, Torrens Title subdivision, boundary adjustment and demolition of existing structures at 1 Bowood Avenue, Bexley be APPROVED pursuant to Section 80(1)(a) of the Act and subject to the conditions of consent attached to this report.
- 2 That the objectors be advised of Council's decision.

## **9.8 DA-2016/275 – 33 Florence Street, Ramsgate**

Minute 2016/029

Resolved by the Administrator:

- 1 That the development application DA-2016/275 for the temporary use of Ramsgate Public School for Saturday markets at 33 Florence Street

Ramsgate Beach be approved for a Trial Period of 12 months 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.

- 2 That the objectors be advised of Council's decision.
- 3 That Council monitor the parking on site and undertake any compliance activity that may be necessary from time to time during the 12-month period.

## **9.9 DA-2016/325 – 16, 18 and 20 Princess Street, Brighton Le Sands**

Minute 2016/030

Resolved by the Administrator:

- 1 That Council support the variation to Clause 4.3 - Height of Building of the Rockdale Local Environmental Plan 2011 (RLEP2011) in accordance with the clause 4.6 justification submitted by the applicant.
- 2 That the development application DA-2016/325 for the construction of a nine (9) storey residential flat building comprising of thirty one (31) residential units; basement parking and demolition of existing structures 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 NSW Department of Planning and Environment be advised of Council's decision.
- 4 That the objectors be advised of Council's decision.

## **9.10 DA-2017/15 – 47 Rowley Street, Brighton Le Sands**

Minute 2016/031

Resolved by the Administrator:

- 1 That Council support the variation to the minimum lot size provisions contained in Clause 4.1(3B) of the Rockdale Local Environmental Plan 2011 (RLEP2011) in accordance with the clause 4.6 justification submitted by the applicant.
- 2 That the development application DA-2017/15 for the construction of a two storey attached dual occupancy; rear in-ground swimming pools; associated landscaping and Torrens Title Subdivision at No. 47 Rowley Street, Brighton Le Sands, 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 NSW Department of Planning and Environment be advised of Council's decision.



- 4 That the objectors be advised of Council's decision.

### **9.11 DA-2016/47 – 7-9 Gertrude Street, Wolli Creek**

Minute 2016/032

Resolved by the Administrator:

- 1 That Council support the variation to the FSR and Height development standards, as contained in Clause 4.3 – Height of Buildings and Clause 4.4 - FSR of Rockdale LEP 2011, in accordance with the request under Clause 4.6 of RLEP 2011 submitted by the applicant.
- 2 That the development application DA-2016/47 for the construction of a nine (9) storey residential flat building development comprising thirty six (36) residential units, basement parking and demolition of existing structures at 7-9 Gertrude Street Wolli Creek 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 NSW Department of Planning and Environment be advised of Council's decision.

### **9.12 DA-2016/352 – 588 and 592 Princes Highway, Rockdale**

Minute 2016/033

Resolved by the Administrator:

- 1 That the justification provided by the applicant for development application DA-2016/352 at 588-592 Princes Highway Rockdale seeking an exemption to clause 6.14(3) - Design Excellence in RLEP 2011 based on clause 6.14(4) not be accepted and the applicant be requested to undertake a design excellence competition as required by clause 6.14(3) in RLEP 2011. The requirement under clause 6.14(3) of RLEP2011 to undertake a design excellence competition in this case is considered to be reasonable and necessary for the following reasons:
  - a Council has consistently applied the design excellence competition to other sites in the Rockdale Town Centre. Not applying the clause in this case would set an undesirable precedent.
  - b There was no formal PreDA submitted for this proposal. However, the applicant was advised, prior to lodgement of the DA, that the proposal was subject to the requirements and objectives of Clause 6.14 and that the design excellence competition had to be carried out.
  - c As a design competition has not been carried out for this site, Council cannot be satisfied that the proposal is of the highest standard of architectural, urban and landscape design as required by Clause 6.14.

- 2 That the Joint Regional Planning Panel (JRPP), being the determining authority in this case, be advised of Council's resolution.
- 3 That to assist in dealing with future similar matters officers investigate the removal of clause 6.14(4) and report back to Council.

The Administrator emphasised the importance of a further report by Council officers investigating the possibility of the removal of Clause 6.14(4).

### **9.13 DA-2016/296 – 7-13 Willis Street, Wolli Creek**

Minute 2016/034

Resolved by the Administrator:

- 1 That Council support the variation to the Height standard contained in clause 4.3 of Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 justification submitted by the applicant.
- 2 That Council support the variation to the Floor Space Ratio (FSR) standard contained in clause 4.4 of Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 justification submitted by the applicant.
- 3 That development application DA-2016/296 for construction of two 9 storey residential flat buildings with roof top terraces containing 68 apartments with parking at basement level and demolition of existing structures be APPROVED.
- 4 That the NSW Department of Planning and Environment be advised of Council's decision.

## **10 Minutes of Committees**

### **10.1 Bayside Traffic Committee Meeting 28 September 2016**

Minute 2016/035

Resolved by the Administrator:

That the minutes of the Bayside Traffic Committee meeting held on 28 September 2016 be confirmed.

### **10.2 Local Representation Committee 5 October 2016**

Minute 2016/036

Resolved by the Administrator:

That the minutes of the Local Representation Committee meeting held on 5 October 2016 be received.

## 11 Confidential Items

### 11.1 Closed Council Meeting

In accordance with Section 10A(1) of the Local Government Act 1993, the Administrator invited members of the public to make representations as to whether this part of the meeting should be closed to the public.

There were no representations.

Minute 2016/037

Resolved by the Administrator:

- 1 That, in accordance with section 10A (1) of the Local Government Act 1993, the Council considers the following items in closed Council Meeting, from which the press and public are excluded, for the reasons indicated:

#### **11.2 CONFIDENTIAL – Report from NSW Fire and Rescue – 2-4 Dillon Street, Ramsgate (Section 121ZD)**

In accordance with Section 10A (2) (g) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

#### **11.3 CONFIDENTIAL – Tender – Mascot Childcare Centre Upgrade**

In accordance with Section 10A (2) (c) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

#### **11.4 CONFIDENTIAL – Tender – Footpath, Kerb and Gutter and Pram Ramp Works**

In accordance with Section 10A (2) (c) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

### **11.5 CONFIDENTIAL – Tender – SRV13 Scarborough Park Amenities Refurbishment**

In accordance with Section 10A (2) (d) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of commercial information of a confidential nature that would, if disclosed:

- i) prejudice the commercial position of the person who supplied it, or
- ii) confer a commercial advantage on a competitor of the Council, or
- iii) reveal a trade secret.

It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

### **11.6 CONFIDENTIAL – Senior Staff Structure**

In accordance with Section 10A (2) (a) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of personnel matters concerning particular individuals (other than Councillors).

- 2 That, in accordance with section 11 (2) and (3) of the Local Government Act 1993, the reports, correspondence and other documentation relating to these items be withheld from the press and public.

### **11.2 CONFIDENTIAL – Report from NSW Fire and Rescue – 2-4 Dillon Street, Ramsgate (Section 121ZD)**

Minute 2016/038

Resolved by the Administrator:

That report Reference number BFS16/784 (10359) dated 6 September 2016 forwarded on behalf of the Commissioner of Fire and Rescue NSW be tabled at Council's meeting as required by Section 121ZD(2) of the Environmental Planning and Assessment Act 1979.

### **11.3 CONFIDENTIAL – Tender – Mascot Childcare Centre Upgrade**

Minute 2016/039

Resolved by the Administrator:

- 1 The report of the Director City Infrastructure be received and noted.
- 2 That 2020 Projects Pty Ltd be approved as the preferred tenderer for the Mascot Childcare Centre upgrade works
- 3 The General Manager be authorised to finalise negotiations and sign the relevant contract with the preferred tenderer.

#### **11.4 CONFIDENTIAL – Tender – Footpath Kerb and Gutters and Pram Ramps**

Minute 2016/040

Resolved by the Administrator:

- 1 The report of the Director City Infrastructure be received and noted.
- 2 That Civil Construction Partners (CCP) be approved as the preferred tenderer for the Footpath works package.
- 3 That Mack Civil Pty Ltd be approved as the preferred tenderer for the Kerb & Gutter and Pram Ramps works packages.
- 4 The General Manager be authorised to sign the relevant contracts

#### **11.5 CONFIDENTIAL – Tender – SRV13 Scarborough Park Amenities Refurbishment**

Minute 2016/041

Resolved by the Administrator:

- 1 That in accordance with Regulation 178(1)(A) of the Local Government (General) Regulations 2005, Council accept the Tender from Camporeale Holdings Pty Ltd (Trading as Michael Camporeale Builders) for the Contract F16/194 - SRV13 Scarborough Park Amenities Refurbishment in the amount of \$763,788 (exclusive of GST).
- 2 That the 2016/2017 Budget be revised as per the estimated project cost as shown in the Financial Implications section of the report, with funding allocated from the Special Rate Variation reserve.

#### **11.6 CONFIDENTIAL – Senior Staff Structure**

Minute 2016/042

Resolved by the Administrator:

Bayside Council will be re-structured under the following four new divisions:

- 1 City Future
- 2 City Life
- 3 City Presentation
- 4 City Performance

### **11.7 Resumption of Open Session of Council**

Minute 2016/043

Resolved by the Administrator:

That the open meeting of Council be reconvened.

The Administrator made public the resolutions as made during the closed part of the meeting.

The Administrator closed the meeting at 8:40 p.m.

Greg Wright  
**Administrator**

Meredith Wallace  
**Interim General Manager**

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## **Council Meeting**

**9/11/2016**

Item No	6.1
Subject	<b>Administrator Minute - Vale Bill Bately</b>
File	(R) F16/927

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### **Administrator Minute**

I would like to acknowledge Bill Batley's extraordinary community service since working as a volunteer park ranger at Lady Robinson Beach in 1975.

During his time in the former Rockdale Local Government Area Bill served as:

- A member of the Flood Plan Management Advisory Committee;
- A member of the Botany Bay Coastal Management Committee; and
- A member of the Cook Park Reference Group.

Bill was always actively involved pursuing matters associated with the foreshore area of Botany Bay and Cook Park. He was particularly interested and lobbied for the installation of the rock groynes along our coast that have since increased the area of sandy beach.

As the President and later a life member of the Ramsgate Life Saving Club, Bill was involved in the inaugural and successful on-going Ramsgate - Brighton Inter-Club Life Saving Carnival.

In 1999 Bill was acknowledged as Rockdale Citizen of the Year.

Other highlights in his life included running with the 2000 Olympic Torch for the Bexley leg of the Olympic Torch Relay through the former City of Rockdale.

On Australia Day 2011 Bill Batley received the Order of Australia Medal.

He received further recognition from the St George Hospital's Cardiac Rehabilitation Service. The Merry Hearts Club recognised Bill's support for heart patients throughout their rehabilitation program.

Bill Batley and his wife Robyn moved to Port Stephens in 2012 to be closer to their family.

Bill's recent passing is a great loss.

His memory will be cherished by those who knew and loved him including his wife, Robyn, his children, grandchildren and great grandchildren, family and friends.

Greg Wright  
**Administrator**

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### **Motion**

That the Minute be received and noted.

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## Council Meeting

9/11/2016

Item No	6.2
Subject	<b>Update Botany Historical Trust and Other Advisory Committees</b>
File	(R) F16/927

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## Administrator Minute

As reported in the Southern Courier on 28 October 2016, one of the issues considered at the most recent Bayside Council meeting was the matter of the advisory committees to the two former Councils. As I'm sure you would imagine there was a good deal of duplication where each council had a committee for the same purpose.

Since the merger I have convened a Local Representation Committee comprising most of the past Councillors from the two former Councils and will generally be utilising that forum to seek advice on specific local issues, community participation and advocacy on behalf of the community rather than have a broad range of a separate advisory committees. This will continue until the September 2017 Council election and the conclusion of this period of Administration.

There are, however, three exceptions to that decision. The Botany Historical Trust Advisory Committee, the Rockdale Community Nursery Committee and the Botany Bay Business Enterprise Centre. Each of these has a special position within the community that requires continuity and support.

The **Botany Historical Trust** was established in 1994 and the advisory committee plays an important role in relation to the classification and preservation of historic buildings, parks and gardens in the local area.

The **Rockdale Community Nursery** is a joint venture between the Council and the Intellectual Disability Foundation of St George. Again established in 1994, the Community Nursery operates on a wholesale and retail basis, supplying plants to Councils, landscapers, builders and the general public while providing diverse employment opportunities to people with a disability.

The **Botany Bay Business Enterprise Centre** provides small businesses with advice and support in relation to business planning, marketing, budgeting and cash flow in a low cost, confidential and independent manner. The partnership is now broadening to include businesses in the former Rockdale City area and Council's General Manager, Meredith Wallace, is the BEC's new Chairperson.

Each of these vital community organisations will continue to provide valuable assistance and support to the council and the community during the Administration period and I am delighted to have provided them with continuity and certainty for this next twelve months.

Greg Wright  
**Administrator**

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## Motion

That the Minute be received and noted.



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## Council Meeting

9/11/2016

Item No	8.1
Subject	<b>Appointment of External Auditor – Former Rockdale</b>
Report by	Fausto Sut, Acting Director Corporate & Community
File	(R) F13/546

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## Summary

The Local Government (Bayside) Proclamation 2016 dated 9 September 2016 requires the new Council to determine the proportion and nature of auditing services to be provided to the new Council by the persons providing auditing services to the former Councils ie Rockdale City and the City of Botany Bay Councils, immediately before the amalgamation day.

PriceWaterhouseCoopers (PwC) provided the audit services for the former Rockdale City Council and it is proposed that PwC be engaged to finalise the audit of the 2015-2016 financial statements for the former Rockdale City Council by 31 December 2016.

In respect of the audit of the 2015/2016 financial statements for the former City of Botany Bay Council, further advice is being sought from the Department of Premier and Cabinet as it is anticipated that this audit will not be completed by the end of 2016. As such, no recommendation is made in relation to this aspect of the audit.

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## Officer Recommendation

- 1 That the report be received and noted.
  - 2 That Council engage PricewaterhouseCoopers to undertake the audit of the 2015-16 financial reports of the former Rockdale City Council.
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## Background

Arising from the *Local Government (Bayside) Proclamation 2016*, the new Bayside Council is required to prepare audited financial reports for each former Council in respect of the period commencing on 1 July 2015 and ending at the end of the day on which the Proclamation was published i.e. 9 September 2016. The audited reports need to be prepared by 31 December 2016.

The Proclamation appoints the existing auditors from each former Council to the new Bayside Council but the new Council is to determine the proportion and nature of auditing services to be provided having regard to the services provided in respect of the former councils.

The Proclamation and recent amendments to the Local Government Act and Regulation effectively means that the Auditor General determines who carries out the audit functions for the Council from the day after amalgamation to 30 June 2017.

The quality of the audit services provided to the former Rockdale City Council auditors ie PriceWaterhouseCoopers (PwC) has been satisfactory and it is recommended it continue with the final audit and associated work to do with the former Rockdale City Council financial statements for the period 1 July 2016 to 9 September 2016. PwC has advised that it is prepared to undertake the audit services.

In respect of the audit for the financial statements for the period 1 July 2016 to 9 September 2016 for the former City of Botany Council, further advice is being sought from the Department of Premier and Cabinet. As such, no recommendation is made in relation to this aspect of the audit.

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### **Financial Implications**

Included in existing approved budget

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### **Community Engagement**

Not required.

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### **Attachments**

Nil.

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## Council Meeting

**9/11/2016**

Item No	8.2
Subject	<b>Privacy Management Plan</b>
Report by	Liz Rog, Acting Manager - Governance
File	(R) F13/37

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## Summary

The purpose of this report is to adopt the draft Privacy Management Plan for Bayside Council in accordance with s33 of the Privacy and Personal Information Protection Act 1998.

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## Officer Recommendation

That Council adopt Bayside Council Privacy Management Plan attached to this report.

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## Background

On 9 September 2016, Bayside Council was proclaimed, combining the former City of Botany Bay Council and former Rockdale City Council local government areas. Both former Councils had adopted a Privacy Management Plan for their respective organisations, based on the Model Privacy Management Plan (Model Plan) for Local Government, dated January 2013.

The Department of Premier and Cabinet's Amalgamation Guide titled "Managing Change - Guidance for Key Staff: Implementation Action Checklist requires the following action:

### Privacy:

Review and consolidate the privacy management plans and policies of each former Council to comply with the:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002

A review of the existing privacy management plans and policies has been undertaken, along with reference to the best practice guide of the Office of Local Government, titled "The Model Privacy Management Plan (Model Plan) for Local Government, dated January 2013".

The Model recommends that Councils adopt the Model Privacy Management Plan, or alternatively to adopt a Privacy Management Plan that is based on the Model.

The former Councils' Privacy Management Plans have been tailored to Bayside Council removing the procedural elements of privacy management from the Plan and placing this information into a Procedural Manual to guide staff.

A further requirement is that councils ensure that the adopted Privacy Management Plan is provided to the Information and Privacy Commission as soon as practicable after adoption. To facilitate the review by the Information and Privacy Commission, the draft has also been bench-marked against the Information and Privacy Commission NSW Checklist for assessing the content of the plan (the IPC also utilises this checklist to assess the quality of the plans it receives from local councils).

Attached is the draft Bayside Council Privacy Management Plan for consideration.

Upon resolution, the Plan will be incorporated into Bayside Council's policy list and staff will be informed of their obligations in relation to privacy management responsibilities.

The adopted Privacy Management Plan will also be placed on Bayside Council's intranet and internet and a copy of the final document will also be provided to the Information and Privacy Commissioner.

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## **Financial Implications**

Not applicable.

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## **Community Engagement**

The issues raised in this report do not require community consultation under Council's Community Engagement Policy.

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## **Attachments**

- 1 Privacy Management Plan
- 2 Information and Privacy Commission NSW Checklist – Privacy Management Plan
- 3 Office of Local Government Model Privacy Management Plan

# Privacy Management Plan

**DRAFT** 1 November 2016



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Privacy Management Plan

File: F13/37 Document: 16/127097

Adopted:

Class of document: Council Policy

Enquiries: Manager Governance



**Telephone Interpreter Services - 131 450**

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# 1 Introduction

## 1.1 Background

This Privacy Management Plan (Plan) explains how Bayside Council (Council) will manage personal and health information.

## 1.2 Policy statement

This Plan explains how the Council will manage personal information in line with the Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act) and health information in accordance with the Health Records and Information Privacy Act 2002 (NSW) (HRIP Act).

Council is required to have a Plan under s33 of the PPIP Act. This Plan also explains how to contact Council about the personal and health information it holds, how information can be accessed and amended and how privacy complaints are handled.

## 1.3 Scope of Policy

Section 33(2) of the PPIP Act sets out the requirements of this Plan.

This Plan must include:

- information about Council's policies and practices to ensure compliance with the PPIP Act and the HRIP Act
- how staff and contractors are made aware of these policies and practices
- the internal review procedures
- anything else considered relevant to the Plan in relation to privacy and the personal and health information Council holds.

Any reference to staff in this document also includes reference to contractors.

# 2 Our Responsibilities

Bayside Council has responsibilities under the Local Government Act and other Commonwealth and NSW laws including the Environmental Planning and Assessment Act, the Public Health Act and the Companion Animals Act.

Councils exist to:

- provide a representative, informed and responsible decision-making body
- develop the local community and its resources in a socially just and environmentally responsible way
- ensure that local public services and facilities respond effectively to community needs
- more detailed information is available on Council's website.

## 2.1 Bayside Council's Functions under the Local Government Act

Council's charter requires it to:

- provide for development in the local area
- provide for local services and facilities that benefit ratepayers, residents and visitors

- promote and to provide and plan for the needs of children
- protect health and provide for the welfare, wellbeing and interests of the local community
- represent and promote the interests of ratepayers and residents
- establish and support organisations and programs targeting the local community
- protect the environment and improve local amenity
- attract and provide infrastructure for commerce, tourism and industry
- engage in long-term strategic planning on behalf of the local community.

## 3 How Council manages personal and health information

### 3.1 About personal information

Personal information is defined in section 4 of the PPIP Act as any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained.

There are some kinds of information that are not personal information. This includes information about someone who has been dead for more than 30 years, information about someone that is contained in a publicly available publication, or information or an opinion about a person's suitability for employment as a public sector official.

### 3.2 About health information

Health information is a more specific type of personal information and is defined in section 6 of the HRIP Act. Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, and information about a person's medical appointments.

It can also include some personal information that is collected to provide a health service, such as a name and telephone number. In this section, a reference to personal information is also a reference to health information.

## 4 How Council collects personal information

Council collects personal information to enable it to conduct its functions. Council assesses the level of personal information that is appropriate to be collected on a case-by-case basis.

Personal information may be collected from:

- members of the public
- NSW public sector agencies
- businesses
- non-government organisations.

Contractors acting on Council's behalf may also collect personal information. Council includes clauses in its contracts that require contractors to comply with relevant privacy obligations.

Council has a range of functions requiring or involving the collection of personal information, including:

- levying and collecting rates
- providing services, for example, child care, libraries and waste collection
- consultation with the community, businesses and other stakeholders
- assessing development and major project applications
- recording, investigating, and managing complaints and allegations
- site inspections and audits
- incident management
- enforcing regulations and legislation
- issuing approvals, consents, licences and permits
- providing funding grants.

Personal information may be collected by Council in any of the following ways:

- incident reports
- submissions
- application forms
- CCTV footage
- public registers
- financial transaction records
- contracts.

Personal information may be collected electronically, in writing, over the telephone and in person. Individuals may provide Council with personal information when they make enquiries and when Council delivers services to them.

This can include names, contact details, opinions, health conditions, family relationships, housing or tenancy information, work and education details. Individuals may also provide Council with personal information about other people.

#### **4.1 Privacy Protection Notice under Section 10 of the Privacy and Personal Information Protection Act 1998 (PPIPA)**

When Council collects personal information from an individual, such as their name, address, telephone number or email address, Council must make the individual aware of:

- the purposes for which the information is being collected
- the intended recipients of the information
- whether the supply of the information is required by law or is voluntary
- any consequences for the individual if the information (or any part of it) is not provided
- ways the individual can access and correct the information
- the name and address of the unit that is collecting the information and the unit that is to hold the information.

To ensure Council complies with the PPIPA a Privacy Statement is included on all forms, letters and documents that collect personal information from individuals. Council's Privacy Statement appears below:

**Privacy Statement:** The personal information provided on this form (including your name and address) will be handled in accordance with the *Privacy and Personal Information Protection Act 1988* and may be available to the public under various legislation. Refer also to the Privacy Statement on Council's website.

When Council gathers personal information via the telephone or other electronic means, such as a website, this information will also be provided to them.

## **4.2 Storage, access and accuracy of personal information**

Personal information is stored electronically and in physical files. The following applies to information Council holds:

- only Council staff can access personal information
- staff will make every effort to ensure personal information is accurate before using it
- staff will use personal information only for the purpose for which it was collected; and
- staff will not disclose personal information about a person to anyone without the consent of the person, or if legally required or permitted to disclose information.

Electronic information is stored on secure information systems. Networks will be secure and require individual logins. New systems are assessed for compliance with the PPIP Act and HRIP Act.

## **4.3 Use and disclosure of personal information**

Staff will use the personal information collected to:

- deliver services
- conduct research
- provide advice
- continually improve services.

# **5 Public registers**

The PPIP Act governs how Council should manage personal information contained in public registers. Under the PPIP Act a public register is a register of personal information that is required by law to be made, or is made, publicly available or open to public inspection.

Enquiries about public registers can be made via Council's website.

Part 6 of the PPIP Act prevents Council staff from accessing personal information held on public registers, unless the information is to be used for a purpose relating to the purpose of the register.

Council's public registers include:

- Land register (LG Act s53)
- Register of Approvals (LG Act s113)
- Register of Political Donations Declarations (LG Act 328A)
- Planning Decision Register (LG Act 375A)
- Register of Pecuniary Interest Disclosures (LG Act s449-450A)
- Rates Record (LG Act s602)
- Planning Decision Register (EP&A Act s100)
- Register of Political Donations and Gifts (EP&A Act s147)
- Record of building certificates (EP&A Act s149a)
- Contributions Register (EP&A Reg cl34)
- Public record of licences (POEO Act s308)

- Record of impounding (Impounding Act s30-31)

### **5.1 Suppression of personal information**

Any person whose personal information is recorded in a public register has the right to request that their personal details be suppressed. Council will comply with the request if it is satisfied the person's safety or wellbeing would be affected by not suppressing the information.

Applications to suppress personal details from a public register should be made in writing to the General Manager.

## **6 How to access and amend personal and health information**

The PPIP Act and the HRIP Act give people the right to access and amend their own information. Members of the public wishing to access or amend personal and health information Council holds about them should contact Council's Customer Service Centre.

Council does not charge a fee to access and amend personal and health information.

### **6.1 Limits on accessing or amending information**

Council is prohibited from providing one person access to another person's personal and health information. However:

- under section 26 of the PPIP Act, a person can give Council consent to disclose their personal information to someone that would not normally have access to it
- under sections 7 and 8 of the HRIP Act, an "authorised person" can act on behalf of someone else
- Council may be authorised to disclose health information, such as in the event of a serious and imminent threat to the life, health and safety of the individual, to find a missing person or for compassionate reasons.

## **7 Review rights and complaints**

### **7.1 Internal review**

Individuals have the right to seek an internal review under Part 5 of the PPIP Act if they think that Council has breached the PPIP Act or HRIP Act relating to their own personal and health information.

Individuals cannot seek an internal review for a breach of someone else's privacy, unless they are authorised representatives of the other person.

### **7.2 Internal review process**

Applications for an internal review must be made within six months from the date when the applicant first became aware of the breach.

Applications must be made in writing and addressed to Council's Public Officer.

The Public Officer will conduct the internal review unless the internal review is about the conduct of the Public Officer.

In this case the General Manager will appoint another person to conduct the internal review.

Council will:

- acknowledge receipt of an internal review within 5 working days
- complete an internal review within 60 calendar days

Council's Public Officer will inform the applicant of the progress of the internal review and will respond in writing within 14 calendar days of determining the internal review.

If an applicant is not notified of the outcome of an internal review within 60 days, the applicant may seek an external review.

### **7.3 The Privacy Commissioner's role in internal reviews**

Council will notify the Privacy Commissioner of internal reviews. The Privacy Commissioner is entitled to make submissions to Council regarding internal reviews.

### **7.4 External review by the Administrative Decisions Tribunal**

An applicant may seek an external review by the Administrative Decisions Tribunal (ADT).

To seek an external review, an application must be made to the ADT within 28 days from the date of the internal review determination.

### **7.5 Other ways to resolve privacy concerns**

Council encourages the informal resolution of privacy issues before undertaking the review process. Issues can be raised informally with Council by telephone - request to speak to the Public Officer.

## **8 Promoting privacy**

Council reinforces compliance with the PPIP Act and HRIP Act and will:

- endorse this Plan and making it publicly available
- provide a copy of this Plan to relevant oversight bodies such as the Audit and Risk Committee
- report on internal reviews to the Office of the Information and Privacy Commission
- identify privacy issues when implementing new systems, services and processes.

### **8.1 Staff awareness**

Council will ensure that its staff are aware of and understand this Plan and how it applies to the work they do. Council will promote awareness of privacy obligations among staff by:

- publishing Council's Privacy Management Plan and privacy-related policies on Council's intranet and website
- publishing information about privacy on Council's intranet
- communicating regularly with staff about privacy
- ensuring Council policies comply with privacy legislation
- including information about the Privacy Management Plan in induction packs
- offering training and advice to staff.

## **8.2 Public awareness**

This Plan provides information to members of the public about how Council manages personal and health information.

The Plan is publicly available as open access information under the Government Information and Public Access Act (GIPA Act). Council will promote public awareness of Council's Privacy Management Plan by:

- publishing the Plan on Council's website
- providing hard copies of the Plan free of charge upon request
- translating the Plan into other languages and alternative formats upon request
- informing people about the Plan when responding to enquiries about personal and health information.

## **9 Privacy and other legislation**

This section contains a general summary of how Council must manage personal and health information under the Privacy and Personal Information Protection Act 1998 (PPIP Act), the Health Records and Information Privacy Act 2002 (HRIP Act) and other relevant laws.

### **9.1 The Privacy and Personal Information Protection Act**

The Privacy and Personal Information Protection Act sets out how Council must manage personal information.

#### **About personal information**

Personal information is defined in section 4 of the PPIP Act as any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained.

#### **What is not personal information**

There are some kinds of information that are not personal information, these include:

- information about someone who has been dead for more than 30 years
- information about someone that is contained in a publicly available publication
- information or an opinion about a person's suitability for employment as a public sector official.

Information protection principles (IPPs) Part 2, Division 1 of the PPIP Act contains 12 IPPs Council must comply with.

These are:

#### **Collection**

Council will:

- 1 collect personal information only for a lawful purpose that is directly related to Council's functions and activities

- 2 collect personal information directly from the person concerned
- 3 inform people why their personal information is being collected, what it will be used for, and to whom it will be disclosed. Also how the personal information can be accessed and amended and any possible consequences of not providing personal information
- 4 ensure that personal information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.

### **Storage**

- 5 Council will store personal information securely, keeps it no longer than necessary and destroys it appropriately. Personal information will be protected from unauthorised access, use or disclosure.

### **Access and accuracy**

Council will:

- 6 be transparent about the personal information it holds, why it is used and about the right to access and amend it
- 7 allow people to access their own personal information without unreasonable delay or expense
- 8 allow people to update, correct or amend their personal information where it is necessary
- 9 endeavour to ensure that personal information is relevant and accurate before using it.

### **Use**

- 10 Council will only use personal information for the purpose it was collected for unless it has consent for its use for another purpose.

### **Disclosure**

Council:

- 11 will not disclose personal information without consent, unless disclosure is permitted under the PPIPA or other legislation;
- 12 will not disclose sensitive personal information without consent, eg ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership.

### **Offences**

- 13 Offences can be found in s62-68 of the PPIP Act. It is an offence for Council to:



- intentionally disclose or use personal information for an unauthorised purpose
- offer to supply personal information that has been disclosed unlawfully
- hinder the Privacy Commissioner or their staff from doing their job.

## **9.2 The Health Records and Information Privacy Act**

The HRIP Act sets out how Council must manage health information. About health information Health information is a more specific type of personal information and is defined in section 6 of the HRIP Act.

Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, and information about a person's medical appointments.

It can also include some personal information that is collected to provide a health service, such as a name and telephone number. Health privacy principles (HPPs) Schedule 1 of the HRIP Act contains 15 HPPs that Council must comply with.

These are:

### **Collection**

Council will:

- 1 collect health information only for a lawful purpose that is directly related to Council's functions and activities
- 2 ensure that health information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs
- 3 collect health information directly from the person concerned
- 4 inform people why their health information is being collected, what it will be used for, and to whom it will be disclosed. Also how it can be accessed and amended and any possible consequences not providing health information.

### **Storage**

Council will:

- 5 store health information securely, keep it no longer than necessary and destroy it appropriately. Health information will be protected from unauthorised access, use or disclosure.

### **Access and accuracy**

Council will:

- 6 be transparent about the health information it holds, why it is used and about the right to access and amend it
- 7 allow people to access their own health information without unreasonable delay or expense

- 8 allow people to update, correct or amend their health information where necessary
- 9 ensure that health information is relevant and accurate before using it.

### **Use**

- 10 Council will only use health information for the purpose it was collected for unless it has consent for its use for another purpose.

### **Disclosure**

- 11 Council will not disclose personal information without consent, unless disclosure is permitted under the HRIPA or other legislation; Identifiers and anonymity
- 12 may use unique identifiers for health information
- 13 allow people to remain anonymous where it is lawful and practicable.

### **Transfers and linkage**

Council:

- 14 does not usually transfer health information outside of NSW
- 15 does not currently use a health records linkage system.

### **Offences**

Offences can be found in s68-70 of the HRIP Act. It is an offence for Council to:

- intentionally disclose or use health information codes for an unauthorised purpose
- offer to supply health information that has been disclosed unlawfully.

## **9.3 Other relevant laws**

This section contains information about other relevant legislation.

### **9.3.1 Government Information (Public Access) Act 2009 (GIPA Act) and Government Information (Public Access) Regulation 2009**

Under this Act and Regulation people can apply for access to information held by Council. This information may include personal or health information.

### **9.3.2 Independent Commission Against Corruption Act 1988**

Under this Act Council must provide information to the Independent Commission Against Corruption about allegations of fraud and corruption that may contain personal information.

### **9.3.3 Public Interest Disclosures Act 1994 (PID Act)**

Under the PID Act people working for a NSW public sector agency can make a public interest disclosure to Council. The PID Act requires that information that might identify or tend to identify a person who has made a public interest disclosure should be protected.

### **9.3.4 State Records Act 1998 and State Records Regulation 2010**

This Act and Regulation authorise the State Records Authority to establish policies, standards and codes to ensure that NSW public sector agencies manage their records appropriately.

### **9.3.5 Referrals to external agencies under other relevant legislation**

Under the Ombudsman Act, the Independent Commission Against Corruption Act, and the Crimes Act Council can provide information to the:

- NSW Ombudsman
- Independent Commission Against Corruption
- NSW Police.

## **10 Exemptions, directions and codes of practice**

Exemptions to the Information Protection Principles (IPPs) Part 2, Division 3 of the PPIP Act contains exemptions that may permit Council not to comply with IPPs in certain situations.

These include the following:

- Council is not required to comply with IPPs 2-3, 6-8, or 10-12 if lawfully authorised or required not to do so.
- Council is not required to comply with IPP 2 if the information concerned is collected in relation to court or tribunal proceedings. Exemptions to the Health Privacy Principles (HPPs) Exemptions are located mainly in Schedule 1 to the HRIP Act, and may permit Council not to comply with HPPs in certain situations. For example, Council is not required to comply with HPPs 4-8, and 10 if lawfully authorised or required not to do so.

### **10.1 Privacy Code of Practice for Local Government**

Under the Privacy Code of Practice for Local Government where it is reasonably necessary, Council may indirectly collect and use personal information to confer an award, prize, or similar form of personal recognition on the person about whom the information relates.

The Privacy Code of Practice for Local Government also permits Council to use personal information for a purpose other than the purpose for which it was collected where the use is in pursuance of Council's lawful and proper functions and the personal information is reasonably necessary for the exercise of those functions. In general, Council does not use personal information for a purpose other than which it was collected without the consent of the individual.

### **10.2 Public interest directions**

Under section 41 of the PPIP Act, the Privacy Commissioner has made Public Interest Directions to waive or modify the requirement for a public sector agency to comply with an IPP.

The following public interest directions may permit Council:

- to be exempt from IPPs 2-3, 6-8, 10-12 in relation to the conduct of investigations

- to be exempt from the IPPs when transferring enquiries to another NSW public sector agency
- to disclose personal information collected for research purposes.

## 11 Contact details

Further information about Council's Privacy Management Plan, or the personal and health information Council holds can be obtained by:

Bayside Council:

Telephone: 1300 581 299

Email: [governance@bayside.nsw.gov.au](mailto:governance@bayside.nsw.gov.au)

Address 444-446 Princes Highway Rockdale

Postal address Bayside Council PO Box 21 Rockdale NSW 2216

The Office of the Information and Privacy Commissioner:

Telephone: 1800 472 679

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

The NSW Administrative Decisions Tribunal:

Telephone: 02 9377 5711

Address: Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney NSW 2000

## 12 Policy implementation

### 12.1 Policy responsibilities

#### General Manager

The General Manager is responsible for this Privacy Management Plan overall and the provision of appropriate resources and procedures to enable its implementation.

#### Privacy Contact Officer

The Privacy Contact Officer is Council's Public Officer.

The Privacy Contact Officer is responsible for the promulgation, implementation and maintenance of this Plan and coordination of privacy management issues within Council generally. In particular the Officer:

- receives advice and updated information from the Office of the Privacy Commissioner NSW about the implementation of the PPIP Act and the HRIP Act
- acts as a main liaison with Office of the Privacy Commissioner NSW for all matters related to privacy and personal information
- acts as a focal point within Council for all matters related to privacy and personal information, including related induction of and awareness for Council officials
- acts as a first point of contact for members of the public for all matters related to privacy and personal information.

#### Council officials

Councillors, employees, committee members and other officials are to be aware of the requirements of this Plan. Council officials are not to divulge personal information, and Council information generally, unless permitted by this Plan or Council's Access to

Information Policy and associated guidelines. Certain requests, as detailed in this Plan, are to be referred to a particular officer to be dealt with.

## 12.2 Procedures

The General Manager may approve Procedures, which outline administrative arrangements, to support the Privacy Management Plan. Such procedures would include:

- Forms
- Statements
- Detailed responsibilities.

# 13 Document control

## 13.1 Review

This Plan will be reviewed every 12 months. It will be reviewed earlier if any legislative or administrative changes affect the management of personal and health information by the Council. Non-significant and/or editorial amendments can be approved by the General Manager.

## 13.2 Related documents

This document should be read in relation to:

- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- Privacy Code of Practice for Local Government
- Local Government Act 1993
- Government Information (Public Access) Act 2009
- Model Privacy Management Plan for Local Government Jan 2013
- Council's Code of Conduct
- Council's Records Management Policy
- Council's Access to Information Policy

## 13.3 Version history

Version	Release Date	Author	Reason for Change
0.0	Draft	A/Manager Governance	Draft document – harmonising the former Councils' Privacy Management Plans and aligning to best practice documentation.



## Privacy Management Plans

## Checklist

June 2014

Section 33 of the *Privacy and Personal Information Protection Act 1998* (PIPP Act) requires agencies to have a privacy management plan (plan). A plan sets out an agency's commitment to respecting the privacy rights of clients, employees and members of the public. It should also explain an agency's practices and procedures in handling personal information under the PIPP Act and health information under the *Health Records and Information Privacy Act 2002* (HRIP Act).

This checklist does not prescribe the structure and format a plan should follow. Rather, it is a useful tool for an agency to assess the content of its plan once it has already been prepared. The NSW Privacy Commissioner also uses this checklist to assess the quality of agency plans it receives.

For practical information on how to write a plan, please refer to the Guide to Making Privacy Management Plans.

### Review Questions

#### General

1. Does the plan mention the agency's requirement to have a plan?

Yes ☐  
Part ☐  
No ☐  
Comments

2. Does the plan describe the main kinds of personal and health information managed by the agency?

Tip: think about this question in context of the functions and activities of the agency

Yes ☐  
Part ☐  
No ☐  
Comments

#### Information Protection Principles (Part 1, Division 1 of the PPIP Act)

3. Does the plan explain how the personal information the agency collects is related to the agency's functions and activities (IPP 1)? e.g. enquiries, complaints handling, core business, human resources, recruitment

Yes ☐  
Part ☐  
No ☐  
Comments

4. Does the plan indicate when the agency collects personal information from the person and when it is collected from third parties (IPP 2)?

Yes ☐  
Part ☐

No ☐  
Comments

**5.** Does the plan explain how and when a person is notified that his/her personal information is being collected (IPP 3)?

Yes ☐  
Part ☐  
No ☐  
Comments

**6.** Does the plan explain how the agency ensures that the collection of personal information is relevant, not excessive and is not an unreasonable intrusion (IPP 4)?

Yes ☐  
Part ☐  
No ☐  
Comments

**7.** Does the plan generally explain how the agency stores, protects and disposes of personal information (IPP 5)?

Yes ☐  
Part ☐  
No ☐  
Comments

**8.** Does the plan explain how the agency helps a person find out:

- whether the agency holds their personal information
- the nature of the information
- the main purpose for which it is collected
- his/her right of access (IPP 6)?

Yes ☐  
Part ☐  
No ☐  
Comments

**9.** Does the plan set out how a person can access his/her personal information (IPP 7)?

Yes ☐  
Part ☐  
No ☐  
Comments

**10.** Does the plan set out how a person can amend his/her personal information (IPP 8)?

Yes ☐  
Part ☐  
No ☐  
Comments

**11.** Does the plan explain how the agency checks the accuracy of personal information before using it (IPP 9)?

Yes ☐  
Part ☐  
No ☐  
Comments

**12.** Does the plan mention how the agency limits its use of personal information (IPP 10)?

Yes ☐  
Part ☐  
No ☐  
Comments

**13.** Does the plan mention how the agency limits disclosure of personal information (including other jurisdictions) (IPP 11)?

Yes ☐  
Part ☐  
No ☐  
Comments

**14.** Does the plan explain how the agency deals with sensitive personal information (IPP 12)?

Yes ☐  
Part ☐  
No ☐  
Comments

#### **Health Privacy Principles (Schedule 1 to the HRIP Act)**

**15.** Does the plan explain how the health information the agency collects is related to the agency's functions and activities (HPP 1)? e.g. enquiries, complaints handling, core business, human resources, recruitment

Yes ☐  
Part ☐  
No ☐  
Comments

**16.** Does the plan explain how the agency ensures that the collection of personal information is relevant, not excessive and is not an unreasonable intrusion (HPP 2)?

Yes ☐  
Part ☐  
No ☐  
Comments

**17.** Does the plan indicate when the agency collects health information from the person and when it is collected from third parties (HPP 3)?

Yes ☐  
Part ☐  
No ☐



## Comments

**18.** Does the plan explain how and when a person is notified that his/her health information is being collected (HPP 4)?

Yes ☐

Part ☐

No ☐

Comments

**19.** Does the plan explain how the agency stores, protects and disposes of health information (HPP 5)?

Yes ☐

Part ☐

No ☐

Comments

**20.** Does the plan explain how the agency helps a person find out:

- whether the agency holds their health information
- the nature of the information
- the main purpose for which it is collected
- his/her right of access (HPP 6)?

Yes ☐

Part ☐

No ☐

Comments

**21.** Does the plan set out how a person can access his/her health information (HPP 7)?

Yes ☐

Part ☐

No ☐

Comments

**22.** Does the plan set out how a person can amend his/her health information (HPP 8)?

Yes ☐

Part ☐

No ☐

Comments

**23.** Does the plan mention how the agency checks the accuracy of personal information before using it (HPP 9)?

Yes ☐

Part ☐

No ☐

Comments

**24.** Does the plan mention how the agency limits its use of health information (HPP 10)?

Yes ☐  
Part ☐  
No ☐  
Comments

**25.** Does the plan mention how the agency limits disclosure of health information (HPP 11)?

Yes ☐  
Part ☐  
No ☐  
Comments

**26.** Does the plan mention whether the agency assigns identifiers to individuals (if applicable) (HPP 12)?

Yes ☐  
Part ☐  
No ☐  
Comments

**27.** Does the plan mention whether it gives individuals the opportunity to remain anonymous (HPP 13)?

Yes ☐  
Part ☐  
No ☐  
Comments

**28.** Does the plan mention whether the agency discloses health information to individuals or bodies outside of NSW (HPP 14)? e.g. Commonwealth, interstate, overseas

Yes ☐  
Part ☐  
No ☐  
Comments

**29.** Does the plan mention whether the agency includes health information in a health records linkage system (if applicable) (HPP 15)?

Yes ☐  
Part ☐  
No ☐  
Comments

**30.** Does the plan mention whether any exemptions in the PPIP Act or the HRIP Act are particularly relevant to the agency?

Yes ☐  
Part ☐  
No ☐  
Comments

## Exemptions

**31.** Does the plan mention whether there are any particular codes of practice or public interest directions relevant to the agency?

Yes ☐  
Part ☐  
No ☐  
Comments

**32.** Does the plan mention whether there is any relevant legislation that allows the agency not to comply with any of the IPPs or HPPs?

Yes ☐  
Part ☐  
No ☐  
Comments

**33.** Does the plan mention whether the agency has any Memorandums of Understanding or referral arrangements with other agencies?

Yes ☐  
Part ☐  
No ☐  
Comments

**34.** If any of the above are applicable, does the plan briefly explain how they actually impact on the agency's handling of personal or health information?

Yes ☐  
Part ☐  
No ☐  
Comments

## Public Registers

**35.** Does the plan advise whether the agency has any public registers that contain personal or health information?

Yes ☐  
Part ☐  
No ☐  
Comments

**36.** If so, does the plan explain whether the personal or health information in these public registers can be accessed, and how?

Yes ☐  
Part ☐  
No ☐  
Comments

**37.** Does the plan explain how a person can apply for personal or health information to be suppressed in a public register?

Yes ☐  
Part ☐  
No ☐  
Comments

### Internal Reviews and complaints

**38.** Does the plan explain a person's right to seek an internal review?

**39.** Does the plan set out the internal review process? e.g. how to apply for one, relevant timeframes, who makes the decision, how decisions are made, how the applicant is advised of the decision

Tip: if an agency does not have its own form, it can use the generic form on our website.

Yes ☐  
Part ☐  
No ☐  
Comments

**40.** Does the plan explain the notification process and the role of the Privacy Commissioner?

Yes ☐  
Part ☐  
No ☐  
Comments

**41.** Does the plan explain a person's right to an external review from the Administrative Decisions Tribunal if dissatisfied with the internal review outcome?

Yes ☐  
Part ☐  
No ☐  
Comments

**42.** Does the plan set out the agency's alternative complaint process at the agency if a person wants to resolve an issue informally

Yes ☐  
Part ☐  
No ☐  
Comments

**43.** Does the plan include the option to make a complaint to the Privacy Commissioner?

Yes ☐  
Part ☐  
No ☐  
Comments

## Offences

44. Does the plan generally explain the offences in the PPIP Act and HRIP Act?

- Yes ☐
- Part ☐
- No ☐
- Comments

## Raising awareness of/using the plan

45. Does the plan set out how the agency trains staff to use the plan and comply with their privacy obligations? eg induction, periodic training, day to day work, what staff should do if unsure about a privacy issue

- Yes ☐
- Part ☐
- No ☐
- Comments

46. Does the plan set out how the agency educates members of the public in the agency's privacy obligations and their privacy rights? eg published on the web, mentioned on forms that collect personal or health information

- Yes ☐
- Part ☐
- No ☐
- Comments

## Other agencies

47. Does the plan cover more than one agency?

- Yes ☐
- Part ☐
- No ☐
- Comments

48. If so, are the agencies listed individually?

- Yes ☐
- Part ☐
- No ☐
- Comments

49. Does the plan go into enough detail about the functions and the personal and health information managed by each agency covered?

- Yes ☐
- Part ☐
- No ☐
- Comments

## Privacy-related policies and procedures

**50.** Does the plan describe how the agency devises its policies and practices to comply with the PPIP Act and the HRIP Act?

Yes ☐  
Part ☐  
No ☐  
Comments

**51.** Does the plan specify whether there are other policies and procedures relevant to the plan?

Yes ☐  
Part ☐  
No ☐  
Comments

**52.** If so, does the plan mention how the agency makes these documents available to staff and members of the public?

Tip: website links can be useful here

Yes ☐  
Part ☐  
No ☐  
Comments

## Accuracy

**53.** Is there an adoption/version date on the plan?

Yes ☐  
Part ☐  
No ☐  
Comments

**54.** Is there a review date on the plan?

Yes ☐  
Part ☐  
No ☐  
Comments

**55.** Are any references to legislation in the plan current?

Yes ☐  
Part ☐  
No ☐  
Comments

**56.** If applicable, do the website links in the plan work?

Yes ☐  
Part ☐

No ☐  
Comments

### Readability

**57.** Is the structure of the plan logical?

Yes ☐  
Part ☐  
No ☐  
Comments

**58.** Does the plan have a table of contents?

Yes ☐  
Part ☐  
No ☐  
Comments

**59.** Is the level of detail and length of the plan appropriate?

Yes ☐  
Part ☐  
No ☐  
Comments

**60.** Is the plan written in plain English?

Tip: show your draft plan to a new staff member or a member of the public and ask whether they can understand it.

Yes ☐  
Part ☐  
No ☐  
Comments

**61.** Is the plan helpful to members of the public and staff?

Yes ☐  
Part ☐  
No ☐  
Comments

### Contact details

**62.** Does the plan include current contact details for the Privacy Contact Officer or relevant privacy section at the agency for privacy-related enquiries?

Yes ☐  
Part ☐  
No ☐  
Comments

**63.** Does the plan include current contact details for the Office of the Privacy Commissioner?

- Yes ☐  
Part ☐  
No ☐  
Comments

**64.** Does the plan include current contact details for the Administrative Decisions Tribunal?

- Yes ☐  
Part ☐  
No ☐  
Comments

### Accessibility

**65.** Does the plan explain how the agency makes it available to staff and members of the public (eg website, over the counter, mailed out on request)?

- Yes ☐  
Part ☐  
No ☐  
Comments

**66.** Will the plan be on the agency's website and easy to find? Note: the plan is a policy document (open access information) under the Government Information (Public Access) Act 2009

- Yes ☐  
Part ☐  
No ☐  
Comments

### General Comments

### For more information

Contact the Information and Privacy Commission NSW (IPC):

Freecall: 1800 472 679

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)





**Premier & Cabinet**  
Division of Local Government

Division of Local Government  
Department of Premier and Cabinet

# **MODEL PRIVACY MANAGEMENT PLAN FOR LOCAL GOVERNMENT**



**JANUARY 2013**

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## PREFACE

The *Privacy and Personal Information Protection Act 1998* (the “PPIPA”) requires all councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the *Health Records and Information Privacy Act 2002* (the HRIPA).

In particular, the object of this plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by the Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

## PART 1 – INTRODUCTION

The Privacy and Personal Information Protection Act 1998 (“PPIPA”) provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan (the “Plan”) to deal with:

- the devising of policies and practices to ensure compliance by the Council with the requirements of the PPIPA and the Health Records and Information Privacy Act 2002 (“HRIPA”);
- the dissemination of those policies and practices to persons within the Council;
- the procedures that the Council proposes for internal review of privacy complaints;
- such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by it.

This Plan has been prepared for the purpose of section 33 of the PPIPA.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles. Those principles are listed below:

- Principle 1 - Collection of personal information for lawful purposes
- Principle 2 - Collection of personal information directly from individual
- Principle 3 - Requirements when collecting personal information
- Principle 4 - Other requirements relating to collection of personal information
- Principle 5 - Retention and security of personal information
- Principle 6 - Information about personal information held by agencies
- Principle 7 - Access to personal information held by agencies
- Principle 8 - Alteration of personal information
- Principle 9 - Agency must check accuracy of personal information before use
- Principle 10 - Limits on use of personal information
- Principle 11 - Limits on disclosure of personal information
- Principle 12 - Special restrictions on disclosure of personal information

Those principles are *modified* by the Privacy Code of Practice for Local Government (“the Code”) made by the Attorney General. To date there has been no Health Records and Information Privacy Code of Practice made for Local Government.

The Privacy Code has been developed to enable Local Government to fulfil its statutory duties and functions under the *Local Government Act 1993* (the “LGA”) in a manner that seeks to comply with the PPIPA.

This Plan outlines how the Council will incorporate the 12 Information Protection Principles into its everyday functions.

This Plan should be read in conjunction with the Code of Practice for Local Government.

Nothing in this Plan is to:

- affect any matter of interpretation of the Codes or the Information Protection

Principles and the Health Privacy Principles as they apply to the Council;

- affect any obligation at law cast upon the Council by way of representation or holding out in any manner whatsoever;
- create, extend or lessen any obligation at law which the Council may have.

This Plan is designed to introduce policies and procedures to maximise compliance with the PPIPA and the HRIPA.

Where the Council has the benefit of an exemption, it will nevertheless describe procedures for compliance in this Plan. By doing so, it is not to be bound in a manner other than that prescribed by the Codes.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of the Council's information that is personal information.

It may mean in practice that any information that is not personal information will receive treatment of a higher standard; namely treatment accorded to personal information where the information cannot be meaningfully or practicably separated.

## **1.1 What is “personal information”?**

“Personal information” is defined in section 4 of the PPIPA as follows:

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

## **1.2 What is not “personal information”**

“Personal information” does not include “information about an individual that is contained in a publicly available publication”. Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIPA.

Section 4A of the PPIPA also specifically excludes “health information”, as defined by section 6 of the HRIPA, from the definition of “personal information”, but includes “health information” in the PPIPA's consideration of public registers (discussed below). “Health information” is considered in Part 4 of this Plan.

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA (for example, section 8 of the Government Information (Public Access) Act 2009 (GIPA Act)).

Council considers the following to be publicly available publications:

- An advertisement containing personal information in a local, city or national newspaper;
- Personal information on the Internet;

- Books or magazines that are printed and distributed broadly to the general public;
- Council Business papers or that part that is available to the general public;
- Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA.

Council's decision to publish in this way must be in accordance with PPIPA.

### **1.3 Application of this Plan**

The PPIPA, the HRIPA and this Plan apply, wherever practicable, to:

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the LGA).

Council will ensure that all such parties are made aware that they must comply with the PPIPA, the HRIPA, any other applicable Privacy Code of Practice and this Plan.

### **1.4 Personal Information held by Council**

The Council holds personal information concerning Councillors, such as:

- personal contact information;
- complaints and disciplinary matters;
- pecuniary interest returns; and
- entitlements to fees, expenses and facilities.

The Council holds personal information concerning its customers, ratepayers and residents, such as:

- rates records; and
- DA applications and objections; and
- various types of health information (see page 37 for detailed examples).

The Council holds personal information concerning its employees, such as:

- recruitment material;
- leave and payroll data;
- personal contact information;
- performance management plans;
- disciplinary matters;
- pecuniary interest returns;
- wage and salary entitlements; and
- health information (such medical certificates and workers compensation claims).

### **1.5 Applications for suppression in relation to general information (not public registers).**

Under section 739 of the Local Government Act 1993 (“LGA”) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person’s place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the LGA relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, Council will err in favour of suppression.

For more information regarding disclosure of information (other than public registers) see the discussion of IPPs 11 and 12 in Part 3 of this Plan. For information regarding suppression of information on *public registers*, see Part 2 of this Plan.

### **1.6 Caution as to unsolicited information**

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information should be still treated in accordance with this Plan, the Codes, the HRIPA and the PPIPA for the purposes of IPPs 5-12 and HPPs 5-15 which relate to storage, access, use and disclosure of information.

Note that for the purposes of section 10 of the HRIPA, the Council is not considered to have “collected” health information if the receipt of the information by the Council is unsolicited.

Section 4(5) of the PPIPA also provides that personal information is not “collected” by Council if it is unsolicited.



## PART 2 – PUBLIC REGISTERS

A public register is defined in section 3 of the PPIPA:

*“...public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).”*

A distinction needs to be drawn between “public registers” within the meaning of Part 6 of the PPIPA and “non public registers”. A “non public register” is a register but it is not a “public register” for the purposes of the PPIPA. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to public registers must comply with Part 6 of the PPIPA and the Privacy Code. Personal information cannot be accessed by a person about another person unless the personal information is contained in a public register. Where personal information is contained in a public register, then Part 6 of the PPIPA applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the Information Protection Principles as outlined in Part 2 of this Plan and the Privacy Code where it includes personal information that is not published.

The Council holds the following public registers under the LGA: \*\*\*

- Section 53 - Land Register
- Section 113 - Records of Approvals;
- Section 449 -450A - Register of Pecuniary Interests;
- Section 602 - Rates Record.

\*\*\*Note – this is purely indicative. Council may, by virtue of its own practice, hold other Public Registers, to which the PPIPA applies.

Council holds the following public registers under the Environmental Planning and Assessment Act:

- Section 100 – Register of consents and approvals
- Section 149G – Record of building certificates

Council holds the following public register under the Protection of the Environment (Operations) Act:

- Section 308 – Public register of licences held

Council holds the following public register under the Impounding Act 1993:

- Section 30 & 31 – Record of impounding

Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is set out in the sections that follow.

## **2.1 Public registers, the PPIPA and the HRIPA**

A public register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

Despite the exclusion of “health information” from the definition of “personal information” under section 4A of the PPIPA, section 56A of the PPIPA *includes* as “personal information”, “health information” on public registers.

Section 57 of the PPIPA requires very stringent controls over the disclosure of personal information contained in a public register. It provides broadly that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57 (2) provides that in order to ensure compliance with section 57(1), a Council may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information. (Form at Appendix 1 may be used as a guide)

Councils also need to consider the Privacy Code of Practice for Local Government which has the effect of modifying the application of Part 6 of the PPIPA (the “public register” provisions).

If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIPA or as health information for the purposes of part 6 of the PPIPA.

## **2.2 Effect on section 6 of the GIPA Act**

Section 57 of the PPIPA prevails over clause 1(3) of Schedule 1 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation) to the extent of any inconsistency. Therefore:

1. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.
2. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
  - (i) if it is allowed under section 57(1) of the PPIPA; **and**
  - (ii) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

*Note:* Both 1 and 2 are amended with regard to specific public registers in the Privacy Code of Practice for Local Government.

### **2.3 Where some information in the public register has been published**

That part of a public register that is not published in a publicly available publication will be treated as a “public register” and the following procedure for disclosure will apply.

For example, the Register of Consents and Approvals held by Council under section 100 of the Environmental Planning and Assessment Act requires Council to advertise or publish applications for development consent.

When Council publishes the address of the property, it may identify the owner. The personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and hence also not published) will be treated as a public register under PPIPA.

Council may hold a register under the Contaminated Land Management Act on behalf of the Environment Protection Authority. This is not to be considered a public register of the Council as the statute does not place any obligations on the Council to make this register publicly available as a register of contaminated land. Furthermore, the legislation foreshadows that the Environment Protection Authority may indeed post this list or register on the internet. This may constitute a publication of the information and therefore the PPIPA will not apply.

Registers should not be published on the internet.

### **2.4 Disclosure of personal information contained in the public registers**

A person seeking a disclosure concerning someone else’s personal information from a public register must satisfy Council that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

In the following section, by way of guidance only, what might be called the “primary” purpose (or “the purpose of the register”) has been specified for each identified register. In some cases a “secondary purpose” has also been specified, by way of guidance as to what might constitute “a purpose *relating to* the purpose of the register”.

### **2.5 Purposes of public registers**

#### **Purposes of public registers under the Local Government Act**

Section 53 - Land Register – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

Section 113 - Records of Approvals – The primary purpose is to identify all approvals granted under the LGA.

Section 450A - Register of Pecuniary Interests – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

Section 602 - Rates Record - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is “a purpose relating to the purpose of the register”.

### **Purposes of public registers under the Environmental Planning and Assessment Act**

Section 100 – Register of consents and approvals – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

Section 149G – Record of building certificates – The primary purpose is to identify all building certificates.

### **Purposes of public registers under the Protection of the Environment (Operations) Act**

Section 308 – Public register of licences held – The primary purpose is to identify all licences granted under the Act.

### **Purposes of the public register under the Impounding Act**

Section 30 & 31 – Record of impounding – The primary purpose is to identify any impounding action by Council.

### **Secondary purpose of all Public Registers**

Due to the general emphasis (to be found in the LGA and elsewhere) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore disclosure of specific records from public registers would normally be considered to be allowable under section 57 of the PPIPA.

However, requests for access, copying or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council should be guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the **minimum** amount of personal information that is required to be disclosed with regard to any request.

## **Other Purposes**

Persons or organisations who apply to Council to have access to the information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Privacy Code of Practice for Local Government concerning Public Registers.

### **2.6 Applications for access to own records on a public register**

A person wishing to have access to a public register to confirm their own details needs only to prove their identity to Council before having access to their own personal information.

### **2.7 Applications for suppression in relation to a public register**

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than section 739 of the LGA.

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under section 58 of the PPIPA to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIPA. ("Well-being" is defined in the Macquarie Dictionary as "the good or satisfactory condition of existence; welfare".)

When in doubt, Council will err in favour of suppression.

Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information may still be used for council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. The Council may require supporting documentation where appropriate.

### **2.8 Other registers**

Council may have other registers that are not public registers. The Information Protection Principles, this Plan, any applicable Codes and the PPIPA apply to those registers or databases.

## **PART 3 – THE INFORMATION PROTECTION PRINCIPLES**

### **3.1 Information Protection Principle 1 – Section 8**

#### ***Section 8 Collection of personal information for lawful purposes***

- (1) *A public sector agency must not collect personal information unless:*
- (a) *the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *A public sector agency must not collect personal information by any unlawful means.*

#### **The Privacy Code of Practice for Local Government**

The Code makes no provision to depart from the requirements of this principle.

#### **Council Policy**

Council will only collect personal information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions.

Section 22 of the LGA provides other functions under other Acts. Some of those Acts are as follows:

- Community Land Development Act 1989
- Companion Animals Act 1998\*\*
- Conveyancing Act 1919
- Environmental Planning and Assessment Act 1979
- Fire Brigades Act 1989
- Fluoridation of Public Water Supplies Act 1957
- Food Act 1989
- Impounding Act 1993
- Library Act 1939
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Recreation Vehicles Act 1983
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency Service Act 1989
- Strata Schemes (Freehold Development ) Act 1973
- Strata Schemes (Leasehold Development ) Act 1986;
- Swimming Pools Act 1992
- Public Health Act 1991

This list is not exhaustive.

Additionally, the exercise by Council of its functions under the LGA may also be modified by the provisions of other Acts. Some of those Acts follow:

- Coastal Protection Act 1979;
- Environmental Offences and Penalties Act 1989;
- Government Information (Public Access) Act 2009;
- Heritage Act 1977;
- State Emergency and Rescue Management Act 1989;
- Unclaimed Money Act 1995;
- Unhealthy Building Land Act 1990.

The circumstances under which Council may collect information, including personal information, are varied and numerous.

Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

#### \*\*Companion Animals Act

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Director General's guidelines, which have been developed with the PPIPA in mind.

#### Role of the Privacy Contact Officer

In order to ensure compliance with Information Protection Principle 1, internet contact forms, rates notices, application forms of whatsoever nature, or written requests by which personal information is collected by Council; will be referred to the Privacy Contact Officer prior to adoption or use.

The Privacy Contact Officer will also provide advice as to:

1. Whether the personal information is collected for a lawful purpose;
2. If that lawful purpose is directly related to a function of Council; and
3. Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's solicitor.

## **3.2 Information Protection Principle 2 – Direct Collection**

### ***Section 9 Collection of personal information directly from individual***

*A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:*

- (a) the individual has authorised collection of the information from someone else, or*
- (b) in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.*

### **The Privacy Code of Practice for Local Government**

The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

### **Council Policy**

The compilation or referral of registers and rolls are the major means by which the Council collects personal information. For example, the information the Council receives from the Land Titles Office would fit within section 9(a) above.

Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.

In relation to petitions, the Council will treat the personal information contained in petitions in accordance with PPIPA.

Where Council or a Councillor requests or requires information from individuals or groups, that information will be treated in accordance with PPIPA.

Council regards all information concerning its customers as information protected by PPIPA. Council will therefore collect all personal information directly from its customers except as provided in section 9 or under other statutory exemptions or Codes of Practice. Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

Where Council anticipates that it may otherwise need to collect personal information indirectly it will first obtain the authorisation of each individual under section 9 (a) of the PPIPA.

### **External and related bodies**

Each of the following will be required to comply with this Plan, any applicable Privacy Code of Practice, and the PPIPA:

- Council owned businesses
- Council consultants
- Private contractors



- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the PPIPA.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to:

- obtain a written authorisation and consent to that collection; and
- notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Council owned businesses, committees and private contractors or consultants must abide by this Plan, the Code and the PPIPA under the terms of their incorporation by Council or by contract.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 2.

### Existing statutory exemptions under the Act

Compliance with Information Protection Principle 2 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 2 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 where the agency is lawfully authorised or required not to comply with the principle.

- (iii) Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 2 if compliance would prejudice the interests of the individual concerned.

#### Further Explanation regarding IPP 2

Where Council cannot collect personal information directly from the person, it will ensure one of the following:

1. Council has obtained authority from the person under section 9(a) of the PPIPA.
  2. The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from the Land Titles Office.)
  3. The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
  4. The collection of personal information indirectly where one of the above exemptions applies.
  5. The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.
- The only other exception to the above is in the case where Council is given unsolicited information.

### **3.3 Information Protection Principle 3 - Requirements when collecting personal information**

#### ***Section 10 Requirements when collecting personal information***

*If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:*

- (a) the fact that the information is being collected,*
- (b) the purposes for which the information is being collected,*
- (c) the intended recipients of the information,*
- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,*
- (e) the existence of any right of access to, and correction of, the information,*
- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.*

#### **The Privacy Code of Practice for Local Government**

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

## Council Policy

Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

Council will inform persons if the information is required by law or voluntarily given. Council will also inform individuals which department or section within Council holds their personal information, and of the right to access and correct that information. Council will adapt the general section 10 pre-collection Privacy Notification form as appropriate (See Appendix 2).

The following are examples of application procedures that will require a Privacy Notification Form in accordance with section 10:

- Lodging Development Applications;
- Lodging objections to Development Applications;
- Lodging applications for approval under the LGA;
- Any stamps or printed slips that contain the appropriate wording for notification under section 10 (see Appendix 2); and
- When collecting an impounded item.

In relation to the Privacy Notification Form that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections, anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.

## Post - Collection

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, or otherwise by letter. A common example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property is transferred from one owner to the next. Appendix 3 contains a sample Privacy Notification Form that could be used for post-collection.

## External and related bodies

Each of the following will be required to comply with Information Protection Principle 3:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the Information Protection Principle 3.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PIPA that may affect the application of Information Protection Principle 3.

### Existing statutory exemptions under the Act

Compliance with Information Protection Principle 3 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(3) permits non-compliance with Information Protection Principle 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.

Section 24(4) of the PIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 3 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PIPA permits non-compliance with Information Protection Principle 3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PIPA permits non-compliance with Information Protection Principle 3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PIPA permits non-compliance with Information Protection Principle 3 if compliance would prejudice the interests of the individual concerned.

Section 26(2) of the PIPA permits non-compliance where the person expressly consents to such non-compliance.

### Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

## **3.4 Information Protection Principle 4 - Other requirements relating to collection of personal information**

### ***Section 11 Other requirements relating to collection of personal information***

*If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:*

- (a) the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and*
- (b) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.*

### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

### Council Policy

Council will seek to ensure that no personal information is collected which is not directly relevant to its proper functions.

Council collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by the EEO Officer, Council's solicitor, Public Officer or other suitable person. Should Council have any residual doubts, the opinion of the Office of the Privacy Commissioner NSW will be sought.

## **3.5 Information Protection Principle 5 - Retention and security of personal information**

### ***Section 12 Retention and security of personal information***

*A public sector agency that holds personal information must ensure:*

- (a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and*
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
- (d) that, if it is necessary for the information to be given to a person in connection*

*with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.*

### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

### Council Policy

Council may comply with this principle by using any or all of the following or similar documents:

- Records and Archives Services Manual;
- The Council's Policy on Security of and Access to Misconduct Files;
- Council's Internet Security Policy;
- Information Technology Security Policy; and
- General Records Disposal Schedule for Local Government.

### Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

## **3.6 Information Protection Principle 6 - Information held by agencies**

### ***Section 13 Information about personal information held by agencies***

*A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:*

- (a) *whether the agency holds personal information, and*
- (b) *whether the agency holds personal information relating to that person, and*
- (c) *if the agency holds personal information relating to that person:*
  - (i) *the nature of that information, and*
  - (ii) *the main purposes for which the information is used, and*
  - (iii) *that person's entitlement to gain access to the information.*

### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

### Council Policy

Section 13 of the PPIPA requires a council to take reasonable steps to enable a person to determine whether the council holds personal information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's

entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.

Under section 20(5) of the PPIPA, Information Protection Principle 6 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Any person can make application to Council by completing the appropriate form and submitting it to Council. An example is at Appendix 4.

Where council receives an application or request by a person as to whether council holds information about them, council will undertake a search of its records to answer the enquiry. Council may ask the applicant to describe what dealings the applicant has had with council in order to assist council to conduct the search.

Council will ordinarily provide a response to applications of this kind within 28 days of the application being made. The fee structure is commensurate to that of the Council's GIPA Act rates structure.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 6.

#### Existing exemptions under the Act

Compliance with Information Protection Principle 6 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 6 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 6 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

#### Reporting matters

The Council will issue a statement to be included on its Web page (if it has one) and in its Annual Report concerning the nature of personal information it regularly collects, the purpose for which the personal information is used and an individual's right to access their own personal information.

### **3.7 Information Protection Principle 7 - Access to personal information held by agencies**

#### ***Section 14 Access to personal information held by agencies***

*A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

#### **The Privacy Code of Practice for Local Government**

The Code makes no provision to depart from this principle.

#### **Council Policy**

Section 14 of the PPIPA requires a council, at the request of any person, to give access to that person to personal information held about them.

Compliance with Information Protection Principle 7 does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act, unless Information Protection Principles 11 and 12 or the Public Register provisions apply.

Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act. However use of the GIPA Act is to be a last resort. The applicant has the right to insist on being dealt with under PPIPA.

Under section 20(5) of the PPIPA, Information Protection Principle 7 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the General Manager, who will make a determination. A sample form is provided at Appendix 5.

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Manager of Personnel, who will deal with the application.

In order to comply with the requirement to provide the requested information "without excessive delay or expense", Council will ordinarily provide a response to applications of this kind within 28 days of the application being made.

#### **Investigative Functions**

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 7.



### Existing exemptions under the Act

Compliance with Information Protection Principle 7 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA non-compliance with Information Protection Principle 7 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

## **3.8 Information Protection Principle 8 - Alteration of personal information**

### **Section 15    *Alteration of personal information***

- (1) *A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:*
  - (a) *is accurate, and*
  - (b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.*
- (2) *If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*
- (3) *If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.*
- (4) *This section, and any provision of privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.*
- (5) *The Privacy Commissioner’s guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.*
- (6) *In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister’s personal staff.*

### **The Privacy Code of Practice for Local Government**

The Code makes no provision to depart from this principle.

## Council Policy

Section 15 of the PPIPA allows a person to make an application to council to amend (*this includes by way of corrections, deletions or additions*) personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.

Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by the Council are welcomed.

If Council declines to amend personal information as requested, it will on request of the individual concerned, place an addendum on the information in accordance with section 15(2) of the PPIPA.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Manager Personnel in the first instance and treated in accordance with the "Grievance and Complaint Handling Procedures".

Any alterations that are or could be the subject of a customer complaint or grievance will be referred to the General Manager, who will make a determination in relation to the matter.

## Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 8.

## Existing exemptions under the Act

Compliance with Information Protection Principle 8 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with section Information Protection Principle 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

## Procedure

Where information is requested to be amended (either by way of correction, deletion or addition), the individual to whom the information relates, must make a request. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy the Council that the proposed amendment is factually correct and appropriate. The Council may require further

documentary evidence to support certain amendments. Council will not charge to process an application to amend a record under s.15.

The Council's application form for alteration under IPP 8 is at Appendix 6 at the end of this Plan.

#### Where Council is not prepared to amend

If the Council is not prepared to amend the personal information in accordance with a request by the individual the Council may attach to the information in such a manner as is capable of being read with the information, any statement provided by that individual.

#### Where an amendment is made

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by the Council. The Council will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

#### State Records Act

The State Records Act does not allow for the deletion of records. However, as a result of section 20(4) of the PPIPA, some deletions may be allowed in accordance with Information Protection Principle 8.

### **3.9 Information Protection Principle 9 - Agency must check accuracy of personal information before use**

#### ***Section 16 Agency must check accuracy of personal information before use***

*A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.

### **3.10 Information Protection Principle 10 - Limits on use of personal information**

#### **Section 17 Limits on use of personal information**

*A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:*

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or*
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or*
- (c) the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.*

#### **The Privacy Code of Practice for Local Government**

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- (i) where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or
- (ii) where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

#### **Explanatory Note**

Council may use personal information obtained for one purpose for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under section 602 of the LGA may also be used to:

- notify neighbours of a proposed development;
- evaluate a road opening; or
- evaluate a tree preservation order.

#### **Council Policy**

Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.

#### **External and related bodies**

Each of the following will be required to comply with the Information Protection Principle 10:

- Council owned businesses
- Council consultants;

- Private contractors; and
- Council committees.

Council will seek to contractually bind each of these bodies or persons to comply.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with section 17(a) to the use of the information for another purpose.

The form of consent should include the following elements:

I, <sup>(1)</sup> _____	(1) insert full name
of <sup>(2)</sup> _____	(2) insert address
hereby consent under section 17(a) of the Privacy and Personal Information Protection Act 1998 to <sup>(3)</sup> : _____	(3) insert Council name
using the information collected from me by <sup>(4)</sup> : _____	(4) insert name of collecting body/person
for the purpose of <sup>(5)</sup> : _____	(5) insert purpose/s info was collected for
Signature _____	
Name to be printed _____	
Date signed _____ / _____ / _____	

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 10.

### Existing exemptions under the Act

Compliance with Information Protection Principle 10 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person. *Protection of the public revenue* means a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty.

Section 24(4) of the PIPA extends the operation of section 24(2) to councils and permits non-compliance with Information Protection Principle 10 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the council to exercise its complaint handling functions or any of its investigative functions.

Section 25(a) of the PIPA permits non-compliance with Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PIPA permits non-compliance with Information Protection Principle 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 28(3) of the PIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g., the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

### **3.11 Information Protection Principle 11 - Limits on disclosure of personal information**

#### **Section 18    *Limits on disclosure of personal information***

- (1) *A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:*
  - (a) *the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or*
  - (b) *the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or*
  - (c) *the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.*
- (2) *If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*

## The Privacy Code of Practice for Local Government

The Code makes provision for council to depart from this principle in the circumstances described below:

1. Council may disclose personal information to public sector agencies or public utilities on condition that:
  - (i) the agency has approached Council in writing;
  - (ii) Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and
  - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's function/s.
2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
3. Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

## Council Policy

Council will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected or where the Council has no reason to believe that the individual concerned would object to the disclosure.

Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information. "Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

The council may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

## Public Registers

Sections 18 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

## Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 11.

### Existing exemptions under the Act

Compliance with Information Protection Principle 11 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(c) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(i) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(ii) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 11 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) if the disclosure is to an investigative agency.

(Note: “investigative agency” is defined at s.3 of PPIPA.)



Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where Council is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

### Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

## **3.12 Information Protection Principle 12 - Special restrictions on disclosure of personal information**

### ***Section 19 Special restrictions on disclosure of personal information***

- (1) *A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.*
- (2) *A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*
  - (a) *a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction or applies to that Commonwealth agency, or*
  - (b) *the disclosure is permitted under a privacy code of practice.*
- (3) *For the purposes of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.*
- (4) *The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales and to Commonwealth agencies.*
- (5) *Subsection (2) does not apply:*
  - (a) *until after the first anniversary of the commencement of this section, or*
  - (b) *until a code referred to in subsection (4) is made,**whichever is the later.*

## The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle in the circumstances described below:

1. For the purposes of s.19(2) only, where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

### Council Policy

Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.

### Public Registers

Sections 19 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 12.

### Existing exemptions under the Act

Compliance with Information Protection Principle 12 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(7) of the PPIPA permits non-compliance with Information Protection Principle 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 12 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly

consents to such non-compliance.

Section 28(2) permits non-compliance with Information Protection Principle 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an authorised person to another authorised person. “Authorised person” means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

### Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

## PART 4 – HEALTH PRIVACY PRINCIPLES

In 2002, most references to ‘health information’ were taken out of the PPIPA and separate legislation was enacted. The HRIPA was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIPA in their collection and management of health information.

Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual. Health information *a/so* includes personal information that is information or an opinion about:

- a health service provided, or to be provided, to an individual;
- an individual's express wishes about the future provision of health services to him or her;
- other personal information collected in connection with the donation of human tissue; or
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIPA. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Protection Principles (“HPP”) set down in Schedule 1 to the HRIPA. Each of these HPPs are considered below.

The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

- Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;
- Issuing of clean up orders which may include recording information about a residents health, GP professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, e.g. allergies for catering purposes;
- Seniors bus outings where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children's services. e.g. history of illness, allergies, asthma, diabetes, epilepsy etc;
- Physical exercise classes;

- Some councils run Podiatry services;
- Information may be collected through a healthy community program;
- Children's immunization records; and
- Family counsellor/youth support workers records.

HPPs 1-4 concern the collection of health information, HPP 5 concerns the storage of health information, HPPs 6-9 concern the access and accuracy of health information, HPP 10 concerns the use of health information, HPP 11 concerns the disclosure of health information, HPPs 12-13 concern the identifiers and anonymity of the persons to which health information relate, HPPs 14-15 concern the transferral of health information and the linkage to health records across more than one organisation.

## **Health Privacy Principle 1**

### **Purposes of collection of health information**

- (1) *An organisation must not collect health information unless:*
  - (a) *the information is collected for a lawful purpose that is directly related to a function or activity of the organisation, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *An organisation must not collect health information by any unlawful means.*

## **Health Privacy Principle 2**

### ***Information must be relevant, not excessive, accurate and not intrusive***

*An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:*

- (a) *the information is collected is relevant to that purpose, is not excessive and is accurate, up to date and complete, and*
- (b) *the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.*

## **Health Privacy Principle 3**

### ***Collection to be from the individual concerned***

- (1) *An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.*
- (2) *Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.*

## **Health Privacy Principle 4**

### ***Individual to be made aware of certain matters***

- (1) *An organisation that collects health information about an individual from the individual must, at or before the time it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the*

*circumstances to ensure that the individual is aware of the following:*

- (a) the identity of the organisation and how to contact it,*
  - (b) the fact that the individual is able to request access to the information,*
  - (c) the purposes for which the information is collected,*
  - (d) the persons to whom (or the type of persons to whom) the organisation usually discloses information of that kind,*
  - (e) any law that requires the particular information to be collected,*
  - (f) the main consequences (if any) for the individual if all or part of the information is not provided.*
- (2) If the organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:*
  - (a) making the individual aware of the matters would impose a serious threat to the life or health of any individual, or*
  - (b) the collection is made in accordance with guidelines issued under subclause (3).*
- (3) The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).*
- (4) An organisation is not required to comply with a requirement of this clause if:*
  - (a) the individual to whom the information relates has expressly consented to the organisation not complying with it or,*
  - (b) the organisation is lawfully authorised or required not to comply with it, or*
  - (c) non-compliance is otherwise permitted (or necessarily implied or reasonably contemplated) under any Act or any other law including the State Records Act 1998), or*
  - (d) compliance by the organisation would, in the circumstances, prejudice the interests of the individual to whom the information relates, or*
  - (e) the information concerned is collected for law enforcement purposes or,*
  - (f) the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions.*
- (5) If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances, to ensure that any authorised representative of the individual is aware of those matters.*
- (6) Subclause (4) (e) does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence.*
- (7) The exemption provided by subclause (4) (f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

### Council Policy

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1)

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so. (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. Council will also tell the person how he or she can see and correct the health information.

If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 5).

## **Health Privacy Principle 5**

### ***Retention and Security***

(1) *An organisation that holds health information must ensure that:*

- (a) *the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
- (b) *the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and*
- (c) *the information is protected, by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
- (d) *if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of an organisation is done to prevent the unauthorised use or disclosure of the information.*

**Note.** Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

(2) *An organisation is not required to comply with a requirement of this clause if:*

- (a) *the organisation is lawfully authorised or required not to comply with it, or*
- (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

(3) *An investigative agency is not required to comply with subclause (1)(a).*

### **Council Policy**

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

## **Health Privacy Principle 6**

### ***Information about health information held by organisations***

- (1) *An organisation that holds health information must take such steps as are, in the circumstances, reasonable, to enable any individual to ascertain:*
  - (a) *whether the organisation holds health information, and*
  - (b) *whether the organisation holds health information relating to that individual, and*
  - (c) *if the organisation holds health information relating to that individual:*
    - (i) *the nature of that information*
    - (ii) *the main purposes for which the information is used, and*
    - (iii) *that person's entitlement to request access to the information.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under any Act or any other law (including the State Records Act 1998).*

## **Health Privacy Principle 7**

### ***Access to health information***

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

**Note.** Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause. Access to health information held by public sector agencies may also be available under the Government Information (Public Access) Act 2009 or the State Records Act 1998.
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

## **Health Privacy Principle 8**

### ***Amendment of health information***

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:*
  - (a) *is accurate, and*
  - (b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to day, complete and not misleading.*
- (2) *If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the information to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment*



sought.

- (3) *If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.*

**Note.** Division 4 (Amendment of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

Amendment of health information held by public sector agencies may also be able to be sought under the Privacy and Personal Information Protection Act 1998.

- (4) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

## **Health Privacy Principle 9**

### **Accuracy**

*An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate and up to date, complete and not misleading.*

### **Council Policy**

Council will provide details about what health information Council is holding about an individual and with information about why Council is storing that information and what rights of access the individual has (HPP 6).

Council will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary (HPP 8).

Council will make sure that the health information is relevant and accurate before using it (HPP 9).

## **Health Privacy Principle 10**

- (1) *An organisation that holds health information must not use the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

- (a) **Consent**

*the individual to whom the information relates has consented to the use of the information for that secondary purpose, or*

- (b) **Direct relation**

*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the*

*secondary purpose or,*

**Note:** For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) **Serious threat to health or welfare**

*the use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*

- (i) a serious and imminent threat to the life, health or safety of the individual or another person, or*
- (ii) a serious threat to public health and safety, or*

(d) **Management of health services**

*the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) **Training**

*the use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(f) **Research**

*the use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purpose of this paragraph, or*

- (g) **Find missing person**  
the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or
  - (h) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
the organisation:
    - (i) has reasonable grounds to suspect that:
      - (A) unlawful activity has been or may be engaged in, or
      - (B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or
      - (C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and
    - (ii) uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or
  - (i) **Law enforcement**  
the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or
  - (j) **Investigative agencies**  
the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or
  - (k) **Prescribed circumstances**  
the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.
- (2) An organisation is not required to comply with a provision of this clause if:
- (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
  - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).
- (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
- (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
- (a) to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or
  - (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
- (5) The exemption provided by subclause (1) (j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other

*matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

### Council policy

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent (HPP 10).

### Health Privacy Principle 11

(1) *An organisation that holds health information must not disclose the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

(a) **Consent**

*the individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or*

(b) **Direct relation**

*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or*

Note: For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) **Serious threat to health or welfare**

*the disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*

- (i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*
- (ii) *a serious threat to public health or public safety, or*

(d) **Management of health services**

*the disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*

- (i) *either:*
  - (A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
  - (B) *reasonable steps are taken to de-identify the information, and*
- (ii) *if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) **Training**

*the disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*

- (i) *either:*

- (A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
    - (B) *reasonable steps are taken to de-identify the information, and*
  - (ii) *if the information could reasonably be expected to identify the individual, the information is not made publicly available, and*
  - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (f) **Research**  
*the disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*
  - (i) *either:*
    - (A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
    - (B) *reasonable steps are taken to de-identify the information, and*
  - (ii) *the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and*
  - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (g) **Compassionate reasons**  
*the disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:*
  - (i) *the disclosure is limited to the extent reasonable for those compassionate reasons, and*
  - (ii) *the individual is incapable of giving consent to the disclosure of the information, and*
  - (iii) *the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and*
  - (iv) *if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or*
- (h) **Finding missing person**  
*the disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or*
- (i) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
*the organisation:*
  - (i) *has reasonable grounds to suspect that:*
    - (A) *unlawful activity has been or may be engaged in, or*
    - (B) *a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or*
    - (C) *an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
  - (ii) *discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*

- (j) **Law enforcement**  
the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or
  - (k) **Investigative agencies**  
the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or
  - (l) **Prescribed circumstances**  
the disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.
- (2) An organisation is not required to comply with a provision of this clause if:
    - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
    - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or
    - (c) the organisation is an investigative agency disclosing information to another investigative agency.
  - (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
  - (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
    - (a) to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or
    - (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
  - (5) If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.
  - (6) The exemptions provided by subclauses (1) (k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

### Council Policy

Council will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

## **Health Privacy Principle 12**

### ***Identifiers***

- (1) *An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.*
- (2) *Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual an identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
  - (a) *the individual has consented to the adoption of the same identifier, or*
  - (b) *the use or disclosure of the identifier is required or authorised by or under law.*
- (3) *Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
  - (a) *the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10 (1) (c)-(k) or 11 (1) (c)-(l), or*
  - (b) *the individual has consented to the use or disclosure, or*
  - (c) *the disclosure is to the public sector agency that assigned the identifier to enable the public sector agency to identify the individual for its own purposes.*
- (4) *If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:*
  - (a) *adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or*
  - (b) *use or disclose an identifier of the individual that has been assigned by the public sector agency.*

### **Council Policy**

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

## **Health Privacy Principle 13**

### ***Anonymity***

*Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.*

### **Council Policy**

Council will provide health services anonymously where it is lawful and practical (HPP 13).

## **Health Privacy Principle 14**

### ***Transborder data flows and data flow to Commonwealth agencies.***

*An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*

- (a) *the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles, or*
- (b) *the individual consents to the transfer, or*
- (c) *the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request, or*
- (d) *the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party, or*
- (e) *all of the following apply:*
  - (i) *the transfer is for the benefit of the individual,*
  - (ii) *it is impracticable to obtain the consent of the individual to that transfer,*
  - (iii) *if it were practicable to obtain such consent, the individual would be likely to give it, or*
- (f) *the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:*
  - (i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*
  - (ii) *a serious threat to public health or public safety, or*
- (g) *the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or*
- (h) *the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.*

### **Council Policy**

Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

### **Health Privacy Principle 15**

#### ***Linkage of health records***

- (1) *An organisation must not:*
  - (a) *include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or*
  - (b) *disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or*
  - (c) *the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual*



*is to be disclosed) is a use of the information that complies with HPP 10 (1) (f) or a disclosure of the information that complies with HPP 11 (1) (f).*

(3) *In this clause:*

**health record** *means an ongoing record of health care for an individual.*

**health records linkage system** *means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.*

### Council Policy

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

## **PART 5 – IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN**

### **5.1 Training Seminars/Induction**

During induction, all employees should be made aware that the performance management system has the potential to include personal information on their individual work performance or competency.

Councillors, all staff of the Council including staff of council businesses, and members of council committees should be acquainted with the general provisions of the PPIPA, the HRIPA and in particular, the 12 Information Protection Principles (IPPs), the 15 Health Privacy Principles (HPPs), the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice.

### **5.2 Responsibilities of the Privacy Contact Officer**

It is assumed that the Public Officer within Council will be assigned the role of the Privacy Contact Officer unless the General Manager has directed otherwise.

In order to ensure compliance with PPIPA and the HRIPA, the Privacy Contact Officer will review all contracts and agreements with consultants and other contractors, rates notices, application forms of whatsoever nature, and other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

Interim measures to ensure compliance with IPP 3 in particular may include the creation of stamps or printed slips that contain the appropriate wording (see Appendices 2 and 3).

The Privacy Contact Officer will ensure Council in its public areas has special provisions for working with computer screens. Computer screens may require:

- fast screen savers;
- face the computers away from the public; or
- only allow the record system to show one record at a time.

Council's electronic databases should also be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal and health information.

The Privacy Contact Officer will also provide opinions within Council as to:

- (i) Whether the personal or health information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal or health information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's solicitor.

Should the Council require, the Privacy Contact Officer may assign designated officers as "Privacy Resource Officers", within the larger departments of Council. In this manner the Council may ensure that the information protection principles are more broadly understood and that individual departments have a greater focus on the information protection principles and are directly applied to Council's day to day functions.

### **5.3 Distribution of information to the public**

Council may prepare its own literature such as pamphlets on the PPIPA, HRIPA or it may obtain and distribute copies of literature available from the Office of the Privacy Commissioner NSW.

## **PART 6 – INTERNAL REVIEW**

### **6.1 How does the process of Internal Review operate?**

Under section 53 of the PPIPA a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. An application for internal review is to be made within **6 months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitability qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgement, the applicant is entitled to seek external review.

The Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and the council is required to consider any relevant material submitted by the Privacy Commissioner. The Council must provide the Privacy Commissioner with a draft of the council's internal review report to enable the Privacy Commissioner to make a submission.

Council may provide a copy of any submission by Privacy Commissioner's to the applicant.

The Council must notify the applicant of the outcome of the review within **14 days** of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

An internal review checklist has been prepared by the Office of the Privacy Commissioner NSW and can be accessed from its website <http://www.ipc.nsw.gov.au>.

The Privacy Commissioner must be notified of a complaint, briefed on progress and notified of the outcome of an internal review under the PPIPA or HRIPA.

### **6.2 What happens after an Internal Review?**

If the complainant remains unsatisfied, he/she may appeal to the Administrative Decisions Tribunal which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an information protection principle or a health privacy principle.

## **PART 7 – OTHER RELEVANT MATTERS**

### **7.1 Contracts with consultants and other private contractors**

It is necessary to have specific provisions to protect the Council in any dealings with private contractors.

### **7.2 Confidentiality**

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attaches to information per se, personal or health information to the person to whom that information relates.

An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

### **7.3 Misuse of personal or health information**

Section 664 of the LGA makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion from case to case.

### **7.4 Regular review of the collection, storage and use of personal or health information**

The information practices relating to the collection, storage and use of personal or health information will be reviewed by the Council every three (3) years. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

### **7.5 Regular review of Privacy Management Plan**

When information practices are reviewed from time to time, the Privacy Management Plan will also be reviewed to ensure that the Plan is up to date.

### **7.6 Further information**

For assistance in understanding the processes under the PPIPA and HRIPA, please contact the Council or the Office of the Privacy Commissioner NSW.

## **PART 8 – APPENDICES**

**Appendix 1: Statutory Declaration for access under Section 57 of  
the Privacy and Personal Information Protection Act 1998 to a  
Public Register held by Council**

**Statutory Declaration**  
**Oaths Act, 1900, Eighth Schedule**

I, the undersigned <sup>(1)</sup> \_\_\_\_\_ (1) insert full name

of <sup>(2)</sup> \_\_\_\_\_ (2) insert address

in the State of New South Wales, do solemnly and sincerely declare that:

I am <sup>(3)</sup> \_\_\_\_\_ (3) insert relationship, if  
any, to person inquired  
about

I seek to know whether <sup>(4)</sup> \_\_\_\_\_ (4) insert name

is on the public register of <sup>(5)</sup> \_\_\_\_\_ (5) Applicant to describe  
the relevant public  
public register

The purpose for which I seek this information is <sup>(6)</sup> \_\_\_\_\_ (6) insert purpose for  
seeking information

\_\_\_\_\_

The purpose for which the information is required is to <sup>(7)</sup> \_\_\_\_\_ (7) insert purpose

\_\_\_\_\_

**And I make this solemn declaration conscientiously believing the same to be true and  
by virtue of the Oaths Act 1994.**

\_\_\_\_\_  
**Signature of Applicant**

Declared at: \_\_\_\_\_

in the said State this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

in the presence of \_\_\_\_\_

\_\_\_\_\_  
**Name of Justice of the Peace/Solicitor**

Who certifies that:

1. \*I saw the face of the declarant/deponent OR  
\*I did not see the face of the declarant/deponent because he/she was wearing a  
face covering, but I am satisfied that he/she had a special justification for not  
removing it, and
2. \*I have known the person for at least 12 months OR  
\*I confirmed the person's identity with .....  
[describe identification document relied on]

\_\_\_\_\_  
**Signature of Justice of the Peace/Solicitor to be printed**

## **Appendix 2: Privacy Notification Form - Section 10 (Pre – Collection)**

*(Addressed to the person from whom information is about to be collected or has been collected.)*

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA).

The intended recipients of the personal information are:

- officers within the Council;
- data service providers engaged by the Council from time to time;
- any other agent of the Council; and
- \_\_\_\_\_ (INSERT NAME OF OTHER INTENDED RECIPIENTS)

The supply of information by you is: ☐ Voluntary ☐ Not voluntary

If you cannot provide, or do not wish to provide, the information sought, the Council

- ☐ maybe unable to process your application.
- ☐ will be unable to process your application.

Council is collecting this personal information from you in order to:

---

You may make application for access or amendment to information held by Council.

You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the PPIPA.

Council is to be regarded as the agency that holds the information. However, if it **is not** Council who holds or controls the information, please state below who does:

---

(INSERT NAME OF AGENCY WHO HOLDS OR CONTROLS THE INFORMATION)

Enquiries concerning this matter can be addressed to: \_\_\_\_\_

---

Signature \_\_\_\_\_

Name to be printed \_\_\_\_\_

Date signed                                      /        /



### **Appendix 3: Privacy Notification Form - Section 10 (Post – Collection)**

*(Addressed to the person from whom information has been collected.)*

The personal information that Council has collected from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA).

The intended recipients of the personal information are:

- officers within the Council;
- data service providers engaged by the Council from time to time;
- any other agent of the Council; and
- \_\_\_\_\_ (INSERT NAME OF OTHER INTENDED RECIPIENTS)

The supply of information by you is: ☐ Voluntary ☐ Not voluntary

If you cannot provide, or do not wish to provide, the information sought, the Council may: \_\_\_\_\_

Council has collected this personal information from you in order to: \_\_\_\_\_

You may make application for access or amendment to information held by Council.

You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the PPIPA.

Council is to be regarded as the agency that holds the information. However, if it **is not** Council who holds or controls the information, please state below who does: \_\_\_\_\_

\_\_\_\_\_  
(INSERT NAME OF AGENCY WHO HOLDS OR CONTROLS THE INFORMATION)

Enquiries concerning this matter can be addressed to: \_\_\_\_\_

Signature \_\_\_\_\_

Name to be printed \_\_\_\_\_

Date signed \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Appendix 4: Application under Section 13 of the Privacy and Personal Information Protection Act 1998: To determine whether Council holds personal information about a person.**

**Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request the General Manager of <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council  
\_\_\_\_\_

provide the following:

- Does the Council hold personal information about me? ☐ Yes ☐ No
- If so, what is the nature of that information? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- What is the main purpose for holding the information? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Am I entitled to access the information? ☐ Yes ☐ No

My address for response to this application is:

\_\_\_\_\_ State: \_\_\_\_\_ Post Code: \_\_\_\_\_

**Note to applicants**

Council **will not** record your address or any other contact details that you provide for any other purpose other than to respond to your application.

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA). There is a separate application form to gain access.

The Council may refuse to process this application in part or in whole if:

- there is an exemption to section 13 of the PPIPA; or
- a Code of Practice may restrict the operation of section 14.

Enquiries concerning this matter can be addressed to:

\_\_\_\_\_

**Appendix 5: Application under section 14 of the Privacy And  
Personal Information Protection Act 1998: For access to Applicant's  
Personal Information**

**Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request that the <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council  
\_\_\_\_\_  
Provide me with:

- ☐ (a) access to all personal information held concerning myself; or  
☐ (b) access to the following personal information only **(LIST INFORMATION REQUIRED BELOW):**

My address for response to this application is:

\_\_\_\_\_ State: \_\_\_\_\_ Post Code: \_\_\_\_\_

**Note to applicants**

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA).

You are entitled to have access without excessive delay or cost.

Council may refuse to process your application in part, or in whole, if:

- the correct amount of fees has not been paid;
- there is an exemption to section 14 of the PPIPA; or
- a Code of Practice may restrict disclosure.

Enquiries concerning this matter can be addressed to:

\_\_\_\_\_  
\_\_\_\_\_

## **Appendix 6: Application under section 15 of the Privacy and Personal Information Protection Act 1998: For alteration of Applicant's Personal Information**

### **Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request that the <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council  
\_\_\_\_\_

alter personal information regarding myself in the following manner:

- I propose the following changes: \_\_\_\_\_  
\_\_\_\_\_
- The reasons for the changes are as follows: \_\_\_\_\_  
\_\_\_\_\_
- The documentary bases for those changes is as shown on the attached documents  
\_\_\_\_\_  
\_\_\_\_\_

#### **Note to Applicants :**

You have a right to request appropriate amendments are made (whether by way of corrections, deletions or additions) to ensure that the personal information held by the Council:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up-to-date, complete and not misleading.

If Council is not prepared to amend the personal information in accordance with a request by you, Council must take such steps as are reasonable to attach to the information in such a manner as is capable of being read with the information, any statement provided by you.

If your personal information is amended, you are entitled under the Privacy and Personal Information Protection Act 1998 (PPIPA), if it is reasonably practicable, to have recipients of that information notified of the amendments made by Council.

Council may refuse to process your application in part, or in whole, if:

- there is an exemption to section 15 of the PPIPA; or
- a Code of Practice may restrict alteration.

Enquiries concerning this matter can be addressed to: \_\_\_\_\_  
\_\_\_\_\_

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## Council Meeting

9/11/2016

Item No	8.3
Subject	<b>Botany Bay Health Centre – Arthur Park, Botany</b>
Report by	Rodger Dowsett – Manager Executive Projects
File	(B) Park (57)

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## Summary

The following report is prepared for the Council's consideration for the reuse of the Botany Baby Health Centre for its design purpose, that is as a Baby Health Centre, under the management of the Sydney Children's Hospital.

The Botany Baby Health Centre is located within the grounds of Arthur Park, on the corner of Botany Road and Chelmsford Avenue, Botany.

Arthur Park is classified as community land.

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## Officer Recommendation

- 1 That Council enter into a Temporary Licence Agreement with the Sydney Children's Hospital to use the Botany Bay Health Centre as a Baby Health Centre.
  - 2 That the Temporary Licence Agreement be subject to public notification and submission.
  - 3 That the General Manager be authorised to execute the Temporary Licence Agreement
- 

## Background

The Sydney Children's Hospital Network (Randwick and Westmead) currently operates two Baby Health Clinic's on the eastern side of the Bayside Local Government Area. One of the clinics is within the Eastgardens Shopping Centre and the other is located in the Council owned building that adjoins the Mascot Early Childhood Centre in Coward Street, Mascot.

The latter building is known as the Mascot Baby Health Centre.

The Mascot Early Childhood Centre is to undergo alterations to enable the centre to accommodate in addition to pre-school age children, infants whose ages are likely to range from 0-2 years.

As part of these alterations, the building that now accommodates the Baby Health Centre is itself to be the subject of alteration to provide an adjunct facility to the Early Childhood Centre together with the means to provide a controlled and secure entry to the child care centre and its grounds.

The alterations to Baby Health Centre would in the long term be incompatible with the projected needs of the Baby Health Clinic, both in relation to adequate space and estimated growth of the post natal population.

In discussions with the nursing staff at the Children's Hospital, which operates the clinic, it was suggested that given the projected space requirements, together with the future needs of the Baby Health Centre, that the former Baby Health Centre in Arthur Park may be a better location for their post natal activities conducted on the eastern side of the Bayside Local Government Area.

The Botany Baby Health Centre building has not been used for its design purpose for some time and is now vacant. Recent attempts by the Council to find a suitable occupant through invitation of expressions of interest have been unsuccessful and as such the building's re-use for its design purpose (Baby Health Centre) presents itself as an opportunity for the Council's consideration.

The relocation of the Baby Health Centre from Mascot to Botany is supported by the Sydney Children's Hospital.

As the building has stood vacant for some time, vital repairs (guttering/downpiping, painting, etc.) are required as well as the reconnection to the building of the available utility services (electricity/gas).

The available records of the Council indicate that Arthur Park is classified as "community" land.

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## **Financial Implications**

Apart from the vital repairs and services reconnection to the building, the use of the building by Sydney Children's Hospital will require a Lease Agreement.

However, vacant possession of the Mascot Baby Health Centre is required by the end of November 2016 and to enable early occupation of the Botany Bay Health Centre by the 5th December this year, it is proposed that the Council consider its occupation under Licence Agreement of limited duration.

The Temporary Licence Agreement would permit the Sydney Children's Hospital to take occupancy of the building of the Botany Bay Health Centre given the circumstances of short notice and during the term of the Licence (6-9 months) allow the parties to undertake and finalise the lease negotiations.

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## **Community Engagement**

At this stage there has been no community engagement, although this would be a requirement of facilitating any subsequent lease agreement. Notwithstanding, the proposal is for the building to be reused and occupied in a manner that aligns with its original design purpose, being a use that is community based that will have little or no impact on the adjoining neighbourhood.

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## **Attachments**

Nil

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## Council Meeting

9/11/2016

Item No                8.4  
Subject                **Australia Day Sporting Grants**  
Report by             Kylie Gale, Senior Events Officer  
File                     (R) F16/37

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## Summary

This report provides background information about the former commitment by Rockdale City Council to provide grants to local sporting groups as part of Australia Day 2017, noting that a review of Bayside Council's Australia Day Activities will be undertaken with a view to harmonising programs for Australia Day in 2018.

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## Officer Recommendation

- 1     That the commitment of the former Rockdale City Council proceed with the Australia Day grants of \$500 being awarded to Bexley Golf Club and Moorefield Bowls Club for 2017.
  - 2     That the harmonisation of Bayside Council's grant programs include incorporation of Australia Day funding applications into the organisation wide community grants program for future years.
- 

## Background

For almost 30 years as part of Council's Australia Day program Rockdale City Council encouraged sporting participation at different sporting venues for residents during the Australia day/weekend.

The annual funding allocation for each event is \$500 with the proceeds used to promote the event and to purchase prizes/trophies for participants. As far as possible, there is a rotation between clubs across the former Rockdale local government area, with previous year's grants allocated as follows:

Year	Club	Funding granted
2012	Bexley Golf Club	\$500
	Bexley Bowls Club	\$500
	Illawarra Tennis Club	\$500
	Rockdale -Bexley Swimming Club	\$500
2013	Kogarah Golf Club	\$500
	Francis Drake Bowls Club	\$500
	Illawarra Tennis Club	\$500
	Rockdale-Bexley Swiming Club	\$500
2014	Kogarah Golf Club	\$500
	Bexley Bowls Club	\$500

	Illawarra Tennis Club	\$500
	Rockdale-Bexley Swimming Club	\$500
2015	Kogarah Golf Club	\$500
	Moorefield Bowls Club	\$500
	Illawarra Tennis Club	\$500
2016	Bexley Golf Club	\$500
	Moorefield Women's Bowls Club	\$500

For 2017, the funding allocation is recommended as follows:

Year	Club	Funding granted
2017	Bexley Golf Club	\$500
	Moorefield Women's Bowls	\$500

With the harmonisation of programs promoting Australia Day across Bayside Council in 2018, these types of funding allocations will be incorporated into an organisation wide community grants program.

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## Financial Implications

The required funds are included in the existing approved budget.

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## Community Engagement

Not required.

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## Attachments

Nil.



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## Council Meeting

9/11/2016

Item No	9.1
Subject	<b>Planning Proposal – 177 Russell Avenue, Dolls Point</b>
Report by	David Dekel, Coordinator City Places and Systems
File	(R) F16/835

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## Summary

A Planning Proposal has been received affecting 177 Russell Avenue, Dolls Point. The site currently accommodates two double storey residential buildings owned by the War Widows' Guild of Australia (the Guild).

The proposed amendments to the Rockdale LEP 2011 are:

- Height of Building: amend the maximum height of building from 14.5m to 17.75m;
  - Floor Space Ratio: amend the maximum FSR from 1:1 to 1.65:1; and
  - Amend clause 1.8A of the Rockdale LEP 2011 in order to allow a Development Application to be determined concurrently with the Planning Proposal.
- 

## Officer Recommendation

- 1 That Council supports the proposed change in the maximum Height of Building on the site from 14.5m to 17.75m, and maximum FSR on the site from 1:1 to 1.65:1.
  - 2 That Council does not support the amendment to clause 1.8A of the Rockdale LEP 2011 in accordance with the assessment provided in this report.
  - 3 That the Planning Proposal be amended in accordance with this report prior to submission to the Department of Planning and Environment for Gateway determination.
  - 4 That Council continues to pursue negotiations with the proponent to develop a Voluntary Planning Agreement.
  - 5 That the amended Planning Proposal and supporting documents be submitted to the Department of Planning and Environment for Gateway determination.
  - 6 That Council publicly exhibits the Planning Proposal and Voluntary Planning Agreement concurrently, in accordance with the Department Planning and Environment's Gateway determination.
- 

## Background

**Applicant:** Helm Properties (on behalf of the War Widows' Guild of Australia NSW Ltd.)

**Land Owner:** The War Widows' Guild of Australia NSW Ltd.

Council has received a Planning Proposal for land identified as 177 Russell Avenue, Dolls Point. The site is currently occupied by two, double-storey residential buildings which provide low-cost housing facilities for members of the Guild.

The Guild is a not-for-profit charitable organisation which provides low-cost housing, as well as other services and support, since 1946. In recent years, the Guild has found that the needs and demographics of its members has changed dramatically. This has resulted in a marked decrease in the demand for its low-cost housing service.

The Guild has, therefore, needed to redirect funds and resources to other, more-relevant services that are currently in greater demand by its members. In order to achieve the necessary revenue for this, the Guild has had to release capital through maximising the revenue which can be generated through the redevelopment and disposal of its residential assets.

The proposed amendments to the Rockdale Local Environmental Plan 2011 (the Rockdale LEP 2011), are intended to reasonably maximise the development potential of the site, thus enabling the Guild to provide the necessary services from revenue achieved through the subsequent sale of the site to Helm.

The ultimate aim of the proposal is to achieve development standards which will permit the erection of a residential flat building. To achieve this, the Planning Proposal seeks to:

- 1 Introduce a maximum Height of Building on the land of 17.75m; and
- 2 Introduce a maximum Floor Space Ratio on the land of 1.65:1.

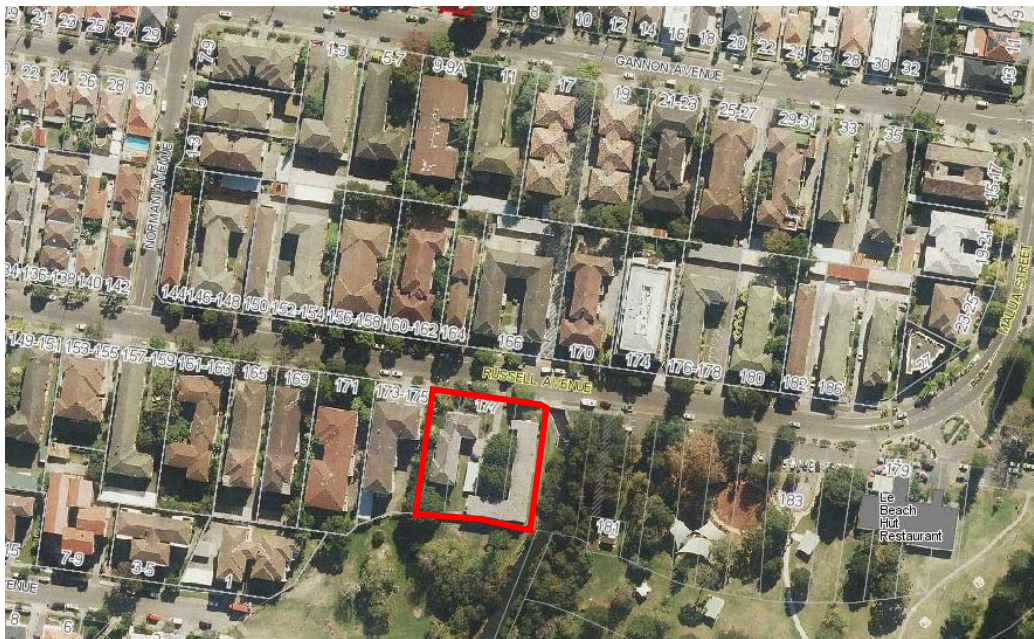
In addition, it is also sought to amend clause 1.8A of the LEP in order to allow a Development Application (DA) to be assessed concurrently with the Planning Proposal. The proponent suggests the following additional wording to clause 1.8A:

*To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No X) applies to the determination of a development application made (but not finally determined) before the commencement of that plan.*

Note: An Amendment Number will be assigned should the Planning Proposal proceed through Gateway.

An assessment of the proposed amendments is provided in this report.

## SITE AND CONTEXT



**Figure 1** – Aerial photo with subject site outlined in red (Source: IntraMaps)

The subject site is legally described as Lots 80-83, DP 2237 and has an area of approximately 2,576m<sup>2</sup>, with a frontage to Russell Avenue of approximately 48m. It is a square site located on the southern side and eastern end of Russell Avenue which abuts the northern boundary of Cook Park/Peter Depena Reserve. Cook Park is a heritage listed park which surrounds the site on all sides (except immediately to the north and west) and extends from Brighton Le Sands to the north and Sandringham to the south.

Immediately to the east of the site is Waradiel Creek, with the continuation of Cook Park/Peter Depena Reserve further to the east. To the north and west, the immediate surrounding area is characterised by residential apartment blocks on linear sites ranging from three to four storeys in height.

### Current Planning Controls

The current planning controls for the site as per the Rockdale LEP 2011 are as follows:

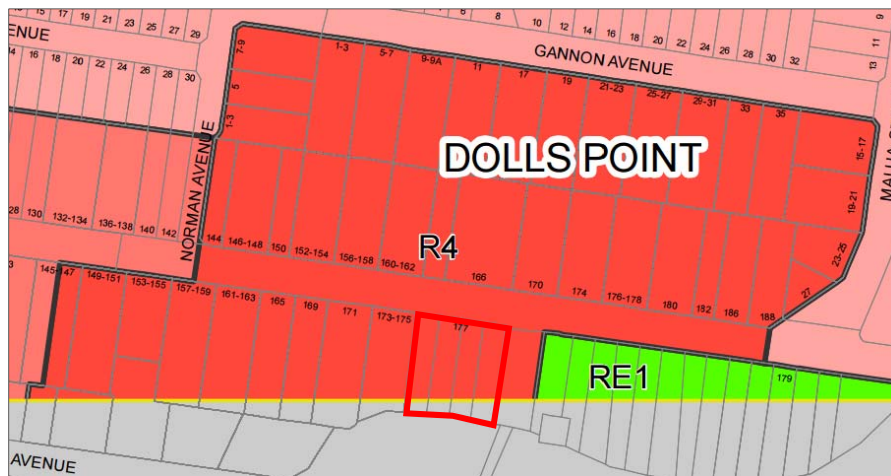
**Zone:** R4 – High Density Residential

**Height of Building:** 14.5m

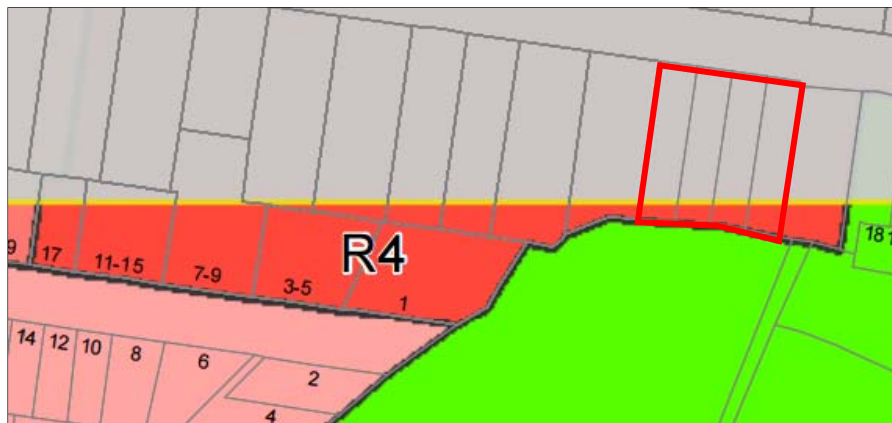
**FSR:** 1:1

The subject site is located in an R4 High Density Residential zone which extends from the subject site as far as Nos. 145-147 on the south side of Russell Avenue. On the north side of Russell Avenue, the R4 zone extends from Norman Avenue to the west of the subject site and to Malua Street to the east. Further to the north, the R4 zone extends from the front boundary of the properties on McMillan Avenue as far as the front boundary of the properties on the south side of Gannon Avenue (see **Figures 2 and 3**). Both the Height of Building (see **Figures 4 and 5**) and FSR maps (see **Figures 6 and 7**) also follow the boundary of the R4 zone for this area.

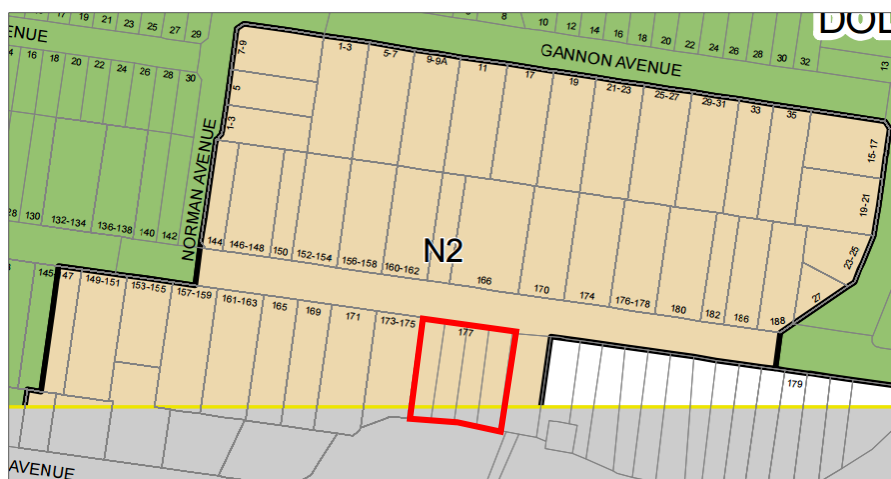
The subject site straddles two Rockdale LEP 2011 map tiles, and the relevant maps for the current planning controls are shown below with the subject site outline in red:



**Figure 2 – Current Zoning Map LZN\_005** (Source: NSW Department of Planning and Environment)

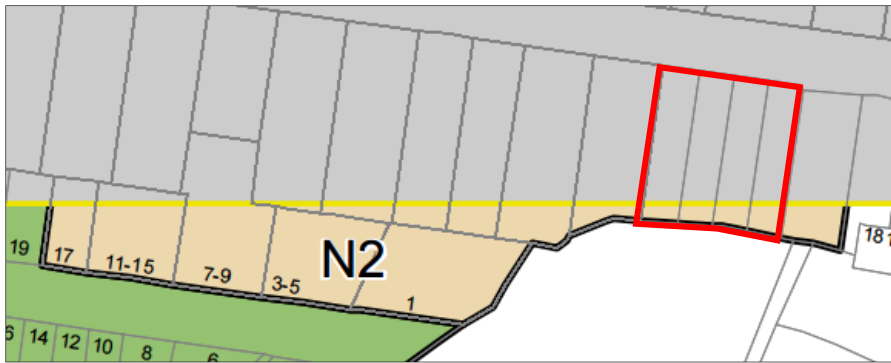


**Figure 3 – Current Zoning Map LZN\_006** (Source: NSW Department of Planning and Environment)

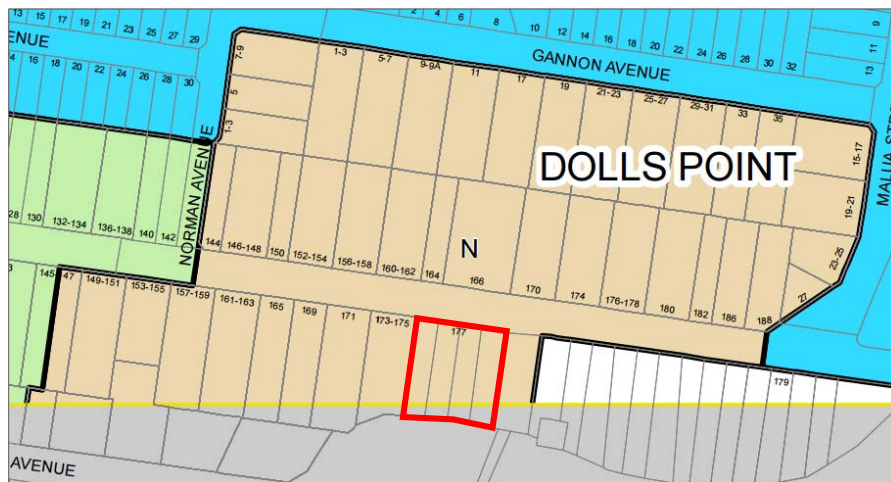


**Figure 4 – Current Height of Building Map HOB\_005** (Source: NSW Department of Planning and Environment)

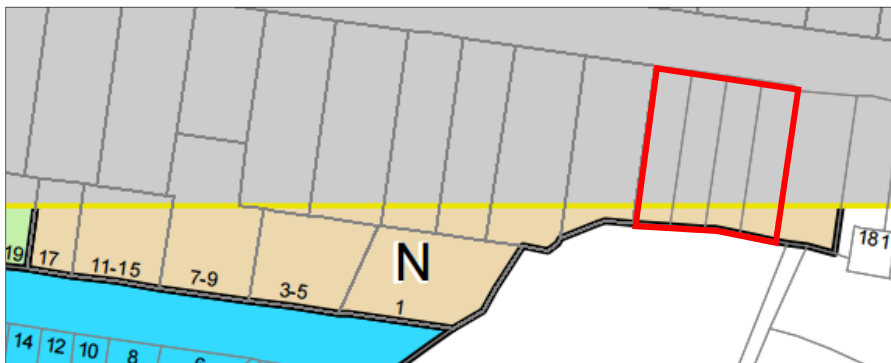




**Figure 5** – Current Height of Building Map HOB\_006 (Source: NSW Department of Planning and Environment)



**Figure 6** – Current FSR Map FSR\_005 (Source: NSW Department of Planning and Environment)



**Figure 7** – Current FSR Map FSR\_006 (Source: NSW Department of Planning and Environment)

## Strategic Context

In 'A Plan for Growing Sydney', the Department of Planning and Environment (DPE) sets out a number of goals, directions and actions which are relevant to the aims of the Planning Proposal:

- Accelerate the housing supply and local housing choices across Sydney;
- Improve housing choice to suit different needs and lifestyles;
- Creating healthy built environments;
- Protect our natural environment and biodiversity;

- Manage the impacts of development on the environment; and
- Accelerate housing supply, choice and affordability and build great places to live.

In the submitted Planning Proposal (see attached), the proponent has reflected the goals of A Plan for Growing Sydney in an appropriate and relevant manner.

The Bayside Council 'Rockdale City Community Strategic Plan, 2013-2025' also outlines four strategic community outcomes that Council aims towards during the plan period. These are:

- Outcome 1 – Rockdale is a welcoming and creative City with active, healthy and safe communities;
- Outcome 2 – Rockdale is a City with a high quality natural and built environment and valued heritage with liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond;
- Outcome 3 – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning; and
- Outcome 4 – Rockdale is a City with engaged communities, effective leadership and access to decision making.

The submitted Planning Proposal has made appropriate responses to these aims.

## **THE PLANNING PROPOSAL**

The Planning Proposal has generally been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) and all relevant Planning Proposal Guidelines published by the DPE. The Planning Proposal report has been prepared by Helm Properties and is supported by the following documentation:

- Urban Design Study prepared by *PCA Architects* dated 21 June 2016;
- Traffic and Parking Impact Assessment prepared by *McLaren Traffic Engineering & Road Safety Consultants* dated 30 June 2016;
- Arboricultural Impact Assessment Report prepared by *The Arborist Network* dated 24 June 2016;
- Acid Sulphate Soil Assessment and Preliminary Waste Classification Assessment prepared by *Environmental Investigation Service* dated 30 June 2016;
- Geotechnical Investigation prepared by *GK Geotechnics* dated 15 June;
- Flooding advice provided by *Green Arrow* dated 11 August 2016.

Copies of the Planning Proposal and supporting documents are attached to this report.

The Planning Proposal seeks to change:

- The maximum Height of Building on the subject site from 14.5m to 17.75m; and
- The maximum FSR on the site from 1:1 to 1.65:1.
  - Amend clause 1.8A to allow for the determination of a DA submitted concurrently with the Planning Proposal

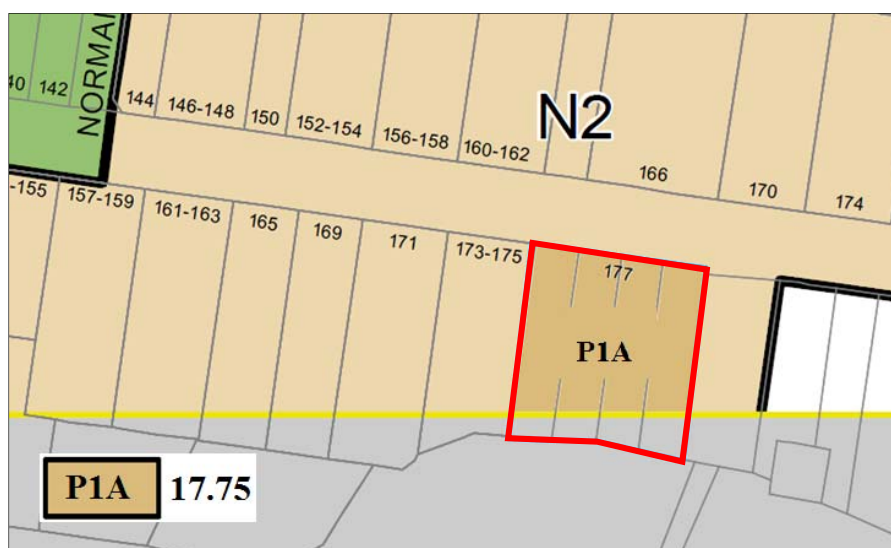
The Planning Proposal states that the proposed changes to the controls will achieve the following outcomes:

- Improved Amenity
- Improved Safety
- Address Flood Liability
- Improved Biodiversity
- Consistency with surrounding development
- Economic redevelopment
- Increase housing choice
- Not-for-profit organisation

## **ASSESSMENT OF THE PLANNING PROPOSAL**

### **Proposed Height of Building**

A Height of Building of 17.75m is being proposed as shown in the proposed Rockdale LEP 2011 maps below:



**Figure 8 – Proposed Height of Building Map 005 (Source: Proponent's Planning Proposal)**



**Figure 9** – Proposed Height of Building Map 006 (Source: Proponent's Planning Proposal)

The proposed height is 3.25m higher than the current height control of 14.5m. The proposed height is based on an analysis of the immediate surrounding area, where many of the buildings have a height greater than the 14.5m control. This includes relatively new developments such as 172-174 Russell Avenue, which has a height of 16m. The subject site is also flood affected, which requires a minimum floor level to be applied. The additional height sought will ensure that a residential development can be accommodated on the site which is similar in height to properties in the immediate surroundings. **Figures 10, 11 and 12** below illustrate the proposed building height in the context of the adjoining property to the west and the properties along Russell Avenue:

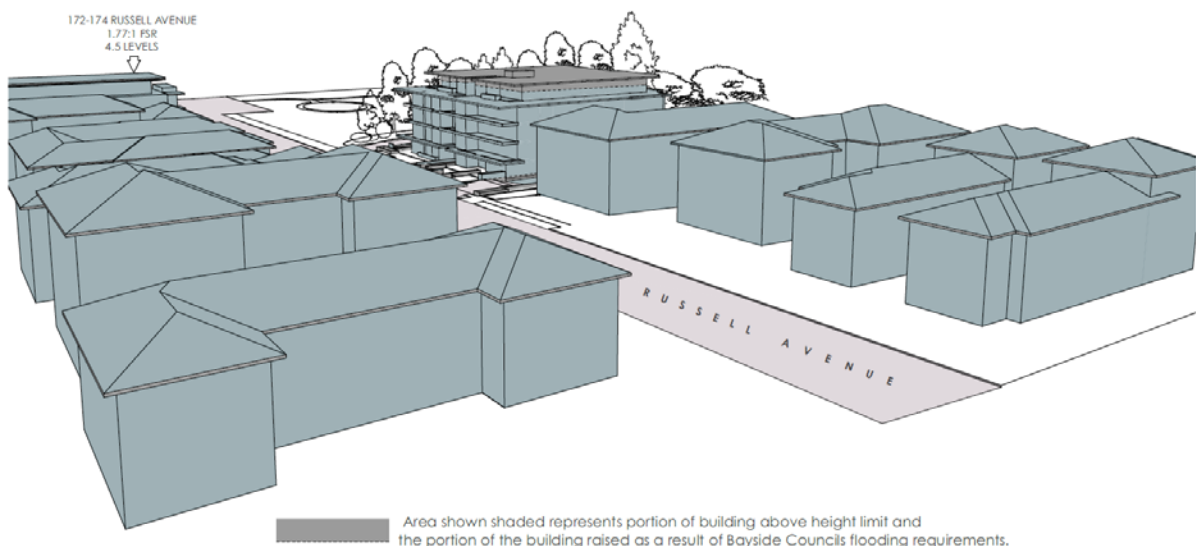


**Figure 10** – Section east-west (Source: Proponent's Planning Proposal)



**Figure 11** – Street perspective looking west (Source: Proponent's Planning Proposal)



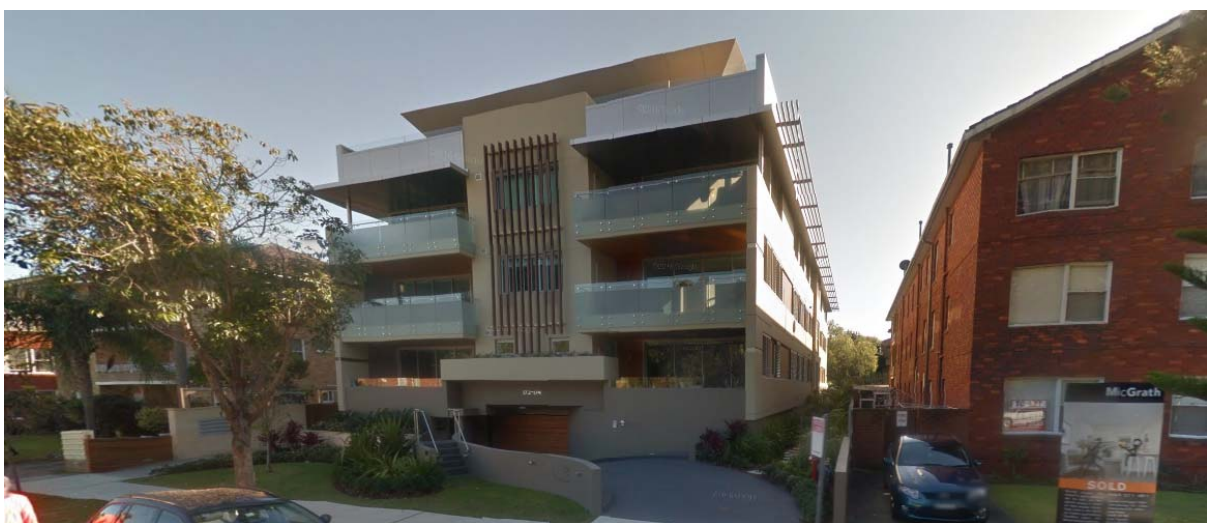


**Figure 12** – Perspective looking south-west (Source: Proponent's Planning Proposal)

A -recent example of a four-storey residential property in the area can be found at 172-174 Russell Avenue. This received development consent in 2009 and exceeded the maximum height restrictions at the time, which only permitted three-storey properties in the area. This property, shown in **Figure 13** below, is approximately 16m in height at its highest point and, while it has only four residential storeys, it has a raised ground floor starting at 3.5m AHD to facilitate car park access.

Furthermore, the subject site is the last lot on the south side of Russell Avenue in this location. As such, the proposed height would not impact on any adjacent properties to the east or south. The site also benefits from a screen of mature trees between it and the heritage-listed Cook Park/Peter Depena Reserve, which would serve to soften any additional building height in this location.

None of the trees located in Cook Park/Peter Depena Reserve (outside the boundary of the subject site) are proposed for removal as part of this Planning Proposal or any associated DA.



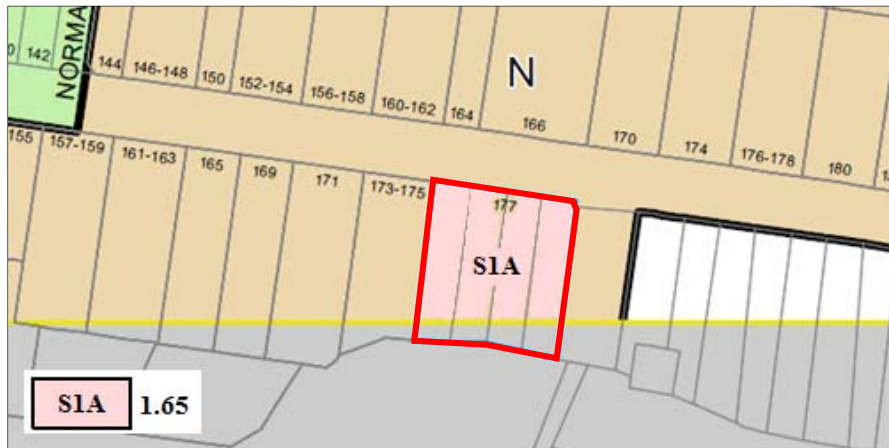
**Figure 13** – 172-174 Russell Avenue, Dolls Point

### Conclusion:

The proposed Height of Building of 17.75m is considered to be acceptable in this location. It would generally reflect the overall scale of several of the buildings in the surrounding area.

### **Proposed FSR**

A FSR of 1.65:1 is being proposed as shown in the proposed Rockdale LEP 2011 Maps below:



**Figure 14** – Proposed FSR Map 005 (Source: Proponent's Planning Proposal)



**Figure 15** – Proposed FSR Map 006 (Source: Proponent's Planning Proposal)

Many of the lots in the area contain three and four storey buildings on narrow, linear sites with the footprint of each building occupying the majority of the site area as illustrated in **Figure 1**. This has been reflected by the proponent analysis.

Although a higher FSR is being proposed, the indicative drawings show that the built form can be concentrated towards the centre of the site. This would allow a sufficient distance to be maintained between any new development and the building immediately to the west. Furthermore, it could allow for a more-comfortable relationship between the built form and the riparian corridor along Waradiel Creek immediately to the east, with a greater distance between the two possibly being achievable.

### Conclusion:

The proposed FSR is considered to be acceptable in this location. It would reflect the general high-density pattern of development in the locality and, as with the proposed Height of Building, would allow the most of efficient use of the land to be made to create the best possible financial return for the Guild.

### **Amendment of Clause 1.8A**

The Planning Proposal also seeks to amend clause 1.8A of the LEP in order to allow a DA to be assessed concurrently with the Planning Proposal and determined once the plan making process is finalised. The proponent has suggested the following additional wording to clause 1.8A:

*'To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No X) applies to the determination of a development application made (but not finally determined) before the commencement of that plan.'*

Section 72(J) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) permits the concurrent assessment of a DA and a Planning Proposal for the same site. At the time of the submission of this Planning Proposal, a Land and Environment Court decision restricted the determination of concurrently-lodged DAs to the planning controls at the time of the DA was submitted.

However, since the lodgement of this Planning Proposal, a subsequent appeal has overturned this restriction, putting into question whether an amendment to clause 1.8A is necessary.

Little guidance has also been provided from the DPE about the implications of the recent court proceedings, causing ambiguity as to the operation of clause 1.8A. As such, until the DPE provides guidance on this matter, Council is reluctant to support this amendment.

While the provisions of section 72(J) of the EP&A Act 1979 allow for the concurrent consideration of a DA associated with a pending Planning Proposal, Council's general practice in recent times has been to discourage proponents from this course of action. It is commonly thought by the proponent that, if the DA is submitted during the plan making process, this will speed up the assessment and determination of their DA.

This has rarely been the case. Past experience has shown that the finalisation of both the plan-making process and the assessment of the DA have been delayed by the concurrent submissions. These delays are a result of amendments to the Planning Proposal required by either the DPE, Council or in a recent instance, the applicant of a Planning Proposal. This would, in turn, necessitate further amendments to the DA, prolonging the assessment and determination of the DA.

### Conclusion:

The application of this clause is not supported and should be removed from the Planning Proposal prior to its submission to the DPE for Gateway determination (should Council support the Planning Proposal).

## Traffic and Vehicular Access

The proponent has provided a Traffic and Parking Impact Assessment to support the Planning Proposal. The assessment is based on the indicative concept plan also provided to support the Planning Proposal and based on a scheme of 35 units. The analysis demonstrates that, compared to the subject site's existing development, the net traffic generation would equate to one additional vehicle every 7 to 8 minutes during both am and pm peak periods.

The proponent has provided a brief analysis of the local road and bus network. This analysis shows that the subject site is well served by and accessible to the existing road network, with the Grand Parade located approximately 500 metres to the north.

Several bus stops are located in the vicinity of the subject site, including a bus stop located directly along the site's Russell Avenue frontage (see **Figure 16**). These bus stops provide services to the surrounding commercial and retail centres of Miranda, Hurstville, Rockdale and the Sydney CBD.



**Figure 16 – Road and transport analysis (Source: Proponent's Planning Proposal)**

The suggested positioning of the vehicular access would see the vehicular access move from midway along the frontage of the site to the western boundary of the site, which in principle would be acceptable. Although this would need to be subject to satisfactory details being submitted as part of a development application, the generous 48m frontage should provide ample flexibility in the final positioning of the vehicular access.

Based on this information, the increase in traffic is considered to be acceptable and is unlikely to significantly increase traffic congestion in the immediate area. Regardless a more detailed analysis would be expected as part of the DA process.

## Conclusion:

The future development facilitated by the Planning Proposal is unlikely to have any significant impact on traffic generation in the local area, is capable of achieving compliance with Council's DCP and will have no adverse traffic or parking impact on the surrounding road network.

## Environmental Considerations

There are a number of environmental considerations that have been raised as a result of this Planning Proposal, including:

### **Trees**

The proponent has submitted an Arboricultural Impact Assessment Report which states that:

- In order to accommodate the indicative concept plan, seven trees will require removal, including two *Magnolia grandifloras*;
- The *Magnolia grandifloras* will be propagated, with the propagated trees being incorporated into the overall landscape design for the property;
- All of the trees requiring removal have a low retention value; and
- The removal of the trees will be more than offset by the landscaping, riparian rehabilitation and improvements to the Peter Depena Reserve.

Council's Tree Management Officer has been consulted and concludes that the submitted Arboricultural Impact Assessment Report is a fair assessment of the site trees and the likely impacts. Although it is considered that the two *Magnolia* trees are significant specimens which date from well prior to 1965, the Officer concludes that their structure has been somewhat compromised by heavy pruning on several occasions and compensation can be provided with appropriate landscaping. There is no objection raised to the removal of these trees.

The Tree Management Officer also commented that the English Oak located at the rear of the site, based on the information provided in the report, can be safely retained, and it is expected that all attempts would be made to retain this tree in any future redevelopment of the site.

### Conclusion:

Although the Planning Proposal would facilitate a development which will likely necessitate the removal of some trees, any new development facilitated by the Planning Proposal is also capable of securing a comprehensive landscaping and tree-planting scheme which will make a substantial improvement to the appearance of the site.

### **Flooding**

The site is affected by the 1% Annual Exceedance Probability (AEP) flood and requires a minimum Habitable Floor Level (HFL) of 2.50m AHD with any new development. The proponent states that the existing residential development currently located on the site does not comply with the latest flooding guidelines and policies, whereas the indicative development scheme submitted in support of the Planning Proposal demonstrates that a well-designed building free of flood risk can be accommodated on the land.

Prior to submission of the Planning Proposal, the proponent consulted with Council on flooding matters. The information provided included confirmation of the AEP and HFL referred to above. Council also reviewed the Geotechnical Investigation submitted with the Planning Proposal. No further comments were made that are relevant to the Planning Proposal.

### Conclusion:

The proponent has demonstrated that a higher-density residential development, in compliance with Council's standards, can safely be accommodated on the site. Detailed compliance would need to be demonstrated at the DA stage, including the submission of a Flood Management Plan.

### ***Biodiversity***

In the submitted Planning Proposal, the proponent has acknowledged the potential to respond to the subject site's location adjacent to the riparian corridor along Waradiel Creek. The Planning Proposal also recognises the opportunity this presents to enhance the functionality and quality of the natural environment along the interface between the creek and the subject site, and that this should be informed by further discussion with Council.

Council has provided comments on the Planning Proposal and confirms that the NSW Office of Water should be consulted on any development application to gauge any requirements in relation to the adjacent riparian corridor along Waradiel Creek.

The comments also set out additional matters which should be considered at the development application stage including investigating the presence of any threatened or migratory species in the area and an assessment of any relevant construction and post construction impact on these species.

Any upgrade to the landscaping of the park land proposed would need to be developed in consultation with Council, as would any opportunity identified by the proponent to relocate the gross pollutant trap (or any other pollution control changes) in Waradiel Creek.

### Conclusion:

Any development facilitated by the Planning Proposal would clearly need to have careful regard to the biodiversity interests in the area. The indicative scheme submitted in support of the Planning Proposal demonstrates that a higher-density development can be accommodated on the site with the built form located further away from the riparian corridor, although this would need to be carefully examined at the development application stage.

### ***Contamination and Geotechnical***

An Acid Sulfate Soil Assessment and Preliminary Waste Classification Assessment, and a Geotechnical Investigation, have been submitted in support of the planning Proposal. Council has reviewed the reports and concludes that the recommendations therein, including the Acid Sulphate Soils Management Plan, are satisfactory.

Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about the site shall be notified to Council.

### **ADEQUACY OF THE PLANNING PROPOSAL AND SUPPORTING INFORMATION FOR EXHIBITION PURPOSES**

The DPE's guidelines state that Councils are responsible for the content of Planning Proposals. In this regard, the Planning Proposal is considered to be consistent with the DPE's guidelines. The supporting information is also considered to be satisfactory for the purposes of this Planning Proposal.



## **VOLUNTARY PLANNING AGREEMENT**

Throughout discussions with the proponent about the planning proposal, the issue of providing a contribution to works of a public benefit has been raised but not formalised through a Voluntary Planning Agreement. Issues raised for consideration have included improvements to Waradiel Creek and its riparian zone, as well as park improvements.

It is recommended that Council officers continue to negotiate with the proponent about the details of works of a public benefit with the aim of having a draft Voluntary Planning Agreement prepared for public exhibition along with the Planning Proposal once it has been issued with a Gateway Determination.

## **CONCLUSION**

The Planning Proposal seeks to achieve a strategic planning outcome that will facilitate higher density living opportunities consistent with the surrounding development character. The proposed increases in height and FSR are proposed for an area where the predominant scale and mass of development is reflective of that being sought in the Planning Proposal.

The proposed development standards would facilitate a residential apartment building which would make the most effective and efficient re-use of an existing residential site. It would also allow the War Widows' Guild of Australia to achieve the best possible return on this site for reinvestment into the support services it can provide elsewhere.

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## **Financial Implications**

Not applicable

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## **Community Engagement**

Should the Planning Proposal proceed through the Gateway determination stage, the Planning Proposal and proposed amendments to the Rockdale LEP 2011 will be subject to community consultation in accordance with Sections 56 (2)(c) and 57 of the Environmental Planning and Assessment Act 1979.

The specific requirements for community consultation will be listed in the Gateway determination, including any Government agencies that are to be consulted in relation to the Planning Proposal.

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## **Attachments**

- 1 Proponent's Planning Proposal.  
(TRIM Ref: (R) 16/130944)
- 2 Urban Design Study prepared by PCA Architects dated 21 June 2016;  
(TRIM Ref: (R) 16/128121).
- 3 Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering & Road Safety Consultants dated 30 June 2016.  
(TRIM Ref: (R) 16/128113)

- 4 Arboricultural Impact Assessment Report prepared by The Arborist Network dated 24 June 2016.  
(TRIM Ref: (R) 16/128115)
- 5 Acid Sulphate Soil Assessment and Preliminary Waste Classification Assessment prepared by Environmental Investigation Service dated 30 June 2016.  
(TRIM Ref: (R) 16/128116)
- 6 Geotechnical Investigation prepared by GK Geotechnics dated 15 June.  
(TRIM Ref: (R) 16/128116)
- 7 Flooding advice provided by Green Arrow dated 11 August 2016.  
(TRIM Ref: (R) 16/128120)



# **Planning Proposal**

**Rockdale Local Environmental Plan 2011**  
**177 Russell Avenue, Dolls Point**

August 2016

**Bayside Council**  
Serving Our Community

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- Part 1 -** A statement of the Objectives or Intended Outcomes of the proposed LEP
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### Table of revisions

[05/07/2016]	Draft
[19/08/2016]	Final

## Introduction

This Planning Proposal explains the intended effect of, and justification, for the proposed amendment to *Rockdale Local Environmental Plan (LEP) 2011*. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the relevant Department of Planning and Environment guides, including 'A Guide to Preparing Local Environment Plans' and 'A Guide to Preparing Planning Proposals'.

This Planning Proposal relates to land located at 177 Russell Avenue, Dolls Point which is legally described as Lot 80 DP 2237, Lot 81 DP 2237, Lot 82 DP 2237 and Lot 83 DP 2237.

The site, as outlined in the figure below, is located in a unique and high amenity location, as it shares a common boundary with the Peter Depena Reserve to the south and Waradiel Creek to the east. The predominate built form surrounding the site, specifically to the west, are older style high density residential flat buildings and Russell Avenue to the north.



Figure 1: Aerial of the site, subject site highlighted in blue

The subject Planning Proposal proposes the following amendments to the Rockdale Local Environmental Plan (RLEP) 2011:

- **Height of Building:** amendment of the maximum building height from 14.5 metres to 17.75 metres; and
- **Floor Space Ratio:** amendment of the floor space ratio from 1:1 to 1.65:1

An additional amendment is also proposed to Clause 1.8A of the RLEP, in order to allow a Development Application to be assessed concurrently with the Planning Proposal. This is expressly permitted by s72J of the Environmental Planning and Assessment Act 1979.

These controls will allow for a development on the site of up to 5 storeys (including sufficient height to accommodate the lift overrun) with approximately 36 dwellings.

The proposed controls will achieve the following outcomes:

- **Improved Amenity:** The Planning Proposal is able to improve the amenity and presentation of the streetscape. The indicative concept which accompanies this proposal, includes increased setbacks, a visually interesting built form, and provides articulation. The built form has been orientated to overcome existing privacy constraints on any neighbouring dwellings and activates Russell Avenue and Peter Depena Reserve. Subject to discussions with

Council, the development also has the potential to improve the quality of neighbouring public spaces such as the adjacent riparian corridor and the Peter Depena Reserve. This could include undertaking revegetation works in accordance with the specifications of Council (and other relevant agencies);

- **Improved Safety:** The redevelopment will improve safety by separating vehicular and pedestrian access. The built form will also be orientated to provide passive surveillance to the adjacent park and creek;
- **Address Flood Liability:** The redevelopment will allow for the existing flood liable built form to be redeveloped in accordance with the latest flooding guidelines;
- **Improved Biodiversity:** Subject to further discussions with Council and other State agencies, there is an opportunity for any redevelopment to include the revegetation of the riparian zone of Waradiel Creek and the area of the park directly adjacent to the site. This could include, where appropriate, improved public, pedestrian and cycle access along the creek to the park via an easement across the site;
- **Consistency with surrounding development:** many of the neighbouring buildings were constructed prior to the gazettal of the RLEP, when no FSR was applicable. As a result, many of the buildings exceed Council's current FSR control. This is specifically the case for more recent and nearby residential flat buildings of 174 Russell Avenue and 27 Malua Street, which have FSRs of 1.77:1 and 1.23:1 respectively. This Planning Proposal, therefore allows development which is consistent with the established pattern of development surrounding the site;
- **Economic redevelopment:** as a result of the flood level and ground conditions including a relatively shallow ground water table, redevelopment costs are higher than usual. The Planning Proposal balances yield with development costs to make redevelopment economically feasible while maintaining a built form that is appropriate in its context;
- **Increase housing choice:** the proposal will enable the provision of well-designed high quality apartments, well suited to households wanting to downsize, while remaining in the locality; and
- **Not-for-profit Organisation:** The War Widows' Guild of Australia NSW Ltd (the Guild) owns the subject site. The proposal will ensure the site can be redeveloped in an economically feasible manner to the benefit of the Guild, thereby increasing their ability to provide essential support services for the changing needs of its ageing member base.

This Planning Proposal is accompanied by reports and concept plans prepared by specialist consultants. These studies have confirmed the capability and appropriateness of the proposal and have not identified any constraints which will result in any detrimental amenity impacts to the surrounding community.

## Part 1 - Objectives or Intended Outcomes

The objective of the Planning Proposal is to amend *Rockdale LEP 2011* to:

- Encourage and facilitate efficient and logical urban renewal development in a high amenity location;
- Allow for the economic use of land as a development site which is not feasible under the current controls;
- Facilitate redevelopment of a site in a highly contextual manner with negligible external environmental or amenity impacts;
- Replace older poorly designed housing with well-designed housing enjoying high levels of amenity;
- Provide a mix and design of apartments not presently available in the market in this locality. This will provide an opportunity for local residents to downsize from their family homes enabling people to age in place in their new apartment home. Providing opportunities for people to move from their homes will ultimately increase the housing supply for younger families to enter into the housing market and continue residing within the LGA;
- Benefit a not-for-profit organisation to enhance the provision of support services to an ageing member base with increasing needs;
- Facilitate the economic redevelopment of an existing flood liable built form;
- Provide additional public benefits including the rehabilitation of the adjacent riparian corridor, other initiatives to improve water quality and improved public access to the adjacent park;
- Allow for a Development Application to be lodged, but not finally determined, before the planning proposal is made; and
- Protect and enhance the existing surrounding environment by proposing an appropriate building height, density and envelope that will result in minimal to no adverse impacts to neighbouring buildings or the surrounding natural environment.

## Part 2 - Explanation of Provisions

### A Map

The *Rockdale LEP 2011* Maps are proposed to be amended as per Table 1 below.

**Table 1** – Proposed Map Amendments

Map Tile No.	Amendment	Explanation
Floor Space Ratio Map – Sheet FSR 005 and 006	<ul style="list-style-type: none"> <li>Change FSR standard from 1:1 metres to 1.65:1 metres.</li> </ul>	The proposed amendments encourage the redevelopment of older housing stock for a 5 storey residential flat building in a suitable location, in close proximity to existing infrastructure and amenity.
Height of Buildings Map – Sheet HOB 005 and 006	<ul style="list-style-type: none"> <li>Change the maximum building height from 14.5 metres to 17.75 metres.</li> </ul>	

### B Clause 1.8A Savings provision relating to development applications

In order to allow a Development Application to be assessed concurrently with the Planning Proposal, as expressly permitted by s72(J) of the Environmental Planning and Assessment Act 1979, an amendment to Clause 1.8A, is also proposed.

Example wording has been provided below (changes highlighted in red).

#### 1.8A Savings provision relating to development applications

(1) If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

**Note.** However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

(2) To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No 12) applies to the determination of a development application made (but not finally determined) before the commencement of that Plan.

(3) To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No x) applies to the determination of a development application made (but not finally determined) before the commencement of that Plan.

## Part 3 - Justification

### A Need for the planning proposal

#### A1 Is the planning proposal a result of any strategic study or report?

This Planning Proposal directly supports and implements the priorities of 'A Plan for Growing Sydney' (APfGS) by encouraging the redevelopment of older housing stock in a strategic location.

Under APfGS, the Rockdale LGA is located within the South District. The district plans are scheduled to be released in November 2016 and are expected to comprise of revised housing and job targets, to reflect the growing population of Sydney.

It is not known specifically what these new targets will be, however it is our understanding that they will increase substantially in order to accommodate the expected population projections forecast for this LGA and district.

A summary of the Department of Planning and Environment's population projections for the Rockdale LGA are summarised in the table below.

This table indicates that the Rockdale LGA, in 2011, had a population of approximately 103,500 people. This is expected to increase to a total of 134,350 people by 2031, an increase of 30,850 additional people.

Table 2: Population Projections

	2011	2016	2021	2026	2031	Increase (2011 to 2031)
Rockdale	103,500	113,400	120,900	127,550	134,350	30,850

Source: Department of Planning and Environment

As outlined in the table below, in order to accommodate DP&E's population projections, an average of 13,500 dwellings would be required to be constructed over a 20-year period (or 675 per year).

Table 3: Dwelling Projections

	2011	2016	2021	2026	2031	Increase (2011 to 2031)
Rockdale	41,550	45,800	49,000	51,900	55,050	13,500

Source: Department of Planning and Environment

The table below summarises the dwelling approvals for the Rockdale LGA. There has been a significant increase in the number of dwellings being approved within the LGA, especially over the last three-year period. On average 748 dwellings were approved, per year, over the 6-year period.

Table 4: Dwelling Approvals

	09-10	10-11	11-12	12-13	14-15	15-16	Average
Rockdale	612	579	403	867	1,655	374*	748

\*Up until December 2015

Source: Department of Planning and Environment

DPE's Metropolitan Development Program monitors development completions for all LGAs with the Sydney Metropolitan Area.

The table below summaries the dwelling completions for the Rockdale LGA. From this table, the average number of dwellings constructed per year, between 2009/10 and 2015/16, is 365 dwellings.

Table 5: Dwelling Completions

	09-10	10-11	11-12	12-13	14-15	15-16	Average
Rockdale	135	55	519	500	370	610*	365

\*Up until December 2015

Source: Department of Planning and Environment

Assuming these trends continue, notwithstanding approvals, the reduced completion levels suggest that, the Rockdale LGA will not be able to accommodate the demand for dwellings generated by the population growth. In order for the LGA to meet population growth, it will require an increase in dwelling completions. Specifically, this includes an additional 310 dwelling completions per year.

It is evident there is no direct correlation between development approvals and dwelling completions. The construction of dwellings is highly reliant on market conditions. With the current economic climate slowing down and potentially declining, there will be an increase in cases where development approvals will not result in completion.

This Planning Proposal is capable of assisting the LGA in accommodating additional dwellings by providing approximately 36 apartments.

## **A2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

This Planning Proposal is the most transparent means of achieving the desired outcomes to facilitate the economic redevelopment of the land with a well-designed residential flat building that responds to its immediate and surrounding context and provides an improved planning outcome.

Although the proposal could be considered by way of a clause 4.6 (Exceptions to development standards) request, this means is not preferred by Council.



## B Relationship to strategic planning framework

### B1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

‘A Plan for Growing Sydney’ (the Sydney metropolitan strategy) was released in December 2014 and is the NSW Government’s 20-year plan for the Sydney Metropolitan Area. It provides direction for Sydney’s productivity, environmental management, and livability; and for the location of housing, employment, infrastructure and open space.

Consistency with ‘A Plan for Growing Sydney’ is outlined in the below table.

Table 6 – Consistency with ‘A Plan for Growing Sydney’

Direction	Response
<b>Goal 2: A city of housing choice, with homes that meet our needs and lifestyles</b>	
Direction 2.1: Accelerate housing supply across Sydney	The proposed development is capable of immediately providing an increase in the supply and housing choice in a high amenity location. A total of approximately 36 apartments can be provided from this redevelopment.
Direction 2.2: Accelerate urban renewal across Sydney - providing homes closer to jobs	The site is well positioned to accommodate urban renewal development.  The location is highly accessible to existing bus infrastructure, providing services to employment and retail centres such as Hurstville, Rockdale and the Sydney CBD.
Direction 2.3: Improve housing choice to suit different needs and lifestyles	The proposed development is capable of providing housing choice which will respond to the needs of the local community, and provide a mix of dwelling types to provide ageing in place. It will also consist of adaptable and accessible housing as well as housing for first home buyers, young families and the downsizing elderly.
<b>Goal 3: A great place to live with communities that are strong, healthy and well connected</b>	
Direction 3.1: Revitalise existing suburbs	The existing buildings on the subject site presently consist of ageing residential buildings, which do not present an efficient built form outcome for the site.  This Planning Proposal will improve the amenity and presentation of the streetscape by providing a high quality built form.  The redevelopment is capable of appropriately responding to its surrounding context by providing adequate setbacks from environmentally sensitive areas such as the neighbouring creek and park, and importantly significantly improving the setbacks that currently exist.

Direction 3.3: Create healthy built environments	<p>The site is highly accessible to existing infrastructure and open space facilities.</p> <p>The Planning Proposal will improve the overall amenity of the area and will provide opportunities for people to walk and cycle which promotes social cohesion and community connectivity. Overall the proposal supports strong, healthy and well connected communities.</p>
<b>South Subregion</b>	
Accelerate housing supply, choice and affordability and build great places to live	<p>The proposed development is capable of immediately providing an increase in the supply and housing choice in a high amenity location, which will provide opportunities for local residents to remain within their community. It will provide an improved built form outcome for the site, whilst improving the presentation of the surrounding streetscape, which will provide opportunities for local residents to remain within their community.</p>

**B2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

**Rockdale City Community Strategic Plan**

Council's Vision is: One Community, Many Cultures, Endless Opportunity. The blueprint for the Rockdale community for 2025 is to be achieved through strategic community outcomes:

- **Outcome 1** – Rockdale is a welcoming and creative City with active, healthy and safe communities.
- **Outcome 2** – Rockdale is a City with a high quality natural and built environment and valued heritage in liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond.
- **Outcome 3** – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning.
- **Outcome 4** – Rockdale is a City with engaged communities, effective leadership and access to decision making.

Table 7 below identifies how the Planning Proposal is consistent with the community outcomes.

**Table 7 – Consistency with Rockdale City Community Strategic Plan**

Outcome	Objective	Strategy	Consistency
1	1.1 Our community's health and wellbeing will increase	1.1.3 Build a healthy community with people of all ages and abilities	The site is within walking distance of bus services and leisure facilities. The redevelopment will provide opportunities for people to walk and cycle which promotes social cohesion and community connectivity. Overall the proposal supports strong, healthy and well connected communities.
2	2.1 Our City protects and enhances our natural environment including our beaches, waterways, bushland and foreshore areas	2.1.1 Protect, preserve and promote the City's natural resources	The redevelopment is capable of responding to the site's surrounding context, in particular the adjacent park and creek. Any redevelopment could include suitable setbacks and revegetation opportunities, which could improve the quality of the surrounding environment.
2	2.2 Our City has a well managed and sustainable built environment, quality and diverse development with effective housing choice in liveable neighbourhoods	2.2.1 Ensure planning enables the provision of quality affordable housing	The redevelopment is capable of providing additional housing which will assist the LGA in satisfying the demand for additional dwellings.
2		2.2.2 Promote high quality, well designed and sustainable development and places that enhances the City	The Planning Proposal is capable of facilitating an urban renewal development improving the presentation of the streetscape, replacing ageing and poorly designed housing stock with a high quality residential development.

**B3 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

Consistency with the State Environmental Planning Policies is provided in Table 8, below.

Provide additional public benefits including the rehabilitation of the adjacent riparian corridor, other initiatives to improve water quality and improved public access to the adjacent park

**Table 8 - Consistency with State Environmental Planning Policies**

No.	Title	Consistency with Planning Proposal
1	Development Standards	(Repealed by <i>RLEP 2011</i> )
14	Coastal Wetlands	Not Applicable
15	Rural Landsharing Communities	Repealed
19	Bushland in Urban Areas	Not Applicable

21	Caravan Parks	Not Applicable
22	Shops and Commercial Premises	Not Applicable
26	Littoral Rainforests	Not Applicable
29	Western Sydney Recreation Area	Repealed
30	Intensive Aquaculture	Not Applicable
32	Urban Consolidation (Redevelopment of Urban Land)	Repealed
33	Hazardous and Offensive Development	Not Applicable
36	Manufactured Home Estates	Not Applicable
39	Spit Island Bird Habitat	Repealed
44	Koala Habitat Protection	Not Applicable
47	Moore Park Showground	Not Applicable
50	Canal Estate Development	Not Applicable
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Not Applicable
55	Remediation of Land	Consistent – refer to Section C2.
59	Central Western Sydney Regional Open Space and Residential	Repealed
60	Exempt and Complying Development	(Repealed by <i>RLEP 2011</i> )
62	Sustainable Aquaculture	Not Applicable
64	Advertising and Signage	Not Applicable
65	Design Quality of Residential Flat Development	The Planning Proposal will create the development control framework within which future development can achieve consistency with the SEPP. The indicative concept plans which accompany this proposal demonstrates an appropriate concept built form on the site. Any future DA to be submitted to Council for this site will demonstrate detailed compliance with the requirements of this SEPP.
70	Affordable Housing (Revised Schemes)	Not Applicable
71	Coastal Protection	Not Applicable
	(Affordable Rental Housing) 2009	Not Applicable
	(Building Sustainability Index: BASIX) 2004	The PP will not contain provisions that will contradict or would hinder application of this SEPP. Compliance would be demonstrated under any subsequent application.
	(Exempt and Complying Development Codes) 2008	Not Applicable
	(Housing for Seniors or People with a Disability) 2004	Not Applicable
	(Infrastructure) 2007	Not Applicable
	(Kosciuszko National park Alpine Resorts) 2007	Not Applicable
	(Kurnell Peninsula) 1989	Not Applicable
	(Major Development) 2005	Not Applicable
	(Mining, Petroleum Production and Extractive Industries) 2007	Not Applicable
	(Miscellaneous Consent Provisions) 2007	Not Applicable
	(Penrith Lakes Scheme) 1989	Not Applicable
	(Rural Lands) 2008	Not Applicable
	(SEPP 53 Transitional Provisions) 2011	Not Applicable
	(State and Regional Development) 2011	Not Applicable
	(Sydney Drinking Water Catchment) 2011	Not Applicable
	(Sydney Region Growth Centres) 2006	Not Applicable

	(Three Ports) 2013	Not Applicable
	(Urban Renewal) 2010	Not Applicable
	(Western Sydney Employment Area) 2009	Not Applicable
	(Western Sydney Parklands) 2009	Not Applicable

See Table 9 below which reviews the consistency with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

**Table 9** - Consistency with deemed State Environmental Planning Policies

No.	Title	Consistency with Planning Proposal
8	(Central Coast Plateau Areas)	Not Applicable
9	Extractive Industry (No.2 – 1995)	Not Applicable
16	Walsh Bay	Not Applicable
18	Public Transport Corridors	Repealed
19	Rouse Hill Development Area	Repealed
20	Hawkesbury-Nepean River (No.2 – 1997)	Not Applicable
24	Homebush Bay Area	Not Applicable
26	City West	Not Applicable
30	St Marys	Not Applicable
33	Cooks Cove	Not Applicable
	(Sydney Harbour Catchment) 2005	Not Applicable

**B4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

See Table 10 below which reviews the consistency with the Ministerial Directions for LEPs under section 117 of the *Environmental Planning and Assessment Act 1979*.

**Table 10** - Consistency with applicable Ministerial Directions

**1. Employment and Resources**

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	Not Applicable
1.2	Rural Zones	Not Applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not Applicable
1.4	Oyster Aquaculture	Not Applicable
1.5	Rural Lands	Not Applicable

**2. Environment and Heritage**

No.	Title	Consistency with Planning Proposal
2.1	Environmental Protection Zones	Not Applicable
2.2	Coastal Protection	Not Applicable
2.3	Heritage Conservation	No heritage items are located on the site. A heritage item is however located adjacent to the site. Refer to Section C2.
2.4	Recreation Vehicle Areas	Not Applicable

**3. Housing, Infrastructure and Urban Development**

No.	Title	Consistency with Planning Proposal
3.1	Residential Zones	The proposal encourages a variety and choice of housing types, not currently available in the locality, which will provide for existing and future housing needs, whilst making efficient use of existing infrastructure and facilities. The proposal demonstrates appropriate built form whilst minimising the impact on the environment.
3.2	Caravan Parks and Manufactured	Not Applicable

	Home Estates	
3.3	Home Occupations	Not Applicable
3.4	Integrating land use and Transport	Not Applicable
3.5	Development near Licensed Aerodromes	Not Applicable
3.6	Shooting ranges	Not Applicable

#### 4. Hazard and Risk

No.	Title	Consistency with Planning Proposal
4.1	Acid Sulfate Soils	Consistent – refer to Section C2.
4.2	Mine Subsidence and Unstable Land	Not Applicable
4.3	Flood Prone Land	Existing residential development is currently located on the site. It is our understanding that this development does not comply with the latest flooding guidelines and policies. Any redevelopment is therefore capable of providing a complying built form, ensuring the safety of the site's occupants.
4.4	Planning for Bushfire Protection	Not Applicable

#### 5. Regional Planning

No.	Title	Consistency with Planning Proposal
5.1	Implementation of Regional Strategies	Not Applicable
5.2	Sydney Drinking Water Catchments	Not Applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
5.5	Development on the vicinity of Ellalong...	Not Applicable
5.6	Sydney to Canberra Corridor	Not Applicable
5.7	Central Coast	Not Applicable
5.8	Second Sydney Airport: Badgerys Creek	Not Applicable

#### 6. Local Plan Making

No.	Title	Consistency with Planning Proposal
6.1	Approval and Referral Requirements	Not Applicable
6.2	Reserving land for Public Purposes	Not Applicable
6.3	Site Specific Provisions	This Planning Proposal does not propose any site specific development controls. It does however propose a site specific savings provision to ensure a development application can be assessed concurrently with this Planning Proposal.

#### 7. Metropolitan Planning

No.	Title	Consistency with Planning Proposal
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Yes. The Planning Proposal is consistent with the new Metropolitan Plan for Sydney, as detailed in Part B1.

## **C Environmental, social and economic impact**

### **C1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The site is located within an existing urban environment and does not apply to land that has been identified as containing critical habitat or threatened species, population or ecological communities, or their habitats

### **C2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

In order to determine the suitability of the site for the subject development, the Planning Proposal is supported by the following studies and assessments:

#### **Geotechnical**

A Geotechnical Investigation has been prepared by JK Geotechnics and provided at Appendix 4.

The report outlines a series of recommendations in regards to several matters for consideration including groundwater, which will be implemented during the detailed design phase of the development.

It should be noted, however, that consultation with the NSW Office of Water has already commenced and details regarding groundwater management will be included with the development application.

#### **Flooding**

As indicated in the RLEP, the site is located within a 'flood planning area'. This is confirmed in the Flood Advice Letter from Rockdale City Council at Appendix 7, which indicates that the site is affected by the 1% Annual Exceedance Probability Flood and that a Minimum Habitable Floor Level of 2.50m AHD is required with any new development.

Existing residential development is currently located on the site. It is our understanding that the existing development does not comply with the latest flooding guidelines and policies.

The indicative development scheme has been designed to the flood planning level provided by Rockdale City Council and demonstrates that a well-designed building can be accommodated on the land free of flood risk.

This is confirmed in the Letter prepared by hydraulic engineers Green Arrow, provided at Appendix 8.

Detailed compliance will be demonstrated at development application stage.

#### **Contamination**

An Acid Sulfate Soil Assessment and Preliminary Waste Classification Assessment has been prepared by Environmental Investigation Service and provided at Appendix 5.

The assessment outlines the following materials were found on site:

- Fill material over the majority of the site has been classified as "general solid waste" and could be transported to landfill or reused on the site for geotechnical and earthwork requirements;

- Sandstone bedrock has been classified as “virgin excavated natural material” and is considered suitable for reuse on the site or any other site. Alternatively, the material can be disposed; and
- Natural sands after lime treatment has been classified as “general solid waste containing treated acid sulfate soils and can either be reused on the site or disposed.

A review of the RLEP indicates that the site is classified as Acid Suldate Soils category ‘Class 3’.

As outlined in the Assessment, an acid sulfate soil management plan is required.

A site specific management plan has been provided at Appendix 5.

### Shadowing

As this Planning Proposal proposes to increase the permissible building height from 14.5 metres to a maximum of 17.75 metres, a shadow analysis has been prepared and provided at Appendix 1.

The figure below outlines that the site’s existing buildings generate shadowing to the neighbouring park and creek.

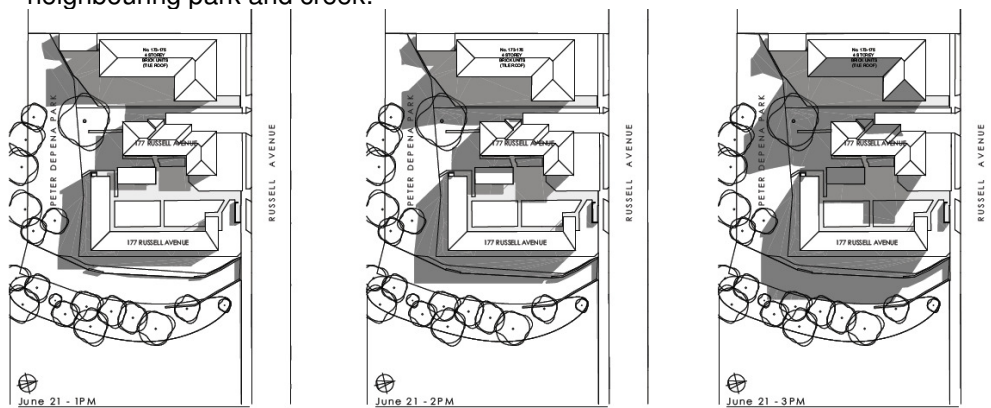


Figure 2: Potential shadowing – existing buildings (Winter)

As outlined in the figure below, this is similarly the case for the proposed development, with minimal shadowing generated along the site’s park and creek frontage.

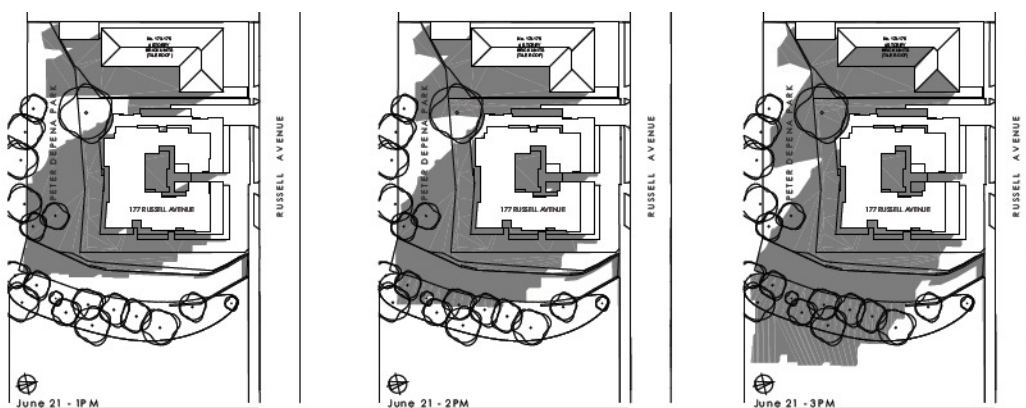


Figure 3: Potential shadowing - proposed height limit (Winter) – shadow cast by existing trees not shown

The elevational shadow diagram (below) shows that with the exception of a garage door at 9am, the proposed development does not over shadow the neighbouring property to the west between 9am-3pm on the winter solstice.



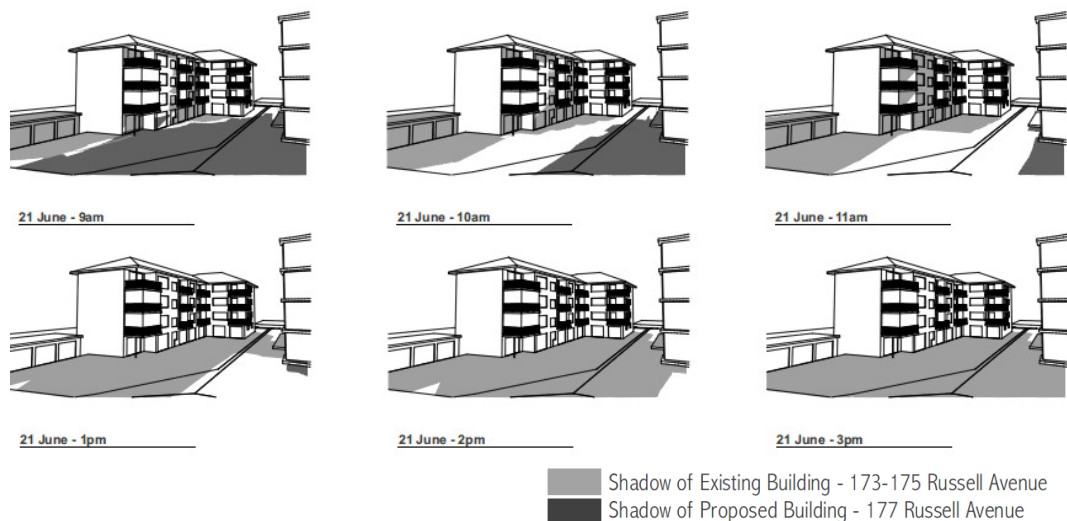


Figure 4: Potential shadowing – existing buildings vs proposed height (Winter) – shadow cast by existing trees not shown

Due to an increase in side and rear setbacks and the beneficial location and orientation of the site, as illustrated in the above figures, the proposal creates no overshadowing of any habitable space in the adjacent dwellings and generates only minimal additional shadowing on the surrounding environment.

#### Arborist

An Arboricultural Impact Assessment Report has been prepared by The Arborist Network and provided at Appendix 3.

In order to accommodate the indicative concept plan, 7 trees will require removal, including two *Magnolia grandifloras*.

The *Magnolia grandifloras* will be propagated, with the propagated trees being incorporated into the overall landscape design for the property.

As outlined in the assessment report, all of the trees requiring removal have a low retention value.

The assessment also incorporates a Tree Protection Plan with recommendations for the development. These recommendations will be implemented at construction stage to ensure that the trees that are being retained will not be significantly impacted by the proposed works.

The removal of the trees will be more than offset by the landscaping, riparian rehabilitation and improvements to the Peter Depena Reserve.

#### Traffic and Parking

A Traffic and Parking Impact Assessment has been prepared by McLaren Traffic Engineering and Road Safety Consultants and provided at Appendix 6.

The net traffic generation from the proposed development equates to one additional vehicle every 7 to 8 minutes, during both am and pm peak periods, when compared to the site's existing development. This increase is considered minor and represents no significant impact in terms of flow efficiency and residential amenity.

The indicative concept plan has taken into consideration Council's traffic and parking DCP requirements. It specifically includes the following:

- 62 car parking spaces over 2 basement levels;

- The provision of 4 disabled residential garages and 1 disabled visitor space;
- 4 bicycle spaces and 3 motorcycle spaces;
- Waste will be collected along the site's kerbside; and
- The internal circulation is satisfactory.

Future development is therefore capable of achieving compliance with Council's DCP and will have no adverse traffic or parking impact on the surrounding road network.

### Heritage

The site is not a heritage item nor is it located in a heritage conservation area.

The site is however located adjacent to the Peter Depena Reserve. Under the RLEP this Reserve is part of a the larger 'Cook Park' that extends along the 8.5km length of the Botany Bay foreshore. Cook Park is an item of local significance.

The following assessment of significance of Cook Park has been extracted from the Office of Environment and Heritage's heritage register:

*"Cook Park provides evidence of the late 19th century development of peninsula as the creation of the park was in direct response to the urbanisation of the area.*

*The park is historically significant as being associated with early land developers Saywell and Samuel Cook. Samuel Cook was a very early advocate for public parks.*

*The park is aesthetically significant as part of the open space system forming the edge of Sandringham Bay. It contributes to the amenity and character of the area.*

*The park most likely has significance for the many individuals and groups who regularly use the park for events, celebrations and day to day recreation.*

*The Norfolk Island Pine Trees in Cook Park are representative of late 19th century and early twentieth century seaside plantings."*

As outlined in the figures below, the Park is bordered and adjacent to a mix of built form typologies including 4 storey and partial above ground basement Residential Flat Buildings (RFB) to the Park's south and 8 storey RFBs to the Park's north.



Figure 5: Built Form Typologies neighbouring the Park

The proposed additional height of 3.25 metres (or 1 storey) is consistent with the built form surrounding the Park. Moreover, it will remain below the level of the existing mature trees on the opposite side of Waradiel Creek and screened from the view of park users.

The proposal will additionally improve the site's relationship with the Park. As outlined in the indicative concept plan at Appendix 1, this would be achieved by increased setbacks from the park, greater activation and casual surveillance of lesser used parts of the park, the use of high quality materials and the proposed rehabilitation of the creek and riparian

zone and land immediately adjacent to the park (in conjunction with Council and other relevant agencies).

As already mentioned, the recommended height limit has been determined having regard to the height of the Park's existing mature trees and the casuarina trees on the eastern side of Waradiel Creek to ensure that the future development does not visually intrude on the key public areas of Peter Depena Reserve while the proposal will enhance casual surveillance of the lesser used parts of the south western corner reserve.

We therefore consider the proposed development to be a positive contribution to the park and the effect on the historical significance of the Cook Park to be neutral if not positive.

### **C3 How has the planning proposal adequately addressed any social and economic effects?**

This Planning Proposal comprises several public benefits to the local community. These are briefly outlined below:

- **Remove flood risk:** the existing ground floor residential apartments do not comply with current flooding policies and guidelines. This development will allow for the existing non-conforming built form to be redeveloped in accordance with the latest flooding guidelines and policies, improving the safety of the building's occupants.
- **Housing:** the proposed development contributes to the continued social growth of the area by encouraging a pattern of development which will help to diversify and increase housing choice. The redevelopment is capable of providing approximately 36 apartments.
- **Urban Renewal:** the Planning Proposal will encourage urban renewal within this established suburb by replacing older housing stock with a contemporary built form, whilst minimising the impact of the development on the environment.
- **Improved Streetscape:** this Planning Proposal benefits the broader locality by enhancing and improving the presentation of the streetscape both within and around the site. The site currently comprises of ageing housing stock. The Planning Proposal will facilitate the redevelopment of the site's existing buildings for a contemporary and attractive built form which appropriately responds to its surrounding context. The concept plan provides separation and articulation in the built form which provides a visually interesting development.
- **Improved Public Access:** there is an opportunity to increase the side setback from the creek and the rear setback from the park. This will allow for an opportunity to improve public access along the creek.
- **Biodiversity:** there is an opportunity to improve the functionality and appearance of the neighbouring park and creek and riparian zone. Subject to further discussions with Council this could include the revegetation of these areas, in accordance with the specifications of Council (and other relevant agencies).
- **Passive Surveillance:** there is an opportunity to orientate the built form and proposed apartments to improve passive surveillance and security of the neighbouring park and creek, and activation of these areas including Russell Avenue.
- **Privacy:** the orientation of the existing built form presents a privacy constraint to the neighbouring dwellings to the north. There is an opportunity to orientate the built form to ensure any privacy constraints are minimised.
- **Safety:** the existing development's pedestrian and vehicular entry/exit is combined in the one location which presents a safety concern. Any redevelopment could overcome this concern by separating access to different locations of the development.
- **Consistency with surrounding development:** many of the neighbouring buildings were constructed prior to the gazettal of the RLEP, when no FSR was applicable. As a result, many of the buildings exceed Council's current FSR control. This is specifically the case for more recent and nearby residential flat buildings at 174 Russell Avenue and 27 Malua

Street, which have FSRs of 1.77:1 and 1.23:1 respectively. This Planning Proposal, therefore allows development which is consistent with the established pattern of development surrounding the site.

- **Not-for-profit Organisation:** The War Widows' Guild of Australia NSW Ltd (the Guild) owns the subject site. The Guild is a not-for-profit charitable organisation formed in 1946, with the purpose of promoting and protecting the interests of war widows. The Guild today has around 5,600 members, the vast majority of whom are World War II widows, with an average age of 87 years. The outcome of the proposal will improve the ability of the Guild to provide essential support services for the changing needs of its ageing member base.

Accordingly, it is considered that the Planning Proposal will have a positive effect on the local economy and community.

## D State and Commonwealth interests

### D1 Is there adequate public infrastructure for the planning proposal?

As described below, the existing public infrastructure available surrounding the site is more than capable of accommodating the demand generated by this Planning Proposal.

#### Road and Bus Network

As indicated in the Figure below, the site is accessible by the existing road network, with the Grand Parade located approximately 500 metres to the north. Several bus stops are located in the vicinity of the subject site, including a bus stop located directly along the site's Russell Avenue frontage.

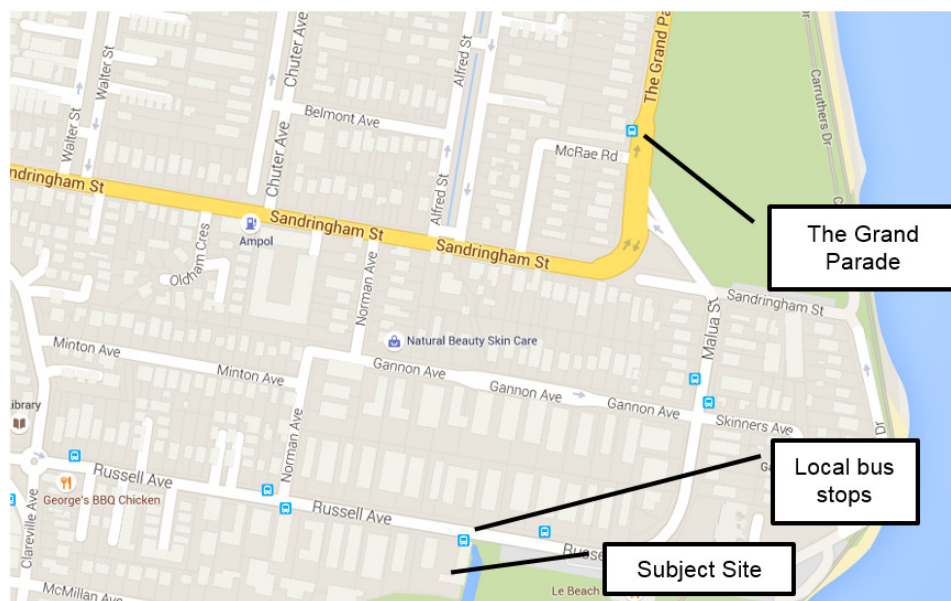


Figure 5: Surrounding transport infrastructure

These bus stops provide services to the surrounding commercial and retail centres of Miranda, Hurstville, Rockdale and the Sydney CBD.

#### Other Infrastructure

As outlined below, there are a number of schools within close proximity, within suburbs such as Sans Souci, Blakehurst, Ramsgate and Sylvania.

Existing utility services will adequately service any future development proposal as a result of this Planning Proposal, and will be upgraded or augmented where required.

Waste management and recycling services are available through Rockdale City Council.

The area is generally well-served with Police, Ambulance, Fire and other emergency services.

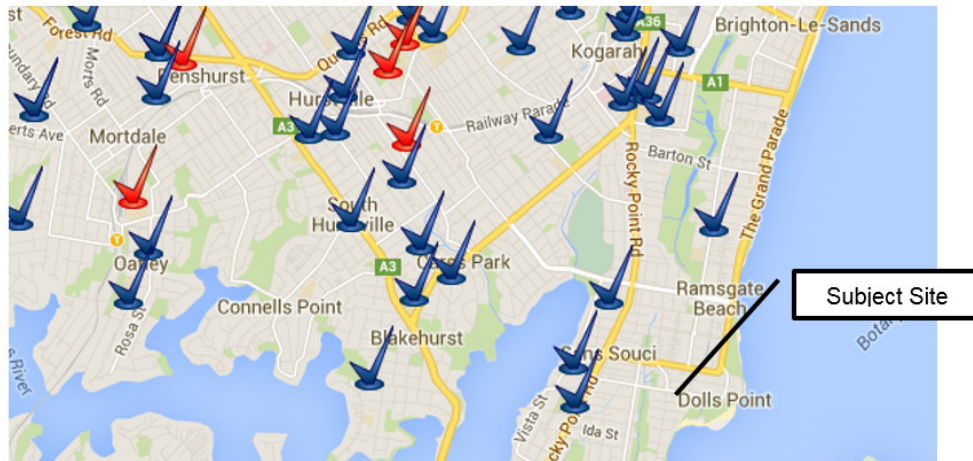


Figure 6: Surrounding educational establishments – identified with blue and red markers (Source: Australian Schools Directory)

**D2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

State and Commonwealth public authorities have not yet been contacted at this early stage in the planning proposal process. The Gateway Determination has yet to be issued by the Minister for Planning and Environment. This will identify the necessary consultation to be undertaken.



## Part 4 – Mapping

As illustrated in the Figure below, this Planning Proposal relates to land located at 177 Russell Avenue, Dolls Point, legally described as Lot 80 DP 2237, Lot 81 DP 2237, Lot 82 DP 2237 and Lot 83 DP 2237. The site consists of four allotments, with a total site area of approximately 2,575 sqm.



Figure 7: Aerial image of the subject site (Source: Six Viewer)

Figures 8 to 15 below illustrate the current controls and the proposed controls.

**Please note that the subject site falls over two mapping sheets, namely map 005 and 006. Therefore, two mapping amendments are required per proposed zoning change.**

### Existing Floor Space Ratio (Map Sheet FSR\_005) - 1:1

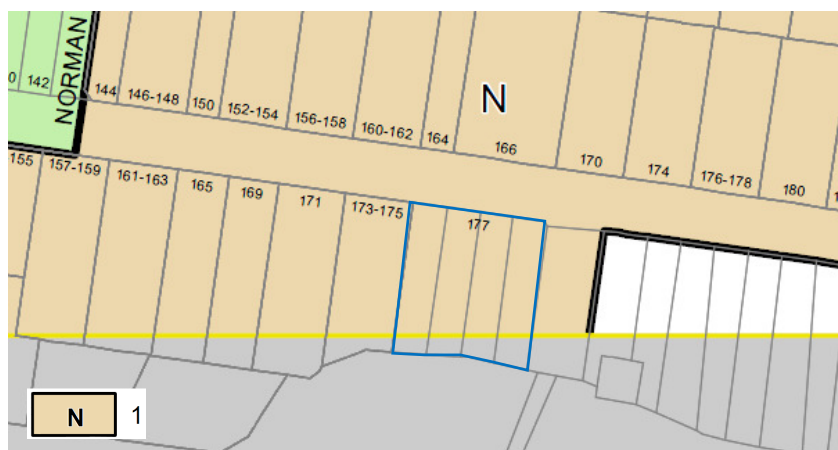


Figure 8: Current floor space ratio – Map Sheet FSR\_005 (Source: NSW Legislation)

**Existing Floor Space Ratio (Map Sheet FSR\_006) - 1:1**



Figure 9: Current floor space ratio – Map Sheet FSR\_006 (Source: NSW Legislation)

**Existing Height of Building (Map Sheet HOB\_005) - 14.5 metres**

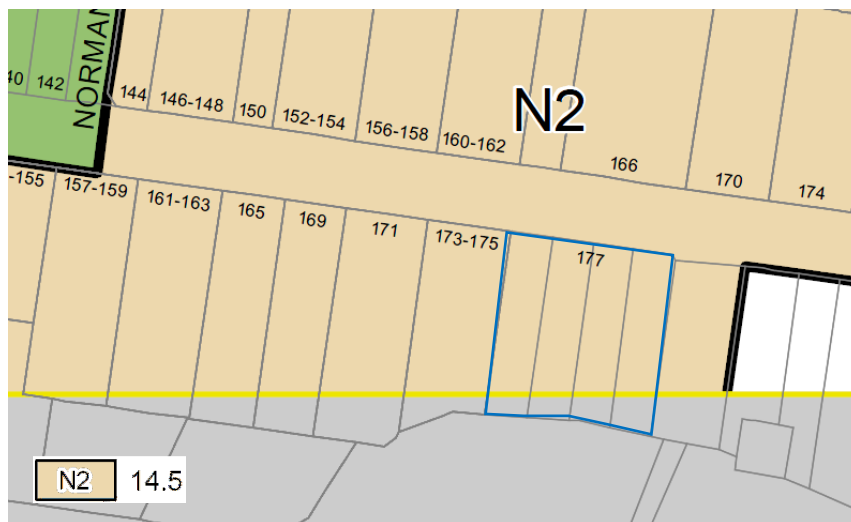


Figure 10: Current height of building – Map Sheet HOB\_005 (Source: NSW Legislation)

**Existing Height of Building (Map Sheet HOB\_006) - 14.5 metres**



Figure 11: Current height of building – Map Sheet HOB\_006 (Source: NSW Legislation)

**Proposed Floor Space Ratio (Map Sheet FSR\_005) – 1.65:1**

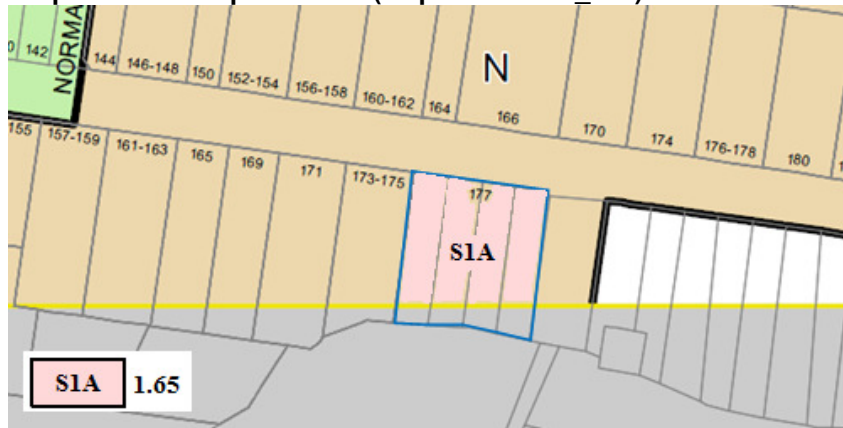


Figure 12: Proposed floor space ratio – Map Sheet FSR\_005 (Source: NSW Legislation)

**Proposed Floor Space Ratio (Map Sheet FSR\_006) – 1.65:1**



Figure 13: Proposed floor space ratio – Map Sheet FSR\_006 (Source: NSW Legislation)

**Proposed Height of Building (Map Sheet HOB\_005) – 17.75 m**

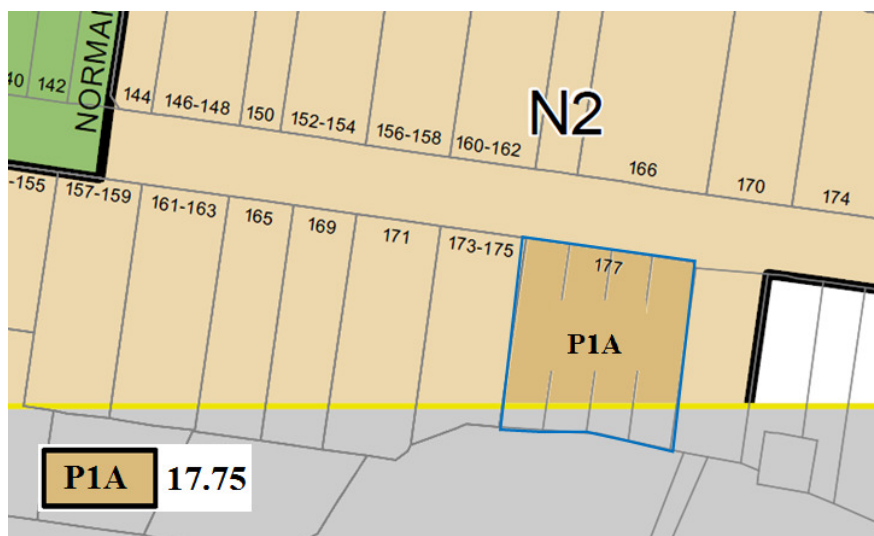


Figure 14: Proposed height of building – Map Sheet HOB\_005 (Source: NSW Legislation)



### Proposed Height of Building (Map Sheet HOB\_006) – 17.75 m



Figure 15: Proposed height of building – Map Sheet HOB\_006 (Source: NSW Legislation)

## Part 5 - Community Consultation

The Planning Proposal will be placed on public exhibition in accordance with the Gateway Determination.

A comprehensive engagement strategy will be prepared by Council which would include the following mechanisms:

- Advertisement in a local newspaper;
- Notification letters to relevant State Agencies and other authorities nominated by the Department.;
- Notification (via letter) to land holders of properties surrounding the land subject to this Planning Proposal;
- Advertise and exhibit the Planning Proposal on Council's website.
- Exhibit the Planning Proposal at Council's Customer Services Centre and local library; and
- Undertake any other consultation methods appropriate for the proposal, such as community workshops with surrounding landowners to describe and present the proposal and address any concerns which may arise.

## Part 6 – Project Timeline

The table below provides a proposed timeframe for the project.

**Table 11** – Approximate Project Timeline

Task	Timing
Date of Gateway determination	Not known
Anticipated timeframe for the completion of required technical information	Not applicable. Technical analysis has already been commissioned to support the Planning Proposal. Anticipate open space and riparian improvement plan to be completed prior to Gateway.
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	As specified in the Gateway determination. Anticipated timeframe is to run concurrently with the public exhibition period.
Commencement and completion dates for public exhibition period	4 weeks commencing 2 weeks after gateway determination
Dates for public hearing (if required)	Not applicable at this stage
Timeframe for consideration of submissions	2 weeks
Timeframe for the consideration of a PP following exhibition	2 weeks
Consideration of PP by Council (Council Meeting)	3 weeks
Date of submission to the department to finalise the LEP	2 weeks
Anticipated date RPA will make the plan (if delegated) or Anticipated date RPA will forward to the department for notification	2 weeks
Anticipated publication date	17 weeks after gateway determination

**Appendix 1 – Urban Design Study  
prepared by PCA Architects**

Note: This document is listed as Attachment 2 at the end of the Council Report.

**Appendix 2 – Survey  
prepared by Daw and Walton**

Note: This document is not attached to the Council Report. It is technical information which will support a forthcoming Development Application.

**Appendix 3 – Arborist Report  
prepared by The Arborist Network**

Note: This document is listed as Attachment 4 at the end of the Council Report.

**Appendix 4 - Geotechnical Investigation  
prepared by JK Geotechnics**

Note: This document is listed as Attachment 6 at the end of the Council Report.

**Appendix 5 – Acid Sulfate Soil Assessment and Preliminary Waste  
Classification Assessment  
prepared by Environmental Investigation Services**

Note: This document is listed as Attachment 5 at the end of the Council Report.

**Appendix 6 – Traffic and Parking Impact Assessment  
Prepared by McLaren Traffic Engineering & Road Safety  
Consultants**

Note: This document is listed as Attachment 3 at the end of the Council Report.



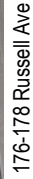
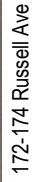
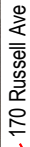
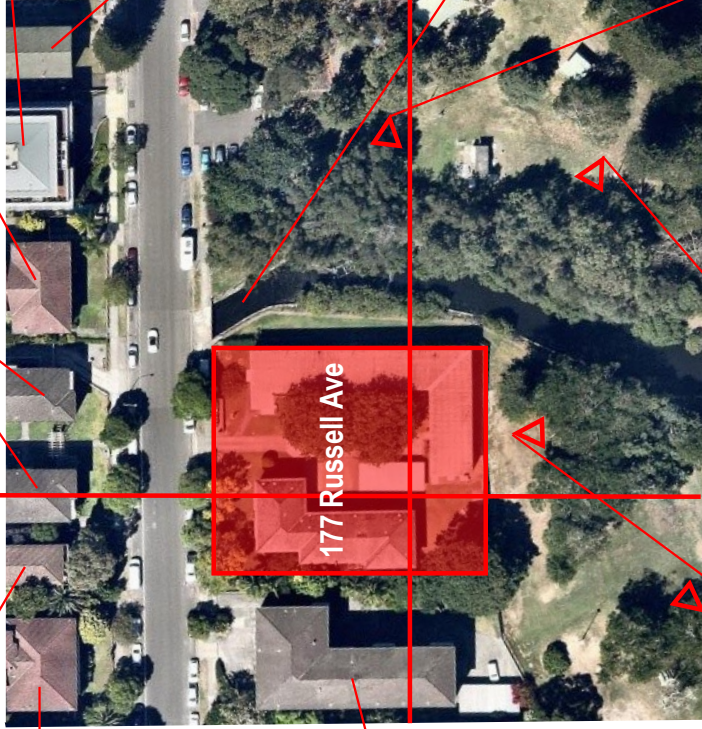
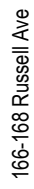
## **Appendix 7 – Flood Advice Letter prepared by Rockdale City Council**

Note: This document is not attached to the Council Report.

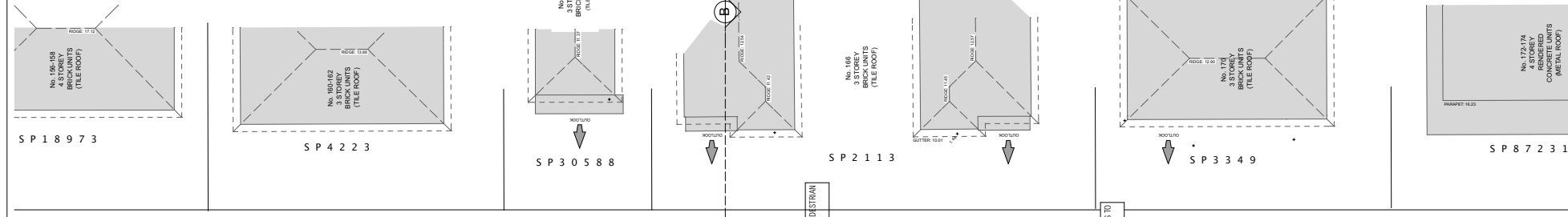
## **Appendix 8 – Letter from Hydraulic Engineer prepared by Green Arrow**

Note: This document is listed as Attachment 7 at the end of the Council Report.

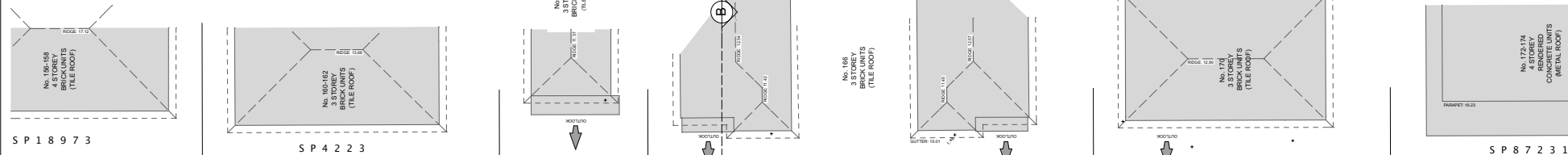




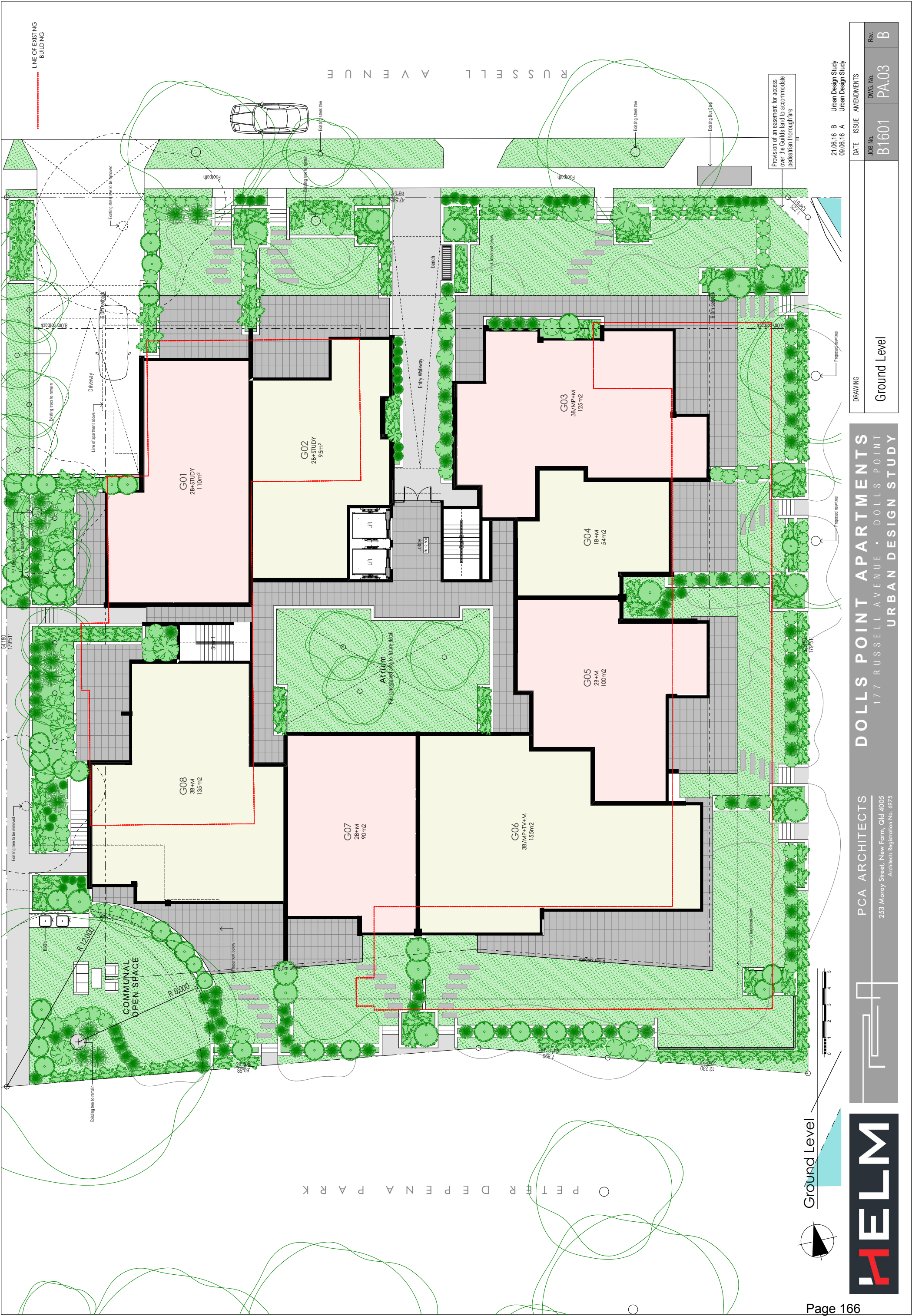




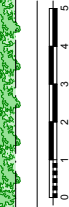
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21.06.16 B	21.06.16 B
09.06.16 A	09.06.16 A







Ground Level



PCA ARCHITECTS  
253 Moray Street, New Farm, Qld 4005  
Architects Registration No. 6975

DOLLS POINT APARTMENTS  
177 RUSSELL AVENUE • DOLLS POINT  
URBAN DESIGN STUDY

DRAWING  
Ground Level

21.06.16 B Urban Design Study  
09.06.16 A Urban Design Study

DATE ISSUE AMENDMENTS

JOB No.	DWG. No.	Rev.
B1601	PA.03	B



Level 1



52.60  
173.51

122.20  
122.20

21.06.16 B Urban Design Study  
09.06.16 A Urban Design Study

DRAWING		AMENDMENTS		
Level 1	JOB No.	B1601	DWG. No.	PA.04
	Rev.			B



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Architects Registration No. 6975

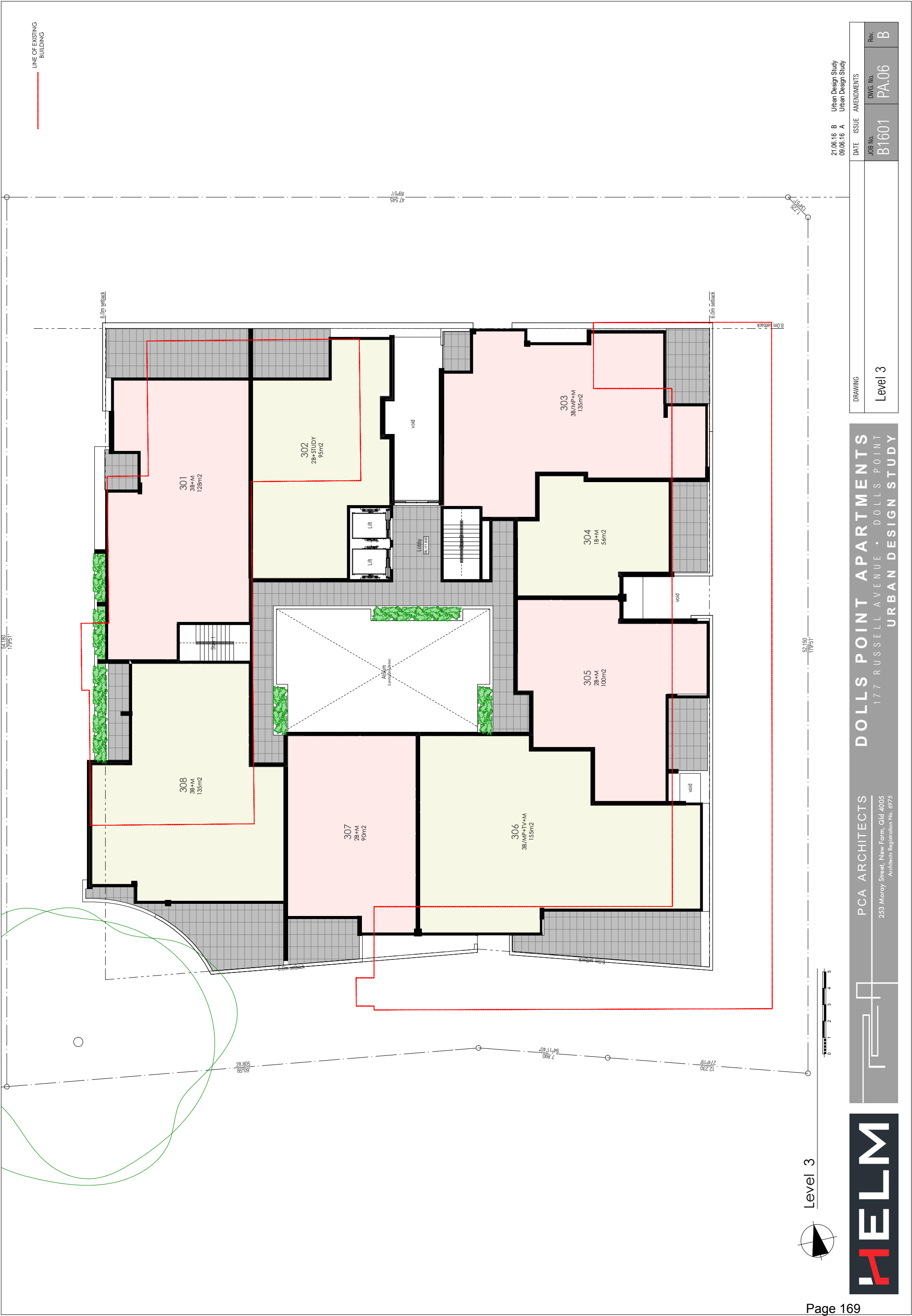
**DOLLS POINT APARTMENTS**  
177 RUSSELL AVENUE • DOLLS POINT  
URBAN DESIGN STUDY



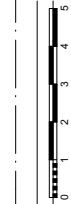








Level 3



PCA ARCHITECTS  
253 Moray Street, New Farm, Qld 4005  
Architects Registration No. 69775

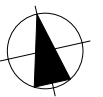
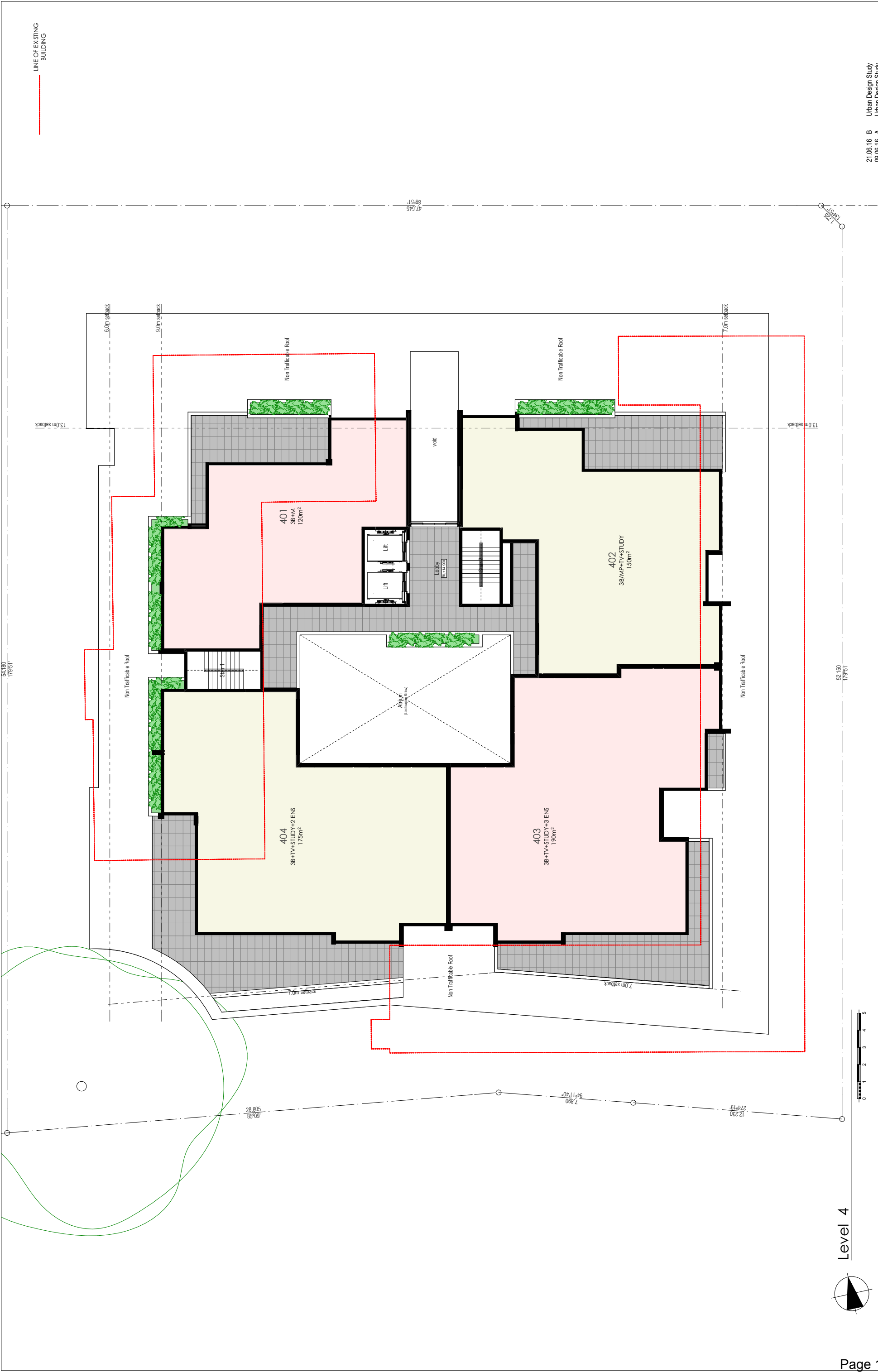
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177 RUSSELL AVENUE • DOLLS POINT  
URBAN DESIGN STUDY

DRAWING  
Level 3

DATE	ISSUE	AMENDMENTS	JOB No.	DWG. No.	Rev.
21.06.16	B	Urban Design Study	B1601	PA.06	B
09.06.16	A	Urban Design Study			

21.06.16 B Urban Design Study  
09.06.16 A Urban Design Study

LINE OF EXISTING BUILDING



Level 4



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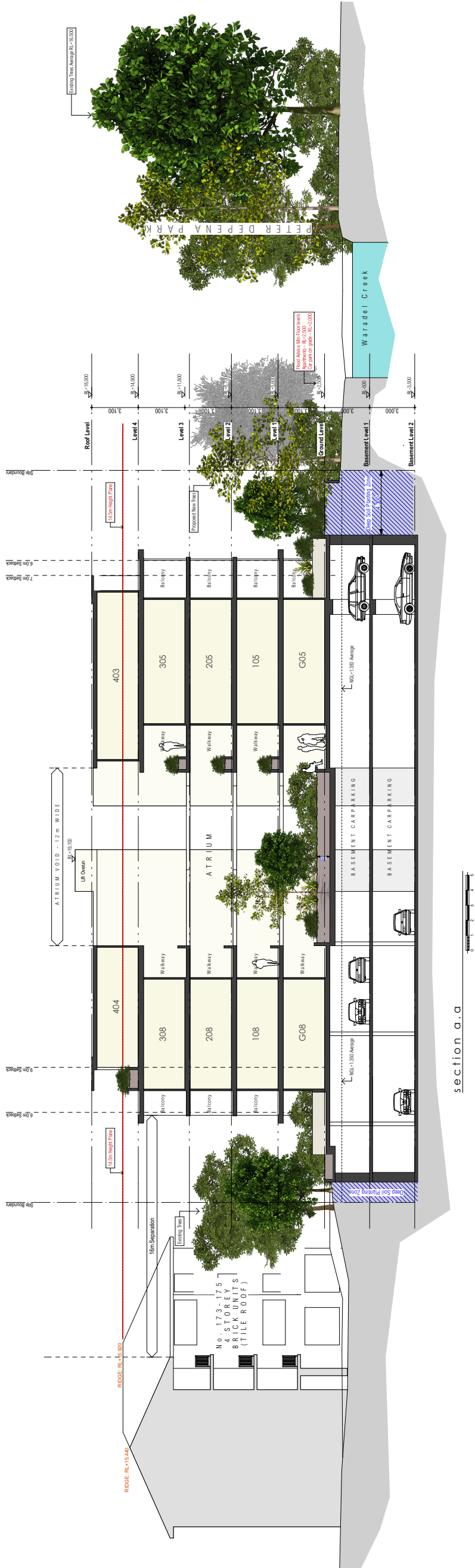




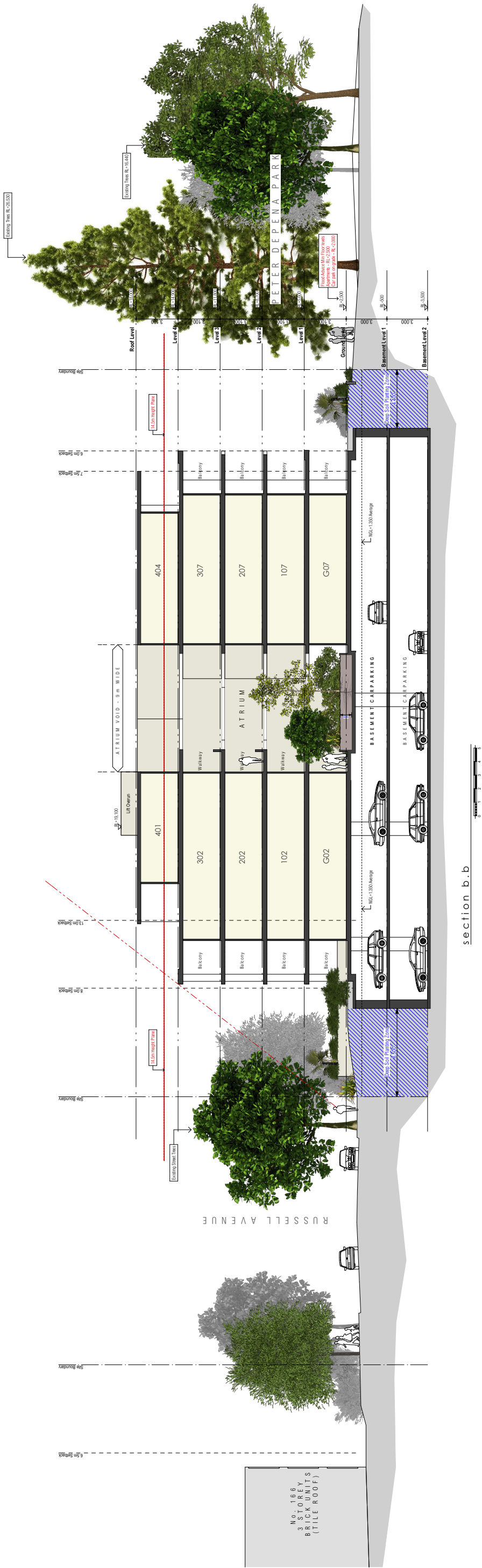


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Section A.A	DATE	ISSUE	AMENDMENTS
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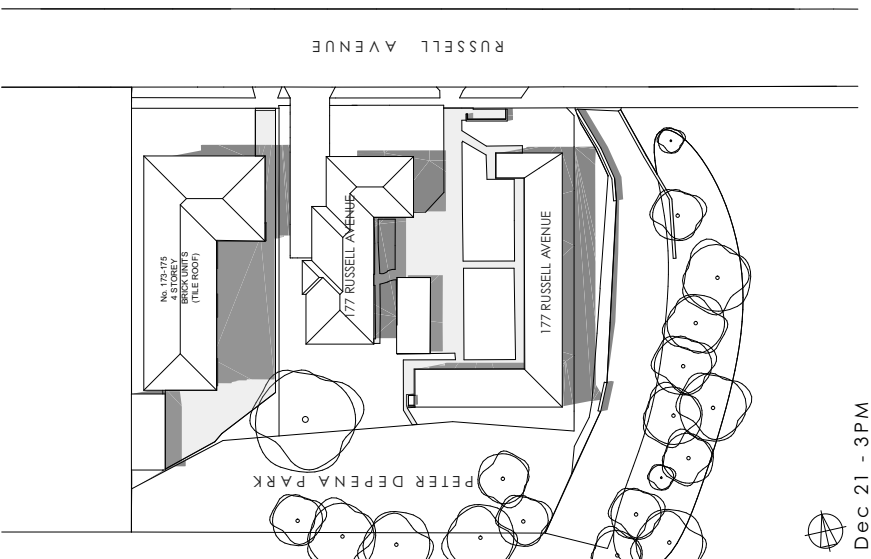
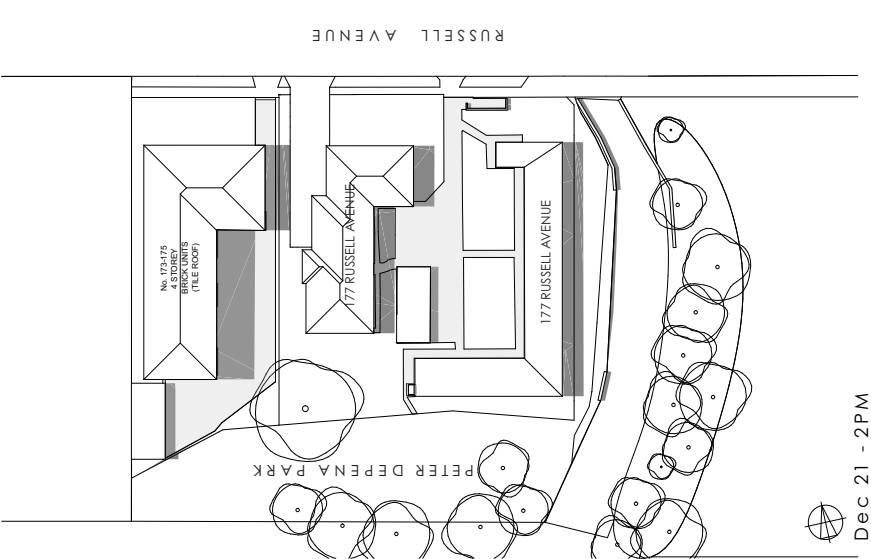
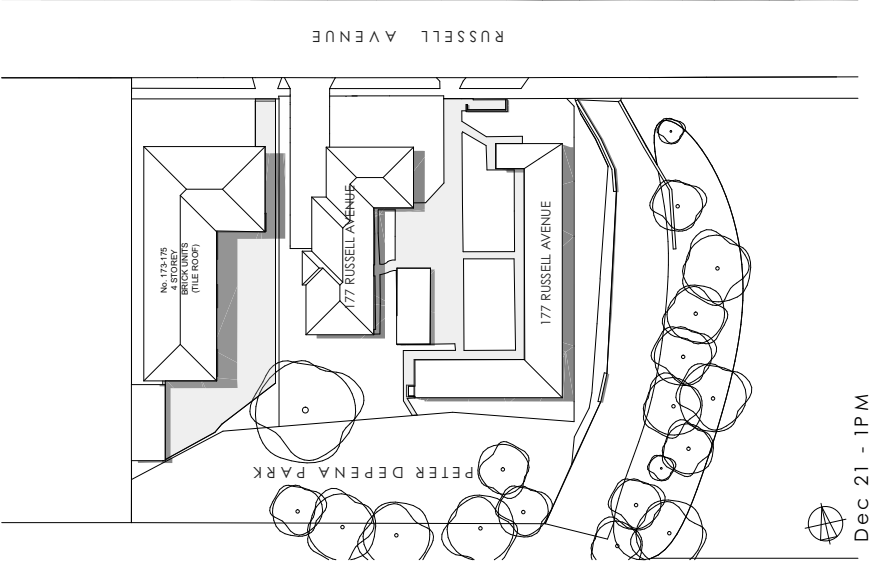
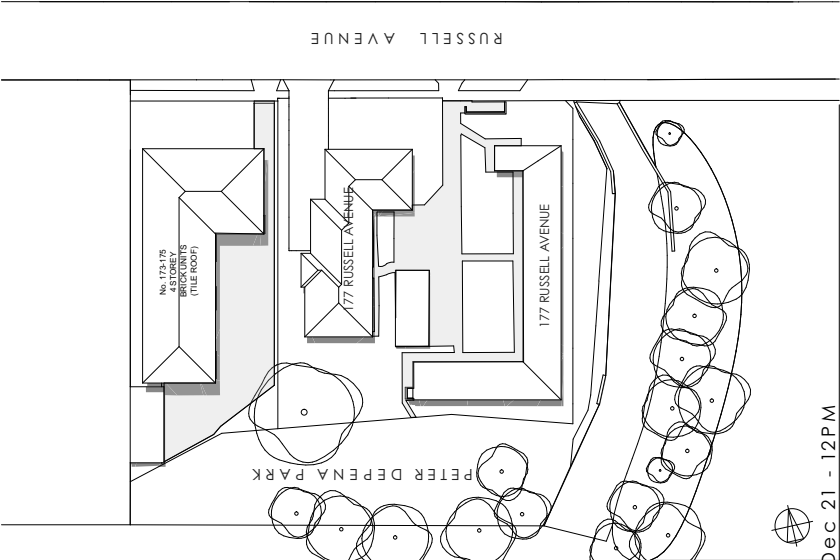
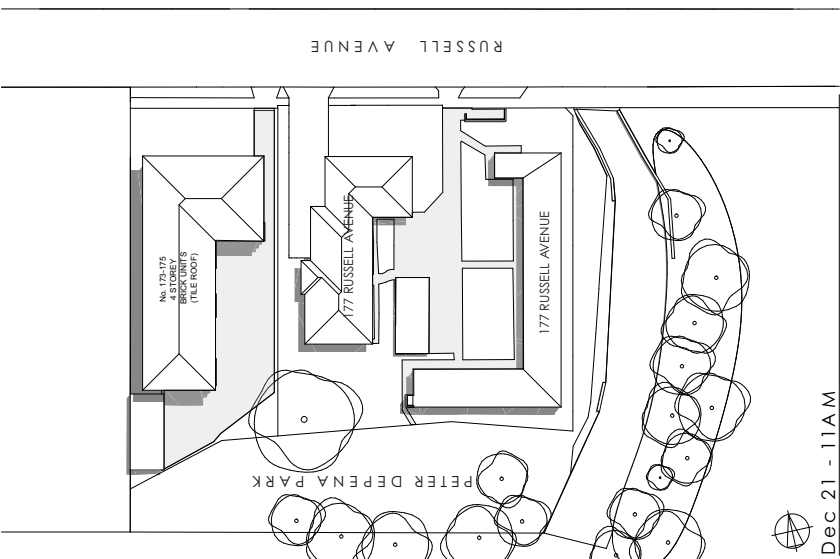
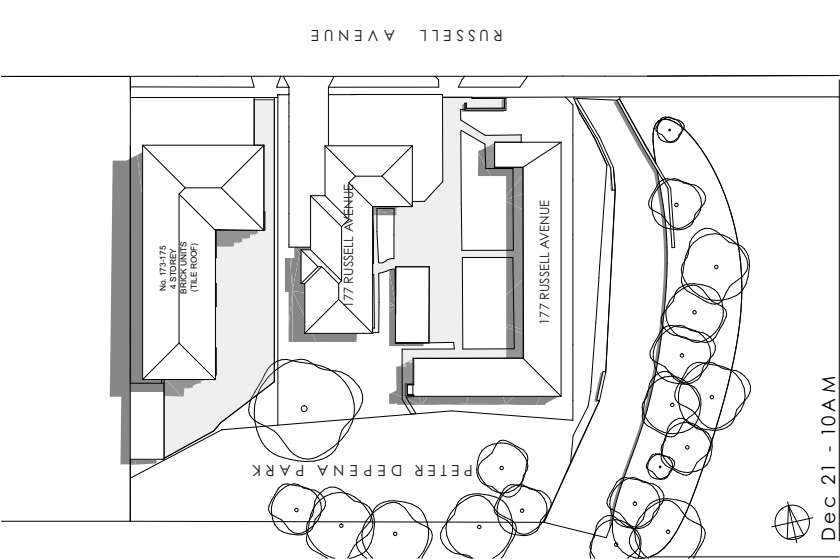
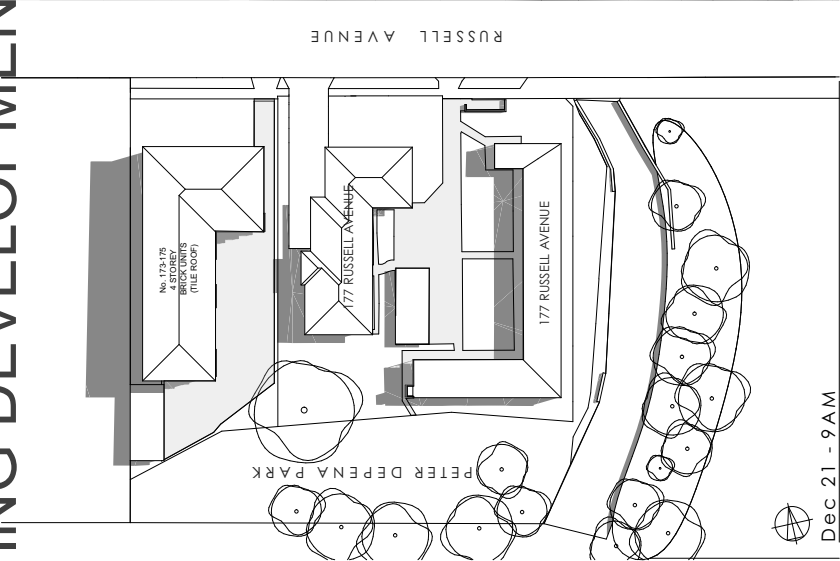


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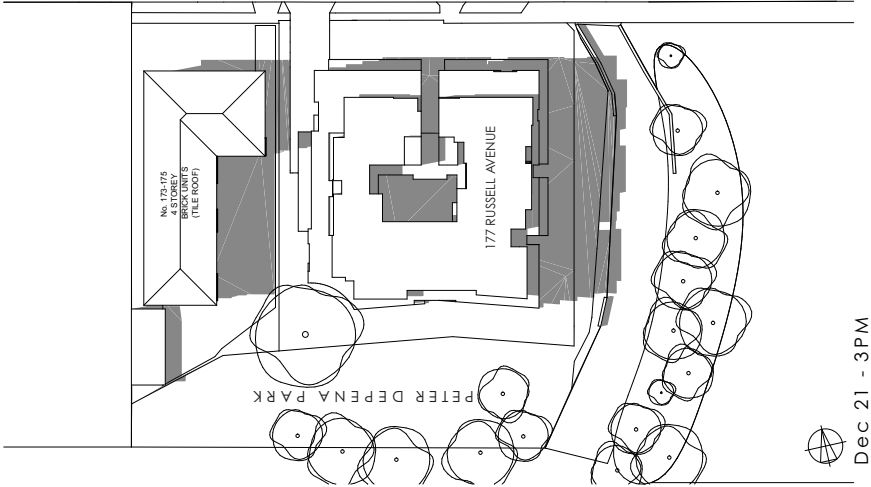
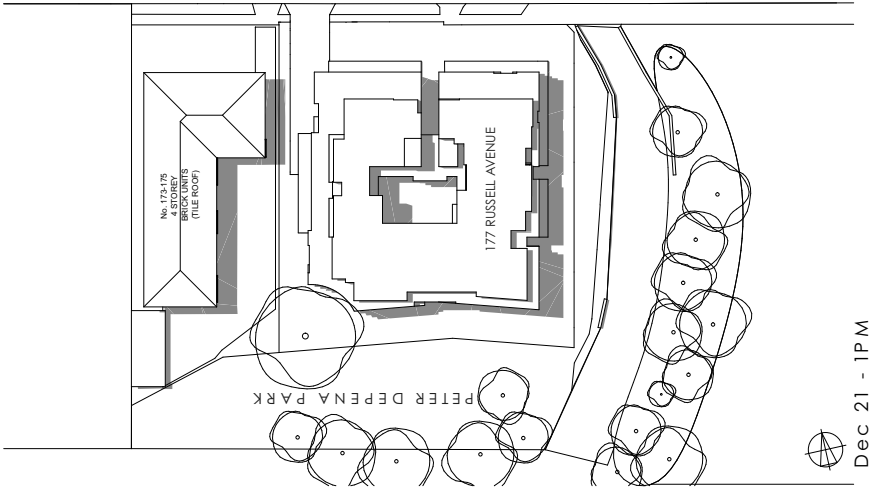
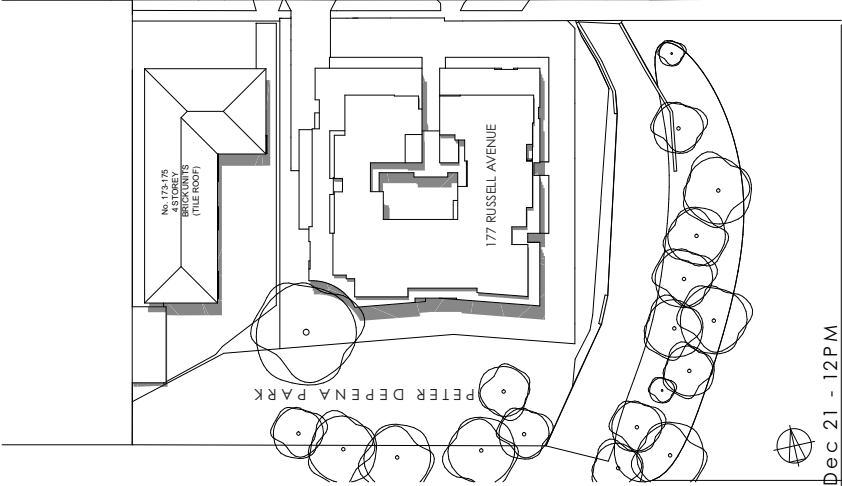
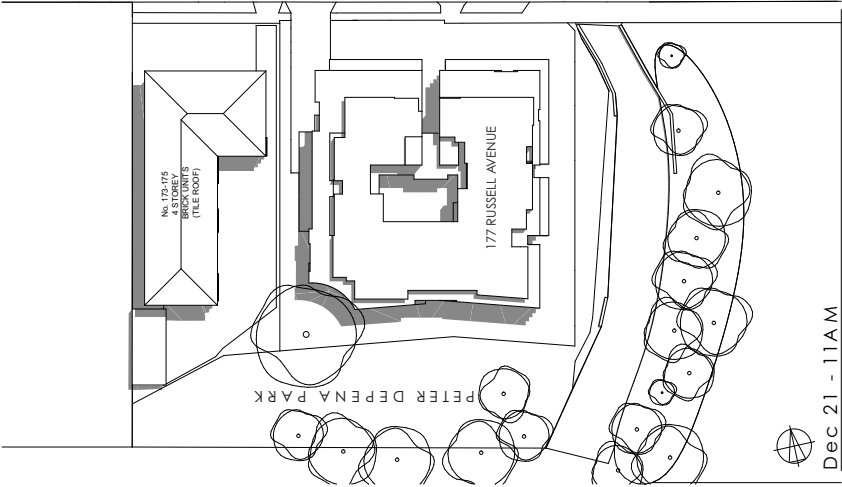
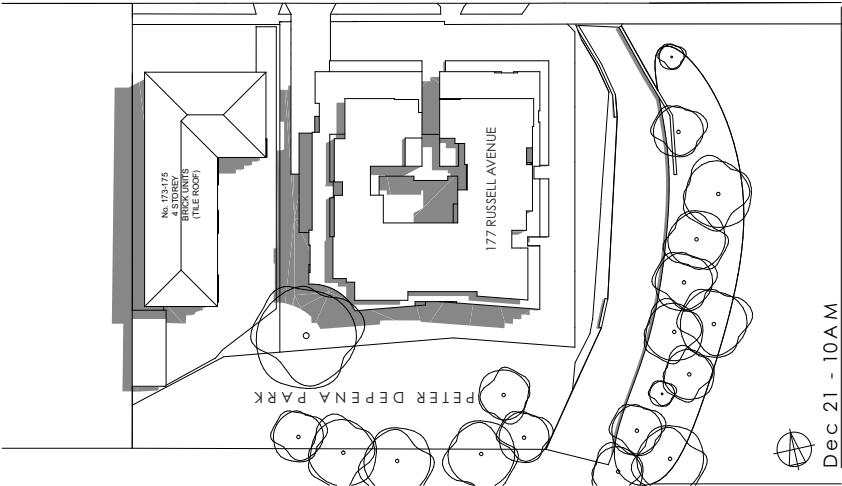
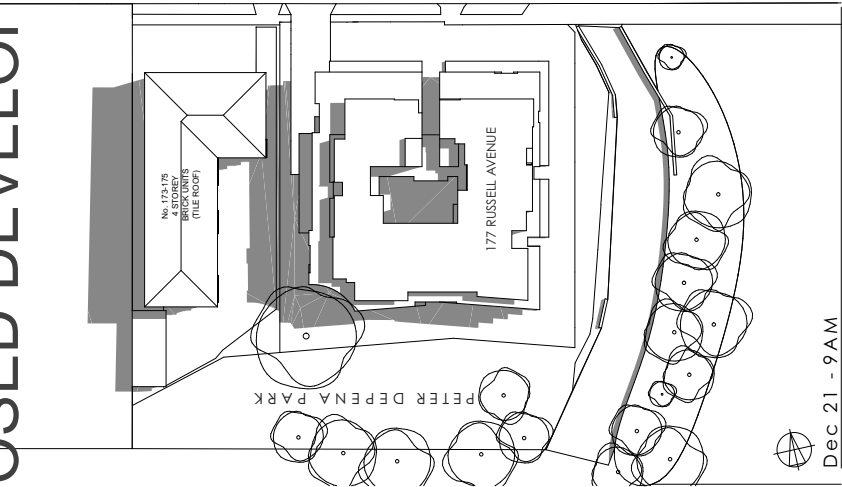
**DOLLS POINT APARTMENTS**  
177 RUSSELL AVENUE • DOLLS POINT  
URBAN DESIGN STUDY

PCA ARCHITECTS  
253 Moray Street, New Farm, Qld 4005  
Architects Registration No. 69775

EXISTING DEVELOPMENT

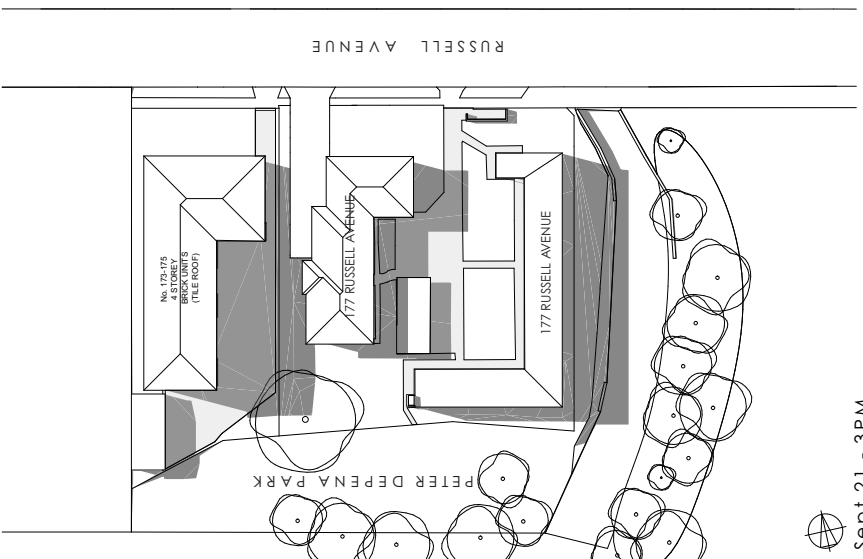
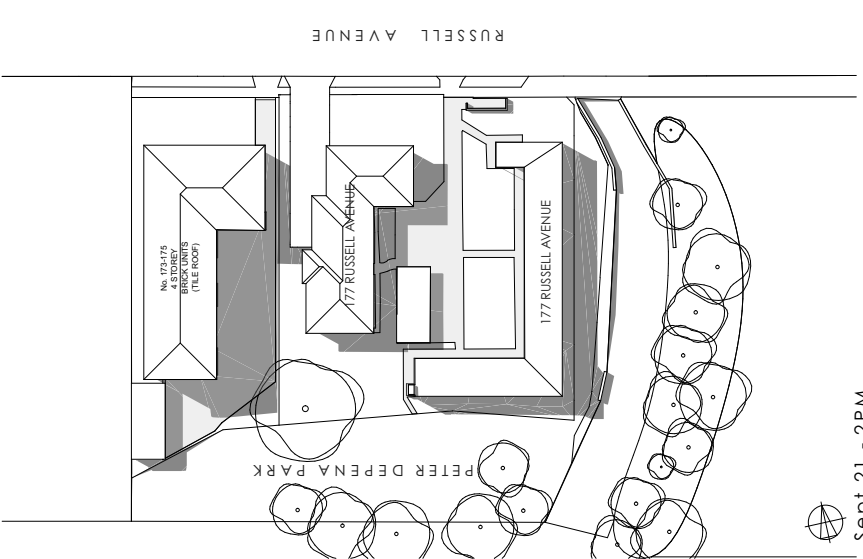
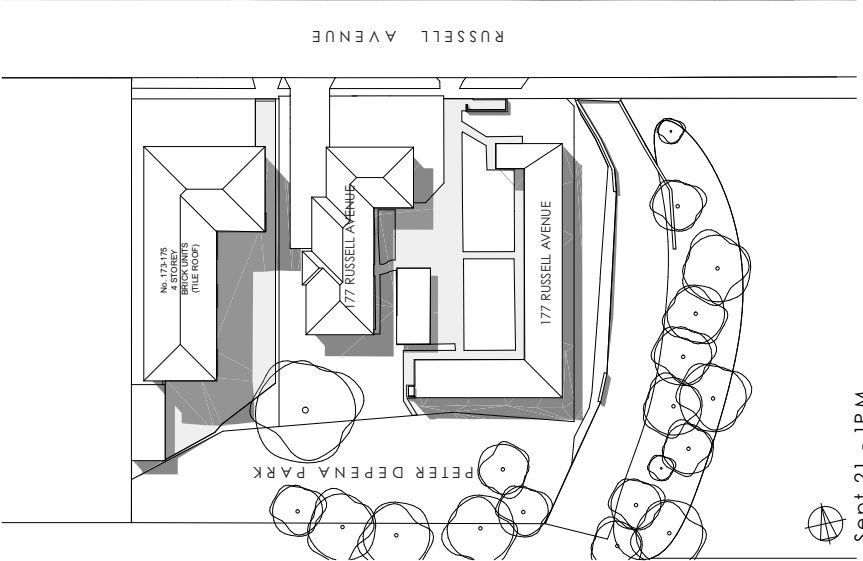
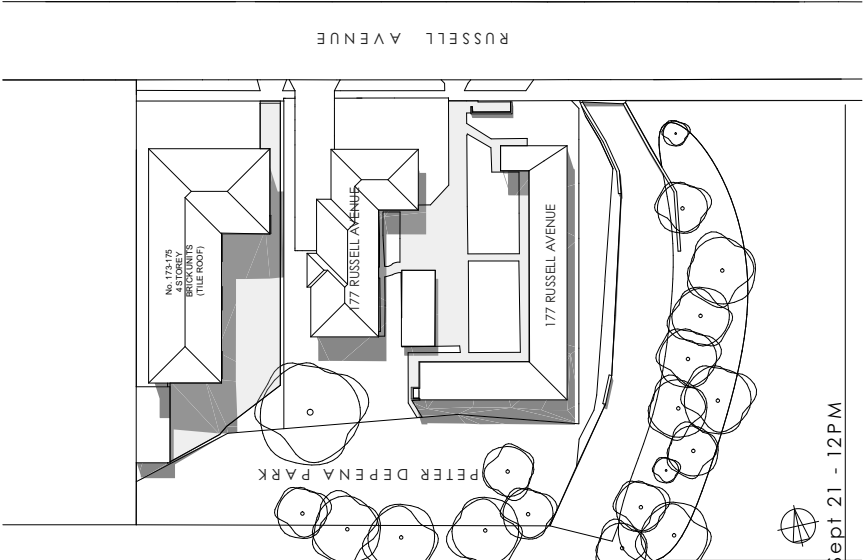
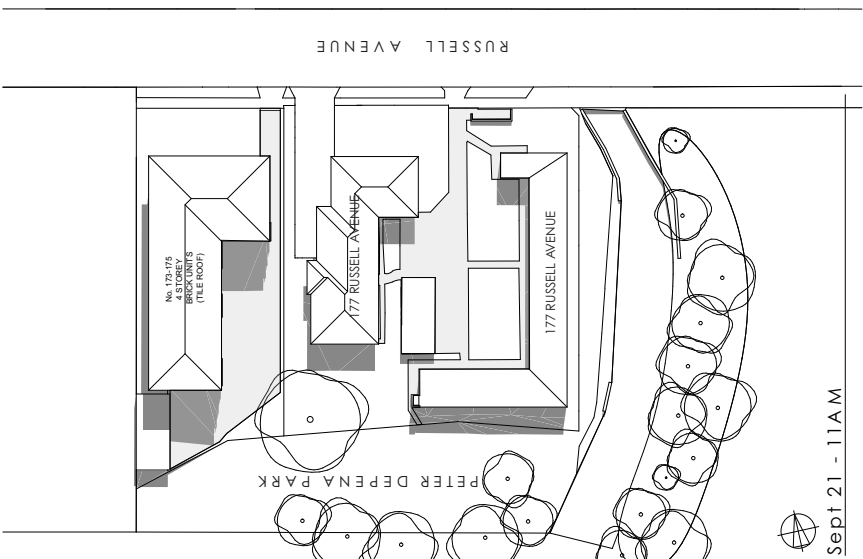
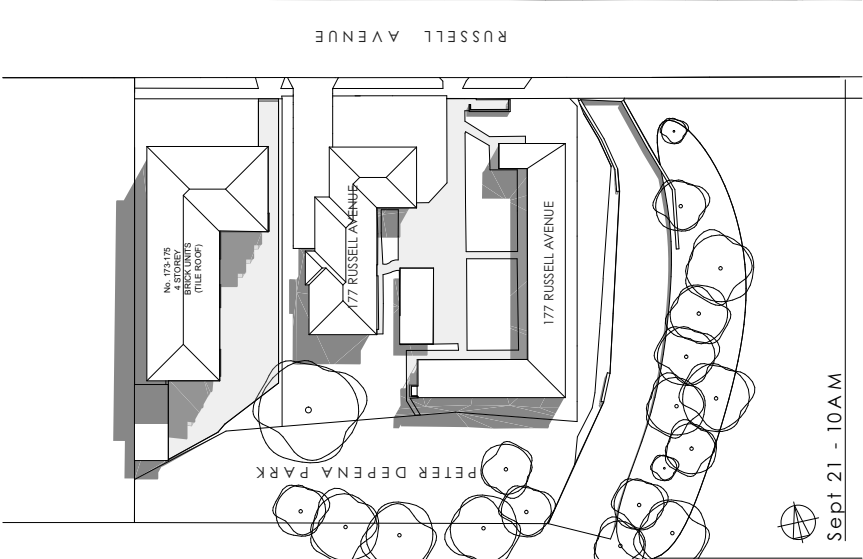
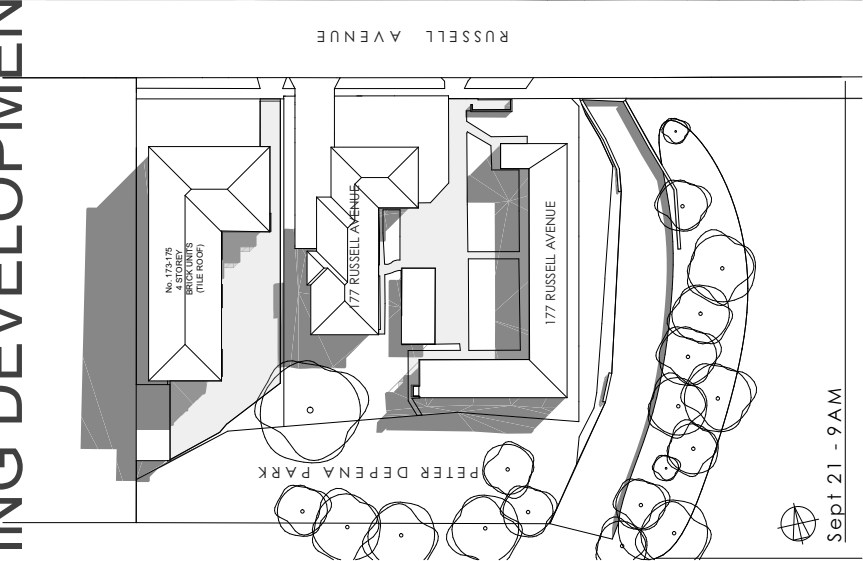


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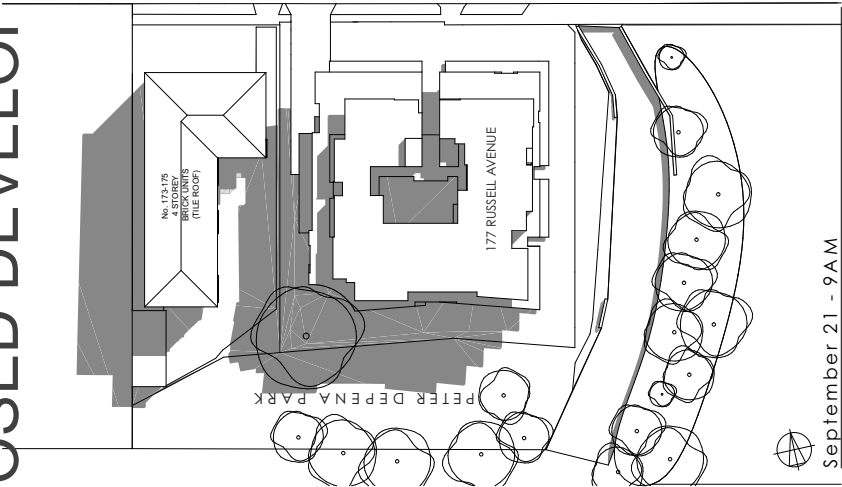




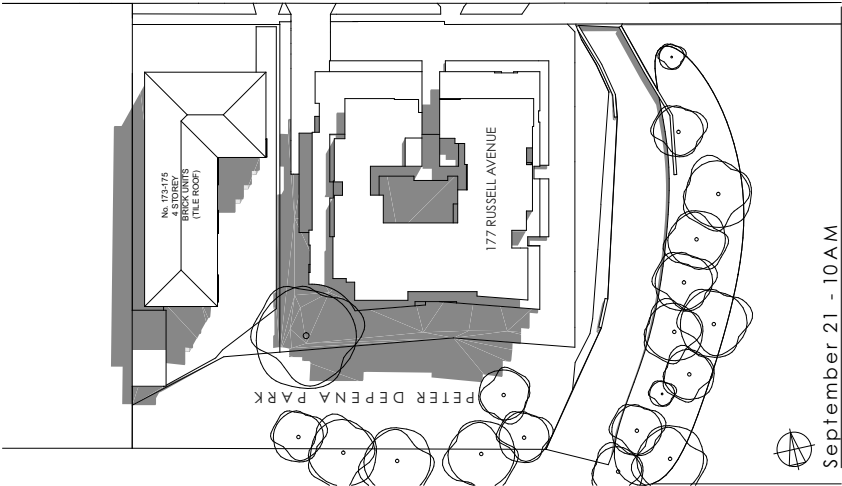
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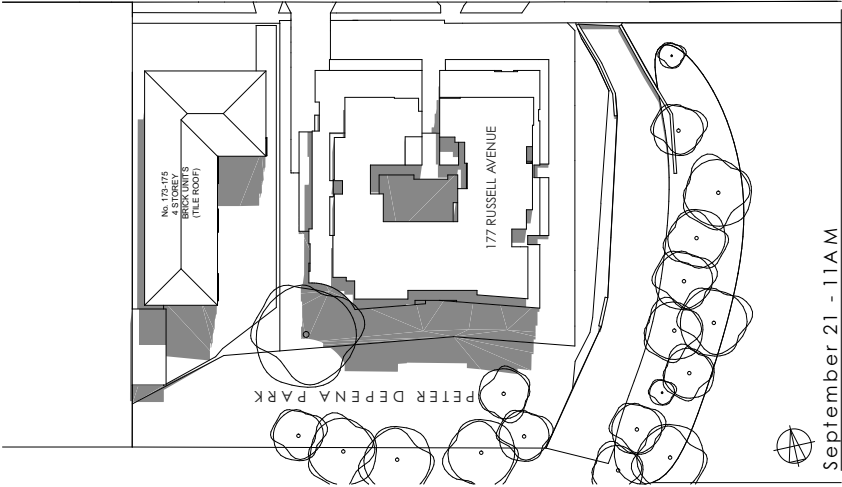
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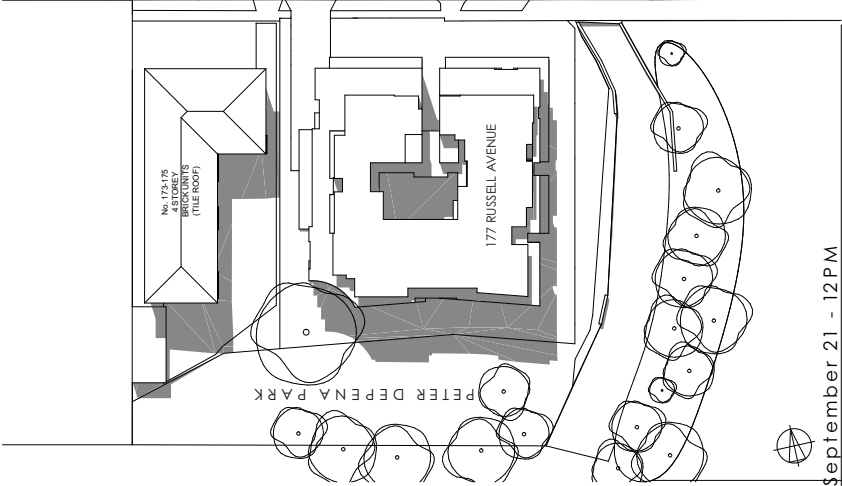
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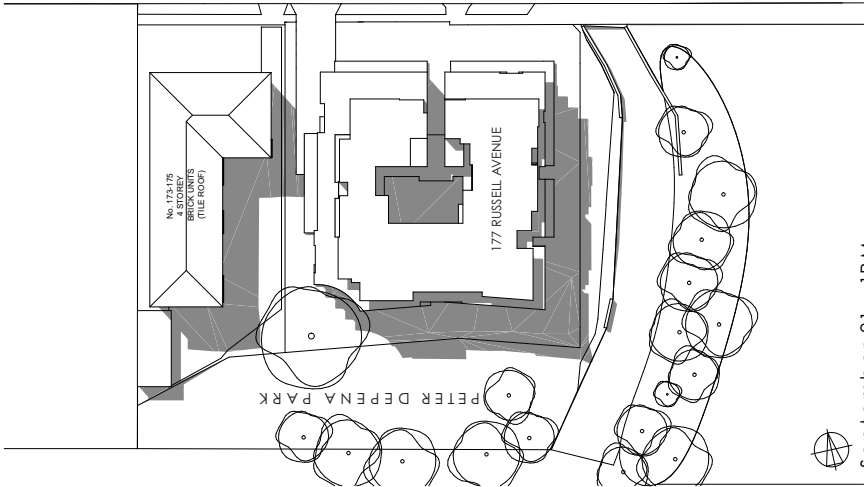
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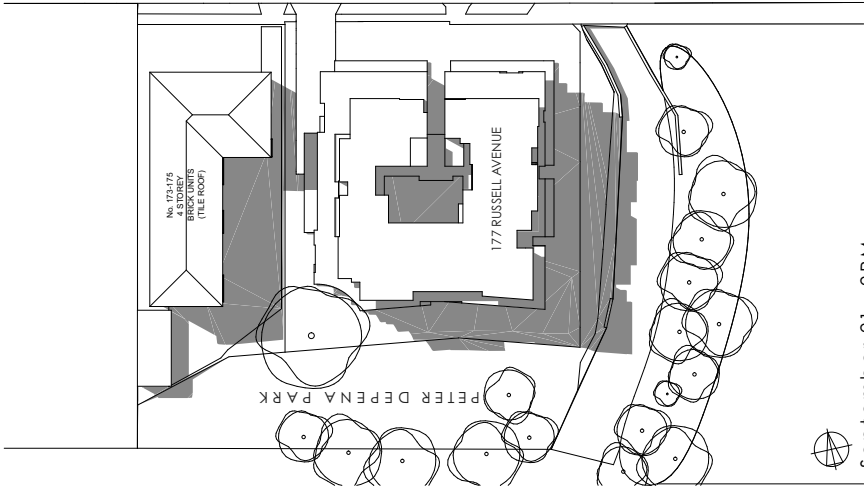
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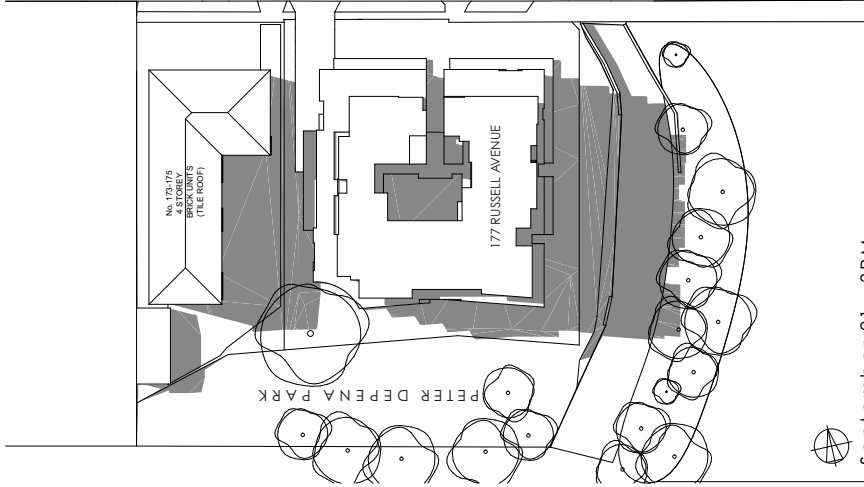
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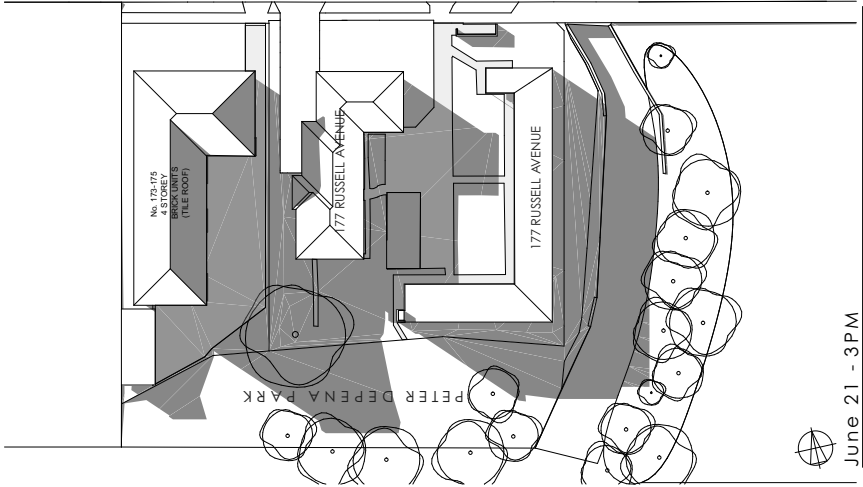
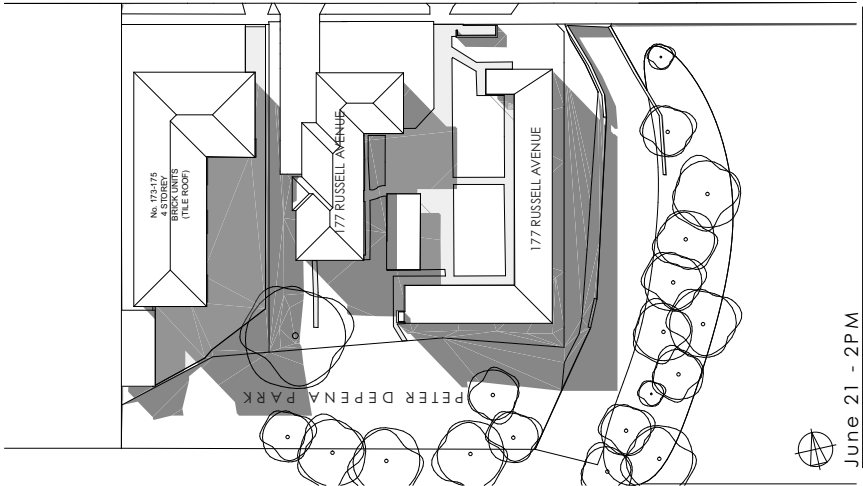
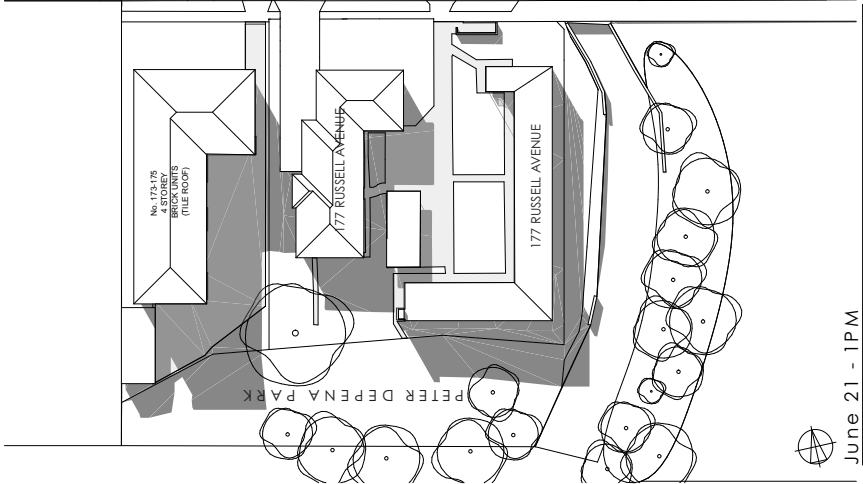
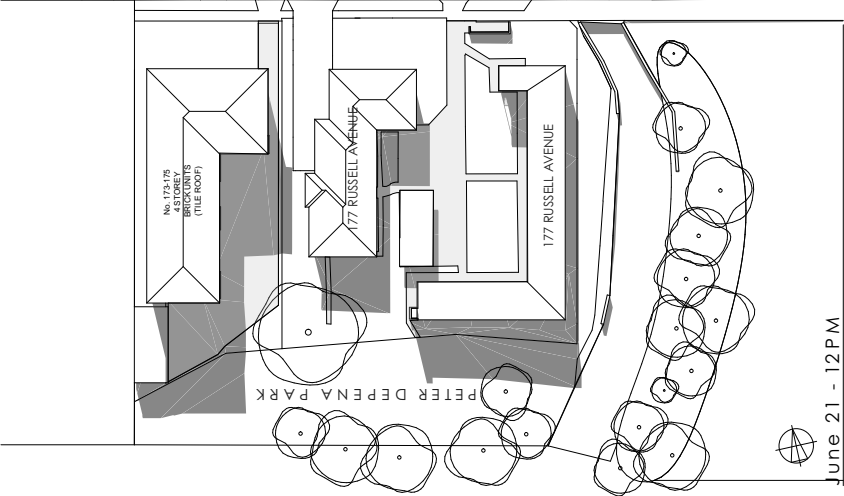
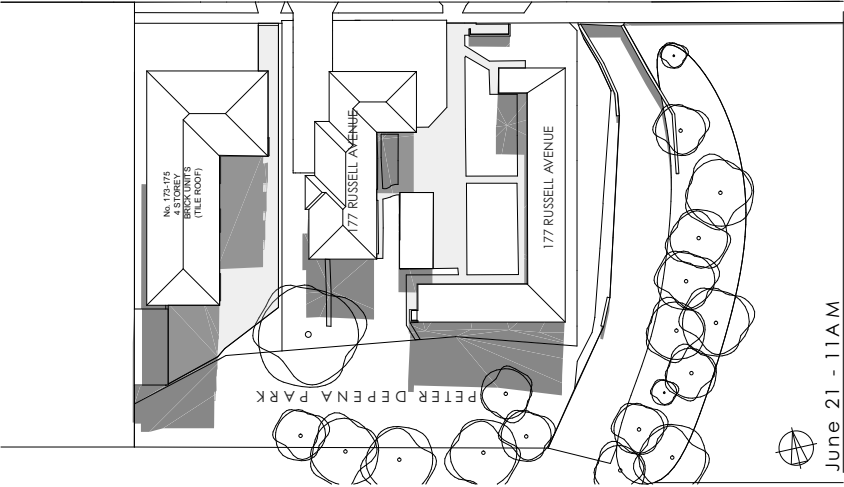
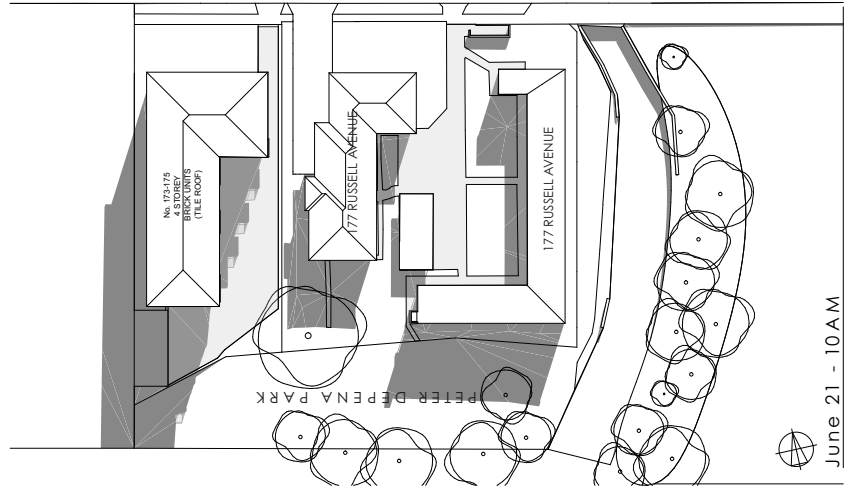
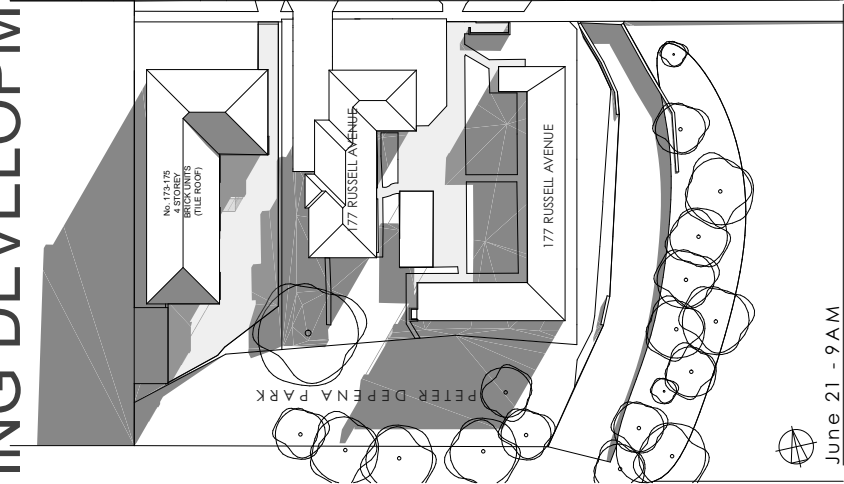


September 21 - 2 PM

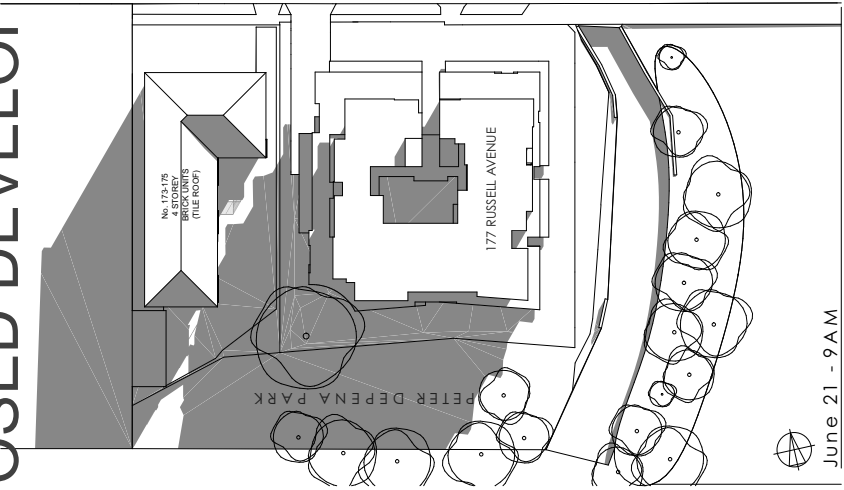


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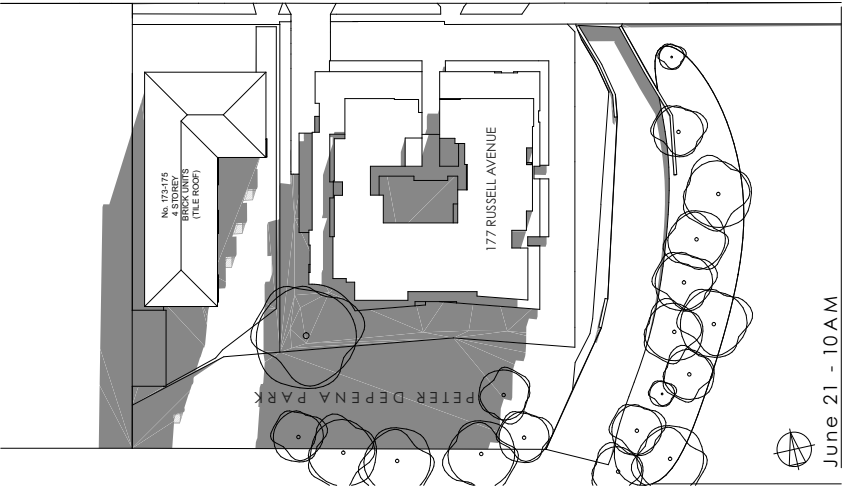
EXISTING DEVELOPMENT



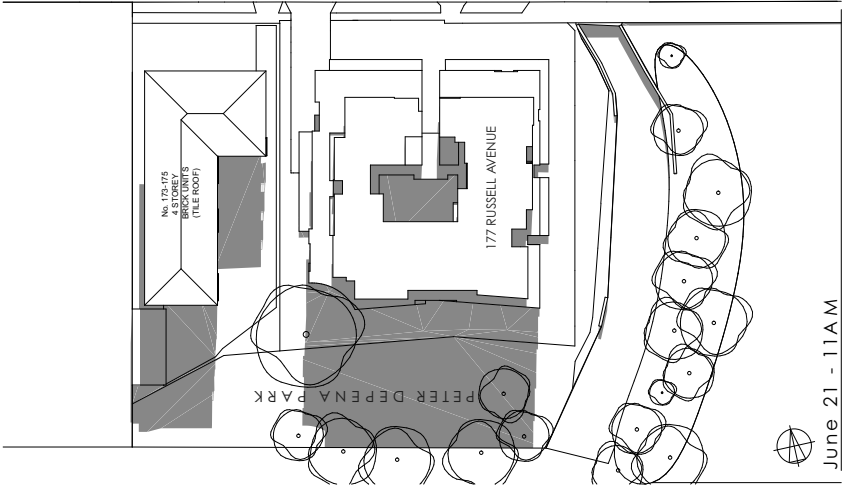
PROPOSED DEVELOPMENT



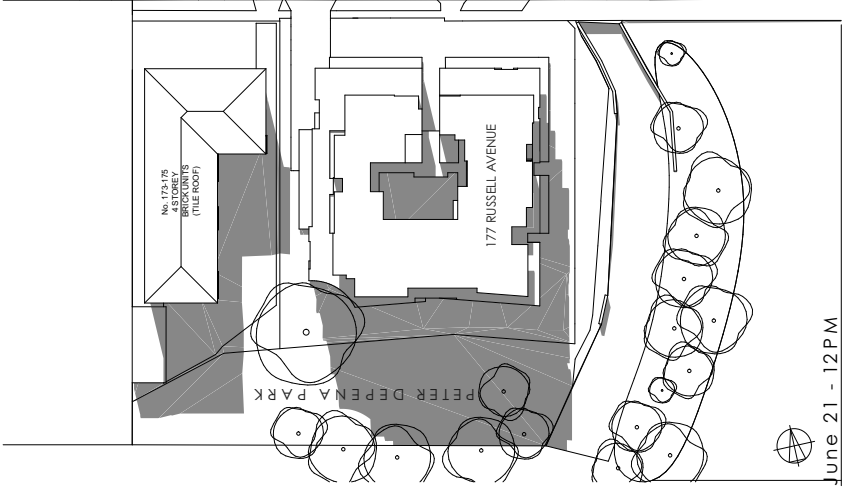
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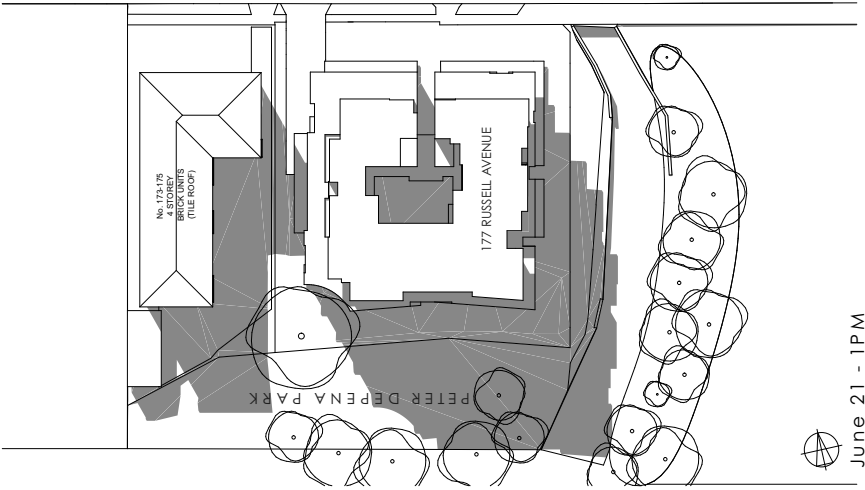
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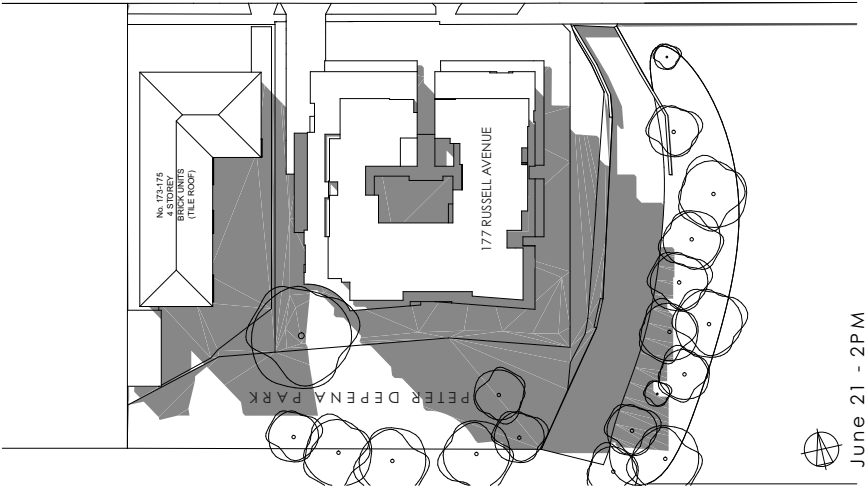
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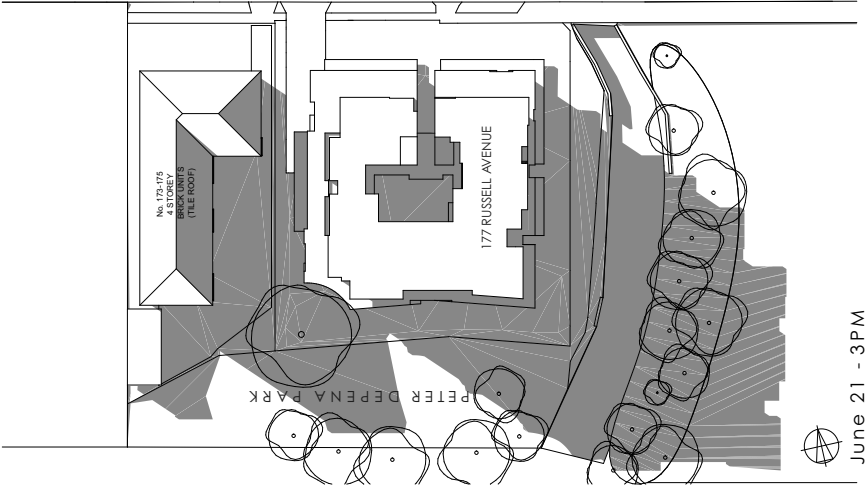
June 21 - 12 PM



June 21 - 1 PM



June 21 - 2 PM

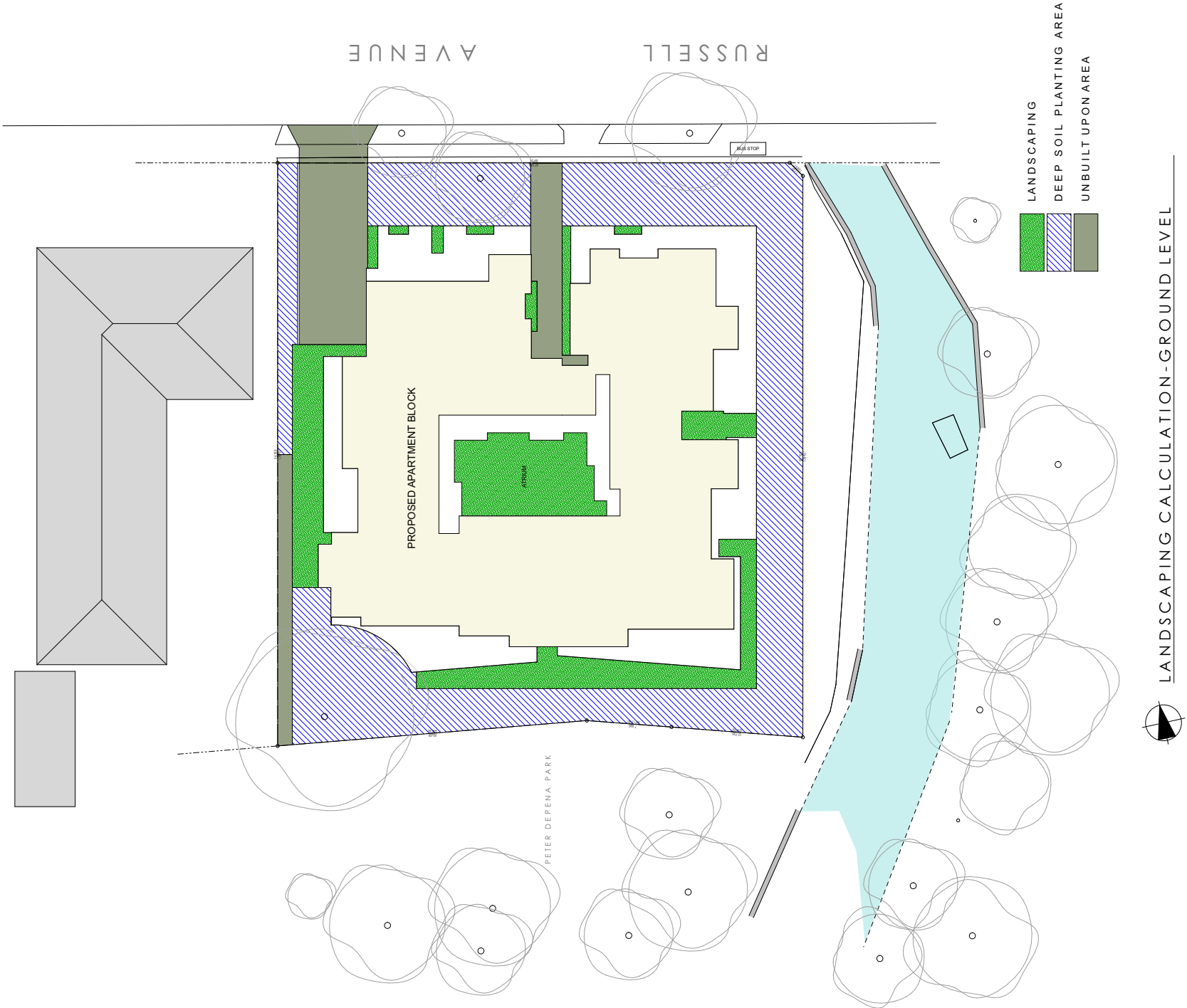


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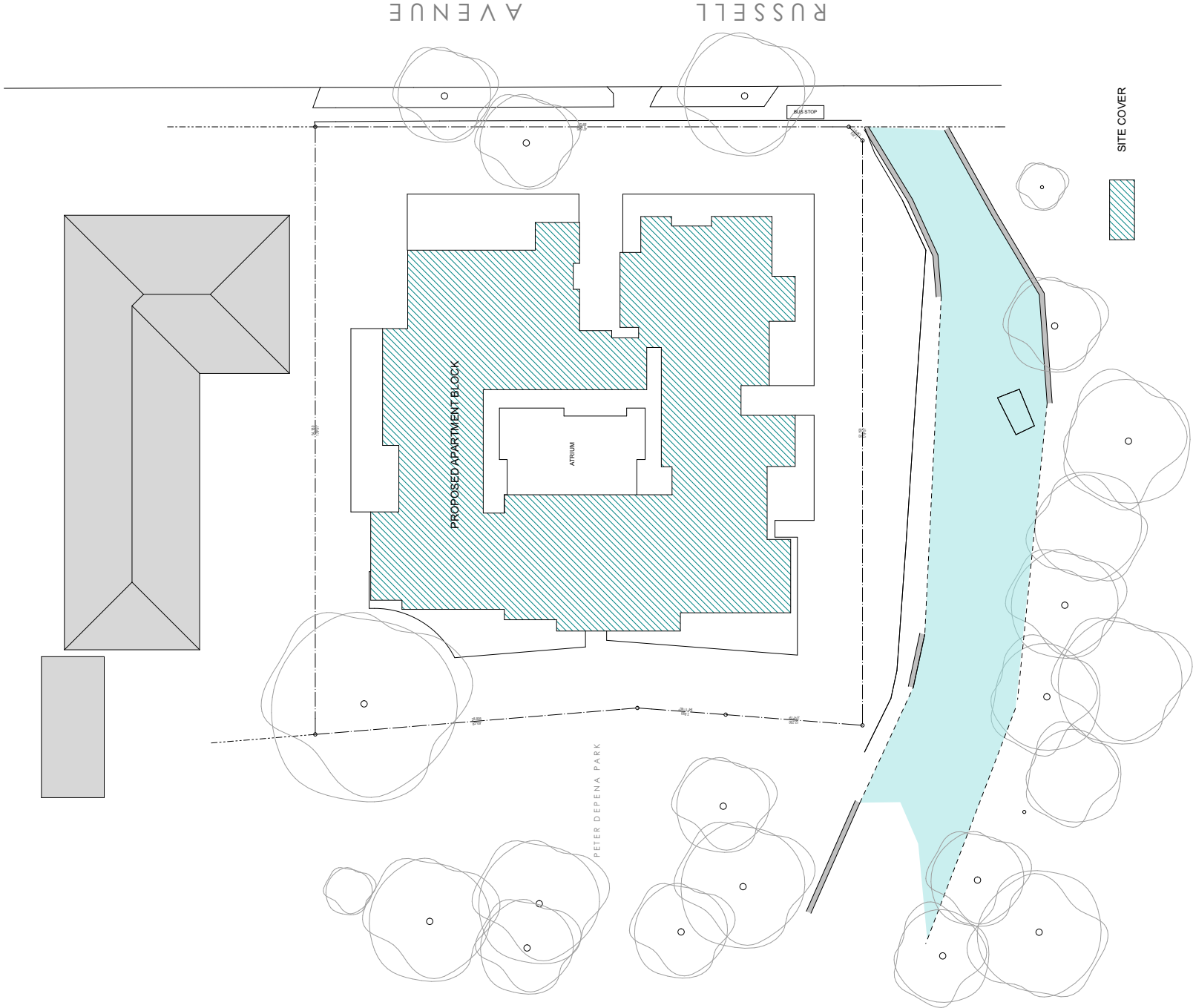


LANDSCAPE AREAS

	Provided	Minimum Required
Site Area	2575m <sup>2</sup>	
Landscaping	293m <sup>2</sup> (11%)	
Deep Soil Planting Area	732m <sup>2</sup> (29%)	7% ADG
Total Landscaping Provided	1025m <sup>2</sup> (40 %)	15% RDCP



DRAWING	Landscape Calculations	21.06.16 B Urban Design Study 09.06.16 A Urban Design Study		
		DATE	ISSUE	AMENDMENTS
		JOB No.	DWG. No.	Rev.
		B1601	PA.18	B



SITE COVER CALCULATIONS	
Site Area	2575m <sup>2</sup>
Max Site Cover Allowable (35%)*	901m <sup>2</sup>
Site Cover Achieved (37.75%) (Podium development in flood prone area)	973m <sup>2</sup>

\* Exceptions to the site coverage requirement may be considered in flood prone areas where podium development is warranted in accordance with Rockdale Councils DCP

FSR CALCULATIONS			
Site Area	2575m <sup>2</sup>		
	INTERNAL	LOBBIES	TOTAL
Ground Level	864m <sup>2</sup>	15m <sup>2</sup>	879m <sup>2</sup>
Level 1	894m <sup>2</sup>	15m <sup>2</sup>	909m <sup>2</sup>
Level 2	894m <sup>2</sup>	15m <sup>2</sup>	909m <sup>2</sup>
Level 3	894m <sup>2</sup>	15m <sup>2</sup>	909m <sup>2</sup>
Level 4	635m <sup>2</sup>	15m <sup>2</sup>	650m <sup>2</sup>
Total All Levels	4181m <sup>2</sup>	75m <sup>2</sup>	4256m <sup>2</sup>
Floor Space Ratio	1 : 1.65		

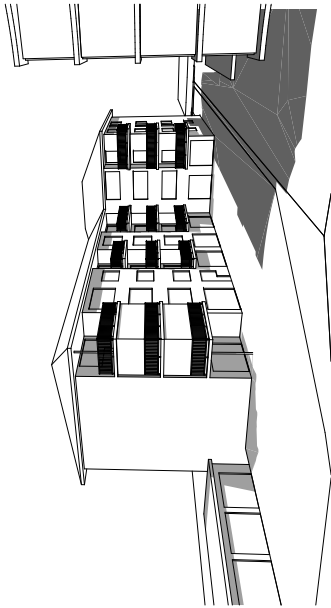
APARTMENT MIX				
	1B + MEDIA	2B & 2B+STUDY	3B	3B PH
1 Bed (54-56m <sup>2</sup> )	4	4		
2 Bed (90m <sup>2</sup> )	4			
2 Bed (95m <sup>2</sup> )	4			
2 Bed + Study (100-110m <sup>2</sup> )	5	13		
3 Bed (125-128m <sup>2</sup> )	4			
3 Bed (130-135m <sup>2</sup> )	7		15	
3 Bed (155m <sup>2</sup> )	4			
3 Bed Penthouse (120m <sup>2</sup> )	1			
3 Bed Penthouse (150m <sup>2</sup> )	1			
3 Bed Penthouse (170-190m <sup>2</sup> )	2			4
Total	36	4	13	4

SITE COVER CALCULATION

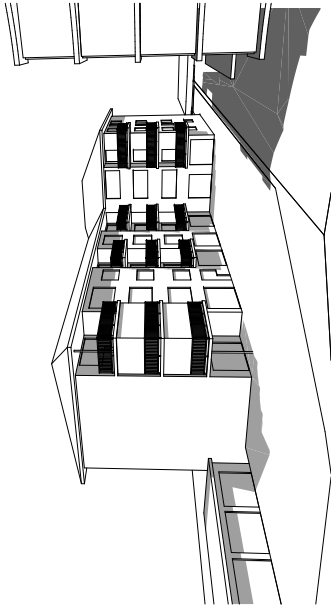
LEGEND

Shadow of Existing Building - 173-175 Russell Avenue

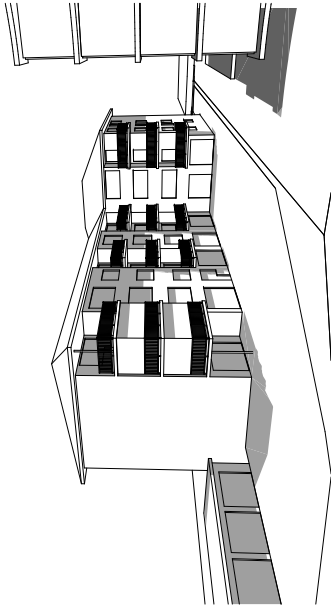
Shadow of Proposed Building - 177 Russell Avenue



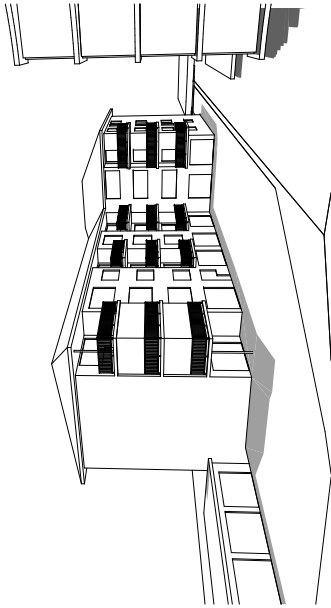
21 December - 9am



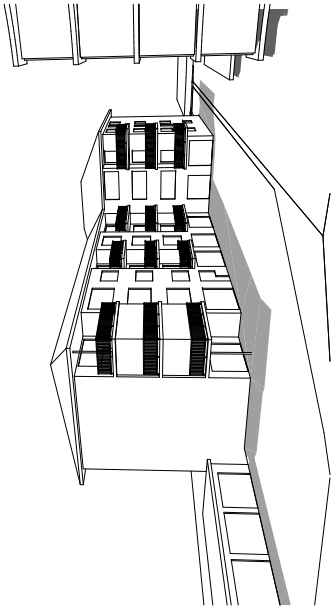
21 December - 10am



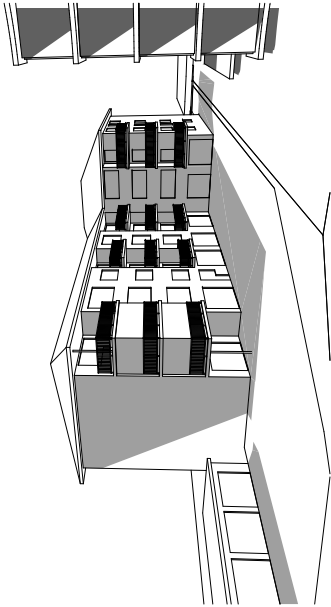
21 December - 11am



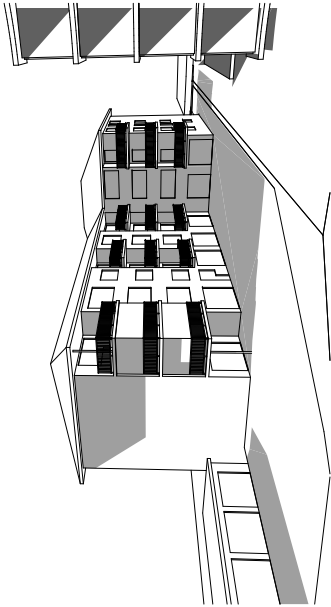
21 December - 12pm



21 December - 1pm



21 December - 2pm



21 December - 3pm

DRAWING	21.06.16 B Urban Design Study		
	09.06.16 A Urban Design Study		
DATE	ISSUE	AMENDMENTS	
		JOB No.	Rev.
		B1601	PA.20 B
Sun Study-Proposed Development Scenario			
Shadow Impact on 173-175 Russell Avenue			
21 December			

LEGEND

Shadow of Existing Building - 173-175 Russell Avenue

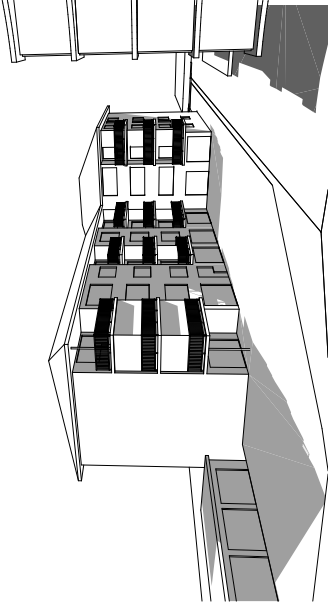
Shadow of Proposed Building - 177 Russell Avenue



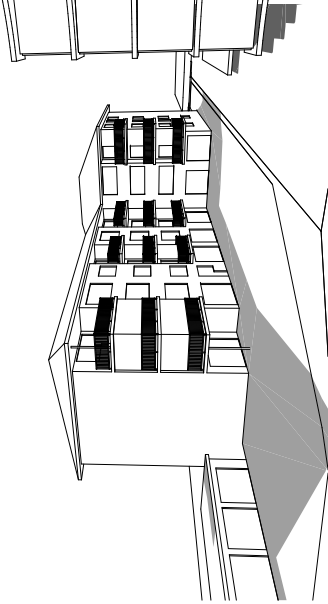
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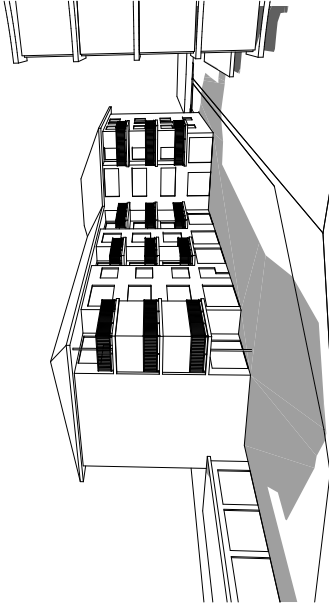
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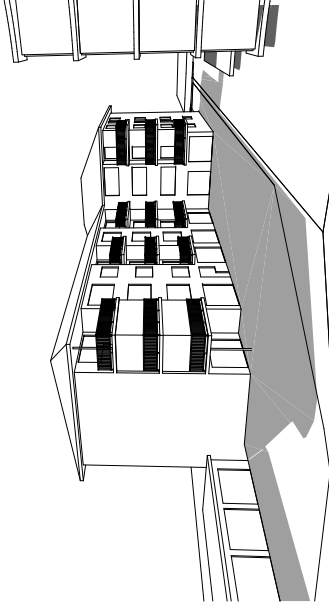
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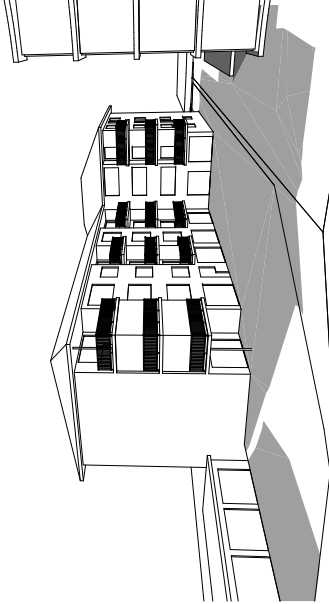
21 September - 12pm



21 September - 1pm



21 September - 2pm



21 September - 3pm

DRAWING	21.06.16 B Urban Design Study					
	09.06.16 A Urban Design Study					
DATE	ISSUE	AMENDMENTS		Rev.		
		JOB No.	DWG. No.			
		Sun Study-Proposed Development Scenario		B1601	PA.21	B
		Shadow Impact on 173-175 Russell Avenue		21 September		



LEGEND

Shadow of Existing Building - 173-175 Russell Avenue

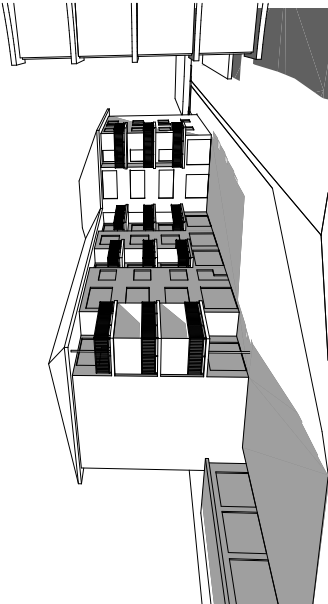
Shadow of Proposed Building - 177 Russell Avenue



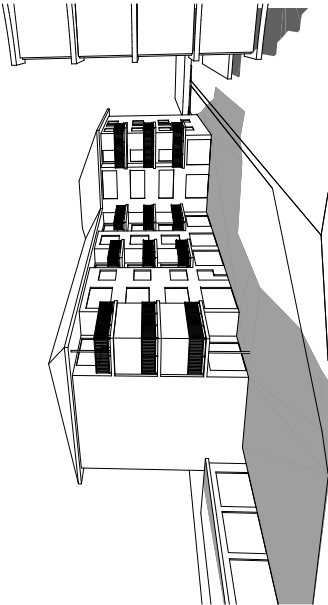
21 June - 9am



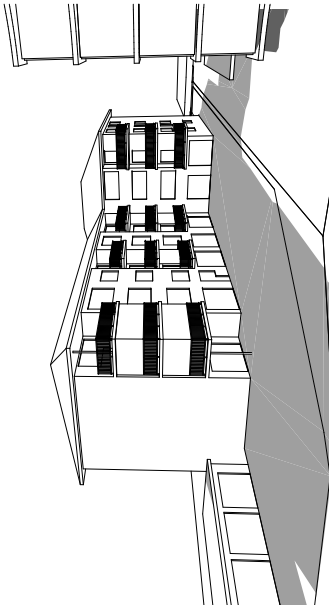
21 June - 10am



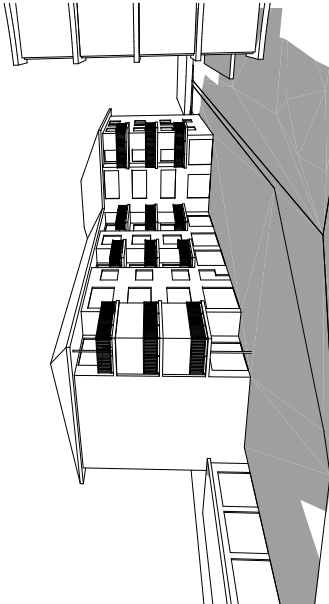
21 June - 11am



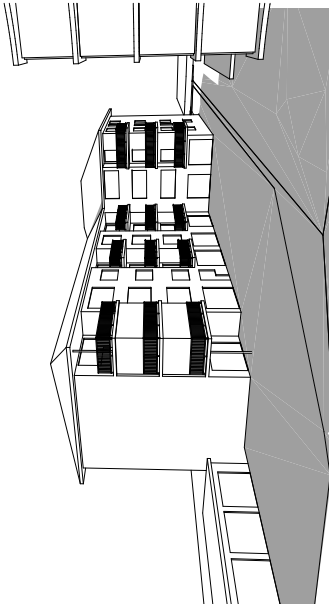
21 June - 12pm



21 June - 1pm

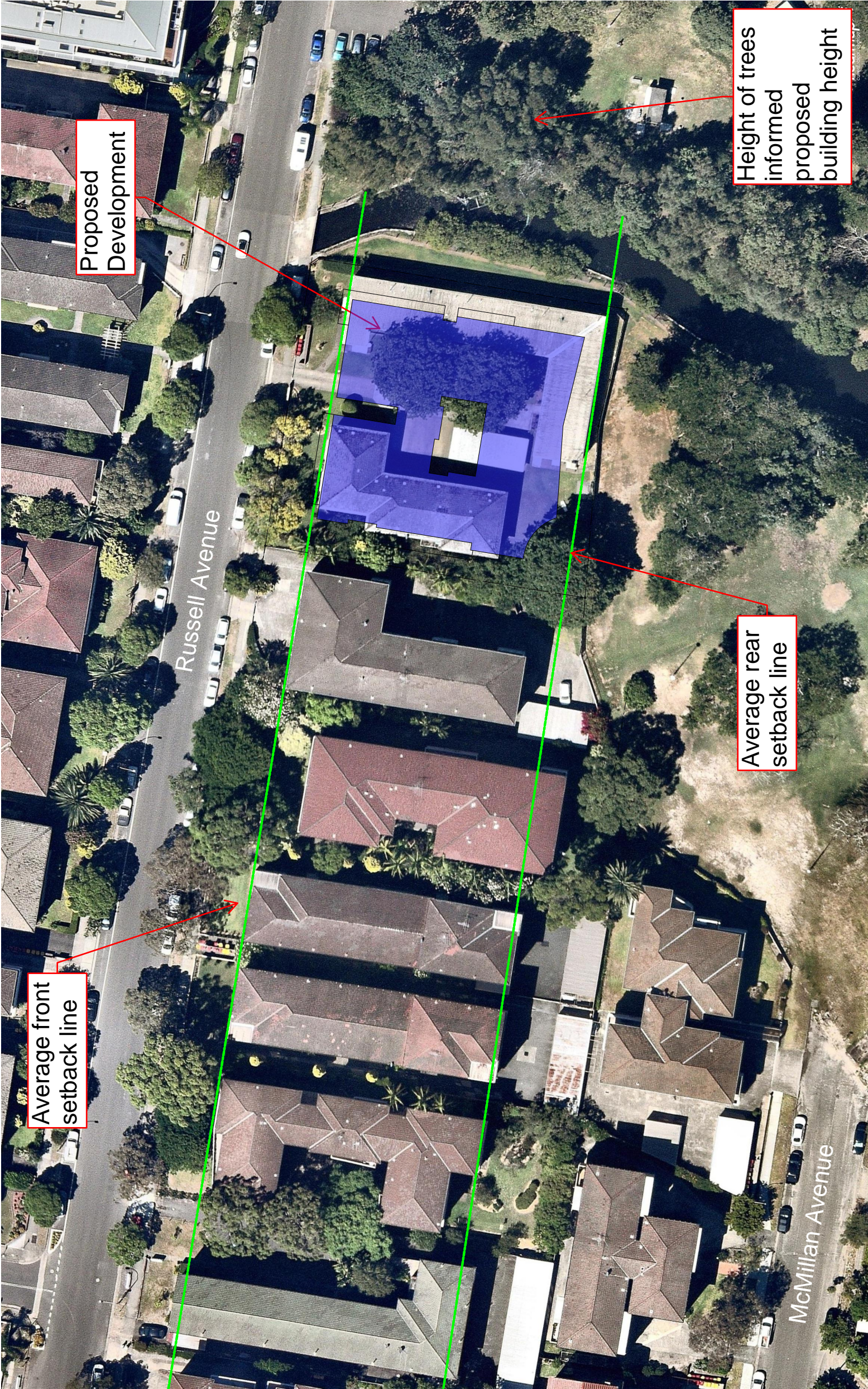


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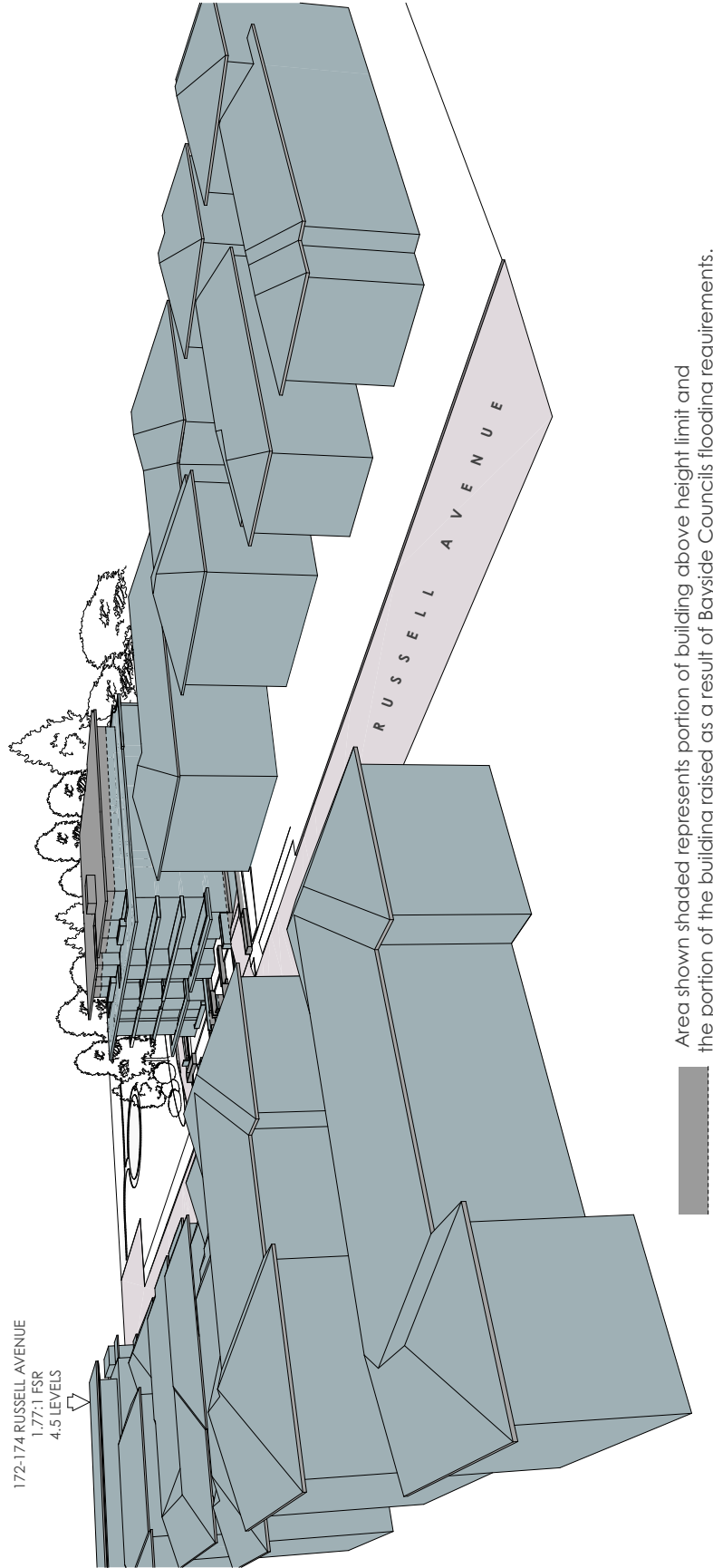


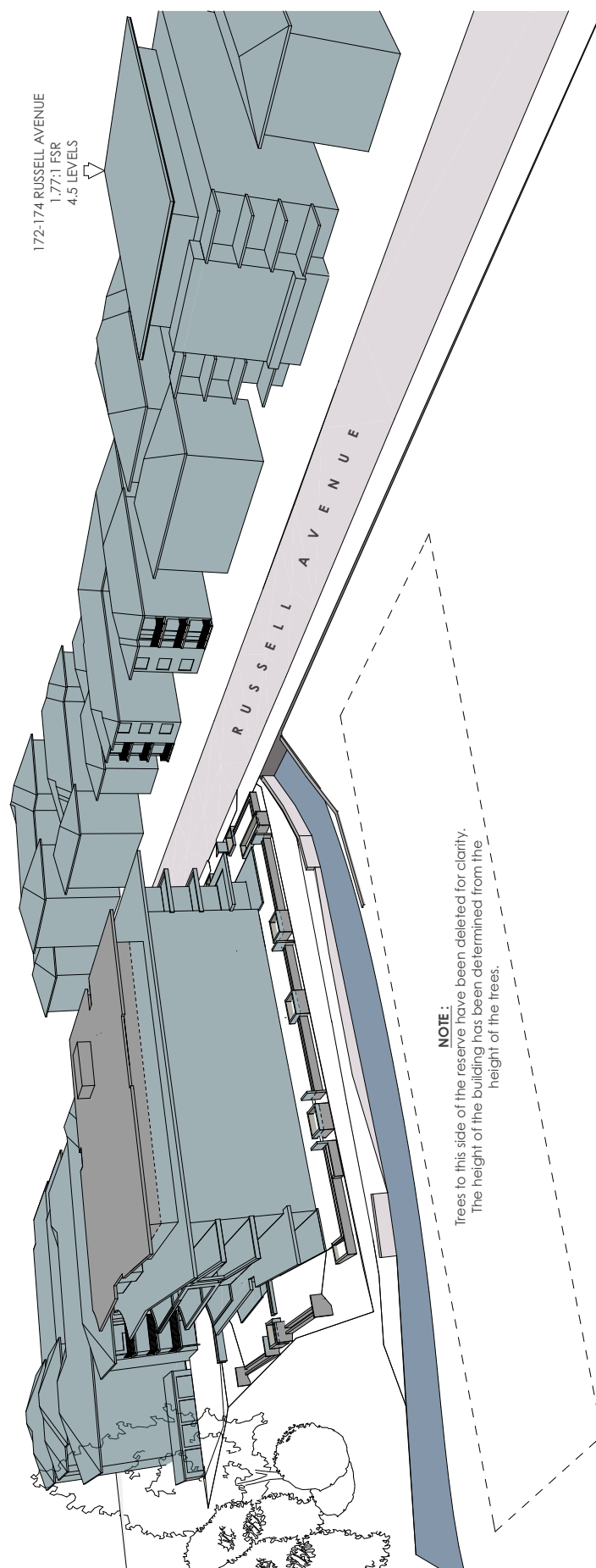
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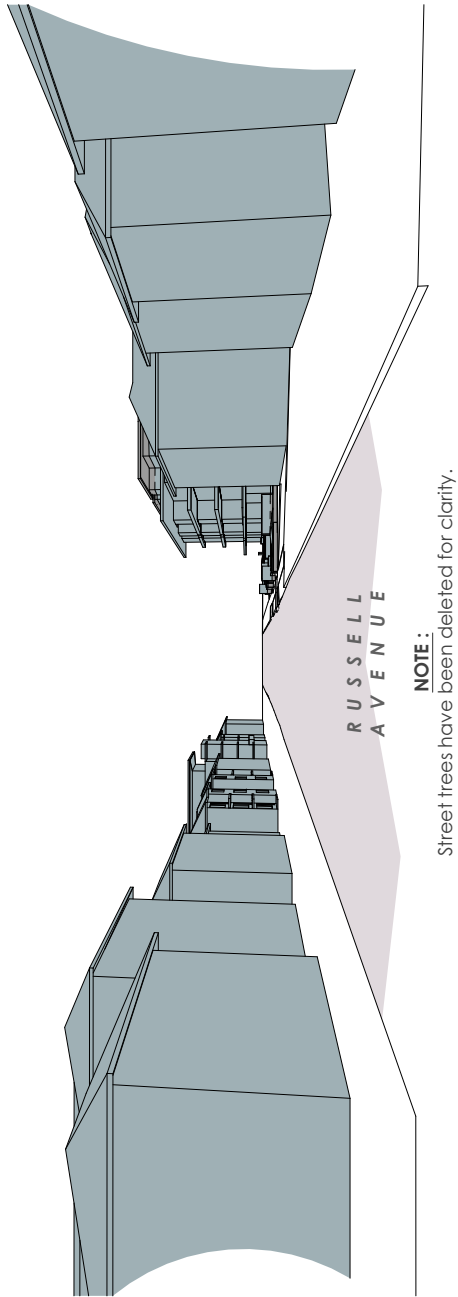






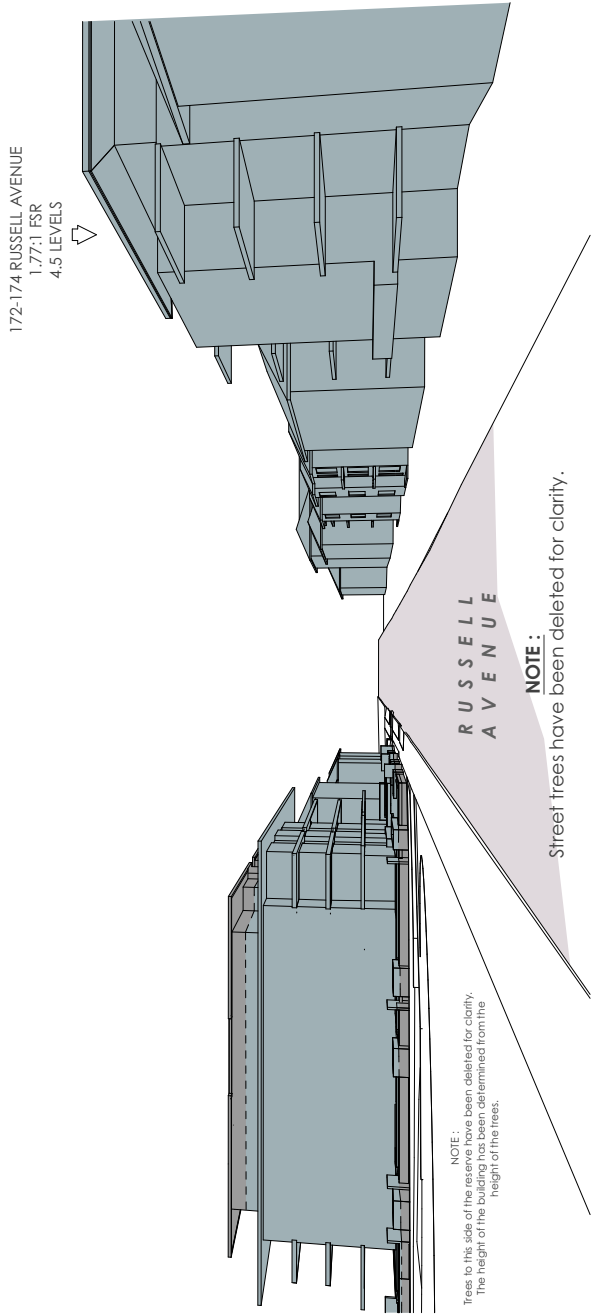
**NOTE :**  
Trees to this side of the reserve have been deleted for clarity.  
The height of the building has been determined from the height of the trees.

Area shown shaded represents portion of building above height limit and the portion of the building raised as a result of Bayside Council's flooding requirements.



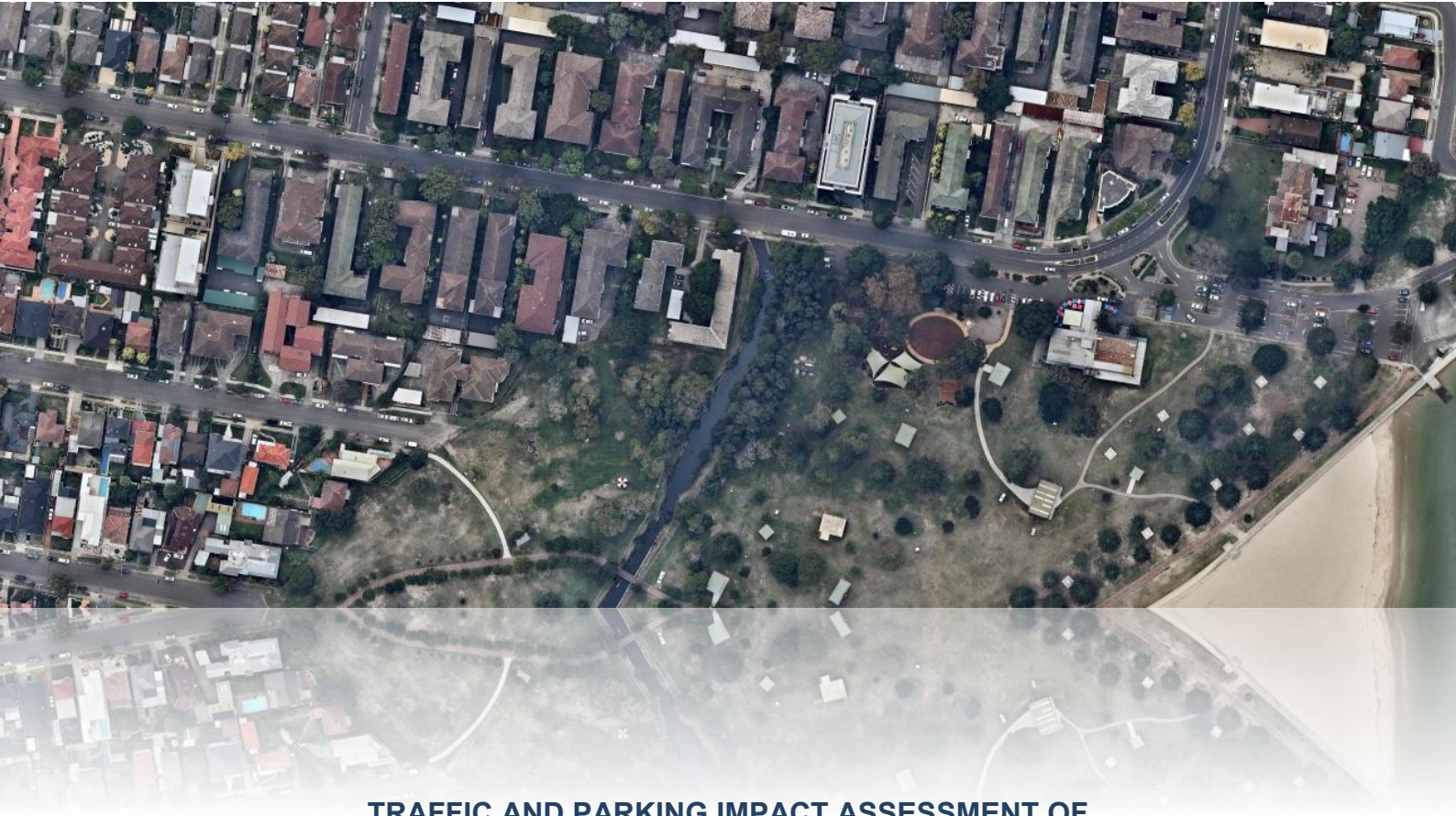
Area shown shaded represents portion of building above height limit and the portion of the building raised as a result of Bayside Councils flooding requirements.

STREET PERSPECTIVE 1 - VIEW EAST ALONG RUSSELL AVENUE



Area shown shaded represents portion of building above height limit and the portion of the building raised as a result of Bayside Councils flooding requirements.

STREET PERSPECTIVE 2 - VIEW WEST ALONG RUSSELL AVENUE



**TRAFFIC AND PARKING IMPACT ASSESSMENT OF  
RESIDENTIAL DEVELOPMENT  
AT 177 RUSSELL AVENUE, DOLLS POINT**



**Address: Shop 7, 720 Old Princes Highway Sutherland NSW 2232  
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**Division of RAMTRANS Australia ABN: 45067491678**

**Transport Planning, Traffic Impact Assessments, Road Safety Audits, Expert Witness**

**Development Type:** Residential Development

**Site Address:** 177 Russell Avenue, Dolls Point

**Prepared for:** HELM

**Document reference:** 16227.01FA

Status	Issue	Prepared By	Checked By	Date
Draft	A	BH	HC	16 <sup>th</sup> June 2016
Draft	B	HC	CM	24 <sup>th</sup> June 2016
Final	A	HC	CM	30 <sup>th</sup> June 2016

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# **1 INTRODUCTION**

*McLaren Traffic Engineering (MTE)* was commissioned by *HELM* to provide a Traffic and Parking Impact Assessment of the proposed Residential Development at 177 Russell Avenue, Dolls Point.

## ***1.1 Description and Scale of Development***

The proposed residential development (as depicted in Annexure A) includes the demolition of two existing two-storey residential flat buildings at 177 Russell Avenue, Dolls Point and construction of a 5-storey residential flat building including the following:

- 2 level basement carpark
- 4 x 1 bedroom units
- 13 x 2 bedroom units
- 19 x 3 bedroom units
- Total of 36 apartments

The site layout includes an underground car park with a total of 62 car parking spaces including 4 disabled residential garages and 1 disabled visitor space. Vehicular access to the car park is provided via a two-way driveway from Russell Avenue.

## ***1.2 State Environmental Planning Policy (Infrastructure) 2007***

The proposed development does not qualify as a development with relevant size and/or capacity under Clause 104 of the SEPP (Infrastructure) 2007. Accordingly, formal referral to the Roads and Maritime Services (RMS) is not necessary and Rockdale City Council officers can determine this proposal accordingly.

## ***1.3 Site Description***

The subject site is currently occupied by two residential flat buildings containing 28 residential units, with frontages to Russell Avenue to the north. The site backs onto the Peter Depena Reserve to the south.

The site is generally surrounded by medium to high density residential dwellings whilst a restaurant is located at the end of Russell Avenue to the east, adjacent Dolls Point beach. Public parking exists east of the adjacent canal for the reserve.

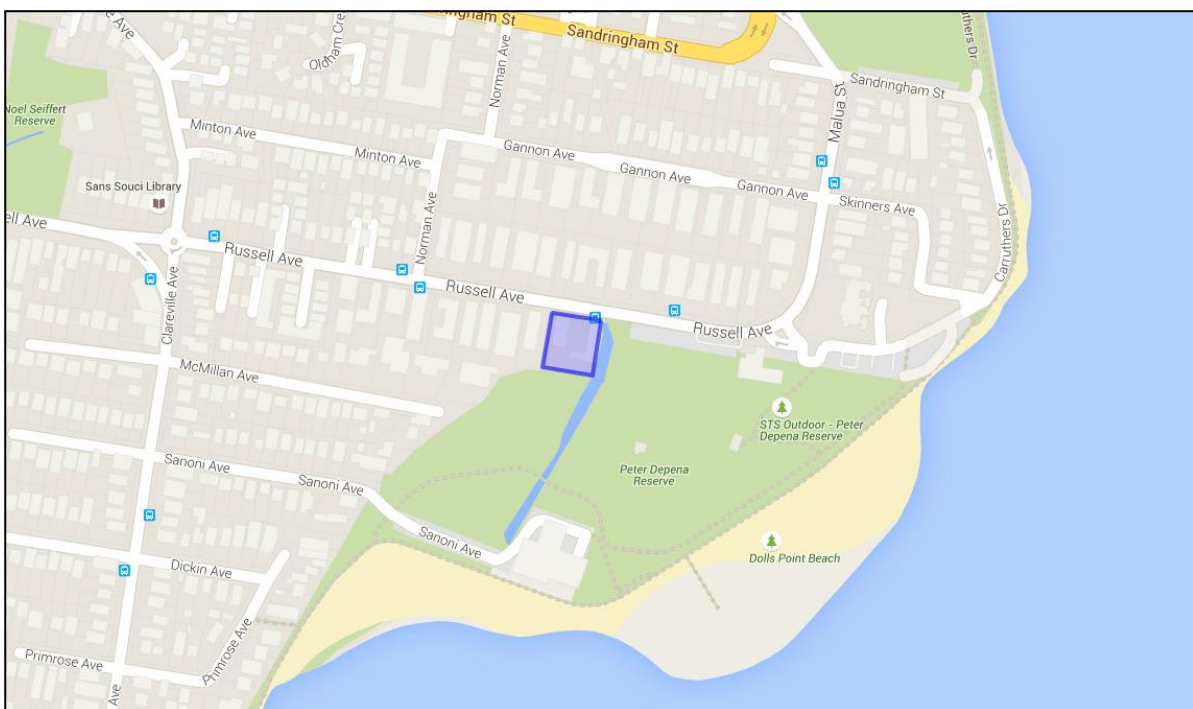
## 1.4 Site Context

The site location is shown on aerial imagery and a map in **Figure 1 & Figure 2** respectively.



Site Location

**FIGURE 1: SITE CONTEXT – AERIAL PHOTO**



Site Location

**FIGURE 2: SITE CONTEXT – STREET MAP**

## **2 EXISTING TRAFFIC AND PARKING CONDITIONS**

### **2.1 *Road Hierarchy***

Russell Avenue has the following characteristics within close proximity to the site:

- Unclassified local road
- Approximately 12m in width facilitating two-way passing and kerbside parking.
- No speed limit signposted - 50km/h applies
- Unrestricted kerbside parking on both sides of the road

Clareville Avenue has the following characteristics within close proximity to the site:

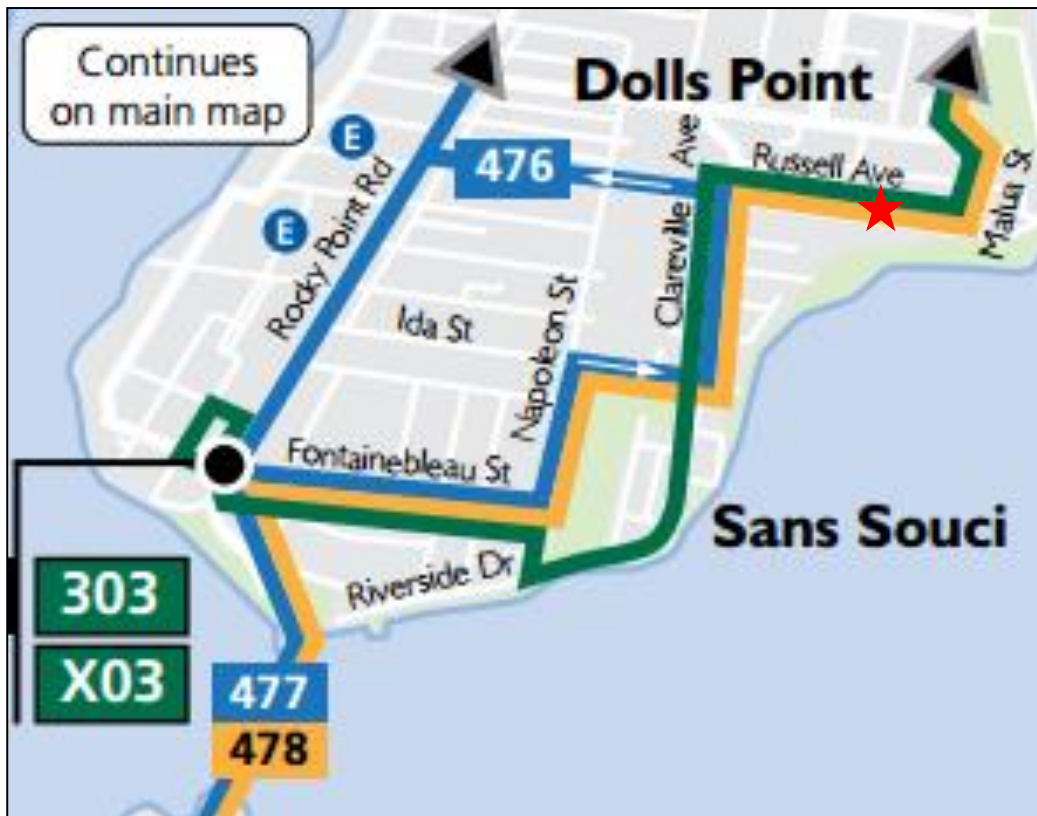
- Unclassified LOCAL road
- Approximately 12m in width facilitating two-way passing and kerbside parking
- No speed limit signposted - 50km/h applies
- 2-hour restricted kerbside parking permitted along both sides of the street.

### **2.2 *Existing Traffic Management***

- Round-a-bout controlled intersection of Russel Avenue / Clareville Avenue
- Median controlled entrance to beach car park on Carruthers Drive.
- Pedestrian footpaths exist on both sides of Russell Avenue including along the site frontage.

### **2.3 *Public Transport***

The subject site has access to existing bus route 303, X03 and 478 provided by Sydney Buses which runs along Russell Avenue, with the nearest bus stop located on the frontage of the site. The 303 and X03 provide access from Dolls Point / Sans Souci to Eastgardens and the City, whilst the 478 service runs from Miranda and Dolls Point to Rockdale Station.



## 2.4 Future Road and Infrastructure Upgrades

From Rockdale City Council's Development Application tracker and website, it appears that there is no future planned road or public transport changes that will affect traffic conditions within the immediate vicinity of the subject site.

### 3 PARKING ASSESSMENT

#### 3.1 Council Parking Requirement

Reference is made to *Rockdale City Council 2011 DCP, Part 4.6 – Car Parking, Access and Movement* which designates the following parking rates:

##### Objectives

*To provide sufficient, convenient and safe on-site car parking while encouraging alternative modes of transport, such as walking and cycling*

<i>Land Use</i>	<i>Vehicle</i>
<i>Multi Dwelling Housing / Residential Flat building / Shoptop Housing</i>	<ul style="list-style-type: none"><li><i>1 space / studio, 1 and 2 bedrooms apartments</i></li><li><i>2 spaces/3 bedrooms apartments or more</i></li><li><i>Visitor parking: 1 space/5 dwellings</i></li></ul>

Additionally, Council's DCP requires at least one visitor car space to be equipped with car wash facilities for developments with 5 dwellings or more.

**TABLE 1: DCP PARKING REQUIREMENTS**

<b>Land Use</b>	<b>Type</b>	<b>Scale</b>	<b>Rate</b>	<b>Spaces Required</b>
Residential Flat Building	1 or 2 Bedroom	17	1 space / unit	17
	3+ Bedroom	19	2 space / unit	38
	Visitor	36	1 space / 5 units	7.2 (7) <sup>(1)</sup>
<b>Total</b>				<b>62 including 1 car wash</b>

Notes: (1) The DCP suggests that any parking calculations that are not whole numbers should be rounded up, however in this instance the calculation is 7.2 visitor car spaces and a requirement of 7 spaces is deemed to be appropriate.

As shown above, strict application of the DCP requires a total of **62** car parking spaces for the current development proposal.

The proposed design includes a provision of 30 parking spaces on Basement 1 and a further 32 car parking spaces on Basement 2, a total of 62 car parking spaces within the basement parking levels.

The provision of 62 car parking spaces complies with Council's DCP parking requirements.

### 3.2 Disabled Parking

The *Rockdale City Council DCP 2011 - 4.6 Social Equity* states that for residential developments of more than 30 units, 10% of units will be adaptable in accordance with AS 4299. It is reasonable to provide at least one adaptable space per adaptable unit making the requirement 4 adaptable spaces.

Based on Rockdale's DCP four adaptable apartments have been provided as 2 bedroom apartments. Each 2 bedroom adaptable apartment has been nominated with a disabled space and a standard space. The current plans identify four (4) enclosed garages able to accommodate the required disabled parking for adaptable units. Headroom within these garages are to be 2.5m.

### 3.3 Bicycle & Motorcycle Parking Requirements

*Rockdale DCP 2011, Part 4.6 – Car Parking, Access and Movement* specifies bicycle and motorcycle parking rates for residential flat buildings as follows:

#### 4.6 Car Parking, Access and Movement

<b>Land Use</b>	<b>Bicycle</b>	<b>Motorcycle</b>
<i>Residential Flat Buildings</i>	<i>1 space / 10 units</i>	<i>1 space / 15 units</i>

**Table 4** below summarises Council's bicycle and motorcycle parking requirements.

**TABLE 4: DCP BICYCLE AND MOTORCYCLE PARKING REQUIREMENT**

<b>Vehicle</b>	<b>Scale</b>	<b>Rate</b>	<b>Spaces Required</b>
Bicycle	36	1 space / 10 units	3.6 <b>(4)</b>
Motorcycle	36	1 space / 15 units	2.4 <b>(3)</b>

The proposal requires four (4) bicycle spaces and three (3) motorcycle spaces. Locations for bicycle and motorcycle spaces are shown in Annexure A.

### 3.4 Servicing and Loading

Rockdale Council's Technical Specification – *Waste Minimisation and Management*, Section 3.2 (11) states the following:

*"Where site characteristics, number of bins and length of street frontage allow, bins may be collection from a kerbside location. All bins will be taken to the kerb by Council's Waste Contractor or Building Manager of the development, provided that waste/recycling storage areas are easily accessible and located within 20m of the front boundary, they are returned to the bin area by the Contractor following collection."*

It is expected that waste collection will be undertaken kerbside as per the above.

### 3.5 Car Park Design and Compliance

Refer to **Annexure A** which shows the proposed parking layout that is designed in accordance with AS2890.1 – 2004 & AS2890.6:2009 (or better). Compliance review and swept paths of critical locations are shown in **Annexure B** for reference.

It should be noted that while we have assessed the plans to be compliant with the relevant standards, it is usual that a construction certificate is required prior to construction due to possible changes after D.A approval.

Some enclosed garages for single car spaces provide additional width to enhance driver comfort or increase storage capacity within the enclosed garages. The additional width is also provided for less immobile users (although not necessarily disabled users). The following car park design objections are summarised below:

- (a) **Aisle width:** Minimum 5.8 metres.
- (b) **Parking bays:** Minimum 2.4 metre width for residents. Minimum 2.5 metre width for visitor parking. A 300mm widening of the parking space is required for each side wall obstruction for car door opening effects. A minimum parking bay length of 5.4 metres is required, unless a small bay which can have the dimensions of 5.0 metres long by 2.3 metres wide.
- (c) **Driveway Gradient for User Class 1, 1A or 2 (i.e. Medium to Long Term parkers, such as employees, resident & tenants):** To satisfy sight lines to pedestrians on footpaths and to comply with under carriage clearance and overhang checks. In this regard driveways serving more than a “domestic dwelling” (i.e. three dwellings that generate less than 3 peak hour trips) but less than 30 peak hour trips need to achieve acceptable performance as follows:
  - ❑ Provide a 2m by 2.5m sight triangle upon departure to the road boundary to provide adequate sight lines to pedestrians. See Figure 3.3 of AS2890.1-2004.
  - ❑ Max 1:4 for up to 20m for private car parks
  - ❑ 1:8 transition over 2 metres for ramps
- (d) **Headroom:** Minimum of 2.2m EXCEPT for the area directly above disabled parking spaces and shared zone where minimum headroom of 2.5m is required in accordance with Clause 2.4 of AS2890.6:2009.
- (e) The clearance height upon entry to the car park shall be clearly displayed if the height clearance is less than 2.3m.

Disabled parking is in accordance with AS2890.6-2009. The requirements met by the proposed development achieve:

- (a) **Parking Bays:** Minimum 2.4m width and a minimum 5.4m bay length.
- (b) **Shared Zone:** A shared zone must be located adjacent to the parking bay on either side. A Shared zone must also be included at the front or rear of the parking bay. It should be noted that the aisle can be deemed a shared zone for the front or rear of the parking bay. Where a shared zone separates two parking bays or separates the disabled space



and a wall, a Bollard is to be installed in accordance to Figure 2.3 of AS2890.6 2009. Disabled space of 3.8m is an acceptable practice in accordance with AS4299:1995. Disabled spaces provided within the development are compliant.

- (c) **Space Identification:** In accordance with Figure 3.1 of AS2890.6 each dedicated disabled parking bay is to be clearly identified.

Internal circulation has been reviewed and considered satisfactory, with the installation of convex mirrors at ramp locations to improve view lines from within the basement area. Swept paths of critical locations are shown in **Annexure B** for reference.



## 4 TRAFFIC ASSESSMENT

The impact of the expected traffic generation levels associated with the subject proposal is discussed in the following sub-sections.

### 4.1 *Traffic Generation & Impact*

The estimated traffic generation level for the proposed development is based upon the RMS Guide to Traffic Generating Developments October 2002, which assumes a worst case of a high proportion of private vehicle trips. The traffic generation is summarised in Table 2 below.

**TABLE 2: TRAFFIC GENERATION OF SITE**

Time	Rate	Scale	Traffic Generation	Direction
AM Peak	0.29 per dwelling	36	11 trips	9 out; 2 in
PM Peak	0.29 per dwelling	36	11 trips	2 out; 9 in

As shown above, the peak hour traffic generation is estimated to be 11 vehicle trips. The peak hour vehicle trips will typically occur during the commuter peak hours between 7:00-9:00am and 4:00-6:00pm.

The existing developed site consists of 30 units, which equates to 8 peak hour vehicle trips, however the provision of parking is significantly below what would be required of a modern residential flat building as the existing developed site consists of 8 on-site car spaces. This is likely to generate some 3 to 4 peak hour vehicle trips.

Therefore, the net increase in peak hour traffic generation is likely to be up to 8 peak hour vehicles ( $11 - 3 = 8$ ), equivalent to 1 additional movement every 7 to 8 minutes on the surrounding road network.

The relatively minor increase of 1 vehicle every 7 to 8 minutes is anticipated to be negligible and represent no appreciable impact in terms of traffic flow efficiency and residential amenity.

## 5 **CONCLUSION**

In view of the foregoing, the subject proposal (as depicted in **Annexure A**) is fully supportable in terms of its traffic and parking impacts. The following outcomes of this traffic impact assessment are relevant to note:

- The supply of 62 car parking spaces complies Council's DCP requirement.
- The provision of four (4) disabled residential garages and one (1) disabled visitor satisfies accessibility requirements for car parking
- The design of the basement car parking area satisfies relevant clauses of AS2890.1:2004 & AS2890.6:2009 where applicable. Swept path tests provided in **Annexure B** demonstrate successful on-site manoeuvring and the ability for forward entry and exit.
- The net traffic generation is equivalent to one additional vehicle every 7 to 8 minutes. This level of additional is anticipated to be negligible and represent no appreciable impact in terms of traffic flow efficiency and residential amenity.

**Ground Level**

**Dolls Point Apartments**  
177 Russell Avenue • Dolls Point  
URBAN DESIGN STUDY

**PCA ARCHITECTS**  
253 Murray Street, New York City 10015  
Architect Registration No. 6975

**HELM**

DATE	ISSUE	REVISIONS	SHEET NO.	TITLE
08/06/16	A	Urban Design Study	B1601	PA.03

**Ground Level**

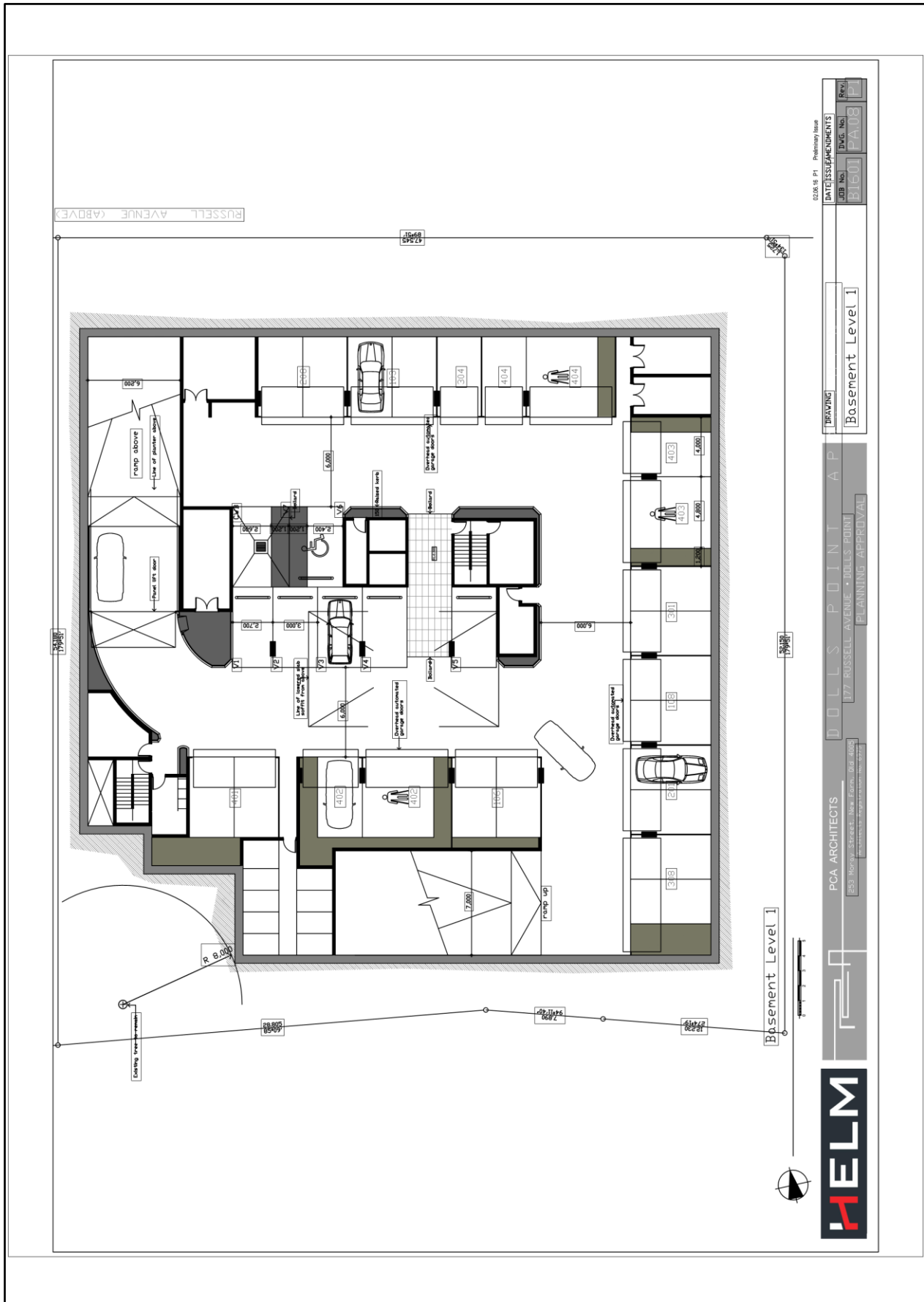
**Dolls Point Apartments**  
177 Russell Avenue • Dolls Point  
URBAN DESIGN STUDY

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253 Murray Street, New York City 10015  
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DATE	ISSUE	REVISIONS	SHEET NO.	TITLE
08/06/16	A	Urban Design Study	B1601	PA.03

# ANNEXURE A: PROPOSED PLAN (SHEET 2 OF 3)



# ANNEXURE A: PROPOSED PLAN (SHEET 3 OF 3)



**ANNEXURE B: SWEEP PATH & COMPLIANCE REVIEW**  
(Sheet 1 of 5)

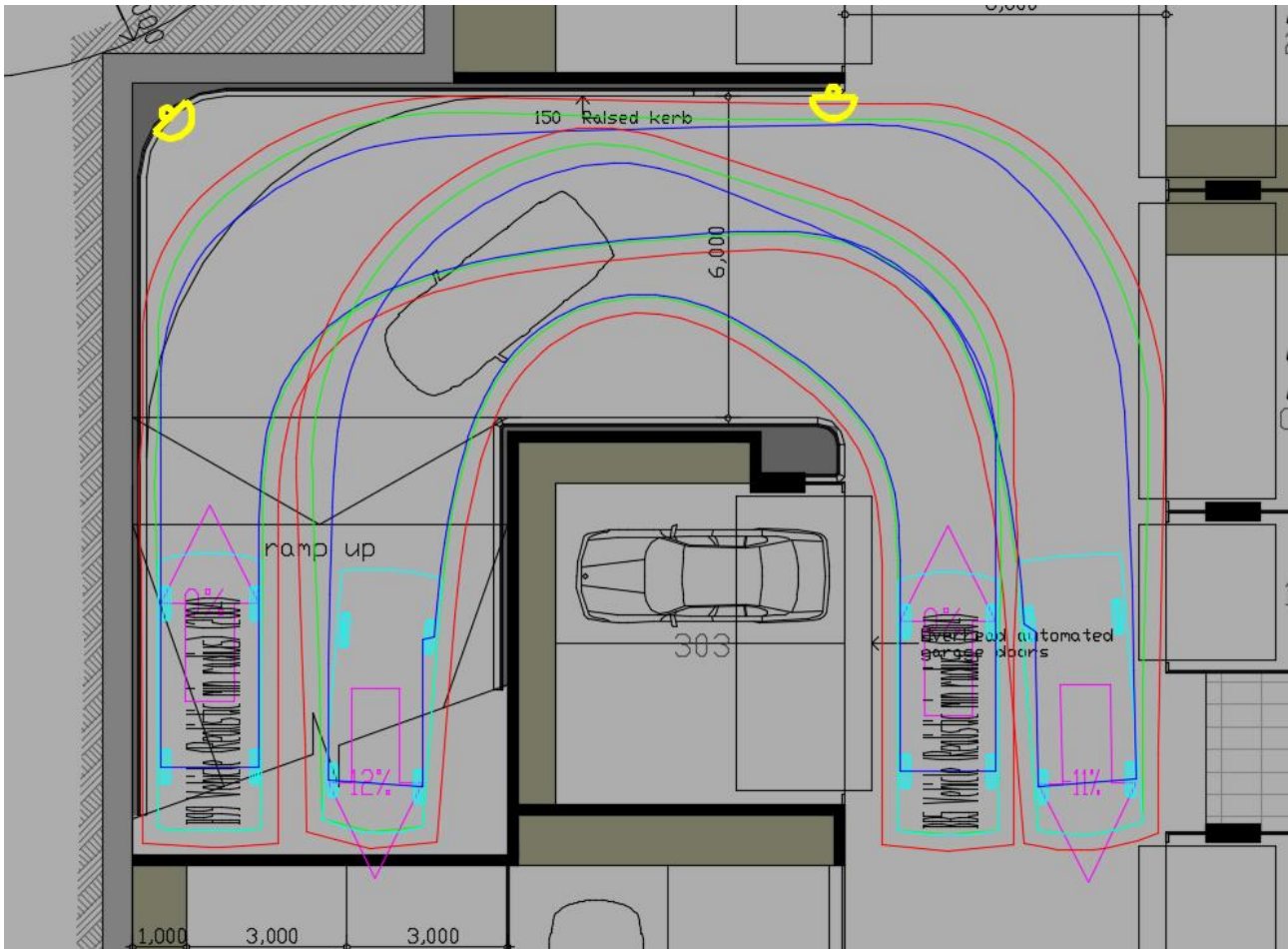
AS2890.1:2004 COMPLIANCE TABLE		
CLAUSE	COMPLIANCE	NOTES
TABLE 1.1: USER CLASS (SPACES) 1 (0) 1A (51) 2 (6) 3 (0) 3A (0) 4 (5) TOTAL (62)	Yes	
Figure 2.2 Angle Parking Dimensions Applicable bay length, bay width, aisle width	Yes	
Clause 2.4.1(a)(iii) Small Car Space 2.3m wide x 5.0m long	N/A	
Clause 2.4.1(b)(ii) 300mm clearance to high objects	Yes	
Clause 2.4.2(c) 1m blind aisle extension	Yes	
Figure 2.5 Parallel Parking Dimensions Applicable bay length, bay width, aisle width	N/A	
Clause 2.4.5.2(a) Kerb Height	Yes	
Clause 2.4.5.4 Wheel Stops Height, width, setback	N/A	
Clause 2.4.6 Gradients within parking modules Minimum & maximum gradients	Yes	
Clause 2.4.7 Motorcycles Parking bay dimensions	Yes	
Clause 2.5.2(a) Straight ramp widths 3m between kerbs (1 way), 5.5m between kerbs (2 way)	N/A	
Kerb widths – standard 300mm		Adequate width for two-way passing with clearance
Wall-to-wall width (on straight) SINGLE LANE – standard 3.6m TWO LANES – standard 6.1m	Yes	
Table 2.2 Curved ramp widths See table	Yes	
Figure 2.9 Curved ramp dimensions See table	Yes	
Clause 2.5.3(a) Ramp grades (public) >20m: 16.7% max <20m: 20% max	N/A	
Clause 2.5.3(b) Ramp grades (private) >20m : 20% max <20m: 25% max	Yes	
Clause 2.5.3(d) Changes of grade Not in excess of 12.5% for summit 15% for sag	No	Crest at top of entry driveway is non-compliant. However can be addressed at D.A
Select access facility category from Table 3.1	1	
Table 3.2 Access driveway widths 1: 3-5.5m combined 2: 6-9m combined 3: 6m entry, 4-6m exit, 1-3m separation 4: 6-8m entry, 6-8m exit, 1-3m separation 5: intersection to be provided.	Yes	1

**ANNEXURE C: SWEEP PATH & COMPLIANCE REVIEW**  
(Sheet 2 of 5)

Clause 3.2.3 Driveway location compliance	Yes	
Figure 3.2 Car sight distances	Yes	
Figure 3.3 Pedestrian sight distances	Yes	
Clause 3.4 Queuing areas See table 3.3	Yes	
Clause 4.3.4 Low clearance signs Give way / stop signs Speed limit signs Other warning signs	Yes	Not on plans, can be detailed prior to CC
Clause 4.4 Pavement markings Linemarking Pedestrian crossings arrows	Yes	Not on plans, can be detailed prior to CC
Clause 5.2 Column location See figure 5.1 E.g. 90°: 750mm setback	Yes	
Clause 5.3.1 headroom At least 2.2m for cars	Yes	Minimum 2.2m achieved with 2.5m above disabled parking
Clause 5.4 enclosed garages <b>Single:</b> 3m internal width 2.4m doorway min (see figure 5.4) <b>Multiple:</b> 2.4m wide each	Yes	
Circulation	Yes	
<b>AS2890.6:2009 COMPLIANCE TABLE</b>		
<b>CLAUSE</b>	<b>COMPLIANCE</b>	<b>NOTES</b>
Parking Dimensions 2400x 5400mm 2400x 5400mm shared space Fig 2.2	Yes	
Bollard Located 800 ± 50 1200mm along shared space Fig 2.2	Yes	To be installed accordingly during construction
Min. 2500mm required directly above space (Fig 2.7) Min. 2200mm for general access (CI 2.4)	Yes	Minimum 2.2m achieved with 2.5m above disabled parking
Space Identification Fig 3.1  1200x 1200 min with 500 to 600mm from front of space	Yes	To be linemarked accordingly by a suitable contractor
Space Delineation Clause 3.2	Yes	To be linemarked accordingly by a suitable contractor



**ANNEXURE D: SWEEP PATH & COMPLIANCE REVIEW**  
**(Sheet 3 of 5)**



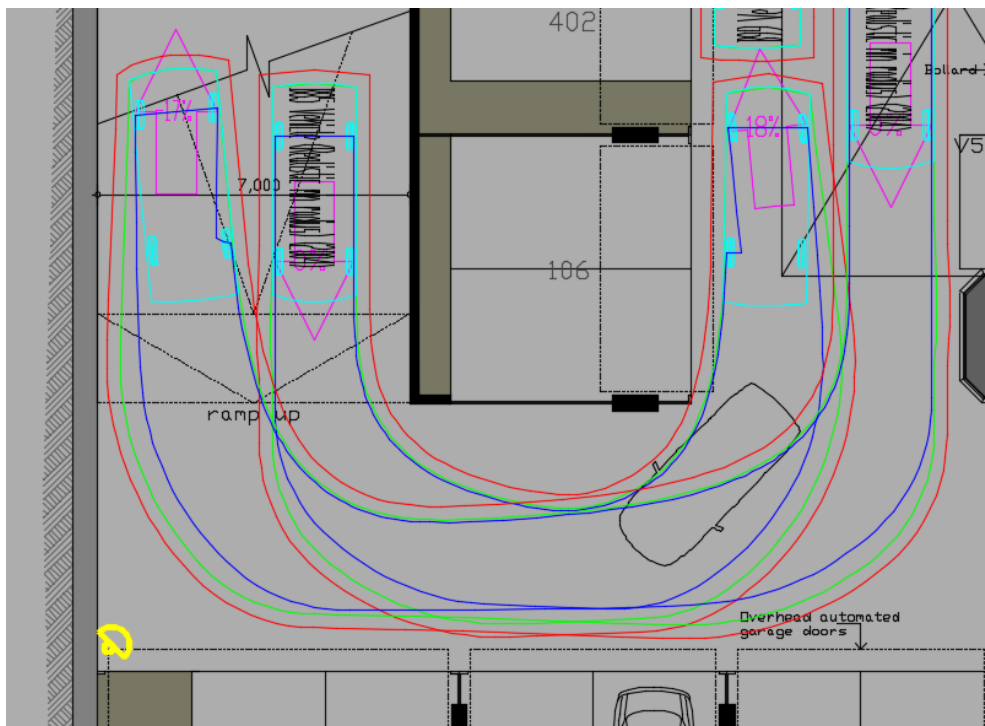
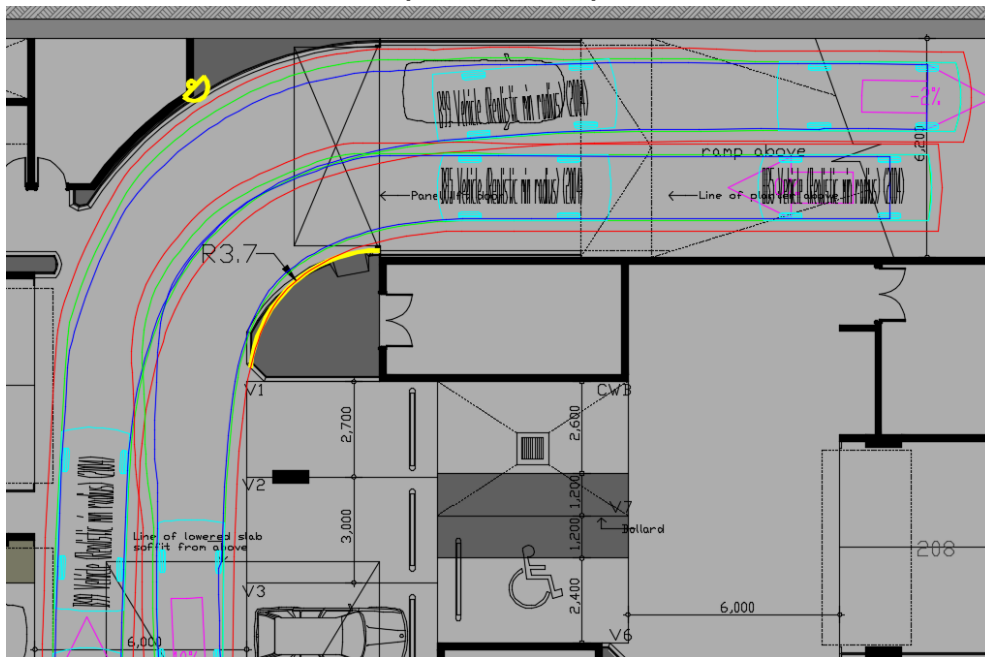
B85 Passing B99 Car  
 5km/h

Successful – Recommended convex mirror locations

Blue- Tyre path  
 Green – Vehicle body  
 Red – 300mm clearance



**ANNEXURE E: SWEEPED PATH & COMPLIANCE REVIEW**  
**(Sheet 4 of 5)**

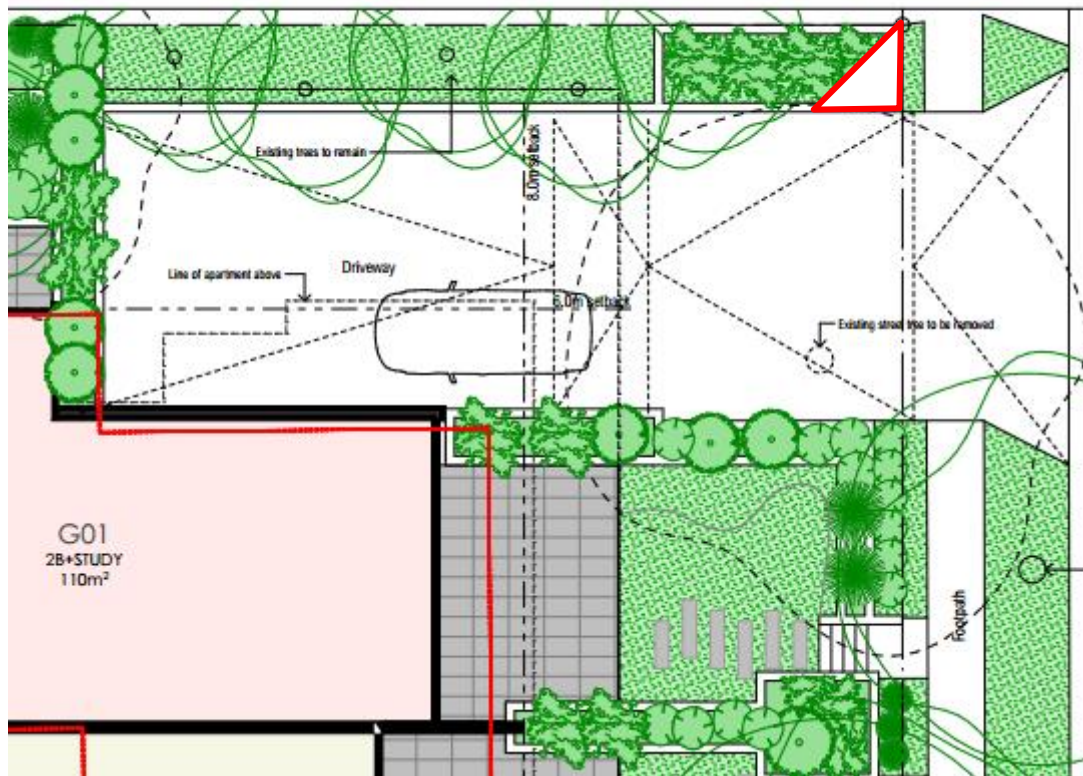


B85 passing B99 Car  
5km/h

## Successful- recommended convex mirrors and modification of kerbing

Blue- Tyre path  
Green – Vehicle body  
Red – 300mm clearance

**ANNEXURE F: SWEEP PATH & COMPLIANCE REVIEW**  
**(Sheet 5 of 5)**



Sight triangle on exit side of driveway required  
Sight triangle to measure 2.5m into the site and 2.0m along the boundary.

---

# Arboricultural Impact Assessment Report

**Site address:** 177 Russell Ave  
Dolls Point NSW

**Prepared for:** Matt Campbell  
**Helm Pty Limited**  
131 Sailors Bay Road  
Northbridge NSW

**Prepared on:** 24<sup>th</sup> June 2016

**Report number:** CD1628

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Dip Arboriculture, Dip Horticulture  
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Registered QTRA user (No. 807)  
Member - Society of Risk Analysis Australia & New Zealand

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## Executive Summary

The proposed development involves the removal of two existing unit blocks and the construction of a new five-storey block with two levels of basement parking along with associated landscape works.

The plans reflect the retention of a large Oak tree in the rear yard as well as a number of palms along the western boundary and a Robinia in the front yard. This report recommends the removal of the Robinia and replanting with a more suitable species as a part of the landscaping works.

In order to construct the building, two large Magnolia trees need to be removed. Consideration has been given to transplanting these two trees but the cost appears to be disproportionate to the landscape benefits.

A Tree Protection Plan (specifications) and Tree Protection Plan (drawing) have been prepared and are included in this report. Provided that these plans are followed the trees that are being retained will not be significantly impacted by the proposed works.

## Brief

The author has been asked to;

- visit the site,
- identify the trees present and within 10 metres of the development,
- assess existing site conditions,
- assess the current health of the trees,
- perform a Preliminary Tree Assessment,
- assess the impact of the proposed development on the trees,
- produce a Tree Protection Plan and Tree Protection Plan (drawing),
- compile an Arboricultural Impact Assessment Report.

## Information Provided

Plan Name	Drawn By	Date	Plan Number
Ground Level	Helm	21/6/216	PA.01
Level 1	Helm	21/6/216	PA.02
Level 2	Helm	21/6/216	PA.03
Level 3	Helm	21/6/216	PA.04
Level 4	Helm	21/6/216	PA.05
Basement Level 1	Helm	21/6/216	PA.06
Basement Level 2	Helm	21/6/216	PA.07
Detail Survey	Daw & Walton	23/6/2016	1/10-10/10

Geotechnical Report prepared by JK Geotechnics on 25<sup>th</sup> May 2016.

## Method

A site inspection was carried out on the 16<sup>th</sup> February and the 20<sup>th</sup> April 2016 and the site related observations contained in this report arise from the inspection on those dates.

This report considers all trees on the neighbouring properties that are likely to be impacted by the proposed development regardless of the definition contained in the Tree Preservation Order.

All trees were inspected from the ground and involved inspection of the external features only. Inspection of trees on the neighbouring property was from client's property and or the public footpath. The inspection included the performance of a Visual Tree Assessment (VTA)<sup>1, 2</sup>. This inspection did not include any invasive, diagnostic or laboratory testing.

The identification of the trees was made on broad the features visible, from the ground, at the time of inspection. It was not based upon a full taxonomical identification or comparison against an herbarium specimen. Wherever possible, the genus and probable species is provided.

Only the plans referred to above, have been used in assessing the impact of the proposed DA on the trees. In particular, it is noted that no drainage, landscape or service plans referred to in the preparation of this report.

Where specifications are made in this report including those specifications contained in the Tree Protection Guidelines it is essential that these specifications can be implemented. Any additional drawings, details or redesign that impact on the ability to do so may negate the conclusions made in this report

---

<sup>1</sup> **VTA** – Visual Tree Assessment, as referenced below, is a systematic inspection of a tree for indicators of structural defects that may pose a risk due to failure. The first stage of this assessment is made from ground level and no aerial inspection is undertaken unless there are visual indicators to suggest that this is merited. Details of the visual indicators are contained in *The Body Language of Trees* by Mattheck & Breloer (1994). The use of a Visual Tree Assessment is widely used and standardised approach. Invasive and other diagnostic fault detection procedures will generally only be recommended when visual indicators of potential concern are observed.

<sup>2</sup> **Mattheck, C & Breloer, H** 1994 *Field guide for visual tree assessment (VTA)*, Arboriculture Journal 18:1-23

## Observations

See Tree Schedule attached as Appendix 1. With the exception of an Agonis (Tree 6) and Oak (Tree 5) and two Magnolias (Trees 3 and 4) the plantings are relatively recent (less than 20 – 30 years).

The site is relatively flat. The site soils are a sandy loam over sand.

The proposal calls for the demolition of two existing blocks of units followed by the construction of a 5 storey unit block with two levels of basement parking and associated landscaping.

## Discussion

### Tree removal and retention

The proposal involves the retention of the Oak tree (Tree 5) along with a number of trees (mostly palms) along the western boundary. The retention of the oak is covered in more detail in the following section.

All the trees shown as being retained along the western boundary may not be able to be retained. While this looks good on paper there has been no consideration given to the construction method that may involve piers and a cap beam. These systems are relatively thick and this appears not to have been considered at this stage.

Consideration was given to the retention of the Agonis (Tree 6); however, the form of this tree and its condition make the retention impractical

The plans also reflect the retention of a Robinia in the front yard (Tree 2). Whilst it may be possible to retain this tree it is in fair health (most likely due to grazing by possums). Furthermore, this species is prone to suckering when roots are damaged and root damage is inevitable as a part of the proposed works. As a result, it may be more appropriate to consider removing this tree and replanting with a 400 litre tree as a part of the final landscape works.

The proposed development requires the removal of the two Magnolia trees (Trees 3 and 4). Consideration has been given to transplanting these two trees. Whilst it is technically possible to transplant the trees the cost of doing so would be disproportionate to the landscape benefit that the trees would provide. In addition, consideration has to be given to the need of large transplants, such as these to be maintained for a number of years after they have been moved as well as the small risk (less than 3%) of mortality associated with transplanting.

In addition, the basement excavation is shown as running through a number of these. The trees that are to be retained are palms. If these palms are going to be in the way of the basement excavation or construction they should be transplanted further to the west.



### Impact on the root system of the Oak

The only tree of any significance that is being retained and that will be affected by the proposed development is the Oak (Tree 5).

Tree number 5		Quercus robur		DBH <sup>3</sup> = 100 cm	
ITPZ <sup>4</sup> = 12 m		MTPZ <sup>5</sup> = 5 m		ISRZ <sup>6</sup> = 3.2 m	
				RPA <sup>7</sup> = 452 m <sup>2</sup>	
<p>The proposed excavation is shown as coming no closer than 8.5 metres from the centre of the tree (including an allowance of 0.5 m for piers and a cap beam). The encroachment has an area of approximately 40 m<sup>2</sup> or less than 10% of the RPA. This is a Minor Encroachment, as defined in 3.3.2 of AS4970-2009.</p> <p>Given the sandy site soils and the deeper root profile, it seems reasonable to conclude that the impact on this tree will not be significant. In addition, the impact can be further reduced by managing Oak aphids, providing supplementary irrigation and where possible commencing root pruning during the dormant season.</p>					

### Design and construction Issues

The proposed excavations and construction adjacent to the Oak (Tree 5) has the potential to result in unnecessary damage to the roots, either by way of drying of the soil or as a result of over excavation. As a result, contiguous piling, or similar system, must be used for all excavation within 12 metres of the trunk of Tree 5. In order to minimise damage to the branches, a low profile drilling rig will need to be used.

The ground floor level is shown as +2.500 metres. This means that portions of the ground floor slab near the tree will either be cantilevered or will need the use of some form of pier and beam structure. The installation of the overhanging portions must not require the use of continuous strip footings.

As a result of Work Health and Safety requirements, the cleaning of gutters on a multistorey building often requires a fall arrest system. Because there are a number of larger trees on and adjacent to the site, consideration should be given to installing a gutter system that will not be significantly impacted by leaves. This could include one or more of the following

- installing a quality leaf screening system that is installed over the lower portion of the roof and the top of the gutters, and
- installing 'Tornado Rain Heads' to increase the flow and reduce the likelihood of any blockages, and

<sup>3</sup> **DBH** The Diameter at Breast Height (1.4 metres above ground level) in centimetres

<sup>4</sup> **ITPZ** The Indicative Tree Protection Zone radius in metres as suggested in AS4970 – 2009 without requiring input from an arborist or any ongoing care.

<sup>5</sup> **MTPZ** The Minimum Tree Protection Zone radius in metres determined following the process for reducing the TPZ outlined in AS 4970 – 2009. Trees retained using the he TPZM usually require moderate to intensive arboricultural input along with ongoing inspections and maintenance for a number of years.

<sup>6</sup> **ISRZ** The Indicative Structural Root Zone calculated using the formula in AS4970 and rounded to one decimal place.

<sup>7</sup> **RPA** The Root Protection area or the total area that would be enclosed if the TPZ is enclosed

- installing one or more syphon based diverters such as Gutter Pumper®, and
- installing overflow spouts that allow for the discharge of water in the event of a blockage taking place. (Spouts prevent damage to the building and make it clear that there is a blockage),

## Root systems

The critical issue when developing adjacent to trees is the impact of that excavation on the root system. To understand this impact, it is important that we understand how the root system functions.

- All roots start as '**pioneer roots**', pushing their way through the soil in order to take advantage of newly available soil moisture and solutes that are in the zone that they have entered (hence the term pioneer). Cell division at the tip of the root and cell elongation behind this tip creates this push by the roots. This '**zone of elongation**' is typically a few millimetres to less than 100 mm in length.

Cell elongation uses water, and the presence or readily available water, solutes (soluble nutrients), and soil temperature (generally around 16°C for most temperate trees) stimulates root growth. Whilst cells absorb some water in the zone of elongation, at best they seldom meet their needs.

- Once the roots have fully elongated single-celled hairs develop on the surface of the root and these roots with '**root hairs**' to form '**absorbing roots**'.

The absorbing roots are responsible for the uptake of nearly all the water and the majority of solutes used by the tree. They are highly ephemeral, often lasting only a few weeks. However, in association with beneficial fungi, they can last a year or more.

Where trees are already growing well, we can typically assume that soluble nutrients are present at satisfactory levels. Likewise, we can assume that the soil surface temperature often exceeds 16 degrees Celsius most of the year and that at depth, the soil temperature does not vary significantly throughout the year. The biggest limiting factor, therefore, is usually the ready availability of water.

A percentage of these pioneer/absorbing root structures survive the various environmental stresses and within a few weeks to a few months become woody.

- '**Woody roots**' are effectively underground branches. These roots can be a little under a millimetre in diameter and can grow to be hundreds of millimetres in diameter over time. Their thick bark prevents them from drying out, but as a result, they are not able to absorb water and nutrients from the soil to any great extent.

Whilst many young woody roots die as a result of disease, environmental damage or competition; they have the potential to be long-lived, sometimes lasting for hundreds of years. Woody roots act as the connection between the absorbing roots and the rest of the tree

- A small portion of the woody roots, closest to the stem, provide physical support for the tree. These '**structural roots**' grow directly from the trunk (first-order lateral roots) or are roots that branch close to the trunk. These roots provide support in compression and tension. They have a greater wood content and, as a result, tend to be much thicker to allow for strength, as well as transport.

In response to the forces of compression and/or tension, these structural roots develop an asymmetric shape rather than the normal circular shape. As the roots grow further from the trunk, they get rapidly thinner (zone of rapid taper) and more circular in shape.

In fast draining sandy loams, such as is the case on this site, the majority of roots are likely to be deeper than 600 mm, except where there is a sand interface or a permanent water table.

### **Damage to roots**

Damage to larger roots inside the zone of rapid taper is extremely undesirable and, in most circumstances, should be avoided. These are woody roots, and therefore, excavation is more significant in its impact than careful construction over the top of these roots.

Depending on the amount of root division, the cutting of a woody root with a diameter of 25mm could conceivably result in the death of many millions of root hairs. This loss of absorbing roots has a direct impact on a tree's ability to absorb water and solutes. Also, it can affect hormone production, resulting in reduced growth above ground until the root/foilage ratio is restored to its ideal levels.

The loss of roots can result in wilting or thinning of the foliage, the loss of foliage and death of smaller branchlets and sometimes the death of specific larger branches. The ready availability of soil moisture is important in minimising this impact.

Not only do higher soil moisture levels, reduce the energy expended to absorb water, it also stimulates new root development. The faster that sufficient new roots are developed, the less the impact on normal function

Roots are often close to the surface, and therefore construction activity can indirectly impact on the health of roots through direct damage or soil compaction. Even regular pedestrian activity has an effect on the roots close to the surface. In addition, altering of levels by adding fill has the potential to change the movement of water into the soil and in some circumstances can cause the soil to become anoxic, in turn causing the death of the roots and potentially the death of the tree.

By far the easiest and most efficient way of limiting construction damage to trees is to establish and enclose a Root Protection Area (RPA) using a rigid fence. The function of this fence is to eliminate all construction activity in this area.

## Methods of Tree Protection

It is important that we understand the processes and methods of tree protection. For that reason, some images have been included in Appendix 5 along with the information in this section to assist in ensuring that appropriate implementation of tree protection.

### Protect the roots

As already explained the purpose of establishing a Tree Protection Zone is more than concerned with protecting the trunk of the tree. A Tree Protection Zone's primary function is the protection of the roots of the tree.

The most appropriate method of protecting a tree is to establish an exclusion zone using some form of rigid temporary fence (a Tree Protection Zone or TPZ). While it may seem easier to use flexible fabric barrier fence, these products tend to fail over time and is easily pushed out of the way or damaged. In comparison, damaging rigid fence requires more of a hit, can damage machinery and involves the cost of repair or replacement of the damaged fence.

Sometimes, however, it may become necessary to work within or to gain access through a Tree Protection Zone. To do this, we need to develop a method to stop soil compaction and prevent direct physical damage to roots. A simple action such as walking on the same spot half a dozen times or more can lead to soil compaction. Pushing a full wheelbarrow will cause compaction on the first instance. It does not take long for that damage to accumulate and harm the roots of a tree.

There are some ways to protect roots against compaction and physical damage. We can divide these into two simple groups;

- Systems that share the load and
- Systems that are fully load bearing.

Load-sharing surfaces are temporary lightweight systems. Load-sharing surfaces sometimes can be as simple as mulch beneath plywood or planks or the use of scaffolding, to heavier duty systems such as the use of plastic or metal road plates. Photographs in Appendix 4 show that these can be enough to protect a delicate egg from breaking.

Fully load-bearing structures include finished structures such as the slab of a building, a driveway or a pathway. Obviously, each of these has a limit to the weight that it can bear and if this is exceeded the structure and things beneath it can be damaged. Load bearing systems can also include scaffolding and temporary bridging structures.

### Protect the trunk

In most instances, enclosing of the Tree Protection Zone ensures that the trunk of a tree cannot be damaged. Sometimes, however, work needs to take place within the Tree Protection Zone and, as a result, there is a risk of impact to the trunk. Damage to the trunk is extremely undesirable. Where it is possible to treat the wound treatment is time critical and is very expensive. When treatment is not possible or is ineffective, a trunk injury can lead to long-term structural and physiological problems.

Where machinery or performing activities that may result in an impact to the trunk of the tree, such activities should be avoided where possible. Where this is not feasible, it is important to protect the trunk. Strapping pieces of timber to the trunk of the tree has been the traditional method of achieving this task.

As any high school science student will recall Conservation of Momentum (as demonstrated by Newtons cradle) tells us that this force is transferred through the pieces of timber to the trunk of the tree often providing little to no protection and in some circumstances resulting in increased damage.

In response to the failure of wood to absorb impact, hessian or carpet underlay were used and while these improved the situation the timber still lacked the ability to absorb any of the energy. The use of fabric wraps also carried new problems; in particular, they often held moisture and this moist material was in constant contact with the trunk.

A more appropriate system needs a hard, but flexible outer surface bonded to a soft impact absorbing material that has a low water holding capacity. This system is better at absorbing the energy of an impact ... just think about a bicycle helmet. Just as with a bicycle helmet, if the impact damages a board it needs to be replaced and at the same time the trunk of the tree needs inspecting.

Lastly, prevention is the best process. When machinery is operating near the trunk of a tree using, an observer can significantly reduce the likelihood of impact. To be effective, the observer should maintain direct visual contact with the tree and the machine and should have direct audio contact with the operator. (Two-way earmuff systems are useful for this task).

### **Protection of the canopy**

The canopy of the tree is often the part of the tree that is least harmed in the construction process. Even so, there are two ways that the construction process can harm the canopy. The first is by direct impact between equipment and the branches of the tree, and the second is from incorrect or excessive tree pruning.

Avoiding potential impact between machinery and branches simply requires care. When machinery needs to operate near branches, an independent observer should be used. The observer should maintain direct visual contact with the machine and the branches of the tree and should have direct audio contact with the operator.

All pruning work should be performed in accordance with the Australian Standard AS 4373-2007 "Pruning of Amenity Trees." Any person who does not fully understand this standard or who has not had the proper training to perform pruning should not attempt this work. The site arborist may provide instructions to workers on the site on making temporary cuts for later rectification by an arborist. These instructions should be carefully followed.

# Tree Protection Plan (Specifications)

## Design Issues

#	Specification	Reason
1	Consider the removal of Tree 2 and replanting this with a 400 litre tree replacement tree	To provide the best long-term outcome for trees on the site
2	Consider installing a high quality gutter protection system to reduce leaf ingress into the gutters	To ensure that gutter cleaning is kept to an absolute minimum
3	Ensure that the portion of the building adjacent to the Oak that overhangs the basement excavation does not require a continuous footing	To ensure that root cutting is kept to a minimum and that strip footings are not used in the Tree Protection Zone.
4	All copies of the plans must include a copy of the Tree Protection Plan (Drawing) and a reference must be made on each and every plan or drawing to “ <u>check the Tree Protection Plan (drawing)</u> ”	Tradespeople often read plans rather than notes, including the Tree Management Plan (drawing) in the plan set will help the awareness of all trades people
5	Establish a ‘tree protection’ policy document for inclusion as a part of the site induction process for all staff and contractors to undertake before commencing on site.	Ensuring all site personnel & contractors understand the value and importance of protecting the tree reduces the likelihood of accidental damage.

## Pre-construction

6	In accordance with AS 4970-2009 (5.2) a copy of the Tree Protection Plan and the Tree Protection Plan (drawing) <b>must</b> be on site before <u>any</u> work commencing on the site.	To ensure that documentation is present and available as a reference for all site personnel.
7	Before commencing work on the site, enclose the Tree Protection Zones using a 1.8-metre high rigid temporary fence.	Fences create “no-go” zones, show the importance of the trees and help prevent soil compaction and root damage.
8	Install a load sharing surface as shown on the Tree Protection Plan (drawing)	To ensure that roots are protected against construction damage.
9	Attach at least 2 signs to each Tree Protection Zone as detailed in Section 5 of the Generic Tree Protection Guidelines attached as Appendix 4	Signs help to remind people why the fence is there and what should not be happening in that zone
10	Use TrunkGuard™ or a similar system of 100mm wide boards with thick polystyrene foam bonded to one side to protect the trunk.	To provide an additional level of protection for the trunk during adjacent demolition and construction works.
11	Correct and complete installation of Tree “Protection measures <b>are</b> to be certified by the Project Arborist” AS 4970-2009 (5.3.2).	Certification ensures that the tree protection is right and completed in accordance with the Tree Protection Plan
12	An arborist with a Certificate 3 in arboriculture <b>must</b> perform the canopy pruning with all final cuts made in accordance with AS4373-2007. The arborist must <b>not</b> use climbing spikes.	This ensures that the arborist performs the work correctly and makes proper cuts. It is preferable to use an arborist with a Diploma in Arboriculture

## During site works

13	Engage a Project Arborist to undertake monthly inspections to meet the requirements of AS 4970-2009, (5.4.1).	Inspections by the Project Arborist allows for documented evidence that the Tree Protection Plan is being followed.
14	If the Tree Protection Plan has been breached, the project arborist <b>must</b> specify any required remedial works and the timeframe in which these works must be completed.	Remedial works mean that all problems are appropriately rectified and that any works required are carried out promptly.
15	If an inspection by the reveals that this Tree Protection Plan has not been followed, site inspections <b>must</b> be carried out weekly thereafter.	More frequent inspections assists in avoid repeated problems and ensure the correct & timely performance of remedial works.
16	Maintain natural ground level within the Tree Protection Zone. Do not trench, stockpile materials or change grades within this zone.	Maintaining natural ground level avoids damage to the trunk, roots and branches of the tree
17	Where truck or heavy machinery access is required within a Tree Protection Zone a Load Bearing Surface must be in place.	Load Bearing Surfaces prevent direct mechanical damage to roots and prevent soil compaction.
18	The Tree Protection Zones <b>must</b> remain in force until construction work is completed.	To ensure that the tree is protected for the duration of the works that may impact on the tree.
19	Machinery access <b>is not</b> permitted in the Tree Protection Zone to perform landscaping works	To avoid damage caused by machinery as a part of landscaping activities.
20	An independent observer <b>must</b> be present during the demolition of any structure within 3 metres of a Tree Protection Zone.	An observer reduces the risk of accidental impact to the tree. (Note: Consider using the Project Arborist for this task)
21	Cleanly cut any root, in or immediately adjacent to a Tree Protection Zone, that needs to be removed and that is greater than 20mm in diameter.	Cutting roots that need to be removed prevents the remaining roots from being torn and helps improve new root generation.
22	Where roots are cut as a part of condition 21 the cut end should be kept moist using a root oasis, temporary hoarding, or a root curtain.	Covering the roots ensures that cut roots do not dry out and stimulates new root generation.
23	Provide notification to the Site Arborist, the Council, and the Certifier not less than 7 days before removing the Tree Protection Fences.	Notification allows a check as to whether any remaining trades and/or landscaping works are likely to affect a tree.

## Load sharing and load-bearing surfaces

24	Any Load Sharing Surface for pedestrian and light machinery access <b>must</b> be comprised of plastic road plate (or stronger) on top of a 100mm mulch layer.	Load Sharing Surfaces share the load over a greater area, thus reducing soil compaction. <b>Note:</b> 19 mm may be used where only pedestrian access is required.
25	In areas where turf will be laid, use a geotextile fabric below the mulch to allow for the later removal of the mulch,	A geotextile fabric allows the mulch to be removed by hand and limits root growth into the mulch.
26	Remove all much by hand starting from closest to the tree and moving outwards.	To minimise the impact on roots as a result of the removal of the load sharing surface.
27	A Load Bearing Surface shall be constructed using megadecking, Durabase mats, continuous dragline or JLA bogmat.	A Load Bearing Surface ensures that the surface is sufficiently robust to take the load of heavy equipment
28	Where the surface levels below a Temporary Load Bearing Surface needs to be adjusted this shall be achieved using sand or other suitable material applied to the surface.	This method ensures that excavation does not take place in order to install a Temporary Load Bearing Surface
29	Once a road or parking bay has been completed it shall be deemed to be a Load Bearing Surface	This means that a finished surface can be used as a Load Bearing Surface.
<b>Note:</b> If concerns exist that the works will damage the finished surface the same work will almost certainly damage the tree roots and a temporary surface must be used		

## Tree maintenance activities

30	Inspect the Oak tree for oak aphids and treat if present.	This helps reduce the stress on a tree.
31	Irrigate the Tree Protection Zones at a rate of 1 litre/m <sup>2</sup> for every 2 mm shortfall in the rainfall during the previous week if <ul style="list-style-type: none"> <li>less than 20mm of rain has fallen in the previous week from October to March, or</li> <li>less than 10mm of rain has fallen in the previous week from April to September.</li> </ul>	This is to ensure healthy root growth and to ensure higher levels of readily available water to minimise stress.  (Note: It may be easier to install a temporary irrigation system prior to installing any load sharing surface.)
32	An irrigation log <b>must</b> / <b>should</b> be maintained and kept on site and must record the weekly rainfall and the date and duration of any manual irrigation event.	To ensure appropriate records are available for monitoring and reporting.



## Post Construction

33	At practical completion, the project arborist <b>should</b> “assess tree condition and provide certification” on their condition	This certification completes to the document trail for the certifier and or the consent authority.
34	“Certification <b>should</b> include details of the deviations from the approved tree protection measures and their impacts on [the] trees” and provide specifications for any remedial or rectification works required.	This complies with AS 4970-2009 (5.5.2). It provides a documented record of the final condition of the tree. It audits and certifies the correction of any problems.
35	The project arborist <b>should</b> continue to perform quarterly inspects, maintenance and reporting for whichever is greater: <ul style="list-style-type: none"><li>• For 12 months after the completion of construction activities or</li><li>• For 12 months after achieving stable growth of the tree</li></ul>	To ensure the long-term recovery of the tree is certain.

Should you require any further information, please call our office for assistance.



### Mark Hartley

#### Senior Consulting Arborist- AQF Level 8

Grad Cert Arboriculture (1st Class Honours)

Dip Hort (Arboriculture) with Distinction

Dip Arboriculture, Dip Horticulture

LMAA; LMISA; LMIPS

ISA Certified Arborist WC-0624 (since 1990)

Registered Consulting Arborist™ #0001

ISA Tree Risk Assessment Qualified

Registered QTRA user (No. 807)

Member - Society of Risk Analysis Australia & New Zealand

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# Appendix 1:

## Tree Schedule

Client Name:

Matt Campbell, Helm PTY LTD

Site Address:

177 Russell Ave, Dolls Point

No	Scientific Name	Health	Height (m)	Spread (m)	DBH (cm)	ITPZ (m)	MTPZ (m)	TI/ME (m)	Retention Value	Comments	Retain / remove
1.	<i>Robinia pseudoacacia</i>	Fair	9	6	40	4.8	2.0	3.4	Low	Possum damage	Remove
2.	<i>Robinia pseudoacacia</i>	Fair	7	5	30	3.6	1.5	2.5	Low		Retain and protect
3.	<i>Magnolia grandiflora</i>	Good	14	14	100	12.0	5.0	8.4	Low	Lopped at some stage in the past	Remove for construction
4.	<i>Magnolia grandiflora</i>	Good	14	14	110	13.2	5.5	9.2	Low	Lopped at some stage in the past	Remove for construction
5.	<i>Quercus robur</i>	Good	18	18	100	12.0	5.0	8.4	Essential		Retain and protect
6.	<i>Agonis flexuosa</i>	Fair	5	10	E100	12.0	5.0	8.4	Low		Remove
7.	<i>Cotoneaster glaucophyllus</i>	Fair	6	7	E35	4.2	1.8	2.9	Nil	Undesirable species with a weed-like behaviour	Remove
8.	<i>Archontophoenix cunninghamiana</i>	Good	2	-	-	2.0	0.6	-	Moderate		Retain and protect
9.	<i>Archontophoenix cunninghamiana</i>	Good	1.5	-	-	2.0	0.6	-	Moderate		Retain and protect
10.	<i>Brachychiton acerifolia</i>	Good	12	8	35/20	4.8	2.0	3.4	Low	DBH calculated as 40cm	Remove
11.	<i>Thuja plicata</i>	Fair	8	3	10/10	2.0	0.7	1.2	Low	Variegated, DBH calculated as 14cm	Remove
12.	<i>Archontophoenix cunninghamiana</i>	Good	4	-	-	2.0	0.6	-	High		Retain and protect
13.	<i>Archontophoenix atropurpurea</i>	Good	5	-	-	2.0	0.6	-	High	An uncommon species	Retain and protect
14.	<i>Phoenix roebelenii</i>	Good	2	-	-	2.0	0.6	-	Low		Retain and protect
Trees on neighbouring properties											
N1	<i>Lophostemon confertus</i>	Good	9	5	50	6.0	2.5	4.2	Essential		Retain and Protect
N2	<i>Lophostemon confertus</i>	Good	5	5	40	4.8	2.0	3.4	Essential		Retain and protect
N3	<i>Tristaniaopsis laurina</i>	Fair - Good	5	5	E40	4.8	2.0	3.4	Essential		Retain and protect

## Notes on Tree Schedule

**Number (No)** N – Neighbours tree within proximity of the development

**Scientific Name** Identification was made using visual features visible from ground level at the time of inspection

**Health** **Good** – In good health with no significant faults or defects

**Fair** – Some faults or health problems not likely to cause short-term problems, generally able to be managed.

**Poor** – Significant health or structural defects with management likely to be inadequate or inappropriate

Palm heights given for trunk only and does not include the height of the fronds.

The average diameter of the canopy unless the asymmetry of the canopy is noted or is critical to the design process

Trunk diameter - measured or approximated at 1.4m above ground as outlined in “Appendix A” AS 4970 – 2009

**DBH (cm)\*** E – Estimated equivalent trunk diameter where multiple trunks and branching exist.

**ITPZ** The Indicative Tree Protection Zone radius specified by section 3.2 of AS 4970 -2009 and rounded up to one decimal place

**TI/ME** The minimum radius for a Tangential Incursion into the TPZ yet still be a Minor Encroachment using AS 4970 - 2009

**TPZM** The suggested minimum Tree Protection Zone radius determined following the process for reducing the TPZ outlined in AS 4970 – 2009. The TPZM usually requires moderate to extensive arboricultural input along with ongoing maintenance

E = **Essential** - Site suitability 40 plus years, good condition, able to be retained without design changes

H = **High** - Site suitability 40 plus years, fair condition or better able to be retained with minor design changes

M = **Moderate** - Site suitability 20 - 40 years, or only retainable with moderate impact on the development of the site

**Retention Value** L = **Low** - Site suitability less than 20 years, or retention impacts significantly on development of the site

N = **Nil** - Site suitability less than five years or retention sterilises development of site

**Note:** Site suitability considers health, life expectancy, risk of harm, desirability of species, and impacts on current and proposed land use. Impact on development needs to be considered throughout the planning stage

**Recommendations** Unless otherwise stated trees are to be retained.

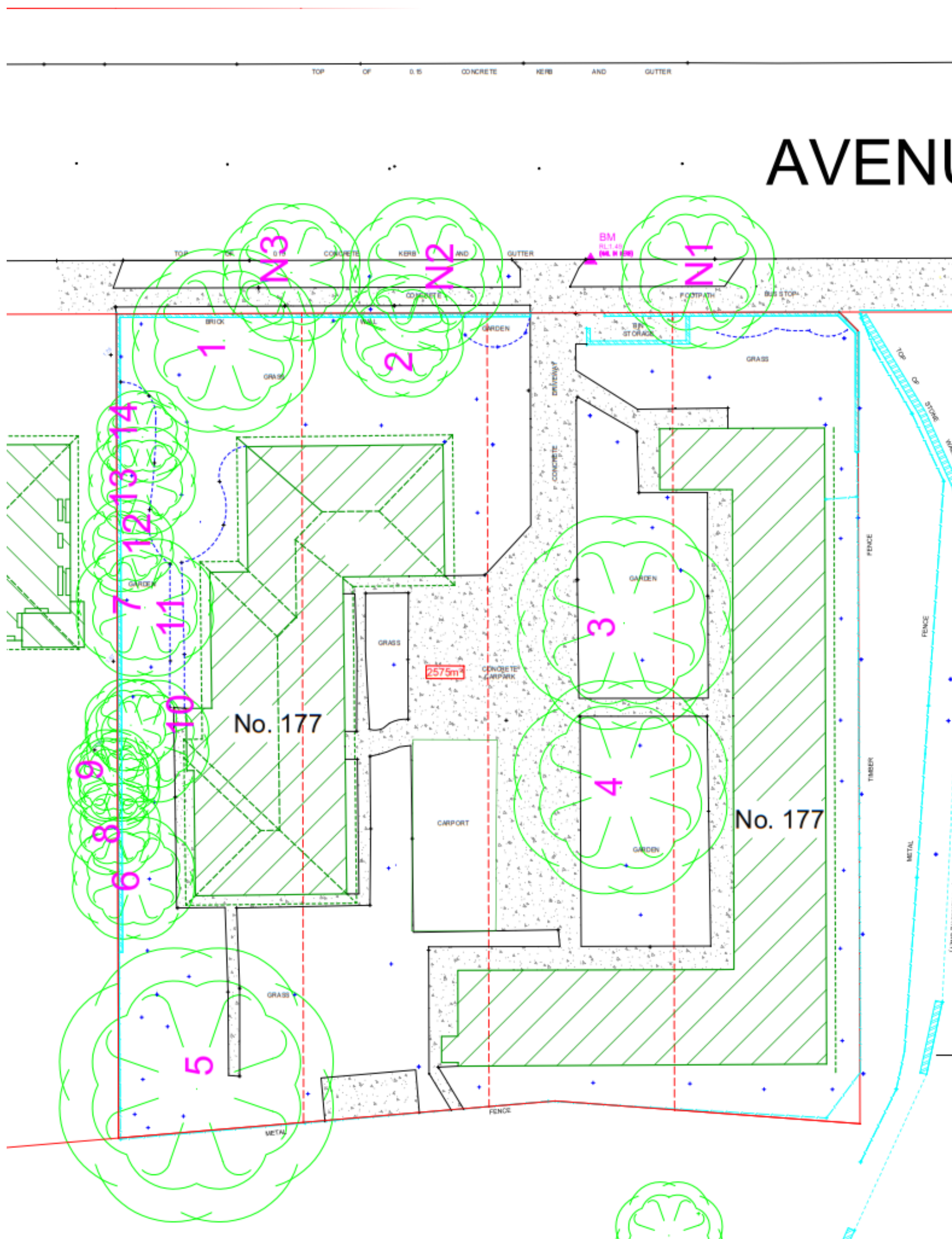
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\* All dimensions are approximate.

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# Appendix 2:

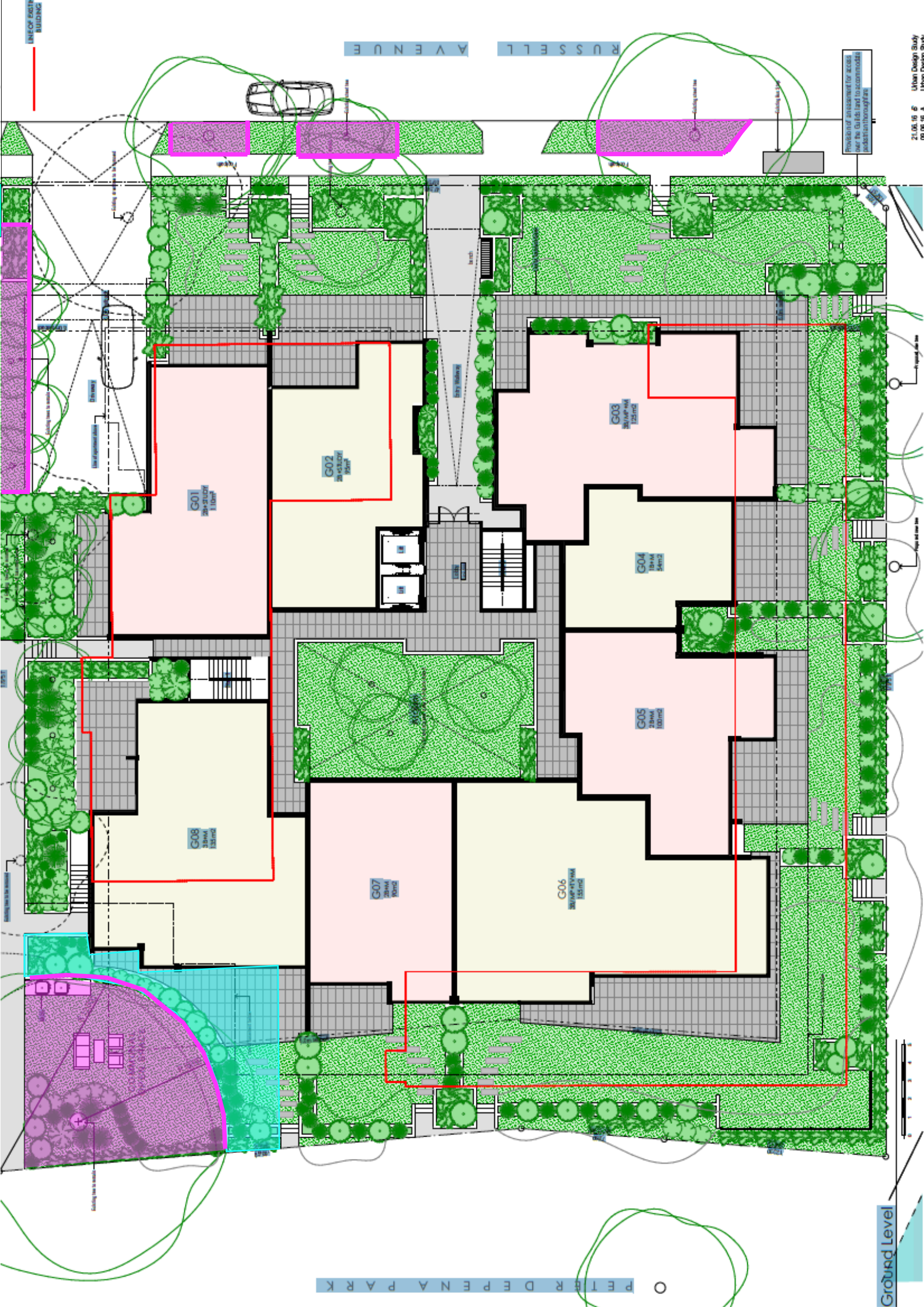
## Plans





Key	
	Tree Protection Fence
	Tree Protection Zone
	Load sharing surface and secondary tree protection zone

Tree Protection Plan (drawing)



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## **Appendix 3:**

# **Determining the tree protection area**



## A simple solution

Over the last two decades, there has been an increasing awareness of the need to protect appropriately and care for trees on development sites. There have been conferences, workshops as well as some publications written. Most notably these include British Standard BS 5837: 2005, “Trees and Development” by Matheny N & Clark J and “Protection of Trees on Construction Site” by Hartley M. These publications all focus on minimising damage to the root system of the tree by establishing appropriate **Tree Protection Zones (TPZ)**.

The British Standard provides Matheny and Clark as the source of the formula for calculating the radius of the tree protection zone. Interestingly Matheny and Clark site the British Standard as the source of the formula. Such a circular argument is of concern, particularly when the Matheny and Clark include many examples of their successful encroachment of their Tree Protection Zone in their text.

Matheny said, *“It is not that common that we get that much space.”* and *“With tolerant species, we can squeeze that down by half or two-thirds”*. (ISA Annual Conference 2007) Mathematically that suggests that the Tree Protection Zone could potentially contain as little as 12% of the root volume provided for using either formula.

Calculations and tables in the first two publications aim at providing a Tree Protection Zone sufficiently large enough to ensure that the health of the tree is not adversely impacted and achieves this without the need for arboricultural input other than ensuring the maintenance of the protection zones. The British Standards or Trees and Development are ideal documents to be applied by anybody regardless of their understanding of plant physiology.

Matheny rightly states, *“Because the tree is an individual the table is not enough. You need to consider all the factors.”* (ISA Annual Conference 2007) If we are to find benefit in the **TPZ** given in either the British Standard or Trees and Development, it is that this is a **TPZ** that can be determined by any person and without any arboricultural input since it is a simple formula. Anyone able to measure the trunk diameter and follow the formula can calculate the **TPZ**.

A suitably experienced consulting arborist is often able to support a smaller **TPZ** when combined with appropriate arboricultural care, and some provision is given in the British standard for this to take place. This makes no sense unless the formula for calculating the **TPZ** in the British Standard is prefaced with a note saying that this is the point at which arboricultural input is required. Regrettably the Standard does not say this and as a result, it becomes overly prescriptive.

### An arboricultural solution

Land and development costs along with the environmental impact of urban sprawl make it undesirably burdensome to sterilise vast areas of land to enclose an optimum **TPZ**. It is often far more cost effective to provide even the highest level of Arboricultural care possible to a tree to ensure that it thrives and prospers in the long term than to establish a **TPZ** that is unnecessarily large.

It makes logical sense to adopt a **Minimum Tree Protection Zone** that is based on the size of a root plate required to transplant the same tree. Transplanting of large and even very old trees has been carried out with enough frequency and over such a long period that we have a good understanding how transplanted trees respond to root loss. A success rate of 97% can be expected when a transplant is properly undertaken with appropriate ongoing care.

Perhaps the 3% failure rate could be considered as unacceptable, but it is likely that a percentage of these would have died within a few years in any case. Matheny again points out *“Transplanting is a far greater impact – if we are going to transplant it we might as well keep it where it is and squeeze the protection zone.”* (ISA Annual Conference 2007) A transplanted tree will undoubtedly undergo a greater degree of stress than a tree that is retained with an identically sized root plate that is appropriately protected and cared for.

The site constraints, more often than not, are likely to benefit from a **TPZ** that is smaller than that specified by the British Standard and Trees and Development. Using a smaller **TPZ** means that there will be a requirement for appropriate levels of arboricultural care. This approach may give rise to the question “What is the minimum area required by the tree?” There is, unfortunately, no absolute answer to this question but there are some important benchmarks to be considered.

- The protection should be sufficient to allow the maintenance of the tree, with appropriate arboricultural input. In the past, this was called the **Critical Root Zone (CRZ)** and frequently relates to the size of the root plate that would be required to transplant the tree successfully. In most instances is an area with a radius of 5 times the trunk diameter. This document refers to this as the **Minimum Tree Protection Zone (MTPZ)**.
- Depending on the trees response to root damage, it is possible to come even closer to the tree particularly when construction impact is going to be limited to one side or better still to one quadrant of the Critical Root Zone **and** with the provision of additional distance around the remaining area of the root zone.
- The extent of any excavation should not result in the structural instability of the tree. A number of formula and test exist to determine the size of the **Structural Root Zone (SRZ)**. There is however generally no need to consider the issue of structural stability if work is performed outside the **MTPZ**. In most circumstances, it is undesirable and often unwise to cut roots located in the Structural Root Zone.

There must be sufficient soil volume to allow the tree to grow to maturity with appropriate ongoing care. If the goal is to have little ongoing care, this will undoubtedly take a greater soil volume than a tree that will be extensively maintained (such as a tree growing in a rooftop planting).

## The approach of AS 4970-2009

In August 2009, Standards Australia released AS 4970-2009 Protection of Trees on Development Sites. In its preface, this document acknowledges its reliance on the British Standard and Matheny and Clark. This standard requires a **TPZ** with a radius 12 times trunk diameter. As already discussed, there is no question that this will provide adequate protection of the tree in almost all conceivable situations. It achieves this by enclosing and sterilising an enormous area.

The standard does acknowledge that it may be possible to encroach on this **TPZ** if the project arborist can demonstrate that the “trees will remain viable.” As already stated, we can successfully transplant most trees in good health and vigour, so the use of a reduced sized root plate remains demonstrated by several hundred years of successful tree transplanting. (Mathematically the standard sized root plate for a transplant has less than 20% of the root area of the **TPZ** specified in the AS 4970-2009.)

Of equal concern is the impact of the insistence of a **TPZ** with a radius of 12 times trunk diameter may have on tree retention and urban sprawl. Where there is a conflict between development and tree retention a decision will need to be made to refuse the development (potentially increasing urban sprawl) or to reduce the size of the **TPZ**.

If the development is acceptable then we need to answer the question “should we be removing trees that cannot be given a TPZ of the size recommended in AS 4970-2009?” The answer should be “No!” whenever there is adequate potential for retention the tree with appropriate arboricultural input. Unfortunately, this standard leaves us guessing on this issue.

Given that the standard has some significant issues and seeks to be “informative”, it is hard to give it the credence that it deserves. The standard does outline some important process namely, considering tree retention as a design consideration, seeking sound arboricultural advice and ensuring appropriate monitoring of the trees. As far as practical this document forms an important part of that process.

This report adopts the terms and nomenclature provided in the Australian Standard AS 4970-2009. This may be particularly true of the terms Tree Protection Plan (the recommendations and processes required to protect the trees and the Tree Protection Plan (drawing), which is a drawing or plan that may or may not include sections of the Tree Protection Plan

# **Appendix 4:**

## **Generic Tree Protection**

### **Guidelines**

## **1. Pre-Construction:**

- 1.1. Prior to the commencement of construction, the consulting Arborist will issue a report outlining the following:
  - 1.1.1. The trees that have been protected, the maintenance activities (if any) for each tree that have already been performed, that the protective fence or fences have been installed in accordance with the Arborist's Report.
  - 1.1.2. A statement that the physical protection (items 7 and 8 of the POTOCS standards) of the trees has been performed, to the above standards or if not, any non-conformances and why. e.g. the fence around trees is incomplete because of boundary fences.
  - 1.1.3. All trees to be removed are to be marked with a single white line around the trunk. No tree shall be so marked until council consent for its removal has been given.
  - 1.1.4. Confirm a tree is to be removed by marking the tree with a single horizontal yellow or orange line. Only a Surveyor, Landscape Architect, Arborist, or Tree Preservation Officer, should do this.

## **2. Tree Protection Zones:**

- 2.1. The trees are to be protected by a 1.8-metre-high fence to be constructed within 500mm of any construction activity and to include as much of the Primary Root Zone as possible.
- 2.2. Where the Tree Protection Zone occurs in part on the adjacent property, the fence will stop at the boundary lines.
- 2.3. Provision will be made to these protection zones for pedestrian access only.

## **3. Maintenance activities:**

The following maintenance activities will be required for this site:

- Irrigation – by hand to comply with current specifications
- Soil Amelioration
- Mulching
- Crown cleaning in accordance with AS 4373-2007
- Pruning of Amenity Trees, removal of trees by sectional felling and stump grinding.

Tree Removal

Timing: Maintenance activities are to be at the commencement of the construction process by qualified Arborists and then as required during the construction period.

### **3.1. Irrigation**

- 3.1.1. Soil moisture during construction shall be maintained at not less than 60% of field capacity.
- 3.1.2. Irrigation is to be applied by hand. No construction activities are to take place within the Primary Root Zone until irrigation has been initiated and soil moisture reaches 70% of field capacity at a depth of 300mm.

- 3.1.3. On each visit, the consulting arborist shall check the soil moisture and manually check the irrigation system, when installed.
- 3.1.4. Soil moisture levels should be checked by physical touch or with a tensiometer.

### **3.2. Soil amelioration**

- 3.2.1. An arborist may apply an application of rooting hormones, humic acids, soil micro-flora and mycorrhizae in accordance with the manufacturer's instructions.
- 3.2.2. Chemical fertilizers are to be used only after representative soil testing and based on the soil scientist's recommendations.

### **3.3. Mulching**

- 3.3.1. The fenced area should be mulched with seed-free mulch to a depth of at least 50mm.

### **3.4. Weed Control**

- 3.4.1. Weed control shall be by hand pulling, wiping or spraying with a glyphosate-based herbicide. Material likely to be root grafted to trees to be retained shall be removed manually.
- 3.4.2. Weed control shall not be performed by mechanical cultivation or by scraping or back burning.

### **3.5. Crown cleaning**

- 3.5.1. Crown cleaning (AS4373-1996, Pruning of Amenity Trees) shall be performed in accordance with the standard, by an arborist and in compliance with the appropriate occupational health and safety regulations. All branches down to 50mm in size shall be inspected and appropriately treated.
- 3.5.2. Any concerns about health or safety that are observed by the arborist on the site will be reported in writing within seven days to the superintendent/principal/client and/or head contractor.
- 3.5.3. The use of spurs on live trees and internodal cutting is strictly prohibited.

### **3.6. Tree Removal and Stump Grinding**

- 3.6.1. Remove trees in a controlled or sectional felling to avoid any damage to the trees to be retained.
- 3.6.2. All shrubs, under-scrub and woody weeds that are to be removed shall be removed by hand as per 3.4 above.
- 3.6.3. No tree shall be removed unless it has been marked with a horizontal white and yellow/orange line around the trunk.

#### 4. Fences:

- 4.1. The Tree Protection Zone should be enclosed, as detailed in section 8.0 of the POTOCS standards, should be completed prior to **any** work commencing, including demolition and land clearing by earth moving machinery. The fence may be erected after tree maintenance activities.
- 4.2. The fence surrounding the Tree Protection Zone must be a rigid fence not less than 1.8m high.

#### 5. Signs:

- 5.1. At least every 25 metres attached to all tree protection fence there shall be a sign, a minimum of 600mm x 600mm, bearing the following phrase in red letters on white background, at least 50mm in height:

**“TREE PROTECTION ZONE - KEEP OUT”**

- 5.2. On the same sign above or on a different sign, attached adjacent, and in red lettering on white background not less than 25mm in height is to be the following:

**“PROHIBITED ACTIVITIES”**

Followed by the list below in black letters not less than 15mm in height.

- a) Entry of machinery or people.
- b) Storage of building materials.
- c) Parking of any kind.
- d) Erection or placement of site facilities.
- e) Removal or stockpiling of soil or site debris.
- f) Disposal of liquid waste including paint and concrete wash.
- g) Excavation or trenching of any kind (including irrigation or electrical connections).
- h) Attaching any signs or any other objects to the tree.
- i) Placing of waste disposal or skip bins.
- j) Pruning and removal of branches, except by a qualified Arborist.

- 5.3. In letters not less than 25mm in height on the above sign should be the name of the supervising Arborist or arboricultural company or other appropriate contact and a contact phone number.

#### 6. Root Cutting

- 6.1. All roots greater than 50mm in diameter that are required to be removed shall be cleanly cut and kept moist at all times and shall not be left exposed to the air for more than 10 to 15 minutes.

## **7. Maintenance Reports:**

- 7.1. Weekly inspections and monthly reports should be made until the end of construction.
- 7.2. A consulting Arborist should be on site during any excavation work within the Critical Root Zone and will report on that work in the monthly report.
- 7.3. A site log shall be maintained and include the date of each inspection, the person who performed the inspection, the items inspected or tested, the maintenance activities performed, any repairs undertaken or required to be undertaken, and any substantial breaches or non-conformances.
- 7.4. The arborist performing the inspection should sign the entries in the logbook
- 7.5. The log shall be maintained on site or, alternatively, copies of the log entries for the month shall be submitted each month with the monthly report.
- 7.6. All maintenance shall continue for the three months after completion of construction

## **8. Non-Conformance Reports:**

- 8.1. The following are non-conformances that need to be managed when they occur.
  - 8.1.1. The removal or relocation closer to the tree of all or part of any protective fence prior to landscaping.
  - 8.1.2. The performing of any activity noted as prohibited on protection zone signage
  - 8.1.3. The failure to maintain adequate soil moisture or the failure in the operation of the irrigation system.
  - 8.1.4. Mechanical damage to the trunk, stems, branches, or retained roots.
  - 8.1.5. The sudden and abnormal or premature shedding or decline of the tree.
- 8.2. **Substantial breaches and non-conformances:**
  - 8.2.1. Any breach or non-conformance of the tree protection zone, by any party, shall be notified in writing within 2 working days of it being first observed.
  - 8.2.2. Notification of any non-conformance should be made in writing to the site foreperson, the consent authority and any independent certifier.



# **Appendix 5:**

## **Protection of Trees on Construction Sites**



## Establishing a Tree Protection Zone

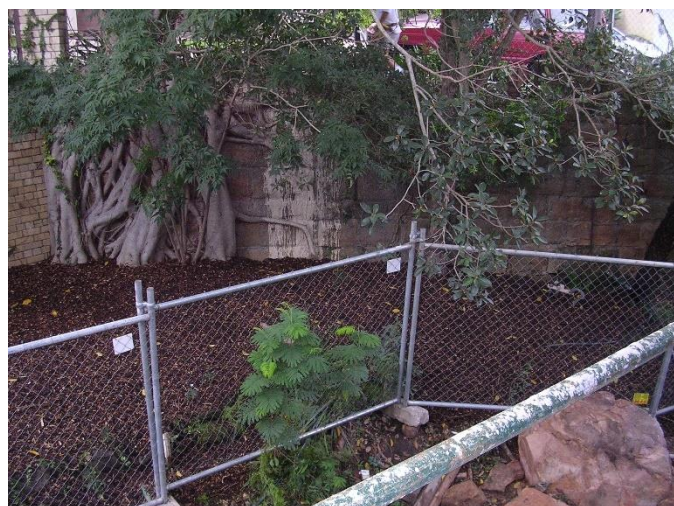
### Good Work



**Photo 1:** The fence should be rigid and hard to move.



**Photo 3:** The TPZ is mulched where appropriate and weed free.



**Photo 5:** The purpose of the fence is to isolate the tree from the works and to protect the roots.

### Poor Work



**Photo 2:** This style of fence is too easily damaged and collapses when hit.



**Photo 4:** Put the fence where it should be! The TPZ is not for storage.



**Photo 6:** Woven fences seldom work particularly when space is limited.



## Protecting the Roots

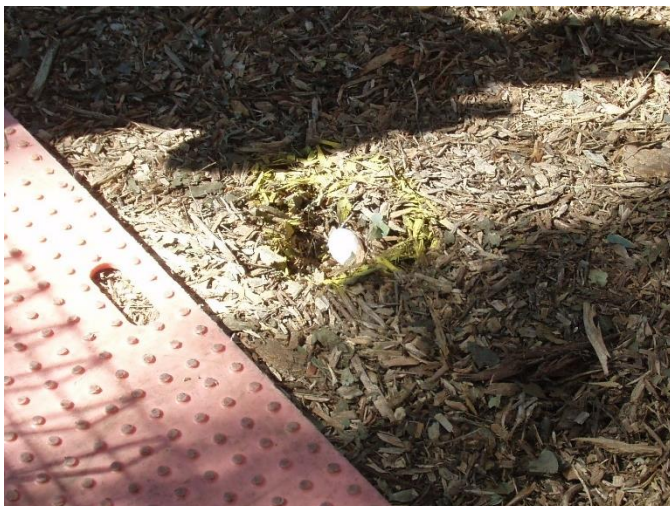
### Good Work



**Photo 7:** Like an egg tree roots are delicate and easily damaged.



**Photo 9:** The load-sharing surfaces should be designed to take the load that will travel over it.

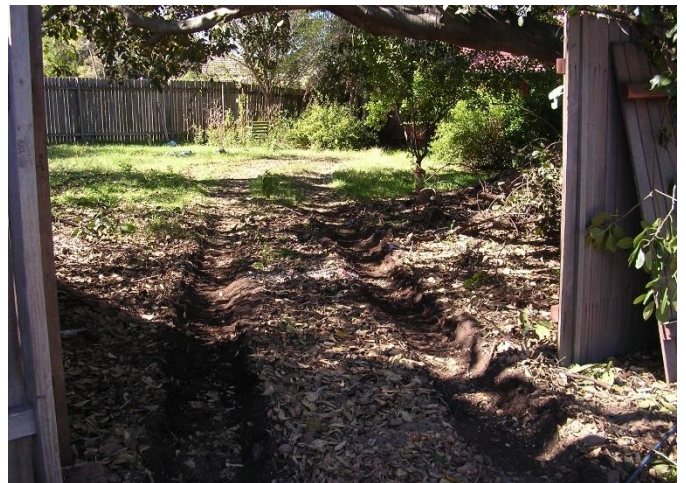


**Photo 11:** The goal is to ensure that there is minimal impact on the roots that are being protected.

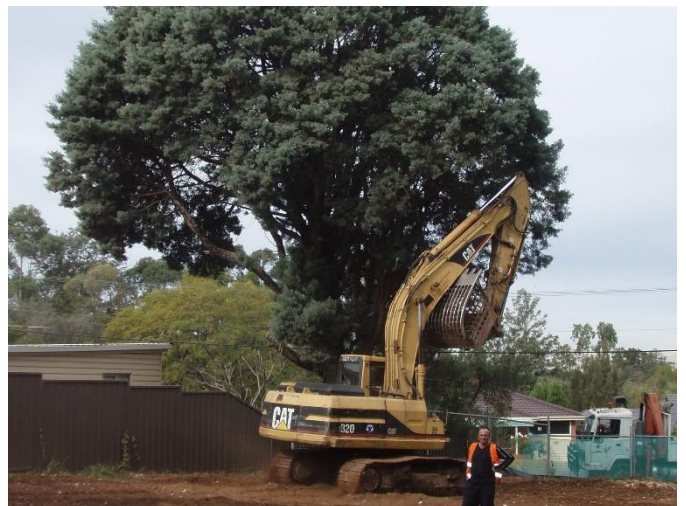
### Poor Work



**Photo 8:** A single movement of a truck can cause significant damage to the absorbing roots.



**Photo 10:** Without appropriate protection, the soil is compacted and roots are broken and damaged.



**Photo 12:** Keep equipment away from the tree by using appropriate tree protection.



## Trunk Protection

### Good Work



**Photo 13:** TrunkGuard is designed to absorb impact just like a bicycle helmet.

### Poor Work



**Photo 14:** Trunk damage is usually irreparable and frequently causes long-term problems!



**Photo 15:** It is flexible for a better fit and is attached using screws to avoid even light impact.



**Photo 16:** Even the installation of a poorly designed system can injure a tree!



**Photo 17:** Able to withstand and absorb moderate construction impact - not that this should happen!



**Photo 18:** This serves little purpose at all! It does not protect the roots or the trunk of the tree.



## ENVIRONMENTAL INVESTIGATION SERVICES

30 June 2016

Ref: E29353KMlet\_rev1

HELM  
PO Box 99  
NORTHBRIDGE NSW 1560

Attention: Mr Matt Campbell

**ACID SULFATE SOIL ASSESSMENT AND PRELIMINARY WASTE CLASSIFICATION ASSESSMENT**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**177 RUSSELL AVENUE, DOLLS POINT**

### **1 INTRODUCTION**

Helm ('the client') commissioned Environmental Investigation Services (EIS)<sup>1</sup> to undertake an acid sulfate soil assessment and preliminary waste classification assessment for the proposed residential development at 177 Russell Avenue, Dolls Point. The site location is shown on Figure 1 and the investigation was confined to the proposed development area as shown on Figure 2. This report describes the investigation procedures and presents the results of the assessment together with comments, discussion and recommendations.

A geotechnical investigation was undertaken in conjunction with this assessment by JK Geotechnics<sup>2</sup> and the results are presented in a separate report (Ref. 29353Srpt, dated 25/5/16).

#### **1.1 Proposed Development Details**

The proposed development includes demolition of the existing structures on-site and construction of a multi-storey residential building. Excavation to a depth of approximately 6m is expected to be required for construction of a 2-level basement.

#### **1.2 Objectives**

The assessment objectives were to:

- Assess the potential for acid sulfate soils at the site; and
- Provide a preliminary waste classification for the off-site disposal of surplus soil.

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<sup>1</sup> Environmental consulting division of Jeffery & Katauskas Pty Ltd (J&K)

<sup>2</sup> Geotechnical consulting division of J&K





### 1.3 Scope of Work

The investigation was undertaken generally in accordance with an EIS proposal (Ref: EP9852KM) of 5/4/16 and written acceptance from Helm of 18/4/16.

The scope of work included the following:

- A review of relevant geological information and acid sulfate soil (ASS) risk maps;
- Walkover inspection of the site;
- Soil sampling from five boreholes drilled for the JK geotechnical investigation;
- Analysis of selected soil samples for acid sulfate soil characteristics using the sPOCAS method; and
- Analysis of selected soil samples for contaminants of potential concern to provide a preliminary waste classification.

The report was prepared with reference to regulations/guidelines outlined in the table below. Individual guidelines are also referenced within the text of the report.

Table 1-1: Guidelines

Guidelines/Regulations
Contaminated Land Management Act 1997 <sup>3</sup>
State Environmental Planning Policy No.55 – Remediation of Land 1998 <sup>4</sup>
Guidelines for Consultants Reporting on Contaminated Sites 2011 <sup>5</sup>
Guidelines for the NSW Site Auditor Scheme, 2nd Edition 2006 <sup>6</sup>
National Environmental Protection (Assessment of Site Contamination) Measure 1999 as amended 2013 <sup>7</sup>

## 2 INFORMATION ON ACID SULFATE SOILS

### 2.1 Background

Acid sulfate soils (ASS) are formed from iron-rich alluvial sediments and sulfate (found in seawater) in the presence of sulfate-reducing bacteria and plentiful organic matter. These conditions are generally found in mangroves, salt marsh vegetation or tidal areas and at the bottom of coastal rivers and lakes.

<sup>3</sup> NSW Government Legislation, (1997), *Contaminated Land Management Act 1997*. (referred to as CLM Act 1997)

<sup>4</sup> NSW Government, (1998), *State Environmental Planning Policy No. 55 – Remediation of Land*. (referred to as SEPP55)

<sup>5</sup> NSW Office of Environment and Heritage (OEH), (2011), *Guidelines for Consultants Reporting on Contaminated Sites*. (referred to as Reporting Guidelines 2011)

<sup>6</sup> NSW DEC, (2006), *Guidelines for the NSW Site Auditor Scheme, 2<sup>nd</sup> ed.* (referred to as Site Auditor Guidelines 2006)

<sup>7</sup> National Environment Protection Council (NEPC), (2013), *National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013)*. (referred to as NEPM 2013)

These soils include those that are producing acid (termed actual ASS) and those that can become acid producing (termed potential ASS or 'PASS'). PASS are naturally occurring soil and sediment that contain iron sulfides (pyrite) which, when exposed to oxygen generate sulfuric acid.

## **2.2 The ASS Management Advisory Committee (ASSMAC)**

The NSW government in 1994 formed the ASSMAC to coordinate a response to ASS issues. In 1998 this group released the Acid Sulfate Soil Manual<sup>8</sup> providing best practice advice for planning, assessment, management, laboratory methods, drainage, groundwater and the preparation of ASS management plans (ASSMP).

In 1997 the Department of Land and Soil Conservation (now part of the Office of Environment and Heritage<sup>9</sup>) developed two series of maps with respect to ASS for use by council and technical staff implementing the ASS Manual 1998:

- ASS Planning Maps – issued to councils and government units; and
- ASS Risk Maps – issued to interested parties.

## **2.3 The ASS Planning Maps**

The ASS planning maps provide an indication of the relative potential for disturbance of ASS to occur at locations within the council area. These maps do not provide an indication of the actual occurrence of ASS at a site or the likely severity of the conditions. The maps are divided into five classes depending on the type of activities or works that if undertaken, may represent an environmental risk through the development of acidic conditions associated with ASS:

Table 2-1: Risk Classes

<b>Risk Class</b>	<b>Description</b>
Class 1	All works.
Class 2	All works below existing ground level and works by which the water table is likely to be lowered.
Class 3	Works at depths beyond 1m below existing ground level or works by which the water table is likely to be lowered beyond 1m below existing ground level.
Class 4	Works at depths beyond 2m below existing ground level or works by which the water table is likely to be lowered beyond 2m below existing ground level.
Class 5	Works within 500m of adjacent Class 1,2,3,4 land which are likely to lower the water table below 1m AHD on the adjacent land.

<sup>8</sup> *Acid Sulfate Soils Manual*, Acid Sulfate Soils Management Advisory Committee (ASSMAC), 1998 (ASS Manual)

<sup>9</sup> <http://www.environment.nsw.gov.au/acidsulfatesoil/index.htm>

## **2.4 The ASS Risk Maps**

The ASS risk maps provide an indication of the probability of occurrence of PASS at a particular location based on interpretation from geological and soil landscape maps. The maps provide classes based on high probability, low probability, no known occurrence and areas of disturbed terrain (site specific assessment necessary) and the likely depth at which ASS are likely to be encountered.

## **2.5 Investigation and Laboratory Testing for ASS**

The ASS Manual includes information on assessment of the likelihood of PASS, the need for an ASS Management Plan and the development of mitigation measures for a proposed development located in PASS risk areas. The ASS Manual recommends a minimum of four sampling locations for a site with an area up to 1ha. For sites greater than 4ha, the manual recommends the use of a reduced density of 2 locations per hectare subject to the proposed development. For lineal investigations, the manual recommends sampling every 50-100m.

The sampling locations should include all areas where significant disturbance of soils will occur and/or areas with a high environmental sensitivity. In some instances a varied sampling plan may be more suitable, particularly for sites less than 1,000m<sup>2</sup> in area. The depth of investigation should extend to at least 1m beyond the depth of proposed excavation/disturbance or estimated drop in water table height, or to a minimum of 2m below existing ground level, whichever is greatest.

Standard methods for the laboratory analysis of samples are presented in the Australian Standard AS4969-2008/09<sup>10</sup> (parts 1 to 14). The principal analytical method is suspension Peroxide Oxidation Combined Acidity and Sulfur (sPOCAS). The sPOCAS method specified in AS4969-2008/09 supersedes the POCAS method specified in the ASS Manual 1998. When S<sub>POS</sub> (peroxide oxidisable sulfur) values are close to the action criteria confirmation of the result can be undertaken by the chromium reducible sulfur (S<sub>CR</sub>) method.

The endpoint for the pH titration in AS4969-2008/09 is pH6.5 as opposed to pH5.5 adopted in the ASS Manual. Therefore the values for Total Actual Acidity (TAA), Total Sulfide Acidity (TSA) and Total Potential Acidity (TPA) will be more conservative when analysed using the sPOCAS method specified in AS4969-2008/09.

## **3 SITE INFORMATION**

### **3.1 Site Description**

The site is located within relatively flat, low-lying coastal topography near Botany Bay which is located approximately 300m to the south and east. The relatively flat site is bound by Russell Avenue to the north and consists of a rectangular block extending over four lots: Lots 80-83 in DP2237.

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<sup>10</sup> Analysis of acid sulfate soil – Dried samples – Methods of test, Parts 1 to 14, Standards Australia, 2008/2009 (AS4969-2008/09)



The general layout of the site at the time of this assessment is shown in the attached Figure 1. At the time of the assessment the site contained two-storey brick unit blocks, a carport, concrete footpaths, a driveway extending from Russell Avenue and grassed lawn areas and garden beds. Trees and shrubs were located on-site as shown in Figures 1 and 2.

A four-storey brick apartment building was located on the adjacent site to the west. Directly to the east of the site was a sandstone block-lined water channel, Waradiel Creek, which was offset at a distance of approximately 0.5m to 5m from the eastern site boundary. The channel was lined with mangrove trees. Located directly to the south of the site was Peter Depena Reserve – a grassed public park interspersed with large trees.

### **3.2 Regional Geology**

The geological map of Sydney (1983<sup>11</sup>) indicates the site to be underlain by Holocene deposits of quartz sand with minor shell content, interdune silt and fine sand.

### **3.3 Rockdale City Council Local Environmental Plan (LEP)**

A review of the Rockdale City Council LEP indicates that the site is located in a Class 3 acid sulfate soil risk area.

### **3.4 Acid Sulfate Soil (ASS) Risk Map**

A review of the ASS risk maps prepared by the Department of Land and Water Conservation (1997<sup>12</sup>) indicates that the site is located in an area considered to have a low probability of occurrence of acid sulfate soils at depths of 1m-3m below ground level.

## **4 ASSESSMENT CRITERIA**

### **4.1 Acid Sulfate Soil Assessment Criteria**

The ASS Manual presents “action criteria” for the interpretation of laboratory results. The action criteria define the need to prepare a management plan and are based on the percentage of oxidisable sulfur (or equivalent Total Potential Acidity [TPA]) for broad categories of soil types. Where disturbance of greater than 1,000 tonnes of ASS is proposed, the action criteria for ‘coarse textured soils’ apply to all soil types.

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<sup>11</sup> 1:100,000 Geological Map of Sydney (Series 9130) Department of Mineral Resources (1983)

<sup>12</sup> Department of Land and Water Conservation, (1997), 1:25,000 Acid Sulfate Soil Risk Map (Series 9130N3, Ed 2).

The following action criteria are presented in the ASS Manual:

Table 4-1: ASS Action Criteria

Category	Description	Criteria
Coarse Textured Soils	Sands to loamy sands	<ul style="list-style-type: none"> <li>pH - less than 5;</li> <li>Total Actual Acidity (TAA)/Total Sulfide Acidity (TSA)/ Total Potential Acidity (TPA) (pH5.5) – greater than 18mol H<sup>+</sup>/tonne; and</li> <li>S<sub>pos</sub> – greater than 0.03% sulfur oxidisable.</li> </ul>
Medium Textured Soils	Sandy loams to light clays	<ul style="list-style-type: none"> <li>pH - less than 5;</li> <li>TAA/TSA/TPA (pH5.5) – greater than 36mol H<sup>+</sup>/tonne; and</li> <li>S<sub>pos</sub> – greater than 0.06% sulfur oxidisable.</li> </ul>
Fine Textured Soils	Medium to heavy clays and silty clays	<ul style="list-style-type: none"> <li>pH - less than 5;</li> <li>TAA/TSA/TPA (pH5.5) – greater than 62mol H<sup>+</sup>/tonne; and</li> <li>S<sub>pos</sub> – greater than 0.1% sulfur oxidisable.</li> </ul>

The action criteria for coarse textured soils have been adopted for this assessment. This is based on the predominant soil type encountered at the sampling locations (i.e. sand or silty sand).

#### 4.2 Preliminary Waste Classification Assessment Criteria

Off-site disposal of fill, contaminated material, stockpiled soil, natural soil and rock excavated as part of the proposed development works is regulated by the Protection of the Environment Operations Act (1997<sup>13</sup>) and associated regulations and guidelines including the NSW EPA Waste Classification Guidelines - Part 1: Classifying Waste (2014<sup>14</sup>).

Soils are classed into the following categories based on the chemical contaminant criteria outlined in the guidelines:

Table 4-2: Waste Categories

Category	Description
General Solid Waste (non-putrescible) (GSW)	<ul style="list-style-type: none"> <li>If Specific Contaminant Concentration (SCC) ≤ Contaminant Threshold (CT1) then Toxicity Characteristics Leaching Procedure (TCLP) not needed to classify the soil as GSW; and</li> <li>If TCLP ≤ TCLP1 and SCC ≤ SCC1 then treat as GSW.</li> </ul>
Restricted Solid Waste (non-putrescible) (RSW)	<ul style="list-style-type: none"> <li>If SCC ≤ CT2 then TCLP not needed to classify the soil as RSW</li> <li>If TCLP ≤ TCLP2 and SCC ≤ SCC2 then treat as RSW</li> </ul>

<sup>13</sup> NSW Government, (1997), *Protection of Environment Operations Act*. (POEO Act 1997)

<sup>14</sup> NSW EPA, (2014), *Waste Classification Guidelines, Part 1: Classifying Waste*. (referred to as Waste Classification Guidelines 2014)

Category	Description
Hazardous Waste (HW)	<ul style="list-style-type: none"> <li>If SCC &gt; CT2 then TCLP not needed to classify the soil as HW</li> <li>If TCLP &gt; TCLP2 and/or SCC &gt; SCC2 then treat as HW</li> </ul>
Virgin Excavated Natural Material (VENM)	<p>Natural material (such as clay, gravel, sand, soil or rock fines) that meet the following criteria:</p> <ul style="list-style-type: none"> <li>Has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial mining or agricultural activities;</li> <li>Does not contain sulfidic ores or other waste; and</li> <li>Includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved from time to time by a notice published in the NSW Government Gazette.</li> </ul>

## 5 INVESTIGATION PROCEDURE

### 5.1 Subsurface Investigation and Soil Sampling Methods

Field work for this investigation was undertaken from the 2<sup>nd</sup> to the 6<sup>th</sup> of May 2016. Soil samples were obtained from four boreholes drilled for the JK geotechnical investigation. The sampling locations are shown on the attached Figure 2. The sample locations were drilled using a truck-mounted hydraulically operated drill rig equipped with spiral flight augers. Soil samples were obtained from a Standard Penetration Test (SPT) sampler or directly from the auger when conditions did not allow use of the SPT sampler.

Soil samples were obtained at various depths, based on observations made during the field investigation. All samples for the acid sulfate soil assessment were placed in plastic bags and sealed with plastic ties with minimal headspace, while samples for the waste classification assessment were placed in glass jars with plastic caps and teflon seals with minimal headspace. Samples for asbestos analysis were placed in zip-lock plastic bags. Each sample was labelled with a unique job number, the sampling location, sampling depth and date. All samples were recorded on the borehole logs attached in the appendices.

The samples were preserved by immediate storage in an insulated sample container with ice. On completion of the fieldwork, the samples were delivered in the insulated sample container to a NATA registered laboratory for analysis under standard COC procedures.

### 5.2 Laboratory Analysis

For the preliminary waste classification, four fill and one natural soil sample obtained from the site were analysed for potential contaminants of concern (PCC) using the analytical methods detailed in Schedule B(3) of NEPM 2013. The PCC included heavy metals, total recoverable hydrocarbons (TRH), BTEX (benzene, toluene, ethylbenzene and xylenes), polycyclic aromatic hydrocarbons (PAHs),

organochlorine and organophosphate pesticides (OCPs and OPPs), polychlorinated biphenyls (PCBs) and asbestos.

Four natural soil samples from a variety of depths were analysed for acid sulfate soil characteristics using the sPOCAS analytical methods detailed in AS4969-2008/09. The laboratory testing was undertaken by Envirolab Services (NATA Accreditation Number – 2901). Reference should be made to the laboratory reports (Ref: 146262, 146262A) attached in the appendices for further information.

## **6      RESULTS OF THE INVESTIGATION**

### **6.1    Subsurface Conditions**

The subsurface conditions encountered generally consisted of silty sand fill material to depths ranging from 0.3m to 0.5m below ground level, underlain by marine sands. Clay bands were encountered in BH1 and BH3 at depths of approximately 15m-17m. Sandstone bedrock was encountered below the natural soils at depths ranging from 21.8m to 24.0m. Groundwater was encountered in all boreholes at depths between 0.8m to 0.9m below ground level.

### **6.2    Field Screening**

A photoionisation detector (PID) was used to screen the samples for the presence of VOCs. The sensitivity of the PID is dependent on the organic compound and varies for different mixtures of hydrocarbons. Some compounds give relatively high readings and some can be undetectable even though present in identical concentrations. The PID is best used semi-quantitatively to compare samples contaminated by the same hydrocarbon source.

The PID is calibrated before use by measurement of an isobutylene standard gas. All PID measurements are quoted as parts per million (ppm) isobutylene equivalents. PID screening for VOCs was undertaken on soil samples using the soil sample headspace method. VOC data was obtained from partly filled zip-lock plastic bags following equilibration of the headspace gases.

PID soil sample headspace readings are presented in the attached report tables and the COC document attached in the appendices. All results were 0ppm equivalent isobutylene which indicates a lack of PID detectable VOCs.

### **6.3    Laboratory Results – Preliminary Waste Classification**

The soil laboratory results are compared to the relevant waste classification criteria in the attached report tables. A summary of the results is presented below.

Table 6-1: Summary of Soil Laboratory Results

Analyte	Results Compared to Waste Classification Guidelines
Heavy Metals	<p>All heavy metal results were less than the CT1 criteria with the exception of lead in two fill soil samples, BH3 (0.4-0.5) and BH4 (0.0-0.1) in which lead concentrations of 650mg/kg and 170mg/kg respectively were detected, exceeding the CT1 criterion of 100mg/kg.</p> <p>TCLP leachates were prepared from the two samples and analysed for lead. The results were less than the TCLP1 criterion.</p>
TRH	All TRH results were less than the relevant CT1 criteria.
BTEX	All BTEX results were less than the relevant CT1 criteria.
PAHs	All PAH results were less than the relevant CT1 criteria with the exception of benzo(a)pyrene in sample BH3 (0.4-0.5) in which a concentration of 1.3mg/kg was detected, exceeding the CT1 criterion of 0.8mg/kg. A TCLP leachate was prepared from the sample and analysed for PAHs including benzo(a)pyrene. The result was less than the TCLP1 criterion.
OCPs & OPPs	All OCP and OPP results were less than the relevant CT1 criteria.
PCBs	All PCB results were less than the CT1 criteria.
Asbestos	Asbestos was not detected in the samples analysed for the investigation.

#### 6.4 Laboratory Results – Acid Sulfate Soil Assessment

The soil laboratory results were assessed against the guidelines adopted for the investigation. The results are presented in the attached report tables and summarised below.

Table 6-2: Summary of ASS Results

Analyte	Results Compared to ASS Guidelines
pH <sub>KCl</sub> and pH <sub>ox</sub>	<p>The pH<sub>KCl</sub> results ranged from 5.1 to 9.2. The results indicate that prior to oxidation the pH values of the soil suspended in potassium chloride solution ranged from moderately acidic to moderately alkaline.</p> <p>Following oxidation, the pH<sub>ox</sub> results for the samples ranged from 2.5 to 7.5. These results are strongly acidic to mildly alkaline. The pH of the samples dropped by an average of 2.7 units following oxidation, with the largest drop of 4.3 units occurring in sample BH4 (7.2m-7.65m).</p>

Analyte	Results Compared to ASS Guidelines
Acid Trail	<ul style="list-style-type: none"> <li>TAA results ranged from less than the PQL to 6mol H<sup>+</sup>/tonne. All of the results were below the action criteria of 18mol H<sup>+</sup>/tonne;</li> <li>TPA results ranged from less than the PQL to 180mol H<sup>+</sup>/tonne. Two of the results were above the action criteria of 18mol H<sup>+</sup>/tonne; and</li> <li>TSA results ranged from less than the PQL to 180mol H<sup>+</sup>/tonne. Two of the results were above the action criteria of 18mol H<sup>+</sup>/tonne.</li> </ul>
Sulfur Trail	The S <sub>pos</sub> % results ranged from 0.04% to 0.31%. All of the results were above the action criterion of 0.03% as shown in Table C.
Liming Rate	The liming rate required for neutralisation was approximately 13 to 14kgCaCO <sub>3</sub> /tonne.

## 7 **CONCLUSION**

### 7.1 **Preliminary Waste Classification**

The preliminary waste classification of soil for off-site disposal is summarised in the following table.

Table 7-1: Preliminary Waste Classification

Site Extent / Material Type	Classification	Disposal Option
Fill material over the majority of the site	General Solid Waste (non-putrescible) (GSW)	<p>A NSW EPA landfill licensed to receive the waste stream. The landfill should be contacted to obtain the required approvals prior to commencement of excavation.</p> <p>Alternatively, the fill material is considered to be suitable for re-use on the subject site (only) provided it meets geotechnical and earthwork requirements.</p>
Sandstone bedrock	Virgin excavated natural material (VENM)	<p>VENM is considered suitable for re-use on-site, or alternatively, the information included in this report may be used to assess whether the material is suitable for beneficial reuse at another site as fill material.</p> <p>Alternatively, the natural material can be disposed of as VENM to a facility licensed by the NSW EPA to receive the waste stream.</p>

Site Extent / Material Type	Classification	Disposal Option
Natural sands after lime treatment	General Solid Waste containing treated acid sulfate soil	A NSW landfill licenced to receive treated acid sulfate soil. Alternatively it may be possible to re-use the treated material on-site.

## 7.2 Acid Sulfate Soil Assessment

The soil samples analysed for this investigation encountered results which were above the action criteria adopted for the acid sulfate soils assessment. Based on these results, the risk of generating ASS conditions following disturbance of the natural soils for the proposed development at the site is considered to be high.

An acid sulfate soil management plan (ASSMP) is required for the proposed development. A site specific management plan is outlined in the section below.

## 8 ACID SULFATE SOIL MANAGEMENT PLAN (ASSMP)

### 8.1 Introduction

The most effective management strategy for dealing with PASS is to avoid disturbing the material. If this is not a viable option then the ASSMP should be implemented. The objective of the ASSMP is to reduce the potential on-site and off-site environmental impacts associated with disturbance of PASS identified at the site. The ASSMP has been prepared generally in accordance with the ASS Manual 1998. Reference has also been made to the Queensland Acid Sulfate Soil Technical Manual v 3.8<sup>15</sup>.

The following issues are addressed in the ASSMP:

- Strategies for the management of PASS during development;
- Implementation of a soil and groundwater monitoring program; and
- Contingency procedures to be implemented in the event of the failure of management strategies.

### 8.2 Management of PASS

The following options are available for the management and disposal of PASS:

<sup>15</sup> Queensland Acid Sulfate Soil Technical Manual. Soil Management Guidelines version 3.8



Table 8-1: Management of PASS

Option	Details	Applicability for this Site
<u>Option A:</u> Disposal of PASS Beneath the Water Table at a Landfill	Immediate transport of natural PASS to landfill for disposal beneath the water table. A number of conditions have to be satisfied for burial beneath the water table to be viable. This option is not suitable for fill material or natural soil that has been impacted by contaminants.	May be a viable option for the underlying natural soil. However logistical issues often make this option difficult to implement. Described in detail in <b>Section 8.2.1.</b>
<u>Option B:</u> Treatment of PASS, waste classification and disposal to a landfill	PASS is excavated and neutralised with lime. A Waste Classification is assigned for the off-site disposal of the treated PASS to a landfill.	Considered the most viable option. Described in detail in <b>Section 8.2.2.</b>
<u>Option C:</u> Treatment of PASS and on-site re-use.	PASS is excavated and neutralised with lime. The treated material is re-used on site with adequate capping. This option is not suitable for PASS that has been impacted by contaminants.	Not considered suitable for this site as the soil is being excavated for construction of a basement.

### 8.2.1 Disposal of PASS Beneath the Water Table at a Landfill (Option A)

Natural soil classed as PASS may be disposed of below the water table at a landfill facility without lime treatment provided that the following conditions are met:

- The material is disposed below the water table **within 24 hours** of excavation;
- The material meets the definition of 'virgin excavated natural material' (VENM) under the *Protection of the Environment Operations Act (1997<sup>16</sup>)*, even though it contains sulfidic ores;
- The receiving landfill is licensed by the NSW EPA to dispose of PASS below the water table; and
- The material meets the highly stringent pH criteria.

The procedures outlined in the following table should be implemented for this option:

Table 8-2: Management Procedure for Option A

Procedure	Details
<u>Step 1:</u> Contact Landfill	Prior to commencement of excavation works, the landfill should be contacted and the necessary approvals should be obtained for disposal.

<sup>16</sup> *Protection of Environment Operations Act*, NSW Government, 1997 (POEO Act 1997)

Procedure	Details
<u>Step 2</u> : Excavation & Handling	Natural soil classified as PASS should be excavated/disturbed in stages.  PASS must be kept wet at all times during excavation and subsequent handling, transport and storage until they can be disposed of safely.
<u>Step 3</u> : pH testing	The pH of the soil should be checked using the test method(s) outlined in the ASS Manual 1998 (Methods 21A and or 21Af). The pH of each load and the time of extraction should be recorded and forwarded to the landfill. If the pH <b>is less than 5.5</b> then the material is not suitable for burial beneath the water and Option B should be implemented.
<u>Step 4</u> : Transport	Provided that the pH of the excavated PASS is <b>not less than 5.5</b> the material can be loaded onto trucks and transported immediately to the landfill. Prior to burial the landfill will check the pH of each load. Any loads that do not meet the acceptance pH criteria will be turned away.

Some of the natural soils may have pH values less than 5.5, making them unsuitable for this method of disposal. This will require a very rigorous monitoring regime to be implemented for this option. If successful only a fraction of the PASS may be found to be suitable for disposal by this method. Consequently the additional time and cost associated with this option may not be worthwhile.

### 8.2.2 Treatment, Waste Classification and Disposal to Landfill (Option B)

Potential acid generation is typically managed by the addition of lime to neutralise acid that may be generated during and after the excavation works. The treated material should then be assigned a waste classification (WC) in accordance with the *NSW EPA Waste Classification Guidelines - Part 1: Classifying Waste (2014<sup>17</sup>)* and disposed of to a NSW EPA licensed landfill facility.

<sup>17</sup> NSW EPA, (2014), *Waste Classification Guidelines, Part 1: Classifying Waste*. (referred to as Waste Classification Guidelines 2014)

The procedures outlined in the following table should be implemented for this option:

Table 8-3: Management Procedure for Option B

Procedure	Details
<u>Step 1</u> : Lime selection	<p>A slightly alkaline, low solubility product such as agricultural lime should be used. This form of lime is chemically stable and any excess lime takes a significant period of time (years) to influence soil pH beyond the depth of mixing. The lime particles eventually become coated with an insoluble layer of ferrihydrite (<math>\text{Fe}(\text{OH})_3</math>) that inhibits further reaction. Long term alteration of groundwater conditions is not expected to occur as a result of the use of lime during the proposed development works.</p> <p>The material safety data sheet (MSDS) from the lime supplier should be obtained and the appropriate safety measures implemented as specified on the MSDS.</p>
<u>Step 2</u> : Set up Treatment Area/s	<p>For this site the treatment area is expected to be the entire basement footprint. The lime neutralisation work will only need to commence after the excavation has encountered the acid sulfate soil strata. Therefore the basement perimeter will form a natural bund.</p>
<u>Step 3</u> : Manage water run-off	<p>For this site the surface water (rainfall) will be enclosed within the excavation perimeter. Any discharge of water out of the excavation will be monitored (see <b>Section 8.3</b> Error! Reference source not found.).</p>
<u>Step 4</u> : Excavation & Handling	<p>Once the excavation has reached the acid sulfate strata the lime treatment should commence. The quantity of lime to be added will be dependent on the laboratory results. For this site it is likely that any acid sulfate soil treatment will take place within the excavation footprint. In general the following procedure should be adopted:</p> <ul style="list-style-type: none"> <li>• We assume that the treatment will take place in sequential 30cm layers through the acid sulfate strata;</li> <li>• The volume of lime required to treat each 30cm layer should be calculated (taking into account the area of the basement footprint);</li> <li>• The surface of the excavation should be dusted with the volume of lime calculated to neutralise a 30 cm deep layer;</li> <li>• An excavator should mix in the lime to a depth of approximately 0.3m using the tines of a large excavator bucket;</li> <li>• The treated layer should then be loaded out and disposed off-site; and</li> <li>• The process should be repeated for each 0.3m layer of PASS to be excavated.</li> </ul>

Procedure	Details
<u>Step 5:</u> Lime Treatment & pH Testing	The pH of the treated soil should be checked using the test method(s) outlined in the ASS Manual 1998 (Methods 21A and or 21Af) to confirm that PASS have been neutralised by lime addition. If required, additional lime should be added to the soil and additional mixing undertaken. Following treatment with lime the pH of the soil should be in the 5.5 to 8.5 range.
<u>Step 6:</u> Monitoring by qualified personnel	Monitoring should be undertaken by qualified personnel to ensure the mixing is undertaken to a suitable extent as the success of the neutralisation method relies on the effectiveness of the mixing process.
<u>Step 7:</u> WC and off-site disposal	Following treatment the material should be tested and assigned a waste classification in accordance with the Waste Classification Guidelines 2014. All neutralised material should be disposed of off-site to a NSW EPA landfill licensed to accept treated PASS/ASS.

### 8.3 Groundwater Seepage and Dewatering

The procedure for managing groundwater seepage and dewatering during development works is outlined in the following table:

Table 8-4: Procedure for Managing Groundwater Seepage and Dewatering

Procedure	Details
<u>Step 1:</u> Minimise the depth of dewatering	Where possible the depth of dewatering should be minimised to reduce the generation of ASS and/or acidic conditions. Excavation and dewatering works should be staged over short durations to reduce the time and volume of PASS exposed to oxidation.
<u>Step 2:</u> Approvals for Groundwater Disposal	Reference should be made to the local council, NSW Office of Water (NOW), Sydney Water and other relevant authorities' approval requirements for further information in relation to disposal of water to either the sewer or stormwater systems.

Procedure	Details
<u>Step 3: pH Testing and Neutralisation</u>	<p>Water pumped from the excavation should be placed in a portable tank, or appropriate holding facility, where samples can be obtained for testing.</p> <p>The water should be in the pH range of 6.5 to 8.5 (<i>Schedule 5 of Protection of the Environment Operations (General) Regulation 2009</i><sup>18</sup>). If the pH is outside of this range, treatment will be necessary prior to disposal. Based on the disposal option chosen for the development, additional screening for contaminants may be required by the relevant authorities prior to disposal.</p>
<u>Step 4: On-going groundwater monitoring</u>	<p>In the event that extended pumping of water is necessary during the construction period, the quality of the groundwater should be monitored on a regular basis over the entire construction period.</p> <p>The pH should be measured and recorded on a regular basis. Immediate advice is to be sought from an experienced consultant if the pH at any location is not within 10% of the initial pH at the commencement of pumping. If required, corrective action should be taken as soon as possible. Laboratory analysis will be required on water samples as part of the corrective action to assess the quantity of neutralising agents required if treatment is necessary.</p>

#### 8.4 Contingency Plan

In the event the results of soil neutralisation or groundwater monitoring tests indicate a significant change in acidic conditions, the contingency plan should be implemented.

If soil monitoring indicates the presence of significantly more acidic material than expected or water monitoring indicates that the pH of the pumped water has become significantly more acidic, all excavation works should be placed on hold until further action is taken to limit the oxidation of PASS in the development area. Contingency works will be undertaken as follows:

- The depth to groundwater (i.e. the extent of de-watering) in the area of excavation will be measured;
- The pH of soils exposed to oxygen within the excavation will be measured to establish the source of the acidic conditions;
- Material found to be acidic will be excavated and neutralised in accordance with the methods presented in **Section 8.2.2**;
- Where suitable, in-place treatment involving lime addition and mixing may be adopted; and
- In the event unacceptable acidic levels are recorded by the groundwater monitoring, installation of a neutralisation trench (or similar) may be required to intercept and treat acidic groundwater prior to discharge. This could consist of an excavation filled with a sand/lime mixture designed to filter, intercept and treat groundwater flowing across the trench.

<sup>18</sup> Schedule 5 Prescribed matter for the definition of water pollution, *Protection of Environment Operations (General) Regulation*, NSW Government, 2009, page 124 (POEO Regulation 2009)

## **8.5      Disposal Information**

The costs associated with the treatment and off-site disposal of PASS can be significant and may affect project viability. These costs should be assessed at an early stage of the project to avoid significant future unexpected additional costs.

Section 143 of the POEO Act 1997 states that if waste is transported to a place that cannot lawfully be used as a waste facility for that waste, then the transporter and owner of the waste are each guilty of an offence. The transporter and owner of the waste have a duty to ensure that the waste is disposed of in an appropriate manner. EIS accepts no liability whatsoever for the unlawful disposal of any waste from any site.

## **9          LIMITATIONS**

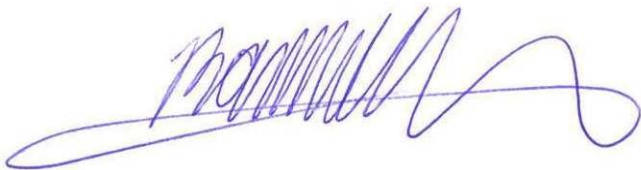
The report limitations are outlined below:

- EIS accepts no responsibility for any unidentified ASS or contamination issues at the site. Any unexpected problems or subsurface features that may be encountered during development works should be inspected by an environmental consultant as soon as possible;
- This report has been prepared based on site conditions which existed at the time of the investigation; scope of work and limitation outlined in the EIS proposal; and terms of contract between EIS and the client (as applicable);
- The conclusions presented in this report are based on investigation of conditions at specific locations, chosen to be as representative as possible under the given circumstances, visual observations of the site and immediate surrounds and documents reviewed as described in the report;
- Subsurface soil and rock conditions encountered between investigation locations may be found to be different from those expected. Groundwater conditions may also vary, especially after climatic changes;
- The investigation and preparation of this report have been undertaken in accordance with accepted practice for environmental consultants, with reference to applicable environmental regulatory authority and industry standards, guidelines and the assessment criteria outlined in the report;
- Where information has been provided by third parties, EIS has not undertaken any verification process, except where specifically stated in the report;
- EIS accept no responsibility for potentially asbestos containing materials that may exist at the site. These materials may be associated with demolition of pre-1990 constructed buildings or fill material at the site;
- EIS have not and will not make any determination regarding finances associated with the site;
- Additional investigation work may be required in the event of changes to the proposed development or land use. EIS should be contacted immediately in such circumstances;
- Material considered to be suitable from a geotechnical point of view may be unsatisfactory from a soil contamination viewpoint, and vice versa;

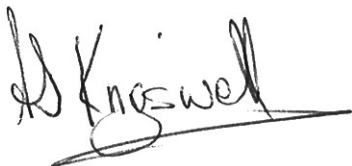
- This report has been prepared for the particular project described and no responsibility is accepted for the use of any part of this report in any other context or for any other purpose;
- Copyright in this report is the property of EIS. EIS has used a degree of care, skill and diligence normally exercised by consulting professionals in similar circumstances and locality. No other warranty expressed or implied is made or intended. Subject to payment of all fees due for the investigation, the client alone shall have a licence to use this report;
- If the client, or any person, provides a copy of this report to any third party, such third party must not rely on this report except with the express written consent of EIS; and
- Any third party who seeks to rely on this report without the express written consent of EIS does so entirely at their own risk and to the fullest extent permitted by law, EIS accepts no liability whatsoever, in respect of any loss or damage suffered by any such third party.

If you have any questions concerning the contents of this letter please do not hesitate to contact us.

Kind Regards



Rob Muller  
Senior Environmental Scientist



Adrian Kingswell  
Principal

**Attachments:**

- 1) Site Photos
- 2) Report Figures
- 3) Report Tables
- 4) Appendices



## SITE PHOTOGRAPHS



**Plate 1:** the two brick buildings, car port, driveway and landscaped areas, viewed from the north of the site facing south.



**Plate 2:** drilling BH4 in the south-western section of the site.





**Plate 3:** Waradiel Creek, located to the east of the site, which is on the right of the picture.



**Plate 4:** the north-western section of the site, viewed facing south.

## **REPORT FIGURES**





AERIAL IMAGE SOURCE: GOOGLE EARTH PRO 7.1.5.1557  
AERIAL IMAGE ©: 2015 GOOGLE INC.

Title:

## SITE LOCATION PLAN

Project:

177 RUSSEL AVENUE,  
DOLLS POINT, NSW

Report No:

E29353KM

Figure No:

1

ENVIRONMENTAL INVESTIGATION SERVICES

**EIS**

This plan should be read in conjunction with the EIS report.

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## **REPORT TABLES**

TABLE A SOIL LABORATORY RESULTS COMPARED TO WASTE CLASSIFICATION GUIDELINES All data in mg/kg unless stated otherwise																										
	HEAVY METALS							PAHs		OC/OP PESTICIDES				Total PCBs	BTEX COMPOUNDS				ASBESTOS FIBRES							
	Arsenic	Cadmium	Chromium	Copper	Lead	Mercury	Nickel	Zinc	Total PAHs	B(a)P	Total Endosulfans	Chloropyrifos	Total Moderately Harmful <sup>2</sup>		Total Scheduled <sup>3</sup>	Total	C <sub>6</sub> -C <sub>9</sub>	C <sub>10</sub> -C <sub>14</sub>		TRH C <sub>15</sub> -C <sub>28</sub>	C <sub>29</sub> -C <sub>36</sub>	Total C <sub>10</sub> -C <sub>36</sub>	Benzene	Toluene	Ethyl benzene	Total Xylenes
PQL - Envirolab Services	4	0.4	1	1	1	0.1	1	1	-	0.05	0.1	0.1	0.1	0.1	0.1	0.1	25	50	100	100	250	0.2	0.5	1	3	100
General Solid Waste CT1 <sup>1</sup>	100	20	100	NSL	100	4	40	NSL	200	0.8	60	4	250	<50	<50	<50	650	NSL	NSL	10,000	10	288	600	1,000	-	
General Solid Waste SCC1 <sup>1</sup>	500	100	1900	NSL	1500	50	1050	NSL	200	10	108	7.5	250	<50	<50	<50	650	NSL	NSL	10,000	18	518	1,080	1,800	-	
Restricted Solid Waste CT2 <sup>1</sup>	400	80	400	NSL	400	16	160	NSL	800	3.2	240	16	1000	<50	<50	<50	2600	NSL	NSL	40,000	40	1,152	2,400	4,000	-	
Restricted Solid Waste SCC2 <sup>1</sup>	2000	400	7600	NSL	6000	200	4200	NSL	800	23	432	30	1000	<50	<50	<50	2600	NSL	NSL	40,000	72	2,073	4,320	7,200	-	
Sample Reference	Sample Depth	Sample Description																								
BH1	0.0-0.1	Fill: silty sand		6	LPQL	12	4	83	LPQL	1	26	0.34	0.07	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	Not detected	
BH2	0.0-0.1	Fill:silty sand		LPQL	LPQL	3	5	40	LPQL	1	26	1.6	0.2	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	Not detected	
BH2	0.5-0.7	Sand		LPQL	LPQL	1	LPQL	1	LPQL	LPQL	1	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	Not detected	
BH3	0.4-0.5	Fill: sand		LPQL	LPQL	3	8	650	LPQL	LPQL	150	17	1.3	LPQL	LPQL	1.1	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	Not detected	
BH4	0.0-0.1	Fill: silty sand		LPQL	LPQL	5	11	170	LPQL	1	180	0.34	0.07	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	Not detected	
Total Number of samples				5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	
Maximum Value				6	LPQL	12	11	650	LPQL	1	180	17	1.3	LPQL	LPQL	LPQL	1.1	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	LPQL	NC
<b>Explanation:</b> <sup>1</sup> - NSW EPA Waste Classification Guidelines (2014) <sup>2</sup> - Assessment of Total Moderately Harmful pesticides includes: Dichlorovos, Dimethoate, Fenitrothion, Ethion, Malathion and Parathion <sup>3</sup> - Assessment of Total Scheduled pesticides include: HBC, alpha-BHC, gamma-BHC, beta-BHC, Heptachlor, Aldrin, Heptachlor Epoxide, gamma-Chlordane, alpha-chlordane, pp-DDE, Dieldrin, Endrin, pp-DDD, pp-DDT, Endrin Aldehyde																										
Concentration above the CT1				VALUE																						
Concentration above SCC1				VALUE																						
Concentration above the SCC2				VALUE																						
<b>Abbreviations:</b> PAHs: Polycyclic Aromatic Hydrocarbons B(a)P: Benzo(a)pyrene PQL: Practical Quantitation Limit LPQL: Less than PQL PID: Photoionisation Detector PCBs: Polychlorinated Biphenyls UCL: Upper Level Confidence Limit on Mean Value NA: Not Analysed NC: Not Calculated NSL: No Set Limit SAC: Site Assessment Criteria TRH: Total Recoverable Hydrocarbons CT: Contaminant Threshold SCC: Specific Contaminant Concentration HLLs: Health Investigation Levels NEPM: National Environmental Protection Measure BTEX: Monocyclic Aromatic Hydrocarbons																										



TABLE B				
SOIL LABORATORY TCLP RESULTS				
All data in mg/L unless stated otherwise				
			Lead	B(a)P
PQL - Envirolab Services			0.03	0.001
TCLP1 - General Solid Waste <sup>1</sup>			5	0.04
TCLP2 - Restricted Solid Waste <sup>1</sup>			20	0.16
TCLP3 - Hazardous Waste <sup>1</sup>			>20	>0.16
Sample Reference	Sample Depth	Sample Description		
BH3	0.4-0.5	Fill: sand	4.9	LPQL
BH4	0.0-0.1	Fill: silty sand	0.2	NA
Total Number of samples			2	1
Maximum Value			4.9	LPQL
<b><u>Explanation:</u></b>				
1 - NSW EPA Waste Classification Guidelines (2014)				
General Solid Waste			VALUE	
Restricted Solid Waste			VALUE	
Hazardous Waste			VALUE	
<b><u>Abbreviations:</u></b>				
PQL: Practical Quantitation Limit				
LPQL: Less than PQL				
B(a)P: Benzo(a)pyrene				
NC: Not Calculated				
NA: Not Analysed				
TCLP: Toxicity Characteristics Leaching Procedure				

**TABLE C**  
**SUMMARY OF LABORATORY RESULTS - ACID SULFATE SOILS ANALYSIS (sPOCAS)**

		Analysis	pH <sub>KCL</sub>	TAA	pH <sub>ox</sub>	TPA	TSA	S <sub>POS</sub>	Liming Rate
				pH 6.5		pH 6.5		%w/w	kg CaCO <sub>3</sub> /tonne
Action Criteria <sup>1</sup> :			pH 5.0	18molH+/ tonne	pH 5.0	18molH+/ tonne	18molH+/ tonne	0.03% w/w	
Sample Reference	Sample Depth (m)	Sample Description							
BH1	3.0-3.15	Sand, dark grey/grey	9.1	LPQL	7.5	LPQL	LPQL	0.21	<0.75
BH2	5.7-6.15	Sand, light brown	9.2	LPQL	7.1	LPQL	LPQL	0.04	<0.75
BH3	7.2-7.65	Silty sand, dark grey	5.1	6	2.5	180	180	0.28	14
BH4	7.2-7.65	Sand, grey	6.9	LPQL	2.6	170	170	0.31	13
Total Number of Samples			4	4	4	4	4	4	2
Minimum Value			5.1	6	2.5	170	170	0.04	13
Maximum Value			9.2	6	7.5	180	180	0.31	14

**Explanation:**

<sup>1</sup> The Action criteria have been adopted from the Acid Sulfate Soil Manual (1998).

Values Exceeding Action Criteria

VALUE

**Abbreviations:**

pH<sub>KCL</sub> : pH of filtered 1:20, 1M KCL extract, shaken overnight  
TAA pH 6.5 : Total Actual Acidity in 1M KCL extract titrated to pH6.5  
pH<sub>ox</sub> : pH filtered 1:20 1M KCl after peroxide digestion  
TPA : Total Potential Acidity, 1M KCL peroxide digest titrated to pH6.5  
TSA: Total Sulfide Acidity  
S<sub>POS</sub>: Peroxide oxidisable Sulfur (SP - SKCL)

## **Appendix A: Borehole Logs**



**Borehole No.**

**1**

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS									
<div> <div>ON COMPLETION OF AUGERING</div> <div>AFTER 15 HRS</div> </div>									FILL: Silty sand, fine grained, brown, trace of roots and root fibres.	M			GRASS COVER
						1		SP	SAND: fine to medium grained, light brown, trace of shell fragments.	M	VL		
						1				W			
						0			as above, but grey.				
						2							
						-1							
						3			SAND: fine to medium grained, dark grey, trace of silt and shell fragments.				SPT SUNK UNDER SELF WEIGHT
						-2							SLIGHT ORGANIC ODOUR
						4							
						-3			SAND: fine to medium grained, grey.				
						5							
						-4					L		
						6							
						-5							



**Borehole No.**  
**1**  
2 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS									
								SP	SAND: fine to medium grained, grey.	W	MD		CASING ADVANCER
						-6							
						-8							
						-7							
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Borehole No.

1

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13		SP	SAND: fine to medium grained, grey.	W	(L - MD)		
					N = 6 7,3,3		15		CH	SILTY CLAY: high plasticity, grey.	MC>PL	St	140 140	
							-14							
							16		SC / CL	CLAYEY SAND/SANDY CLAY: fine grained, light grey.	W	MD		
							-15							
							17							
							-16							
					N = 19 4,8,11		18							
							-17							
							19		SP	SAND: fine to medium grained, light grey, trace of shell fragments.		(MD) D		
							-18			as above, but trace of clay.				
							20							
							-19							
					N = 34 10,18,16									



Borehole No.

1

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
									SP	SAND: fine to medium grained, light grey, trace of shell fragments and clay.	W	D		
							-20							
							22							
									-	SANDSTONE: fine to medium grained, light grey.	SW	L		HIGH RESISTANCE
							-21			REFER TO CORED BOREHOLE LOG				
							23							
							-22							
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							



**Borehole No.**

**1**

**5 / 5**

# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 0 **Core Size:** NMLC **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss Level Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX I <sub>s</sub> (50)	DEFECT DETAILS	
								DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
							EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
	-20	22		START CORING AT 22.23m					
	-21	23		SANDSTONE: fine to medium grained, light grey, bedded at 5°.	SW	L			(22.80m) Be, 0°, P, S
				as above, but bedded at 0°.					(23.00m) J, 40°, P, R, XW INFILL
				CORE LOSS 0.07m	SW	M			(23.27m) CS, 0°, 2 mm.t
	-22	24		SANDSTONE: fine to medium grained, light grey, bedded at 0-5°.					(23.39m) CS, 0°, 20 mm.t
				SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 20°.		H			(23.84m) CS, 0°, 20 mm.t
	-23	25							
	-24	26		END OF BOREHOLE AT 25.26 m					MONITORING WELL INSTALLED TO 8.49m, SLOTTED TO 5.5m TO 8.49m. SAND FILTER TO 4.8m. BENTONITE PLUG TO 0.7m. BACKFILLED TO SURFACE, COMPLETED WITH GATIC COVER
	-25	27							
	-26								



**Borehole No.**  
**2**  
1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
AFTER 14 HOURS							1		-	FILL: Silty sand, fine grained, grey brown, trace of root and root fibres.	M			GRASS COVER
					N = 3 2,1,2		1		SP	SAND: fine to medium grained, grey, trace of fine grained shell fragments.	M	VL		MARINE
							0				W			
					N = 2 2,1,1		2							
							-1							
					N = 2 0,1,1		3							
							-2							
					N = 4 2,1,3		-3					L		
							-4							
					N = 10 2,4,6		6			SAND: fine grained, light brown.				ORGANIC ODOUR
							-5			SAND: fine to medium grained, dark grey, trace of silt.				WASHBORING WITH CASING ADVANCER



**Borehole No.**  
**2**  
2 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										



Borehole No.

2

3 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13			SAND: fine to medium grained, grey. (continued)	W	D		
					N = 38 17,28,10		15							
							-14							
							16		SC	CLAYEY SAND: fine to medium grained, light grey and yellow brown, trace of shell fragments.	W	(MD - D)		
							-15							
							17							
							-16							
					N = 18 3,7,11		18					MD		
							-17							
							19							
							-18							
							20							
							-19							



**Borehole No.**

**2**

4 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20			CLAYEY SAND: fine to medium grained, light grey.	W	MD		ATTEMPTED CORING BUT STOPPED DUE TO LOOSE MATERIAL (NOT ROCK)
							22							
							-21							
							23					(D)		HIGH CASING ADVANCER RESISTANCE
							-22							
							24							
							-23			REFER TO CORED BOREHOLE LOG				
							25							
							-24							
							26							
							-25							
							27							
							-26							

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# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 0 **Core Size:** NMLC **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX I <sub>s</sub> (50)	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
		-22								
			24		START CORING AT 24.04m					
		-23			CLAYEY SAND: fine to medium grained, grey.		(D)			
					SANDSTONE: fine to coarse grained, light grey.	SW	L			(24.44m) XWS, 0°, 5 mm.t
					SANDSTONE: fine to coarse grained, light grey, orange brown and red brown, trace of fine grained quartz gravel, cross bedded at 20°.		H			(25.10m) Be, 20°, P, S, CLAY INFILL
		-25								(26.03m) Be, 20°, P, S, CLAY INFILL
					END OF BOREHOLE AT 26.60 m					
		-26								
			27							
		-28								
			28							
		-27								
			29							
		-28								



Borehole No.

3

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
					REFER TO EFCP TEST RESULTS				-	FILL: Silty sand, fine grained, brown, trace of roots and root fibres.	M			GRASS COVER
							1		SP	FILL: Sand, fine to medium grained, grey brown, trace of fine grained sandstone gravel. SAND: fine to medium grained, grey.	M	VL - L		MARINE
							1				W			
							0							
							2							
							-1							
							3							CASING ADVANCER
							-2					L - MD		
							4							
							-3							
							5							
							-4							
							6							
							-5					MD		

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**Borehole No.**

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
					N = 14 3,6,8		-6		SM	SILTY SAND: fine grained, dark grey.	W	MD		CASING ADVANCER
							8		SP	SAND: fine grained, grey, with silt.				CUTTING HEAD CLEAN
					N = 11 1,4,7		-7							
							9					MD - D		LITTLE TO NO CHANGE IN FLUSH RETURN TO 14.7m DEPTH
							-8							
							10							
							-9							
							11							
							-10					D - VD		
							12							
							-11							
							13					VL - L		
							-12					MD - D		
												VD		

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**Borehole No.**

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13		SP	SAND: fine grained, grey, with silt. (continued)	W	D - VD		LITTLE TO NO CHANGE IN FLUSH RETURN TO 14.7m DEPTH
							15							
							-14		CH	SILTY CLAY: high plasticity, grey, with fine grained sand.	MC>PL	F - St	90 70	CLAY RETURNED IN WATER FLUSH
					N = 6 2,3,3		16							
							-15			as above, but red brown.		H		BROWN WATER FLUSH TO 16.8m DEPTH
							17		SC	CLAYEY SAND: fine to medium grained, light grey mottled yellow brown.	W	MD		
							-16							
					N = 13 3,4,9		18							
							-17							
							19							
							-18							
							20		SP	SAND: fine to medium grained, light grey, trace of clay.		D		OBSERVATION BASED ON DRILLING RESISTANCE TO 20.7m DEPTH
							-19							



Borehole No.

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20		SP	SAND: fine to medium grained, light grey, trace of clay. <i>(continued)</i>	W	D		
							22							
							-21							
							23		-	SANDSTONE: fine to medium grained, light grey.	SW	M		
							-22			REFER TO CORED BOREHOLE LOG				NOTE THAT SOIL STRENGTHS HAVE BEEN INTERPOLATED WITH REFERENCE TO ADJACENT EFCP TEST
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							

Client: HELM PTY LTD												
Project: PROPOSED RESIDENTIAL DEVELOPMENT												
Location: 177 RUSSELL AVENUE, DOLLS POINT, NSW												
Job No.: 0												
Core Size: NMLC												
R.L. Surface: ~1.6 m												
Date: 5/5/16												
Inclination: VERTICAL												
Datum: AHD												
Plant Type: JK308												
Bearing: N/A												
Logged/Checked By: A.B./P.S.												
CORE DESCRIPTION												
Rock Type, grain characteristics, colour, structure, minor components.												
Weathering												
Strength												
POINT LOAD STRENGTH INDEX I <sub>s</sub> (50)												
DEFECT DETAILS												
DESCRIPTION												
Type, inclination, thickness, planarity, roughness, coating.												
Specific												
General												
Water Loss Level												
Barrel Lift												
RL (m AHD)												
Depth (m)												
Graphic Log												
START CORING AT 23.16m												
SANDSTONE: fine to medium grained, light grey, bedded at 5-10°.												
as above, but bedded at 0-5°.												
SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 15-20°.												
SANDSTONE: fine to medium grained, light grey with brown and grey bands, bedded at 15°.												
END OF BOREHOLE AT 26.10 m												
-21												
23												
-22												
24												
-23												
25												
-24												
26												
-25												
27												
-26												
28												
-27												

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<b>Client:</b>	HELM PTY LTD													
<b>Project:</b>	PROPOSED RESIDENTIAL DEVELOPMENT													
<b>Location:</b>	177 RUSSELL AVENUE, DOLLS POINT, NSW													
<b>Job No.:</b> 29353S	<b>Method:</b> SPIRAL AUGER & CASING ADVANCER			<b>R.L. Surface:</b> ~1.6 m										
<b>Date:</b> 2/5/16				<b>Datum:</b> AHD										
<b>Plant Type:</b> JK308	<b>Logged/Checked By:</b> A.B./P.S.													
Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
										FILL: Silty sand, fine grained, grey brown.	M			GRASS COVER
					N = 4 2,1,3	1			SP	SAND: fine to medium grained, light brown.	M	VL		APPEARS POORLY COMPACTED MARINE
					N = 6 2,2,4	0				SAND: fine to medium grained, grey and grey brown, trace of organic material, roots and shell fragments.	W			
					N = 3 0,0,3	-1				SAND: fine to medium grained, grey, with fine grained shell fragments and shells.				
					N = 3 1,1,2	-3								
					N = 3 1,1,2	-6								WASHBORING WITH CASING ADVANCER



Borehole No.

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS									
									SAND: fine to medium grained, grey.	W	MD		SLIGHT ORGANIC ODOUR
						-6							
						-8							
						-7							
						-9							
						-8							
						-10							
						-9			as above, but light grey.				
						-11							
						-10					D		
						-12							
						-11							
						-13							
						-12			SAND: fine to medium grained, dark grey, trace of silt.		L		

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Borehole No.

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13			SAND: fine to medium grained, dark grey, trace of silt. <i>(continued)</i>	W	L		SLIGHT ORGANIC ODOUR
							15			SAND: fine to medium grained, light grey and grey.		D		
					N = 40 15,28,12		-14							
							16		SC	CLAYEY SAND/SANDY CLAY: fine to medium grained, light grey and yellow brown.				
							-15							
							17							PUSH - NO MOVEMENT
							-16					(L)		ASSESSMENT BASED ON PENETRATION RATE
							18							
							-17							
							19							
							-18							
							20							
							-19					(D)		PENETRATION RATE SLOWED AND CHAIN TIGHTENED

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**Borehole No.**

**4**

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20		SC	CLAYEY SAND/SANDY CLAY: fine to medium grained, light grey and yellow brown. (continued)	W	(D)		PENETRATION RATE SLOWED AND CHAIN TIGHTENED
							22		-	SANDSTONE: fine to medium grained, light grey.	DW	M		
							-21			REFER TO CORED BOREHOLE LOG				
							23							
							-22							
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							

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**Borehole No.**

**4**

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# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 0 **Core Size:** NMLC **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_p(50)$	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
		-20	22		START CORING AT 22.49m					
		-21	23		SANDSTONE: fine to coarse grained, light grey, bedded at 0-5°.	FR	M			— (22.60m) Be, 5°, P, R, CLAY INFILL
		-22	24		SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 15°-20°.	SW	H			— (24.63m) CS, 0°, 25 mm.t
		-23	25							— (25.18m) Be, 2°, P, R, CLAY INFILL
		-24	26		END OF BOREHOLE AT 25.50 m					MONITORING WELL INSTALLED TO 8m. BENTONITE FROM 0.1m TO 0.5m. FINISHED WITH CONCRETE ENCASED GATIC COVER
		-25	27							
		-26								

## EXPLANATORY NOTES – ENVIRONMENTAL LOGS

### INTRODUCTION

These notes have been provided to supplement the environmental report with regards to drilling and field logging. Not all notes are necessarily relevant to all reports. Where geotechnical borehole logs are utilised for environmental purpose, reference should also be made to the explanatory notes included in the geotechnical report. Environmental logs are not suitable for geotechnical purposes.

The ground is a product of continuing natural and manmade processes and therefore exhibits a variety of characteristics and properties which vary from place to place and can change with time. Environmental studies involve gathering and assimilating limited facts about these characteristics and properties in order to understand the ground on a particular site under certain conditions. These conditions are directly relevant only to the ground at the place where, and time when, the investigation was carried out.

### DESCRIPTION AND CLASSIFICATION METHODS

The methods of description and classification of soils and rocks used in this report are based on Australian Standard 1726, the SAA Site Investigation Code. In general, descriptions cover the following properties – soil or rock type, colour, structure, strength or density, and inclusions. Identification and classification of soil and rock involves judgement and the Company infers accuracy only to the extent that is common in current geotechnical practice.

Soil types are described according to the predominating particle size and behaviour as set out in the attached Unified Soil Classification Table qualified by the grading of other particles present (e.g. sandy clay) as set out below (note that unless stated in the report, the soil classification is based on a qualitative field assessment, not laboratory testing):

Soil Classification	Particle Size
Clay	less than 0.002mm
Silt	0.002 to 0.075mm
Sand	0.075 to 2mm
Gravel	2 to 60mm

Non-cohesive soils are classified on the basis of relative density, generally from the results of Standard Penetration Test (SPT) as below:

Relative Density	SPT 'N' Value (blows/300mm)
Very loose	less than 4
Loose	4 – 10
Medium dense	10 – 30
Dense	30 – 50
Very Dense	greater than 50

Cohesive soils are classified on the basis of strength (consistency) either by use of hand penetrometer, laboratory testing or engineering examination. The strength terms are defined as shown in the following table:

Classification	Unconfined Compressive Strength kPa
Very Soft	less than 25
Soft	25 – 50
Firm	50 – 100
Stiff	100 – 200
Very Stiff	200 – 400
Hard	Greater than 400
Friable	Strength not attainable – soil crumbles

Rock types are classified by their geological names, together with descriptive terms regarding weathering, strength, defects, etc. Where relevant, further information regarding rock classification is given in the text of the report. In the Sydney Basin, 'Shale' is used to describe thinly bedded to laminated siltstone.

#### DRILLING OR EXCAVATION METHODS

The following is a brief summary of drilling and excavation methods currently adopted by the Company, and some comments on their use and application. All except test pits and hand auger drilling require the use of a mechanical drilling rig.

**Test Pits:** These are normally excavated with a backhoe or a tracked excavator, allowing close examination of the in-situ soils if it is safe to descend into the pit. The depth of penetration is limited to approximately 3m for a backhoe and up to 6m for an excavator. Limitations of test pits include problems associated with disturbance and difficulty of reinstatement; and the consequent effects on nearby structures. Care must be taken if construction is to be carried out near test pit locations to either properly re-compact the backfill during construction, or to design and construct the structure so as not to be adversely affected by poorly compacted backfill at the test pit location.

**Hand Auger Drilling:** A borehole of 50mm to 100mm diameter is advanced by manually operated equipment. Premature refusal of the hand augers can occur on a variety of materials such as fill, hard clay, gravel or ironstone, and does not necessarily indicate rock level.

**Continuous Spiral Flight Augers:** The borehole is advanced using 75mm to 115mm diameter continuous spiral flight augers, which are withdrawn at intervals to allow sampling and in-situ testing. This is a relatively economical means of drilling in clays and in sands above the water table. Samples are returned to the surface by the flights or may be collected after withdrawal of the auger flights, but they can be very disturbed and layers may become mixed. Information from the auger sampling (as distinct from specific sampling by SPTs or undisturbed samples) is of relatively lower reliability due to mixing or softening of samples by groundwater, or uncertainties as to the original depth of the samples. Augering below the groundwater table is of even lesser reliability than augering above the water table.

**Rock Augering:** Use can be made of a Tungsten Carbide (TC) bit for auger drilling into rock to indicate rock quality and continuity by variation in drilling resistance and from examination of recovered rock fragments. This method of investigation is quick and relatively inexpensive but provides only an indication of the likely rock strength and predicted values may be in error by a strength order. Where rock strengths may have a significant impact on construction feasibility or costs, then further investigation by means of cored boreholes may be warranted.

**Wash Boring:** The borehole is usually advanced by a rotary bit, with water being pumped down the drill rods and returned up the annulus, carrying the drill cuttings. Only major changes in stratification can be determined from the cuttings, together with some information from "feel" and rate of penetration.

**Mud Stabilised Drilling:** Either Wash Boring or Continuous Core Drilling can use drilling mud as a circulating fluid to stabilise the borehole. The term ‘mud’ encompasses a range of products ranging from bentonite to polymers such as Revert or Biogel. The mud tends to mask the cuttings and reliable identification is only possible from intermittent intact sampling (e.g. from SPT and U50 samples) or from rock coring, etc.

**Continuous Core Drilling:** A continuous core sample is obtained using a diamond tipped core barrel. Provided full core recovery is achieved (which is not always possible in very low strength rocks and granular soils), this technique provides a very reliable (but relatively expensive) method of investigation. In rocks, an NMLC triple tube core barrel, which gives a core of about 50mm diameter, is usually used with water flush. The length of core recovered is compared to the length drilled and any length not recovered is shown as CORE LOSS. The locations of losses are determined on site by the supervising engineer; where the location is uncertain, the loss is placed at the top end of the drill run.

**Standard Penetration Tests:** Standard Penetration Tests (SPT) are used mainly in non-cohesive soils, but can also be used in cohesive soils as a means of indicating density or strength and also of obtaining a relatively undisturbed sample. The test procedure is described in Australian Standard 1289, “Methods of Testing Soils for Engineering Purposes” – Test F3.1.

The test is carried out in a borehole by driving a 50mm diameter split sample tube with a tapered shoe, under the impact of a 63kg hammer with a free fall of 760mm. It is normal for the tube to be driven in three successive 150mm increments and the ‘N’ value is taken as the number of blows for the last 300mm. In dense sands, very hard clays or weak rock, the full 450mm penetration may not be practicable and the test is discontinued.

The test results are reported in the following form:

- In the case where full penetration is obtained with successive blow counts for each 150mm of, say, 4, 6 and 7 blows, as:  $N = 13 (4, 6, 7)$
- In a case where the test is discontinued short of full penetration, say after 15 blows for the first 150mm and 30 blows for the next 40mm, as:  $N > 30 (15, 30/40\text{mm})$

The results of the test can be related empirically to the engineering properties of the soil. Occasionally, the drop hammer is used to drive 50mm diameter thin walled sample tubes (U50) in clays. In such circumstances, the test results are shown on the borehole logs in brackets.

A modification to the SPT test is where the same driving system is used with a solid 60 tipped steel cone of the same diameter as the SPT hollow sampler. The solid cone can be continuously driven for some distance in soft clays or loose sands, or may be used where damage would otherwise occur to the SPT. The results of this Solid Cone Penetration Test (SCPT) are shown as “Nc” on the borehole logs, together with the number of blows per 150mm penetration.

## LOGS

The borehole or test pit logs presented herein are an interpretation of the subsurface conditions, and their reliability will depend to some extent on the frequency of sampling and the method of drilling or excavation. Ideally, continuous undisturbed sampling or core drilling will enable the most reliable assessment, but is not always practicable or possible to justify on economic grounds. In any case, the boreholes or test pits represent only a very small sample of the total subsurface conditions.

The attached explanatory notes define the terms and symbols used in preparation of the logs.

Interpretation of the information shown on the logs, and its application to design and construction, should therefore take into account the spacing of boreholes or test pits, the method of drilling or excavation, the frequency of sampling and testing and the possibility of other than “straight line”

variations between the boreholes or test pits. Subsurface conditions between boreholes or test pits may vary significantly from conditions encountered at the borehole or test pit locations.

### **GROUNDWATER**

Where groundwater levels are measured in boreholes, there are several potential problems:

- Although groundwater may be present, in low permeability soils it may enter the hole slowly or perhaps not at all during the time it is left open;
- A localised perched water table may lead to an erroneous indication of the true water table;
- Water table levels will vary from time to time with seasons or recent weather changes and may not be the same at the time of construction; and
- The use of water or mud as a drilling fluid will mask any groundwater inflow. Water has to be blown out of the hole and drilling mud must be washed out of the hole or 'reverted' chemically if water observations are to be made.

More reliable measurements can be made by installing standpipes which are read after stabilising at intervals ranging from several days to perhaps weeks for low permeability soils. Piezometers, sealed in a particular stratum, may be advisable in low permeability soils or where there may be interference from perched water tables or surface water.

### **FILL**

The presence of fill materials can often be determined only by the inclusion of foreign objects (e.g. bricks, concrete, plastic, slag/ash, steel etc) or by distinctly unusual colour, texture or fabric. Identification of the extent of fill materials will also depend on investigation methods and frequency. Where natural soils similar to those at the site are used for fill, it may be difficult with limited testing and sampling to reliably determine the extent of the fill.

The presence of fill materials is usually regarded with caution as the possible variation in density, strength and material type is much greater than with natural soil deposits. If the volume and quality of fill is of importance to a project, then frequent test pit excavations are preferable to boreholes


































### **LABORATORY TESTING**

Laboratory testing has not been undertaken to confirm the soil classifications and rocks strengths indicated on the environmental logs unless noted in the report.

### **SITE ANOMALIES**

In the event that conditions encountered on site during construction appear to vary from those which were expected from the information contained in the report, EIS should be notified immediately.

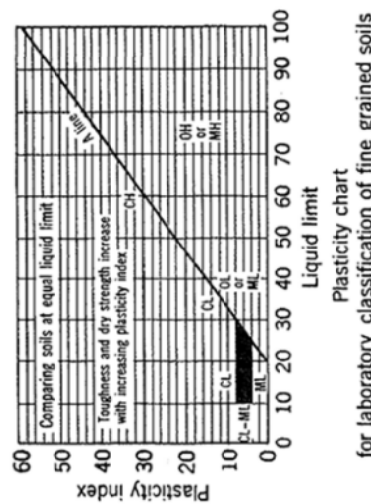
## GRAPHIC LOG SYMBOLS FOR SOIL AND ROCKS

SOIL	ROCK	DEFECTS AND INCLUSIONS
 FILL	 CONGLOMERATE	 CLAY SEAM
 TOPSOIL	 SANDSTONE	 SHEARED OR CRUSHED SEAM
 CLAY (CL, CH)	 SHALE	 BRECCIATED OR SHATTERED SEAM/ZONE
 SILT (ML, MH)	 SILTSTONE, MUDSTONE, CLAYSTONE	 IRONSTONE GRAVEL
 SAND (SP, SW)	 LIMESTONE	 ORGANIC MATERIAL
 GRAVEL (GP, GW)	 PHYLLITE, SCHIST	
 SANDY CLAY (CL, CH)	 TUFF	<b>OTHER MATERIALS</b>
 SILTY CLAY (CL, CH)	 GRANITE, GABBRO	 CONCRETE
 CLAYEY SAND (SC)	 DOLERITE, DIORITE	 BITUMINOUS CONCRETE, COAL
 SILTY SAND (SM)	 BASALT, ANDESITE	 COLLUVIUM
 GRAVELLY CLAY (CL, CH)	 QUARTZITE	
 CLAYEY GRAVEL (GC)		
 SANDY SILT (ML)		
 PEAT AND ORGANIC SOILS		






Field Identification Procedures (Excluding particles larger than 75 µm and basing fractions on estimated weights)				Group Symbols	Typical Names	Information Required for Describing Soils	Laboratory Classification Criteria	
Gravels More than half of coarse fraction is larger than 4 mm sieve size	Clean gravels (little or no fines)	Wide range in grain size and substantial amounts of all intermediate particle sizes	Predominantly one size or a range of sizes with some intermediate sizes missing				$C_u = \frac{D_{60}}{D_{10}}$ Greater than 4 $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ Between 1 and 3	Not meeting all gradation requirements for <i>GW</i>
Coarse-grained soils More than half of material is larger than 75 µm sieve size (The 75 µm sieve size is about the smallest particle visible to naked eye)	Gravels with fines (appreciable amount of fines)	Predominantly one size or a range of sizes with some intermediate sizes missing	Nonplastic fines (for identification procedures see <i>ML</i> below)	<i>GP</i>	Poorly graded gravels, gravel-sand mixtures, little or no fines	Give typical name; indicate approximate percentages of sand and gravel; maximum size; angularity; surface condition, and hardness of the coarse grains; local or geologic name and other pertinent descriptive information; and symbols in parentheses	Determine percentages of gravel and sand from grain size curve	
	Clean sands (little or no fines)	Wide range in grain sizes and substantial amounts of all intermediate particle sizes	Plastic fines (for identification procedures, see <i>CL</i> below)	<i>GM</i>	Silty gravels, poorly graded gravel-sand-silt mixtures	For undisturbed soils add information on stratification, degree of compactness, cementation, and moisture conditions and drainage characteristics	Borderline cases requiring use of dual symbols <i>GM, GP, SM, SP</i>	
	Sands with fines (appreciable amount of fines)	Predominantly one size or a range of sizes with some intermediate sizes missing	Nonplastic fines (for identification procedures, see <i>ML</i> below)	<i>SW</i>	Well graded sands, gravelly sands, little or no fines	Example: <i>Silty sand</i> , gravelly; about 20% hard, angular gravel particles 12 mm maximum size; rounded and subangular sand grains coarse to fine, about 15% non-plastic fines with low dry strength; well compacted and moist in place; alluvial sand; ( <i>SM</i> )	Not meeting all gradation requirements for <i>SW</i>	
	Clean sands (little or no fines)	Predominantly one size or a range of sizes with some intermediate sizes missing	Plastic fines (for identification procedures, see <i>CL</i> below)	<i>SP</i>	Poorly graded sands, gravelly sands, little or no fines		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>SM</i>	Silty sands, poorly graded sand-silt mixtures		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>SC</i>	Clayey sands, poorly graded sand-clay mixtures		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>ML</i>	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands with slight plasticity	Give typical name; indicate degree and character of plasticity, amount and maximum size of coarse grains; colour in wet condition, odour if any, local or geologic name, and other pertinent descriptive information, and symbol in parentheses	Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>CL</i>	Inorganic clays of low to medium plasticity, gravelly silts, silty clays, silty clays, lean clays	For undisturbed soils add information on structure, stratification, consistency in undisturbed and remoulded states, moisture and drainage conditions	Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>OL</i>	Organic silts and organic silts of low plasticity	Example: <i>Clayey silt</i> , brown; slightly plastic; small percentage of fine sand; numerous vertical root holes; firm and dry in place; ( <i>ML</i> )	Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>MH</i>	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>CH</i>	Inorganic clays of high plasticity, fat clays		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>OH</i>	Organic clays of medium to high plasticity		Atterberg limits below 5% with <i>PI</i> less than 4	
Identification Procedures on Fraction Smaller than 380 µm Sieve Size				<i>PI</i>	Peat and other highly organic soils		Atterberg limits below 5% with <i>PI</i> less than 4	

Note: 1 Soils possessing characteristics of two groups are designated by combinations of group symbols (eg. *GW-GC*, well graded gravel-sand mixture with clay fines).  
2 Soils with liquid limits of the order of 35 to 50 may be visually classified as being of medium plasticity.



Plasticity chart for laboratory classification of fine grained soils

## LOG SYMBOLS

LOG COLUMN	SYMBOL		DEFINITION
Groundwater Record			Standing water level. Time delay following completion of drilling may be shown.
			Extent of borehole collapse shortly after drilling.
			Groundwater seepage into borehole or excavation noted during drilling or excavation.
Samples	ES		Soil sample taken over depth indicated, for environmental analysis.
	U50		Undisturbed 50mm diameter tube sample taken over depth indicated.
	DB		Bulk disturbed sample taken over depth indicated.
	DS		Small disturbed bag sample taken over depth indicated.
	ASB		Soil sample taken over depth indicated, for asbestos screening.
	ASS		Soil sample taken over depth indicated, for acid sulfate soil analysis.
	SAL		Soil sample taken over depth indicated, for salinity analysis.
Field Tests	N = 17 4, 7, 10		Standard Penetration Test (SPT) performed between depths indicated by lines. Individual show blows per 150mm penetration. 'R' as noted below.
	N <sub>c</sub> =	5	Solid Cone Penetration Test (SCPT) performed between depths indicated by lines. Individual figures show blows per 150mm penetration for 60 degree solid cone driven by SPT hammer. 'R' refers to apparent hammer refusal within the corresponding 150mm depth increment.
		7	
		3 R	
VNS = 25 PID = 100		Vane shear reading in kPa of Undrained Shear Strength. Photoionisation detector reading in ppm (Soil sample heads pace test).	
Moisture (Cohesive Soils)  (Cohesionless)	MC>PL MC≈PL MC<PL D M W	Moisture content estimated to be greater than plastic limit. Moisture content estimated to be approximately equal to plastic limit. Moisture content estimated to be less than plastic limit. DRY – Runs freely through fingers. MOIST – Does not run freely but no free water visible on soil surface. WET – Free water visible on soil surface.	
Strength (Consistency) Cohesive Soils	VS S F St VSt H ( )	VERY SOFT – Unconfined compressive strength less than 25kPa SOFT – Unconfined compressive strength 25-50kPa FIRM – Unconfined compressive strength 50-100kPa STIFF – Unconfined compressive strength 100- 200kPa VERY STIFF – Unconfined compressive strength 200- 400kPa HARD – Unconfined compressive strength greater than 400kPa Bracketed symbol indicates estimated consistency based on tactile examination or other tests.	
Density Index/ Relative Density (Cohesionless Soils)	VL L MD D VD ( )	<b>Density Index (ID) Range (%)</b> Very Loose < 15 Loose 15-35 Medium Dense 35-65 Dense 65-85 Very Dense > 85 Bracketed symbol indicates estimated density based on ease of drilling or other tests.	
Hand Penetrometer Readings	300 250	Numbers indicate individual test results in kPa on representative undisturbed material unless noted otherwise	
Remarks	'V' bit  'TC' bit  T <sub>60</sub>	Hardened steel 'V' shaped bit.  Tungsten carbide wing bit.  Penetration of auger string in mm under static load of rig applied by drill head hydraulics without rotation of augers.	

## LOG SYMBOLS CONTINUED

### ROCK STRENGTH

Rock strength is defined by the Point Load Strength Index (Is 50) and refers to the strength of the rock substance in the bedding. The test procedure is described by the International Journal of Rock Mechanics, Mining and Geomechanics Abstract Volume 22, No 2, 1985.

TERM	SYMBOL	Is (50) MPa	FIELD GUIDE
Extremely Low:	EL	0.03	Easily remoulded by hand to a material with soil properties.
Very Low:	VL	0.1	May be crumbled in the hand. Sandstone is "sugary" and friable.
Low:	L	0.3	A piece of core 150 mm long x 50mm dia. may be broken by hand and easily scored with a knife. Sharp edges of core may be friable and break during handling.
Medium Strength:	M	1	A piece of core 150 mm long x 50mm dia. can be broken by hand with difficulty. Readily scored with knife.
High:	H	3	A piece of core 150 mm long x 50mm dia. core cannot be broken by hand, can be slightly scratched or scored with knife; rock rings under hammer.
Very High:	VH	10	A piece of core 150 mm long x 50mm dia. may be broken with hand-held pick after more than one blow. Cannot be scratched with pen knife; rock rings under hammer.
Extremely High:	EH		A piece of core 150 mm long x 50mm dia. is very difficult to break with hand-held hammer. Rings when struck with a hammer.

### ROCK STRENGTH

ABBREVIATION	DESCRIPTION	NOTES
Be	Bedding Plane Parting	Defect orientations measured relative to the normal to (i.e. relative to horizontal for vertical holes)
CS	Clay Seam	
J	Joint	
P	Planar	
Un	Undulating	
S	Smooth	
R	Rough	
IS	Iron stained	
XWS	Extremely Weathered Seam	
Cr	Crushed Seam	
60t	Thickness of defect in millimetres	

## **Appendix B: Laboratory Reports and COC Documents**



Page 302

## SAMPLE RECEIPT ADVICE

Client Details	
<b>Client</b>	Environmental Investigation Services
<b>Attention</b>	Rob Muller

Sample Login Details	
<b>Your Reference</b>	E29353KM, Dolls Point
<b>Envirolab Reference</b>	<b>146263</b>
<b>Date Sample Received</b>	09/05/2016
<b>Date Instructions Received</b>	09/05/2016
<b>Date Results Expected to be Reported</b>	<b>16/05/2016</b>

Sample Condition	
<b>Samples received in appropriate condition for analysis</b>	YES
<b>No. of Samples Provided</b>	9 Soils
<b>Turnaround Time Requested</b>	Standard
<b>Temperature on receipt (°C)</b>	3.7
<b>Cooling Method</b>	Ice Pack
<b>Sampling Date Provided</b>	YES

Comments
Samples will be held for 1 month for water samples and 2 months for soil samples from date of receipt of samples

Please direct any queries to:

<b>Aileen Hie</b>	<b>Jacinta Hurst</b>
Phone: 02 9910 6200	Phone: 02 9910 6200
Fax: 02 9910 6201	Fax: 02 9910 6201
Email: ahie@envirolabservices.com.au	Email: jhurst@envirolabservices.com.au

**Sample and Testing Details on following page**

<i>Sample Id</i>	<i>VTRH(C6- C10)/BTEXN in Soil</i>	<i>svTRH (C10-C40) in Soil</i>	<i>PAHs in Soil</i>	<i>Organochlorine Pesticides in soil</i>	<i>Organophosphorus Pesticides</i>	<i>PCBs in Soil</i>	<i>Acid Extractable metals in soil</i>	<i>Asbestos ID - soils</i>	<i>sPOCAS</i>
BH1-0.0-0.1	✓	✓	✓	✓	✓	✓	✓	✓	
BH2-0.0-0.1	✓	✓	✓	✓	✓	✓	✓	✓	
BH2-0.5-0.7	✓	✓	✓	✓	✓	✓	✓	✓	
BH3-0.4-0.5	✓	✓	✓	✓	✓	✓	✓	✓	
BH4-0.0-0.1	✓	✓	✓	✓	✓	✓	✓	✓	
BH1-3.0-3.15									✓
BH2-5.7-6.15									✓
BH3-7.2-7.65									✓
BH4-7.2-7.65									✓





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tel: +61 2 9910 6200

email: [sydney@envirolab.com.au](mailto:sydney@envirolab.com.au)  
[envirolab.com.au](http://envirolab.com.au)

Envirolab Services Pty Ltd - Sydney | ABN 37 112 535 645

## CERTIFICATE OF ANALYSIS

**146263**

### **Client:**

#### **Environmental Investigation Services**

PO Box 976  
North Ryde BC  
NSW 1670

**Attention:** Rob Muller

### **Sample log in details:**

Your Reference:	<b><u>E29353KM, Dolls Point</u></b>
No. of samples:	9 Soils
Date samples received / completed instructions received	9/5/2016 / 9/5/2016

### **Analysis Details:**

Please refer to the following pages for results, methodology summary and quality control data.  
Samples were analysed as received from the client. Results relate specifically to the samples as received.  
Results are reported on a dry weight basis for solids and on an as received basis for other matrices.

***Please refer to the last page of this report for any comments relating to the results.***

### **Report Details:**

Date results requested by: / Issue Date: 16/05/16 / 16/05/16  
Date of Preliminary Report: Not Issued

NATA accreditation number 2901. This document shall not be reproduced except in full.

Accredited for compliance with ISO/IEC 17025. **Tests not covered by NATA are denoted with \*.**

### **Results Approved By:**

  
Jacinta Hurst  
Laboratory Manager

Envirolab Reference: 146263  
Revision No: R 00



vTRH(C6-C10)/BTEXN in Soil						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
Depth	-					
Date Sampled	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Type of sample		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	12/05/2016	12/05/2016	12/05/2016	13/05/2016	13/05/2016
TRHC <sub>6</sub> - C <sub>9</sub>	mg/kg	<25	<25	<25	<25	<25
TRHC <sub>6</sub> - C <sub>10</sub>	mg/kg	<25	<25	<25	<25	<25
vTPHC <sub>6</sub> - C <sub>10</sub> less BTEX (F1)	mg/kg	<25	<25	<25	<25	<25
Benzene	mg/kg	<0.2	<0.2	<0.2	<0.2	<0.2
Toluene	mg/kg	<0.5	<0.5	<0.5	<0.5	<0.5
Ethylbenzene	mg/kg	<1	<1	<1	<1	<1
m+p-xylene	mg/kg	<2	<2	<2	<2	<2
o-Xylene	mg/kg	<1	<1	<1	<1	<1
naphthalene	mg/kg	<1	<1	<1	<1	<1
Surrogate aaa-Trifluorotoluene	%	89	90	87	91	91

svTRH (C10-C40) in Soil						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
	-					
Depth	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Date Sampled		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
Type of sample		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	11/05/2016	11/05/2016	11/05/2016	11/05/2016	11/05/2016
TRHC <sub>10</sub> - C <sub>14</sub>	mg/kg	<50	<50	<50	<50	<50
TRHC <sub>15</sub> - C <sub>28</sub>	mg/kg	<100	<100	<100	<100	<100
TRHC <sub>29</sub> - C <sub>36</sub>	mg/kg	<100	<100	<100	<100	<100
TRH>C <sub>10</sub> -C <sub>16</sub>	mg/kg	<50	<50	<50	<50	<50
TRH>C <sub>10</sub> - C <sub>16</sub> less Naphthalene (F2)	mg/kg	<50	<50	<50	<50	<50
TRH>C <sub>16</sub> -C <sub>34</sub>	mg/kg	<100	<100	<100	<100	<100
TRH>C <sub>34</sub> -C <sub>40</sub>	mg/kg	<100	<100	<100	<100	<100
Surrogate o-Terphenyl	%	84	85	88	84	82

PAHs in Soil Our Reference: Your Reference	UNITS ----- -	146263-1 BH1	146263-2 BH2	146263-3 BH2	146263-4 BH3	146263-5 BH4
Depth	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Date Sampled		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
Type of sample		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Naphthalene	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Acenaphthylene	mg/kg	<0.1	<0.1	<0.1	0.4	<0.1
Acenaphthene	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Fluorene	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Phenanthrene	mg/kg	<0.1	<0.1	<0.1	1.8	<0.1
Anthracene	mg/kg	<0.1	<0.1	<0.1	0.6	<0.1
Fluoranthene	mg/kg	0.1	0.3	<0.1	3.5	0.1
Pyrene	mg/kg	0.1	0.3	<0.1	3.2	0.1
Benzo(a)anthracene	mg/kg	<0.1	0.1	<0.1	1.3	<0.1
Chrysene	mg/kg	<0.1	0.2	<0.1	1.5	<0.1
Benzo(b,j+k)fluoranthene	mg/kg	<0.2	0.3	<0.2	2.2	<0.2
Benzo(a)pyrene	mg/kg	0.07	0.2	<0.05	1.3	0.07
Indeno(1,2,3-c,d)pyrene	mg/kg	<0.1	0.1	<0.1	0.6	<0.1
Dibenzo(a,h)anthracene	mg/kg	<0.1	<0.1	<0.1	0.2	<0.1
Benzo(g,h,i)perylene	mg/kg	<0.1	0.1	<0.1	0.7	<0.1
Benzo(a)pyrene TEQ calc (zero)	mg/kg	<0.5	<0.5	<0.5	1.9	<0.5
Benzo(a)pyrene TEQ calc(half)	mg/kg	<0.5	<0.5	<0.5	1.9	<0.5
Benzo(a)pyrene TEQ calc(PQL)	mg/kg	<0.5	<0.5	<0.5	1.9	<0.5
Total Positive PAHs	mg/kg	0.34	1.6	NIL (+)VE	17	0.34
Surrogate p-Terphenyl-d14	%	90	103	92	82	95

Organochlorine Pesticides in soil						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
Depth	-					
Date Sampled	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Type of sample		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	12/05/2016	12/05/2016	12/05/2016	12/05/2016	12/05/2016
HCB	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
alpha-BHC	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
gamma-BHC	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
beta-BHC	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Heptachlor	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
delta-BHC	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aldrin	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Heptachlor Epoxide	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
gamma-Chlordane	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
alpha-chlordane	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Endosulfan I	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
pp-DDE	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Dieldrin	mg/kg	<0.1	<0.1	<0.1	1.1	<0.1
Endrin	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
pp-DDD	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Endosulfan II	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
pp-DDT	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Endrin Aldehyde	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Endosulfan Sulphate	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Methoxychlor	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Surrogate TCMX	%	92	94	97	92	93

Organophosphorus Pesticides						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
Depth	-					
Date Sampled	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Type of sample		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	12/05/2016	12/05/2016	12/05/2016	12/05/2016	12/05/2016
Azinphos-methyl (Guthion)	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Bromophos-ethyl	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Chlorpyrifos	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Chlorpyrifos-methyl	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Diazinon	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Dichlorvos	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Dimethoate	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Ethion	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Fenitrothion	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Malathion	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Parathion	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Ronnel	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Surrogate TCMX	%	92	94	97	92	93

PCBs in Soil Our Reference: Your Reference	UNITS ----- -	146263-1 BH1	146263-2 BH2	146263-3 BH2	146263-4 BH3	146263-5 BH4
Depth	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Date Sampled		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
Type of sample		Soil	Soil	Soil	Soil	Soil
Date extracted	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	12/05/2016	12/05/2016	12/05/2016	12/05/2016	12/05/2016
Aroclor 1016	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1221	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1232	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1242	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1248	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1254	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Aroclor 1260	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Surrogate TCLMX	%	92	94	97	92	93



Acid Extractable metals in soil						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
Depth	-					
Date Sampled	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Type of sample		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
		Soil	Soil	Soil	Soil	Soil
Date prepared	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Arsenic	mg/kg	6	<4	<4	<4	<4
Cadmium	mg/kg	<0.4	<0.4	<0.4	<0.4	<0.4
Chromium	mg/kg	12	3	1	3	5
Copper	mg/kg	4	5	<1	8	11
Lead	mg/kg	83	40	1	650	170
Mercury	mg/kg	<0.1	<0.1	<0.1	<0.1	<0.1
Nickel	mg/kg	1	1	<1	<1	1
Zinc	mg/kg	26	26	1	150	180

Moisture Our Reference: Your Reference	UNITS ----- -	146263-1 BH1	146263-2 BH2	146263-3 BH2	146263-4 BH3	146263-5 BH4
Depth Date Sampled Type of sample	----- ----- -----	0.0-0.1 4/05/2016 Soil	0.0-0.1 3/05/2016 Soil	0.5-0.7 3/05/2016 Soil	0.4-0.5 5/05/2016 Soil	0.0-0.1 2/05/2016 Soil
Date prepared	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	11/05/2016	11/05/2016	11/05/2016	11/05/2016	11/05/2016
Moisture	%	8.9	8.6	9.4	7.4	7.6

Asbestos ID - soils						
Our Reference:	UNITS	146263-1	146263-2	146263-3	146263-4	146263-5
Your Reference	-----	BH1	BH2	BH2	BH3	BH4
	-					
Depth	-----	0.0-0.1	0.0-0.1	0.5-0.7	0.4-0.5	0.0-0.1
Date Sampled		4/05/2016	3/05/2016	3/05/2016	5/05/2016	2/05/2016
Type of sample		Soil	Soil	Soil	Soil	Soil
Date analysed	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Sample mass tested	g	Approx. 50g	Approx. 15g	Approx. 15g	Approx. 20g	Approx. 15g
Sample Description	-	Brown fine-grained soil and rocks	Brown fine-grained soil and rocks	Brown fine-grained soil and rocks	Brown fine-grained soil and rocks	Brown fine-grained soil and rocks
Asbestos ID in soil	-	No asbestos detected at reporting limit of 0.1g/kg Organic fibres detected	No asbestos detected at reporting limit of 0.1g/kg Organic fibres detected	No asbestos detected at reporting limit of 0.1g/kg Organic fibres detected	No asbestos detected at reporting limit of 0.1g/kg Organic fibres detected	No asbestos detected at reporting limit of 0.1g/kg Organic fibres detected
Trace Analysis	-	No asbestos detected	No asbestos detected	No asbestos detected	No asbestos detected	No asbestos detected

sPOCAS Our Reference: Your Reference	UNITS ----- -	146263-6 BH1	146263-7 BH2	146263-8 BH3	146263-9 BH4
Depth	-----	3.0-3.15	5.7-6.15	7.2-7.65	7.2-7.65
Date Sampled		4/05/2016	3/05/2016	5/05/2016	2/05/2016
Type of sample		Soil	Soil	Soil	Soil
Date prepared	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016
Date analysed	-	10/05/2016	10/05/2016	10/05/2016	10/05/2016
pH <sub>KCl</sub>	pH units	9.1	9.2	5.1	6.9
TAA pH 6.5	moles H <sup>+</sup> /t	<5	<5	6	<5
s-TAA pH 6.5	%w/w S	<0.01	<0.01	0.01	<0.01
pH <sub>α</sub>	pH units	7.5	7.1	2.5	2.6
TPA pH 6.5	moles H <sup>+</sup> /t	<5	<5	180	170
s-TPA pH 6.5	%w/w S	<0.01	<0.01	0.30	0.27
TSA pH 6.5	moles H <sup>+</sup> /t	<5	<5	180	170
s-TSA pH 6.5	%w/w S	<0.01	<0.01	0.29	0.27
ANCE	% CaCO <sub>3</sub>	0.44	0.25	<0.05	<0.05
a-ANCE	moles H <sup>+</sup> /t	87	50	<5	<5
s-ANCE	%w/w S	0.14	0.08	<0.05	<0.05
SKCl	%w/w S	0.02	0.02	0.1	0.03
SP	% w/w	0.24	0.06	0.38	0.34
SPOS	% w/w	0.21	0.04	0.28	0.31
a-SPOS	moles H <sup>+</sup> /t	130	26	180	190
CaKCl	% w/w	0.21	0.12	0.06	0.05
CaP	% w/w	0.61	0.26	0.05	0.05
CaA	% w/w	0.39	0.14	<0.005	<0.005
MgKCl	% w/w	0.011	0.023	<0.005	<0.005
MgP	% w/w	0.026	0.025	<0.005	<0.005
MgA	% w/w	0.015	<0.005	<0.005	<0.005
Fineness Factor	-	1.5	1.5	1.5	1.5
a-Net Acidity	moles H <sup>+</sup> /t	<10	<10	180	180
Liming rate	kg CaCO <sub>3</sub> / t	<0.75	<0.75	14	13
a-Net Acidity without ANCE	moles H <sup>+</sup> /t	130	26	NA	NA
Liming rate without ANCE	kg CaCO <sub>3</sub> / t	10	1.9	NA	NA

Method ID	Methodology Summary
Org-016	Soil samples are extracted with methanol and spiked into water prior to analysing by purge and trap GC-MS. Water samples are analysed directly by purge and trap GC-MS. F1 = (C6-C10)-BTEX as per NEPM B1 Guideline on Investigation Levels for Soil and Groundwater.
Org-014	Soil samples are extracted with methanol and spiked into water prior to analysing by purge and trap GC-MS.
Org-003	Soil samples are extracted with Dichloromethane/Acetone and waters with Dichloromethane and analysed by GC-FID. F2 = (>C10-C16)-Naphthalene as per NEPM B1 Guideline on Investigation Levels for Soil and Groundwater (HSLs Tables 1A (3, 4)). Note Naphthalene is determined from the VOC analysis.
Org-012	Soil samples are extracted with Dichloromethane/Acetone and waters with Dichloromethane and analysed by GC-MS. Benzo(a)pyrene TEQ as per NEPM B1 Guideline on Investigation Levels for Soil and Groundwater - 2013. For soil results:- 1. 'TEQ PQL' values are assuming all contributing PAHs reported as <PQL are actually at the PQL. This is the most conservative approach and can give false positive TEQs given that PAHs that contribute to the TEQ calculation may not be present. 2. 'TEQ zero' values are assuming all contributing PAHs reported as <PQL are zero. This is the least conservative approach and is more susceptible to false negative TEQs when PAHs that contribute to the TEQ calculation are present but below PQL. 3. 'TEQ half PQL' values are assuming all contributing PAHs reported as <PQL are half the stipulated PQL. Hence a mid-point between the most and least conservative approaches above. Note, the Total +ve PAHs PQL is reflective of the lowest individual PQL and is therefore "Total +ve PAHs" is simply a sum of the positive individual PAHs.
Org-005	Soil samples are extracted with dichloromethane/acetone and waters with dichloromethane and analysed by GC with dual ECD's.
Org-008	Soil samples are extracted with dichloromethane/acetone and waters with dichloromethane and analysed by GC with dual ECD's.
Org-006	Soil samples are extracted with dichloromethane/acetone and waters with dichloromethane and analysed by GC-ECD.
Metals-020	Determination of various metals by ICP-AES.
Metals-021	Determination of Mercury by Cold Vapour AAS.
Inorg-008	Moisture content determined by heating at 105+/-5 deg C for a minimum of 12 hours.
ASB-001	Asbestos ID - Qualitative identification of asbestos in bulk samples using Polarised Light Microscopy and Dispersion Staining Techniques including Synthetic Mineral Fibre and Organic Fibre as per Australian Standard 4964-2004.
Inorg-064	sPOCAS determined using titrimetric and ICP-AES techniques. Based on Acid Sulfate Soils Laboratory Methods Guidelines, Version 2.1 - June 2004.

QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
vTRH(C6-C10)/BTEXN in Soil						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			12/05/2016	[NT]	[NT]	LCS-7	12/05/2016
TRHC <sub>6</sub> - C <sub>9</sub>	mg/kg	25	Org-016	<25	[NT]	[NT]	LCS-7	99%
TRHC <sub>6</sub> - C <sub>10</sub>	mg/kg	25	Org-016	<25	[NT]	[NT]	LCS-7	99%
Benzene	mg/kg	0.2	Org-016	<0.2	[NT]	[NT]	LCS-7	96%
Toluene	mg/kg	0.5	Org-016	<0.5	[NT]	[NT]	LCS-7	99%
Ethylbenzene	mg/kg	1	Org-016	<1	[NT]	[NT]	LCS-7	98%
m+p-xylene	mg/kg	2	Org-016	<2	[NT]	[NT]	LCS-7	100%
o-Xylene	mg/kg	1	Org-016	<1	[NT]	[NT]	LCS-7	96%
naphthalene	mg/kg	1	Org-014	<1	[NT]	[NT]	[NR]	[NR]
Surrogate aaa-Trifluorotoluene	%		Org-016	103	[NT]	[NT]	LCS-7	107%
QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
svTRH (C10-C40) in Soil						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
TRHC <sub>10</sub> - C <sub>14</sub>	mg/kg	50	Org-003	<50	[NT]	[NT]	LCS-7	110%
TRHC <sub>15</sub> - C <sub>28</sub>	mg/kg	100	Org-003	<100	[NT]	[NT]	LCS-7	94%
TRHC <sub>29</sub> - C <sub>36</sub>	mg/kg	100	Org-003	<100	[NT]	[NT]	LCS-7	129%
TRH>C <sub>10</sub> -C <sub>16</sub>	mg/kg	50	Org-003	<50	[NT]	[NT]	LCS-7	110%
TRH>C <sub>16</sub> -C <sub>34</sub>	mg/kg	100	Org-003	<100	[NT]	[NT]	LCS-7	94%
TRH>C <sub>34</sub> -C <sub>40</sub>	mg/kg	100	Org-003	<100	[NT]	[NT]	LCS-7	129%
Surrogate o-Terphenyl	%		Org-003	89	[NT]	[NT]	LCS-7	101%
QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
PAHs in Soil						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Naphthalene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	83%
Acenaphthylene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Acenaphthene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Fluorene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	92%
Phenanthrene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	100%
Anthracene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Fluoranthene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	95%
Pyrene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	101%
Benzo(a)anthracene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Chrysene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	LCS-7	77%
Benzo(b,j+k)fluoranthene	mg/kg	0.2	Org-012	<0.2	[NT]	[NT]	[NR]	[NR]

**Client Reference: E29353KM, Dolls Point**

QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
PAHs in Soil						Base II Duplicate II %RPD		
Benzo(a)pyrene	mg/kg	0.05	Org-012	<0.05	[NT]	[NT]	LCS-7	93%
Indeno(1,2,3-c,d)pyrene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Dibenzo(a,h)anthracene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Benzo(g,h,i)perylene	mg/kg	0.1	Org-012	<0.1	[NT]	[NT]	[NR]	[NR]
Surrogate p-Terphenyl-d14	%		Org-012	101	[NT]	[NT]	LCS-7	107%
QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
Organochlorine Pesticides in soil						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			12/05/2016	[NT]	[NT]	LCS-7	12/05/2016
HCB	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
alpha-BHC	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	99%
gamma-BHC	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
beta-BHC	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	116%
Heptachlor	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	87%
delta-BHC	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
Aldrin	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	84%
Heptachlor Epoxide	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	88%
gamma-Chlordane	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
alpha-chlordane	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
Endosulfan I	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
pp-DDE	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	78%
Dieldrin	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	96%
Endrin	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	96%
pp-DDD	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	79%
Endosulfan II	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
pp-DDT	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
Endrin Aldehyde	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
Endosulfan Sulphate	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	LCS-7	68%
Methoxychlor	mg/kg	0.1	Org-005	<0.1	[NT]	[NT]	[NR]	[NR]
Surrogate TCMX	%		Org-005	101	[NT]	[NT]	LCS-7	115%



**Client Reference: E29353KM, Dolls Point**

QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
Organophosphorus Pesticides						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			12/05/2016	[NT]	[NT]	LCS-7	12/05/2016
Azinphos-methyl (Guthion)	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	[NR]	[NR]
Bromophos-ethyl	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	[NR]	[NR]
Chlorpyrifos	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	93%
Chlorpyrifos-methyl	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	[NR]	[NR]
Diazinon	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	[NR]	[NR]
Dichlorvos	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	79%
Dimethoate	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	[NR]	[NR]
Ethion	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	92%
Fenitrothion	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	103%
Malathion	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	75%
Parathion	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	92%
Ronnel	mg/kg	0.1	Org-008	<0.1	[NT]	[NT]	LCS-7	115%
Surrogate TCMX	%		Org-008	101	[NT]	[NT]	LCS-7	96%
QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
PCBs in Soil						Base II Duplicate II %RPD		
Date extracted	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			12/05/2016	[NT]	[NT]	LCS-7	12/05/2016
Aroclor 1016	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Aroclor 1221	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Aroclor 1232	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Aroclor 1242	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Aroclor 1248	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Aroclor 1254	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	LCS-7	110%
Aroclor 1260	mg/kg	0.1	Org-006	<0.1	[NT]	[NT]	[NR]	[NR]
Surrogate TCLMX	%		Org-006	101	[NT]	[NT]	LCS-7	95%

**Client Reference: E29353KM, Dolls Point**

QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
Acid Extractable metals in soil						Base II Duplicate II %RPD		
Date prepared	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Date analysed	-			10/05/2016	[NT]	[NT]	LCS-7	10/05/2016
Arsenic	mg/kg	4	Metals-020	<4	[NT]	[NT]	LCS-7	103%
Cadmium	mg/kg	0.4	Metals-020	<0.4	[NT]	[NT]	LCS-7	97%
Chromium	mg/kg	1	Metals-020	<1	[NT]	[NT]	LCS-7	99%
Copper	mg/kg	1	Metals-020	<1	[NT]	[NT]	LCS-7	100%
Lead	mg/kg	1	Metals-020	<1	[NT]	[NT]	LCS-7	98%
Mercury	mg/kg	0.1	Metals-021	<0.1	[NT]	[NT]	LCS-7	84%
Nickel	mg/kg	1	Metals-020	<1	[NT]	[NT]	LCS-7	94%
Zinc	mg/kg	1	Metals-020	<1	[NT]	[NT]	LCS-7	98%
QUALITYCONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
sPOCAS						Base II Duplicate II %RPD		
Date prepared	-			10/05/2016	146263-6	10/05/2016    10/05/2016	LCS-1	10/05/2016
Date analysed	-			10/05/2016	146263-6	10/05/2016    10/05/2016	LCS-1	10/05/2016
pH <sub>kcl</sub>	pH units		Inorg-064	[NT]	146263-6	9.1    9.1    RPD: 0	LCS-1	103%
TAA pH 6.5	moles H <sup>+</sup> /t	5	Inorg-064	<5	146263-6	<5    <5	LCS-1	85%
s-TAA pH 6.5	%w/w S	0.01	Inorg-064	<0.01	146263-6	<0.01    <0.01	[NR]	[NR]
pH <sub>α</sub>	pH units		Inorg-064	[NT]	146263-6	7.5    7.1    RPD: 5	LCS-1	100%
TPA pH 6.5	moles H <sup>+</sup> /t	5	Inorg-064	<5	146263-6	<5    <5	LCS-1	114%
s-TPA pH 6.5	%w/w S	0.01	Inorg-064	<0.01	146263-6	<0.01    <0.01	[NR]	[NR]
TSA pH 6.5	moles H <sup>+</sup> /t	5	Inorg-064	<5	146263-6	<5    <5	[NR]	[NR]
s-TSA pH 6.5	%w/w S	0.01	Inorg-064	<0.01	146263-6	<0.01    <0.01	[NR]	[NR]
ANCE	% CaCO <sub>3</sub>	0.05	Inorg-064	<0.05	146263-6	0.44    0.31    RPD: 35	[NR]	[NR]
a-ANCE	moles H <sup>+</sup> /t	5	Inorg-064	<5	146263-6	87    62    RPD: 34	[NR]	[NR]
s-ANCE	%w/w S	0.05	Inorg-064	<0.05	146263-6	0.14    0.10    RPD: 33	[NR]	[NR]
SKCl	%w/w S	0.005	Inorg-064	<0.005	146263-6	0.02    0.02    RPD: 0	[NR]	[NR]
SP	%w/w	0.005	Inorg-064	<0.005	146263-6	0.24    0.25    RPD: 4	[NR]	[NR]
SPOS	%w/w	0.005	Inorg-064	<0.005	146263-6	0.21    0.23    RPD: 9	[NR]	[NR]
a-SPOS	moles H <sup>+</sup> /t	5	Inorg-064	<5	146263-6	130    140    RPD: 7	[NR]	[NR]
CaKCl	%w/w	0.005	Inorg-064	<0.005	146263-6	0.21    0.22    RPD: 5	[NR]	[NR]
CaP	%w/w	0.005	Inorg-064	<0.005	146263-6	0.61    0.58    RPD: 5	[NR]	[NR]
CaA	%w/w	0.005	Inorg-064	<0.005	146263-6	0.39    0.37    RPD: 5	[NR]	[NR]

QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
sPOCAS						Base    Duplicate    %RPD		
Mg <sub>KCl</sub>	% w/w	0.005	Inorg-064	<0.005	146263-6	0.011    0.011    RPD: 0	[NR]	[NR]
Mg <sub>P</sub>	% w/w	0.005	Inorg-064	<0.005	146263-6	0.026    0.026    RPD: 0	[NR]	[NR]
Mg <sub>A</sub>	% w/w	0.005	Inorg-064	<0.005	146263-6	0.015    0.015    RPD: 0	[NR]	[NR]
SHCl	% w/w S	0.005	Inorg-064	<0.005	[NT]	[NT]	[NR]	[NR]
SNAS	% w/w S	0.005	Inorg-064	<0.005	[NT]	[NT]	[NR]	[NR]
a-SNAS	moles H <sup>+</sup> /t	5	Inorg-064	<5	[NT]	[NT]	[NR]	[NR]
s-SNAS	% w/w S	0.01	Inorg-064	<0.01	[NT]	[NT]	[NR]	[NR]
Fineness Factor	-	1.5	Inorg-064	<1.5	146263-6	1.5    1.5    RPD: 0	[NR]	[NR]
a-Net Acidity	moles H <sup>+</sup> /t	10	Inorg-064	<10	146263-6	<10    <10	[NR]	[NR]
Liming rate	kg CaCO <sub>3</sub> /t	0.75	Inorg-064	<0.75	146263-6	<0.75    <0.75	[NR]	[NR]
a-Net Acidity without ANCE	moles H <sup>+</sup> /t	10	Inorg-064	<10	146263-6	130    140    RPD: 7	[NR]	[NR]
Liming rate without ANCE	kg CaCO <sub>3</sub> /t	0.75	Inorg-064	<0.75	146263-6	10    11    RPD: 10	[NR]	[NR]

**Report Comments:**

Asbestos ID was analysed by Approved Identifier: Lulu Scott  
Asbestos ID was authorised by Approved Signatory: Lulu Scott

INS: Insufficient sample for this test  
NR: Test not required  
<: Less than

PQL: Practical Quantitation Limit  
RPD: Relative Percent Difference  
>: Greater than

NT: Not tested  
NA: Test not required  
LCS: Laboratory Control Sample

### **Quality Control Definitions**

**Blank:** This is the component of the analytical signal which is not derived from the sample but from reagents, glassware etc, can be determined by processing solvents and reagents in exactly the same manner as for samples.

**Duplicate:** This is the complete duplicate analysis of a sample from the process batch. If possible, the sample selected should be one where the analyte concentration is easily measurable.

**Matrix Spike:** A portion of the sample is spiked with a known concentration of target analyte. The purpose of the matrix spike is to monitor the performance of the analytical method used and to determine whether matrix interferences exist.

**LCS (Laboratory Control Sample):** This comprises either a standard reference material or a control matrix (such as a blank sand or water) fortified with analytes representative of the analyte class. It is simply a check sample.

**Surrogate Spike:** Surrogates are known additions to each sample, blank, matrix spike and LCS in a batch, of compounds which are similar to the analyte of interest, however are not expected to be found in real samples.

### **Laboratory Acceptance Criteria**

Duplicate sample and matrix spike recoveries may not be reported on smaller jobs, however, were analysed at a frequency to meet or exceed NEPM requirements. All samples are tested in batches of 20. The duplicate sample RPD and matrix spike recoveries for the batch were within the laboratory acceptance criteria.

Filters, swabs, wipes, tubes and badges will not have duplicate data as the whole sample is generally extracted during sample extraction.

Spikes for Physical and Aggregate Tests are not applicable.

For VOCs in water samples, three vials are required for duplicate or spike analysis.

Duplicates: <5xPQL - any RPD is acceptable; >5xPQL - 0-50% RPD is acceptable.

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Where sampling dates are not provided, Envirolab are not in a position to comment on the validity of the analysis where recommended technical holding times may have been breached.

## Aileen Hie

---

**From:** Rob Muller <RMuller@jkgroup.net.au>  
**Sent:** Wednesday, 18 May 2016 5:10 PM  
**To:** Aileen Hie  
**Subject:** TCLP - batch #146263

Hi Aileen,

Could you please arrange for TCLP analysis of the following samples from batch #146263:

Sample location and depth	Lab ID	TCLP required
BH3 (0.4-0.5)	146263 - 4	Lead, benzo(a)pyrene
BH4 (0.0-0.1)	146263-5	Lead

Regards,

Rob Muller  
Senior Environmental Scientist  
[RMuller@jkgroup.net.au](mailto:RMuller@jkgroup.net.au)  
[www.jkgroup.net.au](http://www.jkgroup.net.au)



**Environmental Investigation Services**  
CONSULTING ENVIRONMENTAL ENGINEERS AND SCIENTISTS  
PO Box 976, North Ryde BC NSW 1670  
115 Wicks Rd, Macquarie Park NSW 2113  
T: +612 9888 5000 F: +612 9888 5001

146263 - A.  
Due 25/5.

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[envirolab.com.au](http://envirolab.com.au)

Envirolab Services Pty Ltd - Sydney | ABN 37 112 535 645

## CERTIFICATE OF ANALYSIS

146263-A

### Client:

**Environmental Investigation Services**

PO Box 976

North Ryde BC

NSW 1670

**Attention:** Rob Muller

### Sample log in details:

Your Reference:

**E29353KM, Dolls Point**

No. of samples:

9 Soils

Date samples received / completed instructions received

9/5/2016 / 18/05/16

### Analysis Details:

Please refer to the following pages for results, methodology summary and quality control data.

Samples were analysed as received from the client. Results relate specifically to the samples as received.

Results are reported on a dry weight basis for solids and on an as received basis for other matrices.

***Please refer to the last page of this report for any comments relating to the results.***

### Report Details:

Date results requested by: / Issue Date:

25/05/16 / 23/05/16

Date of Preliminary Report:

Not Issued

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Accredited for compliance with ISO/IEC 17025.

**Tests not covered by NATA are denoted with \*.**

### Results Approved By:

  
Jacinta Hurst  
Laboratory Manager

Envirolab Reference: 146263-A

Revision No: R 00



Page 1 of 7

Page 325



Metals in TCLP USEPA 1311			
Our Reference:	UNITS	146263-A-4	146263-A-5
Your Reference	-----	BH3	BH4
	-		
Depth	-----	0.4-0.5	0.0-0.1
Date Sampled		5/05/2016	2/05/2016
Type of sample		Soil	Soil
Date extracted	-	20/05/2016	20/05/2016
Date analysed	-	20/05/2016	20/05/2016
pH of soil for fluid# determ.	pH units	10.0	8.6
pH of soil TCLP (after HCl)	pH units	1.8	1.5
Extraction fluid used	-	1	1
pH of final Leachate	pH units	6.0	5.0
Lead in TCLP	mg/L	4.9	0.2

PAHs in TCLP (USEPA 1311)		
Our Reference:	UNITS	146263-A-4
Your Reference	-----	BH3
	-	
Depth	-----	0.4-0.5
Date Sampled		5/05/2016
Type of sample		Soil
Date extracted	-	20/05/2016
Date analysed	-	20/05/2016
Benzo(a)pyrene in TCLP	mg/L	<0.001
Surrogate <i>p</i> -Terphenyl-d14	%	92

Method ID	Methodology Summary
Inorg-004	Toxicity Characteristic Leaching Procedure (TCLP) using in house method INORG-004.
EXTRACT.7	Toxicity Characteristic Leaching Procedure (TCLP).
Inorg-001	pH - Measured using pH meter and electrode in accordance with APHA latest edition, 4500-H+. Please note that the results for water analyses are indicative only, as analysis outside of the APHA storage times.
Metals-020 ICP-AES	Determination of various metals by ICP-AES.
Org-012	Leachates are extracted with Dichloromethane and analysed by GC-MS.
Org-012	Soil samples are extracted with Dichloromethane/Acetone and waters with Dichloromethane and analysed by GC-MS.

**Client Reference: E29353KM, Dolls Point**

QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
Metals in TCLP USEPA1311						Base II Duplicate II %RPD		
Date extracted	-			20/05/2016	146263-A-5	20/05/2016    20/05/2016	LCS-W1	20/05/2016
Date analysed	-			20/05/2016	146263-A-5	20/05/2016    20/05/2016	LCS-W1	20/05/2016
Lead in TCLP	mg/L	0.03	Metals-020 ICP-AES	<0.03	146263-A-5	0.2    0.2    RPD: 0	LCS-W1	95%
QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
PAHsinTCLP (USEPA 1311)						Base II Duplicate II %RPD		
Date extracted	-			20/05/2016	[NT]	[NT]	LCS-W1	20/05/2016
Date analysed	-			20/05/2016	[NT]	[NT]	LCS-W1	20/05/2016
Benzo(a)pyrene in TCLP	mg/L	0.001	Org-012	<0.001	[NT]	[NT]	LCS-W1	90%
Surrogate p-Terphenyl-d14	%		Org-012	80	[NT]	[NT]	LCS-W1	85%

**Report Comments:**

Asbestos ID was analysed by Approved Identifier:	Not applicable for this job
Asbestos ID was authorised by Approved Signatory:	Not applicable for this job

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**REPORT**  
**TO**  
**HELM PTY LTD**  
**ON**  
**GEOTECHNICAL INVESTIGATION**  
**FOR**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**AT**  
**177 RUSSELL AVENUE, DOLLS POINT, NSW**

**15 June 2016**  
**Ref: 29353Srptrev1**



**JK Geotechnics**  
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Jeffery & Katauskas Pty Ltd, trading as  
JK Geotechnics ABN 17 003 550 801



Date: 15 June 2016  
Report No: 29353Srptrev1  
Revision No: 1

Report prepared by:



Paul Stubbs  
Principal Geotechnical Engineer

For and on behalf of  
JK GEOTECHNICS  
PO Box 976  
NORTH RYDE BC NSW 1670

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- b) the limitations defined in the Client's brief to JK;
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**STS TABLE A: POINT LOAD STRENGTH INDEX TEST REPORT**

**ENVIROLAB SERVICES REPORT NO: 146253**

**BOREHOLE LOGS 1 TO 4 INCLUSIVE**

**CORE PHOTOGRAPHS**

**EFCP LOGS 2 AND 3**

**FIGURE 1: SITE LOCATION PLAN**

**FIGURE 2: INVESTIGATION LOCATION PLAN**

**FIGURE 3: CROSS SECTION AA' AND CROSS SECTION BB'**

**REPORT EXPLANATION NOTES**



## **1 INTRODUCTION**

This report presents the results of a geotechnical investigation for the proposed residential development at 177 Russell Avenue, Dolls Point, NSW. The investigation was commissioned by Mr Matt Campbell of Helm Pty Ltd, by returned Acceptance of Proposal dated 18 April 2016, in accordance with our fee proposal Ref: P42259S.

We understand from email correspondence and phone conversations that the redevelopment comprises:

- Demolition of the existing structures at the site.
- Construction of a multi-storey residential building.
- Excavation of a two-level basement to depths of about 6m.

At the time of investigation, detailed architectural drawings were not provided. We have not been provided with loadings and have assumed typical loadings for this type of development.

The purpose of the investigation was to obtain geotechnical information on subsurface conditions as a basis for comments and recommendations on excavation, retention and footings.

This geotechnical investigation was carried out in conjunction with an environmental assessment by our specialist division, Environmental Investigation Services (EIS). Reference should be made to the separate report by EIS, Ref: E29353KM, for the results of the environmental site assessment.

## **2 INVESTIGATION PROCEDURE**

The fieldwork for the investigation was carried out between 3 May 2016 and 6 May 2016 during which time four boreholes, BH1 to BH4, were drilled using our track-mounted JK308 rig to depths between 25.25m (BH1) and 26.60m (BH2). These boreholes were initially auger drilled and then extended by casing advancer to depths between 22.23m and 24.30m. Coring of the bedrock by diamond coring techniques using an NMLC core barrel with water flush extended the boreholes to their termination depths.

In addition two Electric Friction Cone Penetrometer (EFCP) tests (EFCP 1 and 2) were carried out using our specialised truck mounted EFCP rig. The tests were carried out to depths of 24.8m and 22.9m respectively below the top of the existing ground surface.



EFCP testing involves continuously pushing a 35mm diameter rod with a conical tip into the soil using hydraulic rams fitted to a truck mounted rig. Measurements of the end resistance on the cone tip and the frictional resistance on a separate sleeve, immediately behind the cone, are taken. The subsurface material identification, including material strength/relative density, is assessed by interpretation of the test results based on past experience, and empirical correlations. EFCP testing does not provide sample recovery.

The investigation locations, as shown on Figure 2, were set out by taped measurements from existing surface features and inferred site boundaries. The approximate surface levels, as shown on the borehole and EFCP logs, were estimated by interpolation between spot levels shown on the supplied survey plan by Daw & Walton (Job No. 3063-16, dated 7/03/16). The datum of the levels is Australian Height Datum (AHD).

The strength and relative density of the subsurface soils were assessed from Standard Penetration Test (SPT) 'N' values and the EFCP test results, augmented by hand penetrometer test results on cohesive samples recovered by the SPT split tube sampler. The strength of the cored sandstone was assessed with reference to Point Load Strength Index ( $I_{s(50)}$ ) test results. The point load strength test results are summarised on the attached STS Table A and on the cored borehole logs.

Groundwater observations were made during and on completion of auger drilling. The use of water for core drilling limited meaningful measurements of groundwater levels once coring had commenced. Two piezometers were also installed at the locations of BH1 and BH4 to allow long-term monitoring of groundwater levels.

Our geotechnical engineer set out the borehole locations, nominated the sampling and testing locations, and prepared logs of the strata encountered. The borehole logs, which include field test results and groundwater observations, and the EFCP test results, are attached to this report together with a set of explanatory notes, which describe the investigation techniques, and their limitations, and define the logging terms and symbols used.

Selected samples were returned to Soil Test Services Pty Ltd (STS) and Envirolab Services Pty Ltd, both NATA registered laboratories, for testing to determine point load strength index test results, pH, sulphate content, chloride content and resistivity. The results of the laboratory testing are summarised in the attached STS Table A and Envirolab Report No. 146253.



### **3 RESULTS OF INVESTIGATION**

#### **3.1 Site Description**

The site is located within a relatively flat, low-lying coastal topography near Botany Bay which is located between 250m to 300m to the south and east.

The site consists of a rectangular block which is flat or with slopes less than 1°. Located on the site are two two-storey brick unit blocks situated centrally over the site. The buildings appeared in fair condition with some cracking (generally 2mm wide) through the mortar around windows. One of the buildings had suspended timber floors supported on short brick columns; the other building had a slab on grade. Surrounding the buildings were concrete footpaths and a driveway with grassed lawn areas and garden beds. Three large trees are located on the site – one approximately 16m tall oak in the southwest corner and two 14m tall fig trees in the centre of the site.

To the west of the site is a four storey brick apartment building set back between 3m and 10.6m from the common boundary. A concrete driveway runs between this building and the site.

The northern boundary is with Russell Avenue which runs level or slopes at less than 1° along the site frontage. Russell Avenue is paved with asphaltic concrete and appeared in reasonable condition upon cursory observation with minor longitudinal cracking.

East of the site is a sandstone block-lined channel offset between 0.5m and 5m from the eastern site boundary. The channel is lined with mangrove trees on its banks. South of the site is Peter Depena Reserve – a large open grassed reserve with large trees interspersed throughout.

#### **3.2 Subsurface Conditions**

Reference to the 1:100,000 geological map of 'Sydney' indicates that the site is underlain by Holocene interdune deposits of quartz sand with moderate silt content and shell layers, with Hawkesbury Sandstone at depth.

In summary, the boreholes encountered shallow fill covering deep marine sands, with clay bands below 14m, overlying sandstone bedrock. Further comments on the subsurface conditions encountered are provided below. Reference should be made to the borehole logs for detailed descriptions of the subsurface conditions encountered.



### ***Fill***

Silty sand fill was encountered in all boreholes to depths of 0.3m and 0.5m below existing surface levels. The soils were moist, appeared poorly compacted and contained roots and root fibres.

### ***Marine Soils***

The marine soils exhibit a variability which is not unexpected for similar soils in the area. The following is a broad summary based on the borehole and EFCP test information but, as ever, for detail it is essential that reference is made to the specific logs. It must also be recognised that in the boreholes the soil descriptions and strength assessments are based largely upon the SPT test results and that there are often large gaps between tests; the soil descriptions and strengths in BH2 and BH3 where there are EFCP tests adjacent, have been partly based on the EFCP results where the borehole provided little information. In the EFCP tests it is also important to recognise that the test does not distinguish well some of the mixed soils such as sandy clay/clayey sand/clayey silt etc and where these soil types are significant to the project then it may be necessary to carry out further testing and sampling to confirm the actual conditions.

*Very Loose Sand:* Occurs at all locations from the near surface to depths between 3.4m and 6.0m.

*Loose Sand:* Present from 5.6m to 7.0m in BH1 and 4.2 to 6.1m in BH2. In BH3 the sand was interpreted as loose to medium dense from 3.4m to 6.4m. In BH4 this layer was not noted but the very loose sand extended to 6.0m.

*Medium Dense Sand:* This was generally interpreted as occurring between:

BH1 7.0m - 14.9m

BH2 6.1m – 11.7m

BH3 6.4m – 11.2m

BH4 6.0m – 11.7m

In addition dense sand was interpreted between the following depths:

BH1 N/A

BH2 11.7m – 16.0m

BH3 11.2m – 15.3m (with VL band 11.7m – 16.0m)

BH4 11.7m – 16.0m (with L band 13.2m – 14.7m)

*Clay:* A band of stiff clay was found as follows:

BH1 14.9m – 16.0m

BH3 15.3m – 16.8m



*Clayey Sand and Sand:* Clayey sand and sand, typically of medium density, was found overlying sandstone bedrock between the following depths:

BH1 16.0m – 22.1m

BH2 16.0m – 24.0m

BH3 16.8m – 22.9m

BH4 16.0m – 21.8m

### ***Sandstone Bedrock***

Sandstone was encountered below the natural soils at depths between 21.8m and 24.0m. The rock was of low to moderate strength upon initial contact and graded to high strength within 0.5m to 1.0m. From 25.0m depth the rock was of high strength and contained minimal defects. Classification of the rock in accordance with Pells et al. (1998) is summarised below:

<b>Rock Class</b>	<b>Class V Depth RL (below existing)</b>	<b>Class IV Depth RL (below existing)</b>	<b>Class III Depth RL (below existing)</b>	<b>Class II Depth RL (below existing)</b>	<b>Class I Depth RL (below existing)</b>
<b>Location</b>					
<b>BH1</b>	-	-20.63 (22.23)	-	-	-22.33 (23.93)
<b>BH2</b>	-22.70 (23.00)	-	-	-23.18 (24.48)	-23.80 (25.10)
<b>BH3</b>	-	-	-21.56 (23.16)	-	-22.91 (24.51)
<b>BH4</b>	-	-	-20.89 (22.49)	-21.90 (23.50)	-22.20 (23.80)

**Groundwater** was encountered in all boreholes at between 0.8m and 0.9m below the existing ground surface.

### **3.3 Laboratory Test Results**

The point load strength index test results generally showed good correlation with our field assessment of rock strength. The estimated Unconfined Compressive Strength (UCS) of the rock core generally ranged from 4MPa to 36MPa indicating low to high strength rock, with a few outlying values both higher and lower.

The soil pH values indicate that the soils are neutral to slightly alkaline. Based on the results, the soils would be classified as 'non-aggressive' to 'mild' exposure classification for concrete piles in accordance with Table 6.4.2(C) of AS2159-2009 'Piling – Design and Installation'. For steel piles, however, the soils would be classified as 'moderate' to 'severe' in accordance with Table 6.5.2(C) of AS2159-2009. This classification arises from the very low resistivity values which seem to reflect





the relatively high chloride values (salty water is more conductive/less resistive than distilled water). The chloride values in themselves are not high enough to make much difference to the exposure classification.

## **4 COMMENTS AND RECOMMENDATIONS**

### **4.1 Geotechnical Issues**

The principal geotechnical issues associated with the proposed development at the subject site are:

- The proposed basement will require excavations in the order of 6m depth below existing surface levels. The excavations are likely to be entirely within the fill and silty sands.
- The basement excavations will extend well below the natural groundwater level which was recorded between 0.8m and 0.9m depth. Under the Rockdale Council guidelines *Rockdale Technical Specification – Stormwater Management* Section 2.1.2b it is not permitted to permanently dewater basement excavations and basements must consequently be designed as tanked structures. Basement walls and floor slabs will need to be designed to cater for groundwater pressures.
- A decision must be made at an early stage whether a raft foundation is feasible and economical or whether the structure should be piled to rock.
- A dewatering licence will be required for the construction period and a detailed application will have to be made to DPI Water.

### **4.2 Dilapidation Surveys**

Prior to demolition, dilapidation reports should be completed, both externally and internally, on the adjoining property located to the west of the site as well as the road to the north. The respective owners should be asked to confirm that the dilapidation reports represent a fair record of actual conditions. The dilapidation reports may then be used as a benchmark against which to assess possible future claims for damage resulting from the works. Detailed surveys should also be carried out of the buried services and note made of any that are likely to be sensitive to displacement.

### **4.3 Excavation Conditions**

Excavation to the required depths of about 6m, for the two-level basement, will encounter some surficial fill but predominantly very loose and loose marine sands. Excavation of the soils should be readily achievable using conventional excavation equipment, such as the buckets of hydraulic





excavators. Excavation works should be complemented by reference to the Code of Practice 'Excavation Work' prepared by Safe Work Australia July 2014. The major difficulty with the excavation will be the wet condition of the soils and it may be necessary to dewater ahead of excavation to reduce this problem. A system where the sands are stockpiled and allowed to drain before being loaded out may be beneficial. The bearing capacity of the saturated sands will be low and care must be taken in choice and operation of plant.

#### **4.4 Dewatering**

Groundwater is expected to be a significant issue for this development due to the shallow water table across the site. Dewatering will thus be required for basement excavation and for trafficability of construction equipment. Since we expect that shoring will be constructed around the basement perimeter, we expect temporary dewatering should not cause excessive drawdown outside the site provided the cut-off is properly designed and constructed. Nevertheless, dewatering must be carefully controlled and monitored to reduce the risk of excessive drawdown outside of the basement causing settlement of adjoining buildings supported on shallow footings.

Detailed hydrogeological analysis of the dewatering will be required to assess the effect of dewatering on neighbouring properties and optimum depth of shoring cut-off. It may be necessary to embed the cut-off wall into the clay/clayey sand layers which occur below depths between 14.9m and 16.0m to keep flows below acceptable levels.

Permanent dewatering systems are not likely to be approved, therefore the basement will need to be tanked and designed to take the hydrostatic lateral and uplift pressures into account.

Water quality must be determined to assess the need for treatment prior to discharge.

#### **4.5 Retention**

Since the basement will extend below the water table it will not be possible to form stable temporary batters. We expect therefore that the excavation will need to be supported by a properly designed shoring system, such as a secant pile wall or cutter soil mix (CSM) wall, installed prior to commencement of excavation. Jet grouted secant pile walls and driven sheet pile walls may be considered, but issues including ground disturbance, noise and vibration levels which could affect adjoining buildings and structures would need to be addressed. The "severe" exposure classification for buried steel would further mitigate against steel piles.



To reduce the effects of dewatering on the neighbouring property, the retention system must be installed to a minimum depth which satisfies stability and dewatering considerations. It must also be decided whether the shoring system is to support structural loads as founding the shoring wall in the clay soil layers will result in a low bearing capacity and it may become necessary to found the wall on rock if this becomes an issue.

Lateral restraint in the form of soil anchors will probably be required to reduce deflections, and these must be installed progressively as excavation proceeds. 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 of the proposed raft slab. We note the sands are of very low density to depths of about 6m and this will severely limit the capacity of anchors. It may be necessary to install anchors at greater decline angles than normal such that they form a bond length in the more competent medium dense sands.

For preliminary design of propped or anchored walls, we recommend the use of a rectangular envelope of lateral pressure of  $6H$  (kPa), where  $H$  is the retained height in metres. In areas that are sensitive to adjacent movements, such as where structures or movement sensitive services are located within  $2H$  of the wall, a higher earth pressure distribution of  $8H$  kPa should be used. Design using more sophisticated software, such as Wallap and Plaxis, is likely to result in more economical design.

The lateral toe resistance of shoring walls can be calculated using a passive earth pressure coefficient,  $K_p$ , of 3.0 for stiff clay and clayey sand and 3.5 for medium dense and dense sand. A factor of safety of 2 should be applied to the calculated resistance due to the large strains necessary to generate the full pressure.

All surcharge loads and hydrostatic pressures should be allowed for in the shoring design. The design must also take into account the groundwater situation where there will be differential water levels on the active and passive sides of the wall.

As a guide soil anchors bonded into the sands may be designed (if required) based on an effective friction angle of  $28^\circ$  for sands of very loose to loose relative density,  $32^\circ$  for medium dense sands or  $34^\circ$  for dense sands. Uncased anchor holes within the sands will almost certainly collapse and temporary casing of these holes will be required. Anchors with penetrations through the wall below the water table would be subject to inflows of both soil and water which would cause subsidence



outside the excavation and would be very difficult to control. The most obvious solutions to this are to use only a single row of anchors with heads above the water table or possibly to use long inclined casings with the top above the water table through which the anchors are drilled and the casing only removed once the anchor has been grouted and the groundwater sealed off.

Only expert contractors should be used for this type of anchor construction as poor techniques can result in damage to adjoining properties. Anchor bond lengths should be proof-tested to 1.3 times the working load under the direction of an experienced engineer of construction superintendent, independent of the anchor contractor. Lift-off tests should be carried out on 10% of anchors after 72 hours from initial tensioning to check that the anchors are holding their loads.

It is normal good practice for anchors to be a specialist design and construct sub-contract to avoid disputes if anchors fail to hold their test load.

#### **4.6 Footings**

There are a number of potential options for the footings for the proposed structure. These comprise piles to rock, a stiffened raft slab and a piled raft slab. The design of the footing system should take into account the silty clay and clayey sand layers encountered within the sandy profile. The footing options are discussed in more detail forthwith.

##### **4.6.1 Piles to Rock**

The proposed structure may be supported using piled footings founded in the underlying sandstone though we note that the rock is moderately deep. The rock appears to dip slightly towards the east but variations in the buried topography could result in irregular depths to rock and to date there has been no investigation of the south-eastern corner of the site due to lack of access..

We assume that all piles will be uniformly founded within the underlying sandstone bedrock. Where an ultimate limit state approach is adopted the following ultimate base resistance and shaft frictions may be used. For piles founded within the rock, skin friction within the upper 0.3m of rock socket should be ignored. A geotechnical strength reduction factor ( $\phi_g$ ) of 0.60 for the wall (ie high redundancy) and 0.52 for individual piles with low redundancy should be adopted where a limit state design approach is used in accordance with AS2159-2009, subject to further investigation to complete coverage of the site to the required standard. The following parameters may be adopted:



<b>Rock Class</b>	<b>Ultimate End Bearing Pressure (MPa)</b>	<b>Serviceability End Bearing Pressure (MPa)</b>	<b>Ultimate Shaft Adhesion (kPa)</b>	<b>Serviceability Shaft Adhesion (MPa)</b>
<b>IV</b>	8	2	450	0.2
<b>III</b>	28	4	1100	0.4
<b>II</b>	40	6	1500	0.6
<b>I</b>	80	10	3000	0.6

Classification in accordance with Foundations on Sandstone and Shale in the Sydney Region, Pells, Mostyn and Walker, Australian Geomechanics, Dec 1998.

Substantially more investigation will be necessary to confirm the rock quality for Class I and II rock and some additional investigation to confirm Class III rock.

#### **4.6.2 Raft Slabs**

As medium dense sands will be encountered at or a little below the bulk excavation level, the use of a raft slab may be considered. A piled raft slab is also possible, but as the piles will probably need to bear upon rock it may make this a less economical option compared with transferring all loads to rock and not needing to construct a raft.

The design of a raft slab would need to take into consideration the potential for large settlements due to the very loose to loose layers such as that between 13.2m and 14.7m in BH4, the firm to stiff and stiff clays found in BH1 and BH3 and the clayey sand/sandy clay found in all locations below about 16m.

As discussed in Section 4.5, the shoring system is likely to terminate in the medium dense clayey sand stratum, and may not be suitable for bearing substantial loads. Therefore, column and line loads around the perimeter of raft may be high, which is difficult to accommodate economically in raft design. The alternative would be to push the shoring wall even deeper but this would be costly.



Detailed analysis of a raft would be required to estimate the settlements and the contact pressures below the raft. The preliminary design of the raft may be completed using the elastic parameter model provided below with both upper and lower bound parameters being checked so as to estimate differential settlements due to horizontal variations in soil properties beneath the raft. We must emphasise that the properties of the deep soil layers have not been clearly established to date and further work in this regard is necessary.

RECOMMENDED ELASTIC PARAMETERS FOR DESIGN			
Unit	Parameters	Lower Bound	Upper Bound
Medium Dense to Dense Sand	Depth (m)/ Elastic Modulus (MPa)/ Poisson's Ratio	7m – 14.9m/20/0.3	6m – 16m/50/0.3
Very Loose to Loose Clayey Sand	Depth (m)/ Elastic Modulus (MPa)/ Poisson's Ratio	Various bands/4/0.3	Various bands/12/0.3
Clay or sandy clay, firm to stiff or stiff	Depth (m)/ Elastic Modulus (MPa)/ Poisson's Ratio	16m – 21.8m/8/0.3	15.2m – 16.8m/15/0.3
Dense to Very Dense Sand	Depth (m)/ Elastic Modulus (MPa)/ Poisson's Ratio	0	19.8m – 22.9m/100/0.3
Bedrock	Depth (m)	>24m	21.8m

The design of heavily loaded raft footings is complex and requires complex analysis procedures for soil/structure interaction. Therefore, we expect that the design of the raft will be an iterative procedure with both the geotechnical and structural engineers having input to the process. The first pass of the analysis will demonstrate the potential of the concept and identify the parameters critical to the design. The parameters will then need refinement and may require further investigation and testing to justify the key assumptions and enable the design to be refined. Further geotechnical investigations involving a close grid of Electrical Friction Cone Penetrometer (EFCP) testing together with Marchetti Dilatometer testing may be needed to obtain a continuous subsurface profile and assess the extent of any weaker subsurface conditions. The latter tool, the dilatometer, is particularly useful as it provides a direct measurement of the soil stiffness characteristics (elastic modulus). A potential drawback of any indirect testing such as the EFCP is that the mixed soils (not clearly clay or sand) are difficult to interpret and some direct sampling may be necessary.

We can assist with the detailed geotechnical analysis of the raft using our finite element analysis software, once the initial raft details are supplied by the structural engineer.





#### **4.7 Basement Slab**

For a tanked basement, the basement floor slab or raft slab must be designed for uplift forces due to hydrostatic pressure, with normal groundwater levels assumed at depths of about 1m below existing ground levels but with peak levels at ground surface level. Peak levels can be limited by use of pressure relief drains if necessary, but in this case as the groundwater is so shallow it may not really be worthwhile. Waterproof construction systems are required for external walls. An assessment of groundwater seepage rates during construction can be assessed by computer modelling. Data could be improved by completing pump out tests within the monitoring wells installed in BH1 and BH4.

As a minimum, following dewatering and bulk excavation, the exposed subgrade should be proof-rolled with a 5 tonne deadweight, smooth drum vibratory roller. 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. Any unstable areas identified during proof-rolling should be locally excavated down to a competent base and replaced with engineered fill. If a raft slab footing is adopted a more stringent specification will be needed which will include a testing regime to demonstrate that the subgrade matches the design assumptions for the raft.

The materials recommended for use as engineered fill are well-graded granular materials, such as ripped and/or crushed sandstone, free of deleterious substances, contaminants and having a maximum particle size of 75mm. The sandy soils excavated from the site would also be suitable for reuse as engineered fill. Engineered fill should generally be placed in loose layers not exceeding 150mm and compacted to at least 98% of Standard Maximum Dry Density (SMDD). In-situ density tests will be required at close frequency to confirm the target density has been achieved.

A gravel working platform would be necessary to support the large piling rigs likely to be needed within the excavation if piled footings are used; such a layer would also be useful as a construction platform. This working platform can be a significant cost factor which must be considered early in the design. Large rigs even on medium dense sand may need platforms 600mm or more in thickness and the cost of exporting the over-excavated material for the platform is also likely to be high.



#### **4.8 Further Work**

Although the investigation to date has provided a good basic understanding of the geotechnical conditions at the site, design and construction of the proposed development will require significant further geotechnical work once the design concepts are better known. We envisage some or all of the following being necessary:

- Additional EFCP and/or dilatometer testing to assess soil parameters for raft slab design.
- Additional cored boreholes to assess rock properties for pile design.
- Groundwater quality testing.
- Wallap/Plaxis analysis of shoring walls.
- Seepage analysis to assess likely volumes of groundwater inflows during construction and drawdown effect on water table outside the excavation.
- Calculation of working platform thickness for construction plant.

### **5 GENERAL COMMENTS**

The recommendations presented in this report include specific issues to be addressed during the construction phase of the project. In the event that any of the construction phase recommendations presented in this report are not implemented, the general recommendations may become inapplicable and JK Geotechnics accept no responsibility whatsoever for the performance of the structure where recommendations are not implemented in full and properly tested, inspected and documented.

The long term successful performance of raft slabs may be dependent on the satisfactory completion of the earthworks. In order to achieve this, the quality assurance program should not be limited to routine compaction density testing only. Other critical factors associated with the earthworks may include subgrade preparation, selection of fill materials, control of moisture content and drainage, etc. The satisfactory control and assessment of these items may require judgment from an experienced engineer. Such judgment often cannot be made by a technician who may not have formal engineering qualifications and experience. In order to identify potential problems, we recommend that a pre-construction meeting be held so that all parties involved understand the earthworks requirements and potential difficulties. This meeting should clearly define the lines of communication and responsibility.





Occasionally, the subsurface conditions between the completed test locations may be found to be different (or may be interpreted to be different) from those expected. Variation can also occur with groundwater conditions, especially after climatic changes. If such differences appear to exist, we recommend that you immediately contact this office.

This report provides advice on geotechnical aspects for the proposed civil and structural design. As part of the documentation stage of this project, Contract Documents and Specifications may be prepared based on our report. However, there may be design features we are not aware of or have not commented on for a variety of reasons. The designers should satisfy themselves that all the necessary advice has been obtained. If required, we could be commissioned to review the geotechnical aspects of contract documents to confirm the intent of our recommendations has been correctly implemented.

A waste classification will need to be assigned to any soil excavated from the site prior to offsite disposal. Subject to the appropriate testing, material can be classified as Virgin Excavated Natural Material (VENM), General Solid, Restricted Solid or Hazardous Waste. Analysis takes seven to 10 working days to complete, therefore, an adequate allowance should be included in the construction program unless testing is completed prior to construction. If contamination is encountered, then substantial further testing (and associated delays) should be expected. We strongly recommend that this issue is addressed prior to the commencement of excavation on site.

This report has been prepared for the particular project described and no responsibility is accepted for the use of any part of this report in any other context or for any other purpose. If there is any change in the proposed development described in this report then all recommendations should be reviewed. Copyright in this report is the property of JK Geotechnics. We have used a degree of care, skill and diligence normally exercised by consulting engineers in similar circumstances and locality. No other warranty expressed or implied is made or intended. Subject to payment of all fees due for the investigation, the client alone shall have a licence to use this report. The report shall not be reproduced except in full.

**TABLE A**  
**POINT LOAD STRENGTH INDEX TEST REPORT**

<b>Client:</b>	JK Geotechnics	<b>Ref No:</b>	29353S
<b>Project:</b>	Proposed Residential Development	<b>Report:</b>	A
<b>Location:</b>	177 Russell Avenue, Dolls Point, NSW	<b>Report Date:</b>	11/05/2016

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BOREHOLE NUMBER	DEPTH m	$I_{S(50)}$ MPa	ESTIMATED UNCONFINED COMPRESSIVE STRENGTH
			(MPa)
1	22.33-22.37	0.2	4
	22.90-22.94	0.09	2
	23.18-23.21	0.2	4
	23.72-23.76	0.6	12
	24.15-24.19	1.2	24
	24.65-24.70	1.4	28
	25.22-25.26	1.7	34
2	24.40-24.44	0.04	1
	24.84-24.87	1.1	22
	25.31-25.35	1.3	26
	25.71-25.76	1.7	34
	26.11-26.15	2.4	48
	26.67-26.70	1.3	26
3	23.31-23.35	0.2	4
	23.85-23.89	0.5	10
	24.25-24.29	0.5	10
	24.71-24.75	1.4	28
	25.09-25.14	1.2	24
	25.62-25.66	1.6	32
	26.04-26.07	1.8	36
4	22.53-22.56	0.4	8
	23.00-23.04	0.6	12
	23.50-23.54	1.1	22
	24.16-24.20	1.7	34
	24.72-24.76	1.2	24
	25.26-25.31	1.8	36

**NOTES:**

1. In the above table testing was completed in the Axial direction.
2. The above strength tests were completed at the 'as received' moisture content.
3. Test Method: RMS T223.
4. For reporting purposes, the  $I_{S(50)}$  has been rounded to the nearest 0.1MPa, or to one significant figure if less than 0.1MPa
5. The Estimated Unconfined Compressive Strength was calculated from the point load Strength Index by the following approximate relationship and rounded off to the nearest whole number :  
U.C.S. = 20  $I_{S(50)}$



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Envirolab Services Pty Ltd - Sydney | ABN 37 112 535 645

## CERTIFICATE OF ANALYSIS

**146253**

### Client:

**JK Geotechnics**

PO Box 976

North Ryde BC

NSW 1670

**Attention:** Arthur Billingham

### Sample log in details:

Your Reference:

**29353S, Dolls Point**

No. of samples:

3 Soils

Date samples received / completed instructions received

09/05/2016 / 09/05/2016

### Analysis Details:

Please refer to the following pages for results, methodology summary and quality control data.

Samples were analysed as received from the client. Results relate specifically to the samples as received.

Results are reported on a dry weight basis for solids and on an as received basis for other matrices.

***Please refer to the last page of this report for any comments relating to the results.***

### Report Details:

Date results requested by: / Issue Date:

16/05/16 / 13/05/16

Date of Preliminary Report:

Not Issued

NATA accreditation number 2901. This document shall not be reproduced except in full.

Accredited for compliance with ISO/IEC 17025.

**Tests not covered by NATA are denoted with \*.**

### Results Approved By:

  
Jacinta Hurst  
Laboratory Manager

Envirolab Reference: 146253

Revision No: R 00



Page 1 of 6

Page 350

Misc Inorg - Soil				
Our Reference:	UNITS	146253-1	146253-2	146253-3
Your Reference	-----	BH1	BH2	BH3
	-			
Depth	-----	20.7-21.15	5.7-6.15	15.4-15.85
Date Sampled		4/05/2016	3/05/2016	5/05/2016
Type of sample		Soil	Soil	Soil
Date prepared	-	11/05/2016	11/05/2016	11/05/2016
Date analysed	-	11/05/2016	11/05/2016	11/05/2016
pH 1:5 soil:water	pH Units	6.6	7.5	7.6
Chloride, Cl 1:5 soil:water	mg/kg	1,100	2,100	1,800
Sulphate, SO4 1:5 soil:water	mg/kg	220	360	470
Resistivity in soil*	ohmm	13	7.0	7.5

Method ID	Methodology Summary
Inorg-001	pH - Measured using pH meter and electrode in accordance with APHA latest edition, 4500-H+. Please note that the results for water analyses are indicative only, as analysis outside of the APHA storage times.
Inorg-081	Anions - a range of Anions are determined by Ion Chromatography, in accordance with APHA latest edition, 4110-B. Alternatively determined by colourimetry/turbidity using Discrete Analyser.
Inorg-002	Conductivity and Salinity - measured using a conductivity cell at 25oC in accordance with APHA 22nd ED 2510 and Rayment & Lyons. Resistivity is calculated from Conductivity.

**Client Reference: 29353S, Dolls Point**

QUALITY CONTROL	UNITS	PQL	METHOD	Blank	Duplicate Sm#	Duplicate results	Spike Sm#	Spike % Recovery
Misc Inorg - Soil						Base    Duplicate    %RPD		
Date prepared	-			11/05/2016	146253-1	11/05/2016    11/05/2016	LCS-1	11/05/2016
Date analysed	-			11/05/2016	146253-1	11/05/2016    11/05/2016	LCS-1	11/05/2016
pH 1:5 soil:water	pH Units		Inorg-001	[NT]	146253-1	6.6    6.5    RPD: 2	LCS-1	101%
Chloride, Cl 1:5 soil:water	mg/kg	10	Inorg-081	<10	146253-1	1100    1100    RPD: 0	LCS-1	99%
Sulphate, SO4 1:5 soil:water	mg/kg	10	Inorg-081	<10	146253-1	220    190    RPD: 15	LCS-1	114%
Resistivity in soil*	ohmm	1	Inorg-002	<1.0	146253-1	13    14    RPD: 7	[NR]	[NR]

**Report Comments:**

Asbestos ID was analysed by Approved Identifier:	Not applicable for this job
Asbestos ID was authorised by Approved Signatory:	Not applicable for this job

INS: Insufficient sample for this test	PQL: Practical Quantitation Limit	NT: Not tested
NR: Test not required	RPD: Relative Percent Difference	NA: Test not required
<: Less than	>: Greater than	LCS: Laboratory Control Sample



### **Quality Control Definitions**

**Blank:** This is the component of the analytical signal which is not derived from the sample but from reagents, glassware etc, can be determined by processing solvents and reagents in exactly the same manner as for samples.

**Duplicate:** This is the complete duplicate analysis of a sample from the process batch. If possible, the sample selected should be one where the analyte concentration is easily measurable.

**Matrix Spike:** A portion of the sample is spiked with a known concentration of target analyte. The purpose of the matrix spike is to monitor the performance of the analytical method used and to determine whether matrix interferences exist.

**LCS (Laboratory Control Sample):** This comprises either a standard reference material or a control matrix (such as a blank sand or water) fortified with analytes representative of the analyte class. It is simply a check sample.

**Surrogate Spike:** Surrogates are known additions to each sample, blank, matrix spike and LCS in a batch, of compounds which are similar to the analyte of interest, however are not expected to be found in real samples.

### **Laboratory Acceptance Criteria**

Duplicate sample and matrix spike recoveries may not be reported on smaller jobs, however, were analysed at a frequency to meet or exceed NEPM requirements. All samples are tested in batches of 20. The duplicate sample RPD and matrix spike recoveries for the batch were within the laboratory acceptance criteria.

Filters, swabs, wipes, tubes and badges will not have duplicate data as the whole sample is generally extracted during sample extraction.

Spikes for Physical and Aggregate Tests are not applicable.

For VOCs in water samples, three vials are required for duplicate or spike analysis.

Duplicates: <5xPQL - any RPD is acceptable; >5xPQL - 0-50% RPD is acceptable.

Matrix Spikes, LCS and Surrogate recoveries: Generally 70-130% for inorganics/metals; 60-140% for organics (+/-50% surrogates) and 10-140% for labile SVOCs (including labile surrogates), ultra trace organics and speciated phenols is acceptable.

In circumstances where no duplicate and/or sample spike has been reported at 1 in 10 and/or 1 in 20 samples respectively, the sample volume submitted was insufficient in order to satisfy laboratory QA/QC protocols.

When samples are received where certain analytes are outside of recommended technical holding times (THTs), the analysis has proceeded. Where analytes are on the verge of breaching THTs, every effort will be made to analyse within the THT or as soon as practicable.

Where sampling dates are not provided, Envirolab are not in a position to comment on the validity of the analysis where recommended technical holding times may have been breached.



**Borehole No.**

**1**

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS									
<div> <div>ON COMPLETION OF AUGERING</div> <div>AFTER 15 HRS</div> </div>									FILL: Silty sand, fine grained, brown, trace of roots and root fibres.	M			GRASS COVER
						1		SP	SAND: fine to medium grained, light brown, trace of shell fragments.	M	VL		
						1				W			
						0			as above, but grey.				
						2							
						-1							
						3			SAND: fine to medium grained, dark grey, trace of silt and shell fragments.				SPT SUNK UNDER SELF WEIGHT
						-2							SLIGHT ORGANIC ODOUR
						4							
						-3			SAND: fine to medium grained, grey.				
						5							
						-4					L		
						6							
						-5							



**Borehole No.**

**1**

**2 / 5**

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS									
								SP	SAND: fine to medium grained, grey.	W	MD		CASING ADVANCER
						-6							
						-8							
						-7							
						-9							
						-10							
						-11							
						-12							
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						-14							
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						-100							



Borehole No.

1

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13		SP	SAND: fine to medium grained, grey.	W	(L - MD)		
					N = 6 7,3,3		15		CH	SILTY CLAY: high plasticity, grey.	MC>PL	St	140 140	
							-14							
							16		SC / CL	CLAYEY SAND/SANDY CLAY: fine grained, light grey.	W	MD		
							-15							
							17							
							-16							
					N = 19 4,8,11		18							
							-17							
							19		SP	SAND: fine to medium grained, light grey, trace of shell fragments.		(MD) D		
							-18			as above, but trace of clay.				
							20							
							-19							
					N = 34 10,18,16									



Borehole No.

1

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
									SP	SAND: fine to medium grained, light grey, trace of shell fragments and clay.	W	D		
							-20							
							22							
									-	SANDSTONE: fine to medium grained, light grey.	SW	L		HIGH RESISTANCE
							-21			REFER TO CORED BOREHOLE LOG				
							23							
							-22							
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							

JK\_LIB\_CURRENT - V8.00.GLB Log J & K AUGERHOLE - MASTER 29353S DOLLS POINT.GPJ <<DrawingFile>> 25/05/2016 11:11 Produced by gINT Professional. Developed by Dalgel



**Borehole No.**

**1**

**5 / 5**

# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Core Size:** NMLC **R.L. Surface:** ~1.6 m  
**Date:** 4/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX I <sub>s</sub> (50)	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
			-20							
			22		START CORING AT 22.23m					
			-21		SANDSTONE: fine to medium grained, light grey, bedded at 5°.	SW	L			
			23		as above, but bedded at 0°.					(22.80m) Be, 0°, P, S (23.00m) J, 40°, P, R, XW INFILL (23.27m) CS, 0°, 2 mm.t (23.39m) CS, 0°, 20 mm.t
			-22		CORE LOSS 0.07m	SW	M			
			24		SANDSTONE: fine to medium grained, light grey, bedded at 0-5°.					(23.84m) CS, 0°, 20 mm.t
			-23		SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 20°.		H			
			25							
			-24		END OF BOREHOLE AT 25.26 m					MONITORING WELL INSTALLED TO 8.49m, SLOTTED TO 5.5m TO 8.49m. SAND FILTER TO 4.8m. BENTONITE PLUG TO 0.7m. BACKFILLED TO SURFACE, COMPLETED WITH GATIC COVER
			26							
			-25							
			27							
			-26							





JK Geotechnics

Job No. 29353S BHI START CORING AT 22.23m

22

23

CORE  
LOSS: 0.0 ft

24

25

EOBH AT 25.26m

99 2013.0.0





**Borehole No.**

**2**

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
AFTER 14 HOURS							1		-	FILL: Silty sand, fine grained, grey brown, trace of root and root fibres.	M			GRASS COVER
					N = 3 2,1,2		1		SP	SAND: fine to medium grained, grey, trace of fine grained shell fragments.	M	VL		MARINE
							0				W			
					N = 2 2,1,1		2							
							-1							
					N = 2 0,1,1		3							
							-2							
					N = 4 2,1,3		-3					L		
							-4							
					N = 10 2,4,6		-5			SAND: fine grained, light brown.				ORGANIC ODOUR
										SAND: fine to medium grained, dark grey, trace of silt.				WASHBORING WITH CASING ADVANCER



Borehole No.

2

2 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES			Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
ES	U50	DB	DS										
				N = 7 3,3,4	-6				SAND: fine to medium grained, dark grey, trace of silt. ( <i>continued</i> )	W	L		ORGANIC ODOUR TO 7.65m
						8							
					-7								
				N = 15 3,6,9		9					MD		
					-8								
						10							
					-9								
						11							
					-10				SAND: fine to medium grained, grey.		(MD - D)		
				N = 33 9,16,17		12					D		
					-11								
						13							
					-12								



Borehole No.

2

3 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13			SAND: fine to medium grained, grey. (continued)	W	D		
					N = 38 17,28,10		15							
							-14							
							16		SC	CLAYEY SAND: fine to medium grained, light grey and yellow brown, trace of shell fragments.	W	(MD - D)		
							-15							
							17							
							-16							
					N = 18 3,7,11		18					MD		
							-17							
							19							
							-18							
							20							
							-19							



**Borehole No.**

**2**

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20			CLAYEY SAND: fine to medium grained, light grey.	W	MD		ATTEMPTED CORING BUT STOPPED DUE TO LOOSE MATERIAL (NOT ROCK)
							22							
							-21							
							23					(D)		HIGH CASING ADVANCER RESISTANCE
							-22							
							24							
							-23			REFER TO CORED BOREHOLE LOG				
							25							
							-24							
							26							
							-25							
							27							
							-26							

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**Borehole No.**

**2**

**5 / 5**

# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Core Size:** NMLC **R.L. Surface:** ~1.3 m  
**Date:** 3/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_p(50)$	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
		-22								
			24		START CORING AT 24.04m					
		-23			CLAYEY SAND: fine to medium grained, grey.		(D)			
					SANDSTONE: fine to coarse grained, light grey.	SW	L			(24.44m) XWS, 0°, 5 mm.t
					SANDSTONE: fine to coarse grained, light grey, orange brown and red brown, trace of fine grained quartz gravel, cross bedded at 20°.		H			(25.10m) Be, 20°, P, S, CLAY INFILL
		-25								
		-26								(26.03m) Be, 20°, P, S, CLAY INFILL
					END OF BOREHOLE AT 26.60 m					
		-27								
		-28								





JK Geotechnics

JOB No. 29353S

BH2

START CORING AT 24.04m

24

25

26

EOBH AT 26.60m

18.850m

18.850m



**Borehole No.**

**3**

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
					REFER TO EFCP TEST RESULTS				-	FILL: Silty sand, fine grained, brown, trace of roots and root fibres. FILL: Sand, fine to medium grained, grey brown, trace of fine grained sandstone gravel. SAND: fine to medium grained, grey.	M			GRASS COVER
							1		SP		M	VL - L		MARINE
							1				W			
							0							
							2							
							-1							
							3							
							-2					L - MD		CASING ADVANCER
							4							
							-3							
							5							
							-4							
							6							
							-5					MD		

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[illegible]



**Borehole No.**

**3**

**3 / 5**

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13		SP	SAND: fine grained, grey, with silt. (continued)	W	D - VD		LITTLE TO NO CHANGE IN FLUSH RETURN TO 14.7m DEPTH
							15							
							-14		CH	SILTY CLAY: high plasticity, grey, with fine grained sand.	MC>PL	F - St	90 70	CLAY RETURNED IN WATER FLUSH
					N = 6 2,3,3		16							
							-15			as above, but red brown.		H		BROWN WATER FLUSH TO 16.8m DEPTH
							17		SC	CLAYEY SAND: fine to medium grained, light grey mottled yellow brown.	W	MD		
							-16							
					N = 13 3,4,9		18							
							-17							
							19							
							-18							
							20		SP	SAND: fine to medium grained, light grey, trace of clay.		D		OBSERVATION BASED ON DRILLING RESISTANCE TO 20.7m DEPTH
							-19							

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**Borehole No.**

**3**

4 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20		SP	SAND: fine to medium grained, light grey, trace of clay. <i>(continued)</i>	W	D		
							22							
							-21							
							23		-	SANDSTONE: fine to medium grained, light grey.	SW	M		
							-22			REFER TO CORED BOREHOLE LOG				NOTE THAT SOIL STRENGTHS HAVE BEEN INTERPOLATED WITH REFERENCE TO ADJACENT EFCP TEST
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							



**Borehole No.**

**3**

**5 / 5**

# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Core Size:** NMLC **R.L. Surface:** ~1.6 m  
**Date:** 5/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX I <sub>s</sub> (50)	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
		-21	23		START CORING AT 23.16m					
		-22			SANDSTONE: fine to medium grained, light grey, bedded at 5-10°.	SW	M - H			(23.45m) Be, 0°
		-24			as above, but bedded at 0-5°.	FR	H			(23.75m) Be, 0°, P, R, CLAY INFILL
		-23								(24.51m) XWS, 0°, 70 mm.t, P, R
		-25			SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 15-20°.	SW				(25.34m) CS, 0°, 5 mm.t
		-24								
		-26			SANDSTONE: fine to medium grained, light grey with brown and grey bands, bedded at 15°.					(26.00m) Be, 15°, P, S, IS
					END OF BOREHOLE AT 26.10 m					
		-25								
		-27								
		-26								
		-28								
		-27								

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JOB No. 29353S

BH3 START CORING AT 23.16m

23

24

25

26

EOBH AT 26.10m





**Borehole No.**

**4**

1 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
										FILL: Silty sand, fine grained, grey brown.	M			GRASS COVER
									SP	SAND: fine to medium grained, light brown.	M	VL		APPEARS POORLY COMPACTED MARINE
					N = 4 2,1,3		1							
							1			SAND: fine to medium grained, grey and grey brown, trace of organic material, roots and shell fragments.	W			
					N = 6 2,2,4		0							
							2			SAND: fine to medium grained, grey, with fine grained shell fragments and shells.				
							-1							
					N = 3 0,0,3		3							
							-2							
							4							
					N = 3 1,1,2		-3							
							5							
							-4							
					N = 3 1,1,2		6							WASHBORING WITH CASING ADVANCER
							-5							

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Borehole No.

4

3 / 5

# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-13			SAND: fine to medium grained, dark grey, trace of silt. <i>(continued)</i>	W	L		SLIGHT ORGANIC ODOUR
							15			SAND: fine to medium grained, light grey and grey.		D		
					N = 40 15,28,12		-14							
							16		SC	CLAYEY SAND/SANDY CLAY: fine to medium grained, light grey and yellow brown.				
							-15							
							17							PUSH - NO MOVEMENT
							-16					(L)		ASSESSMENT BASED ON PENETRATION RATE
							18							
							-17							
							19							
							-18							
							20							
							-19					(D)		PENETRATION RATE SLOWED AND CHAIN TIGHTENED

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**Borehole No.**

**4**

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# BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Method:** SPIRAL AUGER & CASING ADVANCER **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Datum:** AHD  
**Plant Type:** JK308 **Logged/Checked By:** A.B./P.S.

Groundwater Record	SAMPLES				Field Tests	RL (m AHD)	Depth (m)	Graphic Log	Unified Classification	DESCRIPTION	Moisture Condition/ Weathering	Strength/ Rel Density	Hand Penetrometer Readings (kPa)	Remarks
	ES	U50	DB	DS										
							-20		SC	CLAYEY SAND/SANDY CLAY: fine to medium grained, light grey and yellow brown. (continued)	W	(D)		PENETRATION RATE SLOWED AND CHAIN TIGHTENED
							22		-	SANDSTONE: fine to medium grained, light grey.	DW	M		
							-21			REFER TO CORED BOREHOLE LOG				
							23							
							-22							
							24							
							-23							
							25							
							-24							
							26							
							-25							
							27							
							-26							

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**Borehole No.**

**4**

**5 / 5**

# CORED BOREHOLE LOG

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S **Core Size:** NMLC **R.L. Surface:** ~1.6 m  
**Date:** 2/5/16 **Inclination:** VERTICAL **Datum:** AHD  
**Plant Type:** JK308 **Bearing:** N/A **Logged/Checked By:** A.B./P.S.

Water Loss/Level	Barrel Lift	RL (m AHD)	Depth (m)	Graphic Log	CORE DESCRIPTION Rock Type, grain characteristics, colour, structure, minor components.	Weathering	Strength	POINT LOAD STRENGTH INDEX $I_p(50)$	DEFECT DETAILS	
									DEFECT SPACING (mm)	DESCRIPTION Type, inclination, thickness, planarity, roughness, coating.
								EL-0.03 VL-0.1 L-0.3 M-1 H-3 VH-10 EH	500 300 100 50 30 10	Specific General
		-20	22		START CORING AT 22.49m					
		-21	23		SANDSTONE: fine to coarse grained, light grey, bedded at 0-5°.	FR	M			— (22.60m) Be, 5°, P, R, CLAY INFILL
		-22	24		SANDSTONE: fine to medium grained, light grey, orange brown and red brown, cross bedded at 15°-20°.	SW	H			— (24.63m) CS, 0°, 25 mm.t
		-23	25							— (25.18m) Be, 2°, P, R, CLAY INFILL
		-24	26		END OF BOREHOLE AT 25.50 m					MONITORING WELL INSTALLED TO 8m. BENTONITE FROM 0.1m TO 0.5m. FINISHED WITH CONCRETE ENCASED GATIC COVER
		-25	27							
		-26								

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JOB No. 29353S BH4 START CORING AT 22.49m

22

23

24

25

EOBH AT 25.50m

PA 201 810

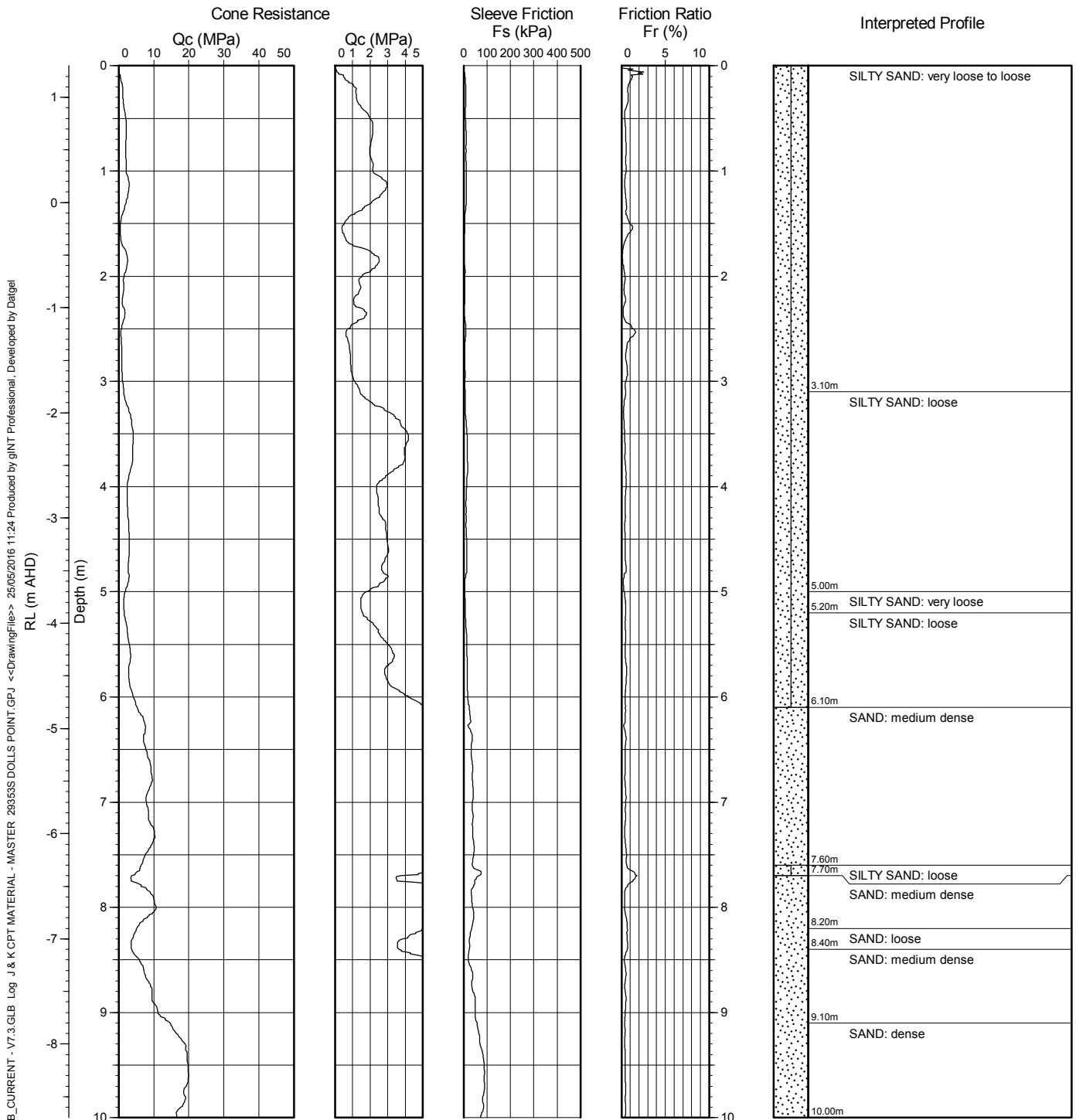
# ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S  
**Date:** 6/5/16

**R.L. Surface:** ~1.3 m  
**Datum:** AHD

**Data File:** J:\29000's\29353S  
**Operator:** T.C.



Interpreted by: T.C.  
Checked by: P. Page 380

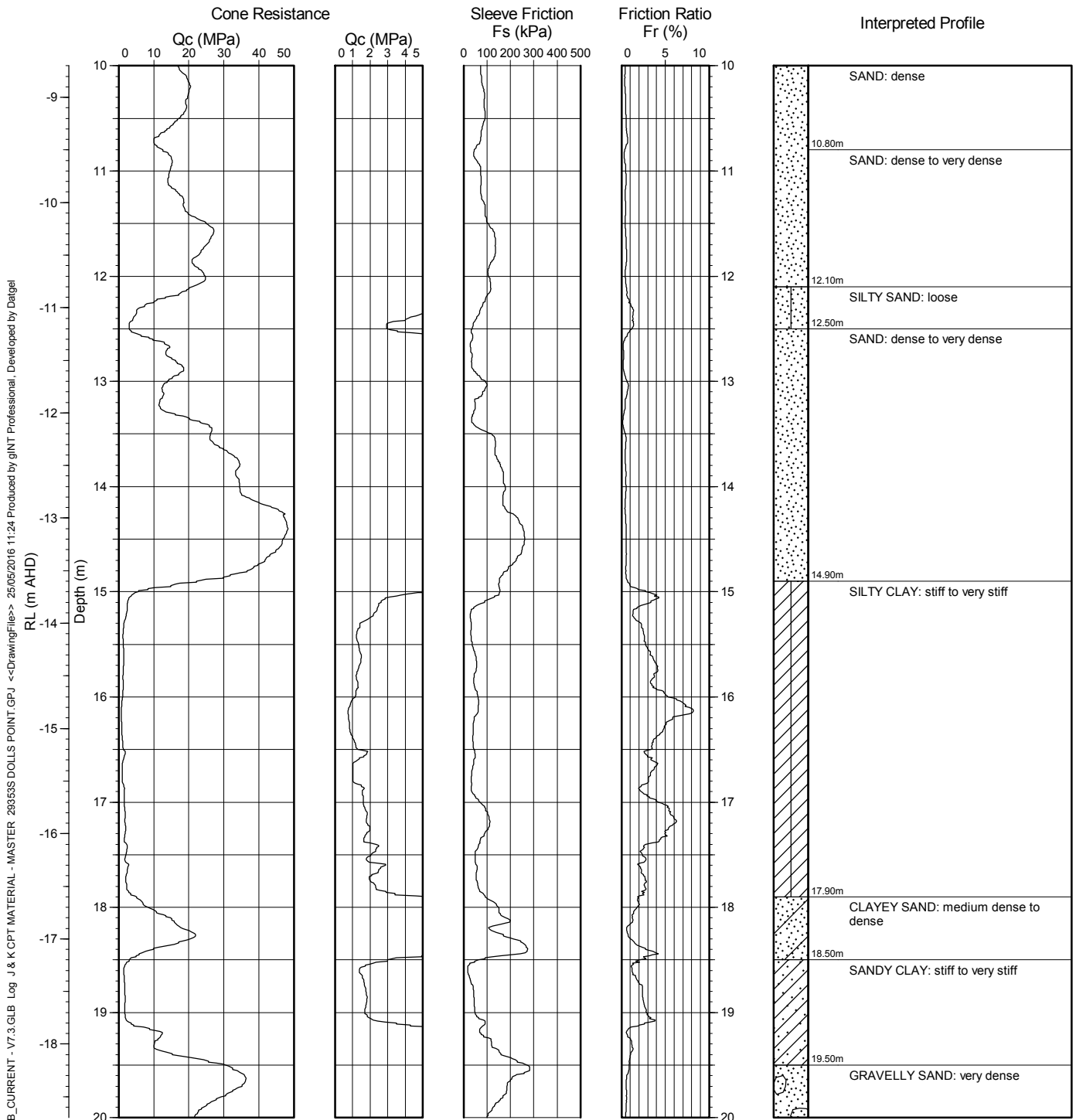
# ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S  
**Date:** 6/5/16

**R.L. Surface:** ~1.3 m  
**Datum:** AHD

**Data File:** J:\29000's\29353S  
**Operator:** T.C.



Interpreted by: T.C.  
Checked by: P. Page 381



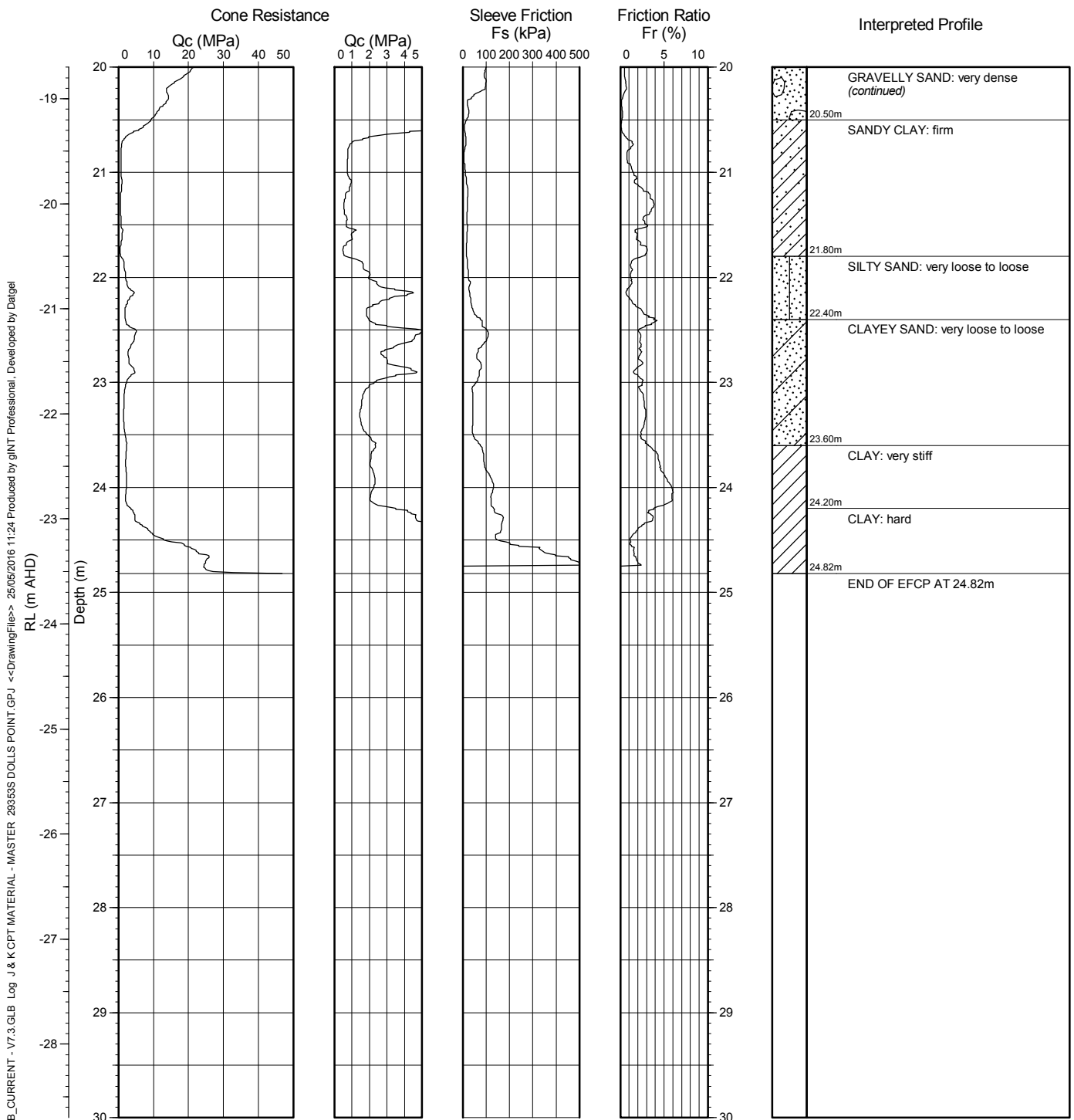
# ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S  
**Date:** 6/5/16

**R.L. Surface:** ~1.3 m  
**Datum:** AHD

**Data File:** J:\29000's\29353S  
**Operator:** T.C.



Interpreted by: T.C.  
Checked by: T.C.



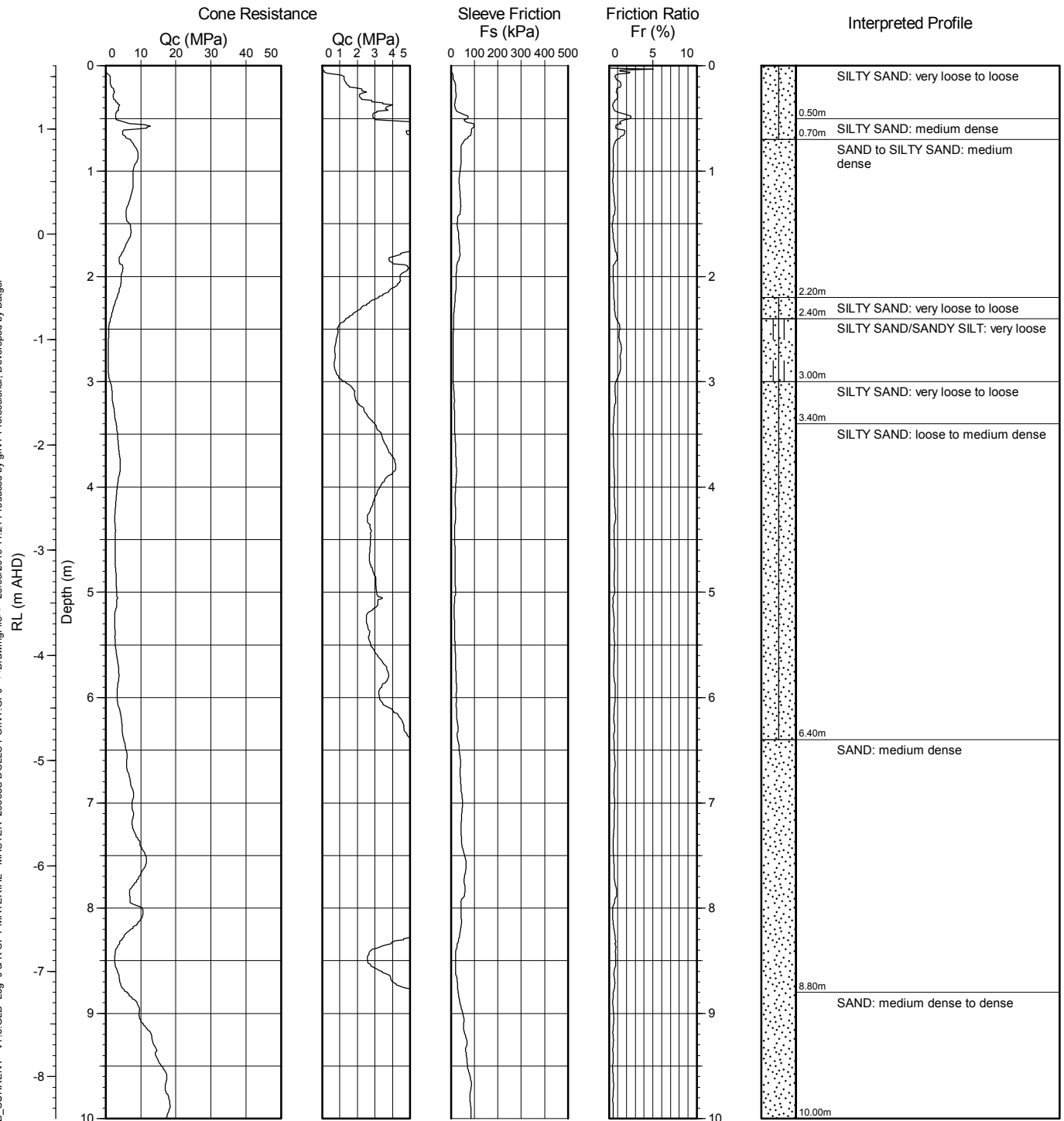
## ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S  
**Date:** 6/5/16

**R.L. Surface:** ~1.6 m  
**Datum:** AHD

**Data File:** J:\29000's\29353S  
**Operator:** T.C.



JK\_LIB\_CURRENT - V7.3.GLB Log J & K CPT MATERIAL - MASTER 29353S DOLLS POINT.GPJ <<DrawingFile>> 25/05/2016 11:24 Produced by gINT Professional. Developed by Datagel

# ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S

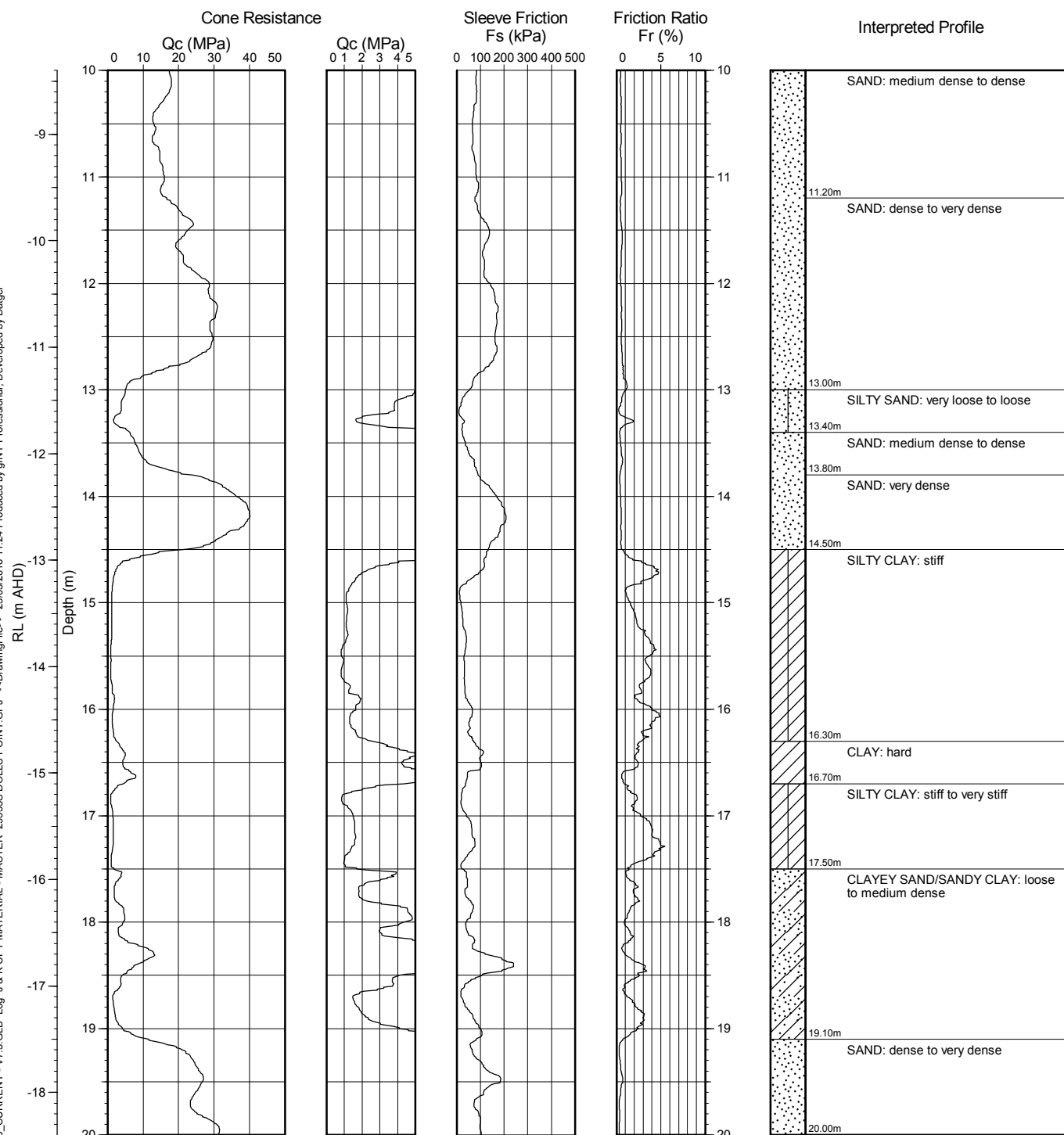
**R.L. Surface:** ~1.6 m

**Data File:** J:\29000's\29353S

**Date:** 6/5/16

**Datum:** AHD

**Operator:** T.C.



JK\_LIB\_CURRENT - V7.3.GLB Log J & K CPT MATERIAL - MASTER 29353S DOLLS POINT.GPJ <<DrawingFile>> 25/05/2016 11:24 Produced by gINT Professional. Developed by Datagel

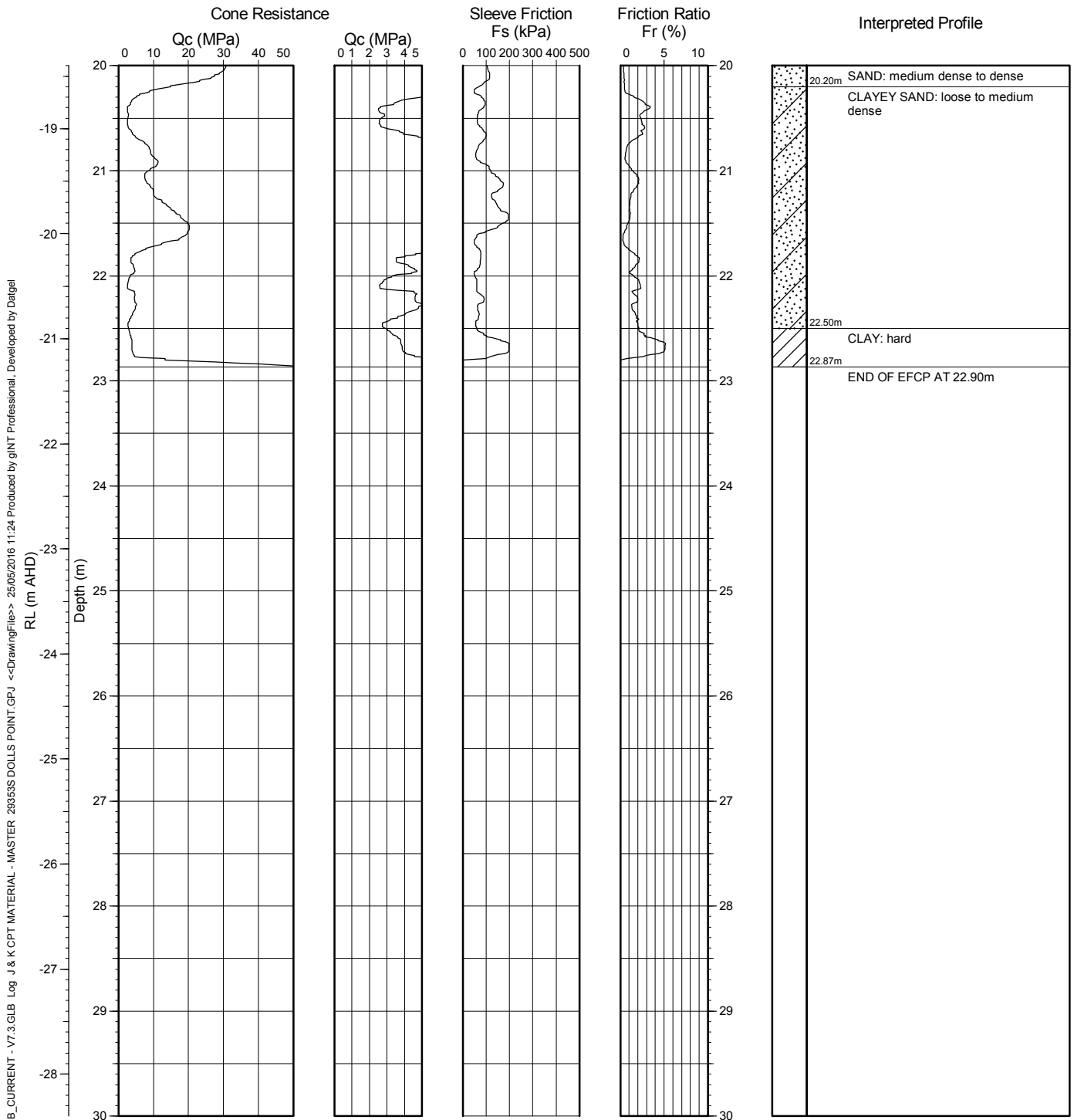
# ELECTRICAL FRICTION CONE PENETROMETER TEST RESULTS

**Client:** HELM PTY LTD  
**Project:** PROPOSED RESIDENTIAL DEVELOPMENT  
**Location:** 177 RUSSELL AVENUE, DOLLS POINT, NSW

**Job No.:** 29353S  
**Date:** 6/5/16

**R.L. Surface:** ~1.6 m  
**Datum:** AHD

**Data File:** J:\29000's\29353S  
**Operator:** T.C.



Interpreted by: T.C.  
Checked by: P. Page 385



AERIAL IMAGE SOURCE: GOOGLE EARTH PRO 7.1.5.1557  
AERIAL IMAGE ©: 2015 GOOGLE INC.

Title:

## SITE LOCATION PLAN

Project:

177 RUSSEL AVENUE,  
DOLLS POINT, NSW

Report No:

293535

Figure No:

1

This plan should be read in conjunction with the JK Geotechnics report.

**JK Geotechnics**

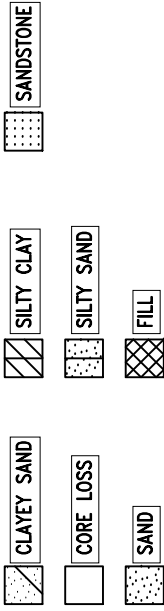
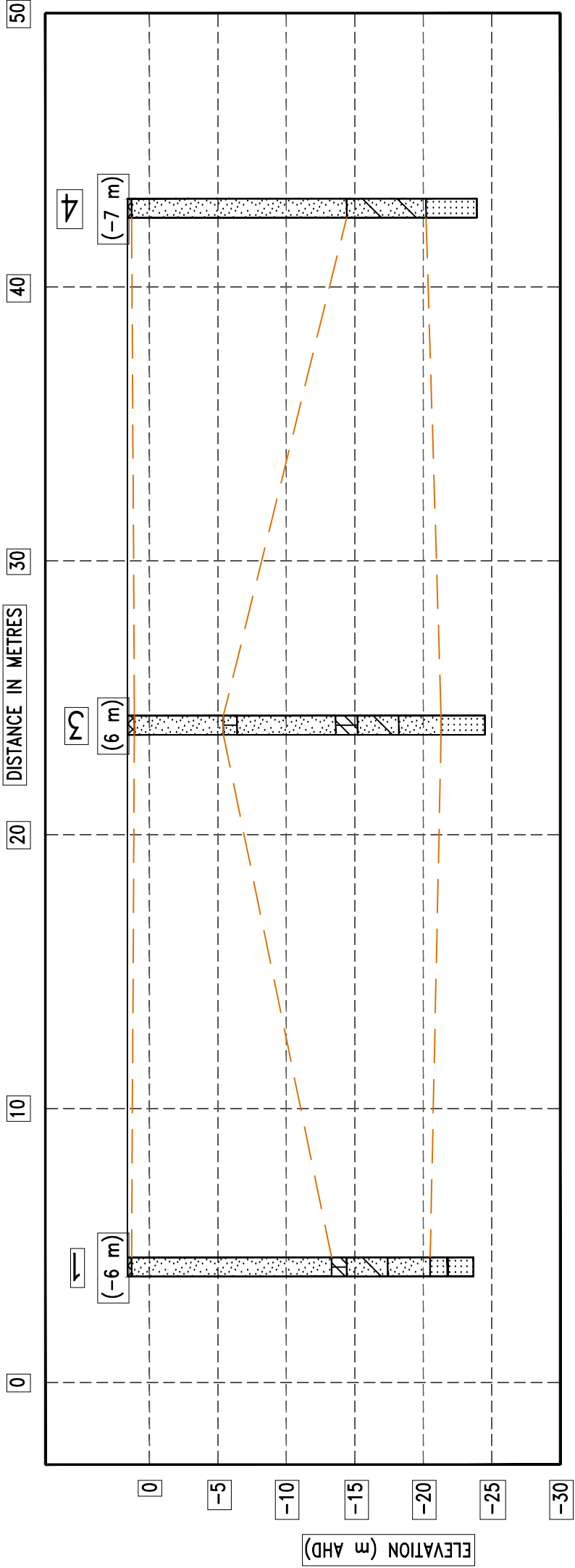
Page 386



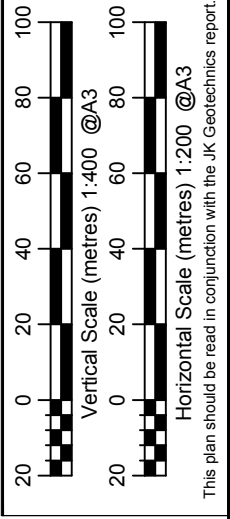
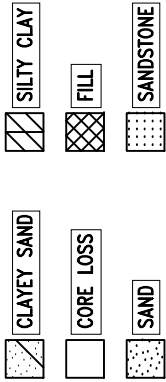
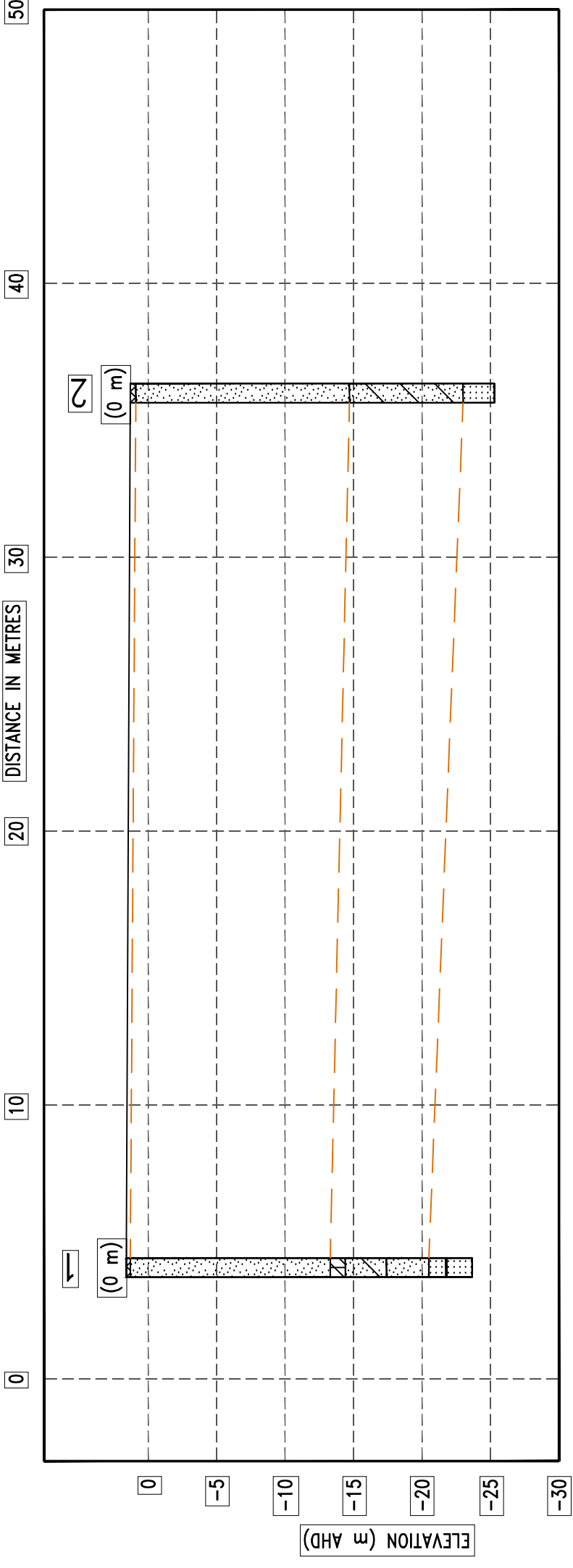




CROSS SECTION AA



CROSS SECTION BB



This plan should be read in conjunction with the JK Geotechnics report.

Title:

CROSS SECTION AA & BB

Project:  
177 RUSSEL AVENUE,  
DOLLS POINT, NSW

Figure No:

29353S

3

JK Geotechnics





## REPORT EXPLANATION NOTES

### INTRODUCTION

These notes have been provided to amplify the geotechnical report in regard to classification methods, field procedures and certain matters relating to the Comments and Recommendations section. Not all notes are necessarily relevant to all reports.

The ground is a product of continuing natural and man-made processes and therefore exhibits a variety of characteristics and properties which vary from place to place and can change with time. Geotechnical engineering involves gathering and assimilating limited facts about these characteristics and properties in order to understand or predict the behaviour of the ground on a particular site under certain conditions. This report may contain such facts obtained by inspection, excavation, probing, sampling, testing or other means of investigation. If so, they are directly relevant only to the ground at the place where and time when the investigation was carried out.

### DESCRIPTION AND CLASSIFICATION METHODS

The methods of description and classification of soils and rocks used in this report are based on Australian Standard 1726, the SAA Site Investigation Code. In general, descriptions cover the following properties – soil or rock type, colour, structure, strength or density, and inclusions. Identification and classification of soil and rock involves judgement and the Company infers accuracy only to the extent that is common in current geotechnical practice.

Soil types are described according to the predominating particle size and behaviour as set out in the attached Unified Soil Classification Table qualified by the grading of other particles present (e.g. sandy clay) as set out below:

Soil Classification	Particle Size
Clay	less than 0.002mm
Silt	0.002 to 0.075mm
Sand	0.075 to 2mm
Gravel	2 to 60mm

Non-cohesive soils are classified on the basis of relative density, generally from the results of Standard Penetration Test (SPT) as below:

Relative Density	SPT 'N' Value (blows/300mm)
Very loose	less than 4
Loose	4 – 10
Medium dense	10 – 30
Dense	30 – 50
Very Dense	greater than 50

Cohesive soils are classified on the basis of strength (consistency) either by use of hand penetrometer, laboratory testing or engineering examination. The strength terms are defined as follows.

Classification	Unconfined Compressive Strength kPa
Very Soft	less than 25
Soft	25 – 50
Firm	50 – 100
Stiff	100 – 200
Very Stiff	200 – 400
Hard	Greater than 400
Friable	Strength not attainable – soil crumbles

Rock types are classified by their geological names, together with descriptive terms regarding weathering, strength, defects, etc. Where relevant, further information regarding rock classification is given in the text of the report. In the Sydney Basin, 'Shale' is used to describe thinly bedded to laminated siltstone.

### SAMPLING

Sampling is carried out during drilling or from other excavations to allow engineering examination (and laboratory testing where required) of the soil or rock.

Disturbed samples taken during drilling provide information on plasticity, grain size, colour, moisture content, minor constituents and, depending upon the degree of disturbance, some information on strength and structure. Bulk samples are similar but of greater volume required for some test procedures.

Undisturbed samples are taken by pushing a thin-walled sample tube, usually 50mm diameter (known as a U50), into the soil and withdrawing it with a sample of the soil contained in a relatively undisturbed state. Such samples yield information on structure and strength, and are necessary for laboratory determination of shear strength and compressibility. Undisturbed sampling is generally effective only in cohesive soils.

Details of the type and method of sampling used are given on the attached logs.

### INVESTIGATION METHODS

The following is a brief summary of investigation methods currently adopted by the Company and some comments on their use and application. All except test pits, hand auger drilling and portable dynamic cone penetrometers require the use of a mechanical drilling rig which is commonly mounted on a truck chassis.





**Test Pits:** These are normally excavated with a backhoe or a tracked excavator, allowing close examination of the insitu soils if it is safe to descend into the pit. The depth of penetration is limited to about 3m for a backhoe and up to 6m for an excavator. Limitations of test pits are the problems associated with disturbance and difficulty of reinstatement and the consequent effects on close-by structures. Care must be taken if construction is to be carried out near test pit locations to either properly recompact the backfill during construction or to design and construct the structure so as not to be adversely affected by poorly compacted backfill at the test pit location.

**Hand Auger Drilling:** A borehole of 50mm to 100mm diameter is advanced by manually operated equipment. Premature refusal of the hand augers can occur on a variety of materials such as hard clay, gravel or ironstone, and does not necessarily indicate rock level.

**Continuous Spiral Flight Augers:** The borehole is advanced using 75mm to 115mm diameter continuous spiral flight augers, which are withdrawn at intervals to allow sampling and insitu testing. This is a relatively economical means of drilling in clays and in sands above the water table. Samples are returned to the surface by the flights or may be collected after withdrawal of the auger flights, but they can be very disturbed and layers may become mixed. Information from the auger sampling (as distinct from specific sampling by SPTs or undisturbed samples) is of relatively lower reliability due to mixing or softening of samples by groundwater, or uncertainties as to the original depth of the samples. Augering below the groundwater table is of even lesser reliability than augering above the water table.

**Rock Augering:** Use can be made of a Tungsten Carbide (TC) bit for auger drilling into rock to indicate rock quality and continuity by variation in drilling resistance and from examination of recovered rock fragments. This method of investigation is quick and relatively inexpensive but provides only an indication of the likely rock strength and predicted values may be in error by a strength order. Where rock strengths may have a significant impact on construction feasibility or costs, then further investigation by means of cored boreholes may be warranted.

**Wash Boring:** The borehole is usually advanced by a rotary bit, with water being pumped down the drill rods and returned up the annulus, carrying the drill cuttings. Only major changes in stratification can be determined from the cuttings, together with some information from "feel" and rate of penetration.

**Mud Stabilised Drilling:** Either Wash Boring or Continuous Core Drilling can use drilling mud as a circulating fluid to stabilise the borehole. The term 'mud' encompasses a range of products ranging from bentonite to polymers such as Revert or Biogel. The mud tends to mask the cuttings and reliable identification is only possible from intermittent intact sampling (eg from SPT and U50 samples) or from rock coring, etc.

**Continuous Core Drilling:** A continuous core sample is obtained using a diamond tipped core barrel. Provided full core recovery is achieved (which is not always possible in very low strength rocks and granular soils), this technique provides a very reliable (but relatively expensive) method of investigation. In rocks, an NMLC triple tube core barrel, which gives a core of about 50mm diameter, is usually used with water flush. The length of core recovered is compared to the length drilled and any length not recovered is shown as CORE LOSS. The location of losses are determined on site by the supervising engineer; where the location is uncertain, the loss is placed at the top end of the drill run.

**Standard Penetration Tests:** Standard Penetration Tests (SPT) are used mainly in non-cohesive soils, but can also be used in cohesive soils as a means of indicating density or strength and also of obtaining a relatively undisturbed sample. The test procedure is described in Australian Standard 1289, "Methods of Testing Soils for Engineering Purposes" – Test F3.1.

The test is carried out in a borehole by driving a 50mm diameter split sample tube with a tapered shoe, under the impact of a 63kg hammer with a free fall of 760mm. It is normal for the tube to be driven in three successive 150mm increments and the 'N' value is taken as the number of blows for the last 300mm. In dense sands, very hard clays or weak rock, the full 450mm penetration may not be practicable and the test is discontinued.

The test results are reported in the following form:

- In the case where full penetration is obtained with successive blow counts for each 150mm of, say, 4, 6 and 7 blows, as  
$$N = 13$$
$$4, 6, 7$$
- In a case where the test is discontinued short of full penetration, say after 15 blows for the first 150mm and 30 blows for the next 40mm, as  
$$N > 30$$
$$15, 30/40\text{mm}$$

The results of the test can be related empirically to the engineering properties of the soil.

Occasionally, the drop hammer is used to drive 50mm diameter thin walled sample tubes (U50) in clays. In such circumstances, the test results are shown on the borehole logs in brackets.

A modification to the SPT test is where the same driving system is used with a solid 60° tipped steel cone of the same diameter as the SPT hollow sampler. The solid cone can be continuously driven for some distance in soft clays or loose sands, or may be used where damage would otherwise occur to the SPT. The results of this Solid Cone Penetration Test (SCPT) are shown as " $N_c$ " on the borehole logs, together with the number of blows per 150mm penetration.



### Static Cone Penetrometer Testing and Interpretation:

Cone penetrometer testing (sometimes referred to as a Dutch Cone) described in this report has been carried out using an Electronic Friction Cone Penetrometer (EFCP). The test is described in Australian Standard 1289, Test F5.1.

In the tests, a 35mm diameter rod with a conical tip is pushed continuously into the soil, the reaction being provided by a specially designed truck or rig which is fitted with an hydraulic ram system. Measurements are made of the end bearing resistance on the cone and the frictional resistance on a separate 134mm long sleeve, immediately behind the cone. Transducers in the tip of the assembly are electrically connected by wires passing through the centre of the push rods to an amplifier and recorder unit mounted on the control truck.

As penetration occurs (at a rate of approximately 20mm per second) the information is output as incremental digital records every 10mm. The results given in this report have been plotted from the digital data.

The information provided on the charts comprise:

- Cone resistance – the actual end bearing force divided by the cross sectional area of the cone – expressed in MPa.
- Sleeve friction – the frictional force on the sleeve divided by the surface area – expressed in kPa.
- Friction ratio – the ratio of sleeve friction to cone resistance, expressed as a percentage.

The ratios of the sleeve resistance to cone resistance will vary with the type of soil encountered, with higher relative friction in clays than in sands. Friction ratios of 1% to 2% are commonly encountered in sands and occasionally very soft clays, rising to 4% to 10% in stiff clays and peats. Soil descriptions based on cone resistance and friction ratios are only inferred and must not be considered as exact.

Correlations between EFCP and SPT values can be developed for both sands and clays but may be site specific.

Interpretation of EFCP values can be made to empirically derive modulus or compressibility values to allow calculation of foundation settlements.

Stratification can be inferred from the cone and friction traces and from experience and information from nearby boreholes etc. Where shown, this information is presented for general guidance, but must be regarded as interpretive. The test method provides a continuous profile of engineering properties but, where precise information on soil classification is required, direct drilling and sampling may be preferable.

**Portable Dynamic Cone Penetrometers:** Portable Dynamic Cone Penetrometer (DCP) tests are carried out by driving a rod into the ground with a sliding hammer and counting the blows for successive 100mm increments of penetration.

Two relatively similar tests are used:

- Cone penetrometer (commonly known as the Scala Penetrometer) – a 16mm rod with a 20mm diameter cone end is driven with a 9kg hammer dropping 510mm (AS1289, Test F3.2). The test was developed initially for pavement subgrade investigations, and correlations of the test results with California Bearing Ratio have been published by various Road Authorities.
- Perth sand penetrometer – a 16mm diameter flat ended rod is driven with a 9kg hammer, dropping 600mm (AS1289, Test F3.3). This test was developed for testing the density of sands (originating in Perth) and is mainly used in granular soils and filling.

### LOGS

The borehole or test pit logs presented herein are an engineering and/or geological interpretation of the sub-surface conditions, and their reliability will depend to some extent on the frequency of sampling and the method of drilling or excavation. Ideally, continuous undisturbed sampling or core drilling will enable the most reliable assessment, but is not always practicable or possible to justify on economic grounds. In any case, the boreholes or test pits represent only a very small sample of the total subsurface conditions.

The attached explanatory notes define the terms and symbols used in preparation of the logs.

Interpretation of the information shown on the logs, and its application to design and construction, should therefore take into account the spacing of boreholes or test pits, the method of drilling or excavation, the frequency of sampling and testing and the possibility of other than “straight line” variations between the boreholes or test pits. Subsurface conditions between boreholes or test pits may vary significantly from conditions encountered at the borehole or test pit locations.

### GROUNDWATER

Where groundwater levels are measured in boreholes, there are several potential problems:

- Although groundwater may be present, in low permeability soils it may enter the hole slowly or perhaps not at all during the time it is left open.
- A localised perched water table may lead to an erroneous indication of the true water table.
- Water table levels will vary from time to time with seasons or recent weather changes and may not be the same at the time of construction.
- The use of water or mud as a drilling fluid will mask any groundwater inflow. Water has to be blown out of the hole and drilling mud must be washed out of the hole or ‘reverted’ chemically if water observations are to be made.



More reliable measurements can be made by installing standpipes which are read after stabilising at intervals ranging from several days to perhaps weeks for low permeability soils. Piezometers, sealed in a particular stratum, may be advisable in low permeability soils or where there may be interference from perched water tables or surface water.

#### **FILL**

The presence of fill materials can often be determined only by the inclusion of foreign objects (eg bricks, steel etc) or by distinctly unusual colour, texture or fabric. Identification of the extent of fill materials will also depend on investigation methods and frequency. Where natural soils similar to those at the site are used for fill, it may be difficult with limited testing and sampling to reliably determine the extent of the fill.

The presence of fill materials is usually regarded with caution as the possible variation in density, strength and material type is much greater than with natural soil deposits. Consequently, there is an increased risk of adverse engineering characteristics or behaviour. If the volume and quality of fill is of importance to a project, then frequent test pit excavations are preferable to boreholes.

#### **LABORATORY TESTING**

Laboratory testing is normally carried out in accordance with Australian Standard 1289 'Methods of Testing Soil for Engineering Purposes'. Details of the test procedure used are given on the individual report forms.

#### **ENGINEERING REPORTS**

Engineering reports are prepared by qualified personnel and are based on the information obtained and on current engineering standards of interpretation and analysis. Where the report has been prepared for a specific design proposal (eg. a three storey building) the information and interpretation may not be relevant if the design proposal is changed (eg to a twenty storey building). If this happens, the company will be pleased to review the report and the sufficiency of the investigation work.

Every care is taken with the report as it relates to interpretation of subsurface conditions, discussion of geotechnical aspects and recommendations or suggestions for design and construction. However, the Company cannot always anticipate or assume responsibility for:

- Unexpected variations in ground conditions – the potential for this will be partially dependent on borehole spacing and sampling frequency as well as investigation technique.
- Changes in policy or interpretation of policy by statutory authorities.
- The actions of persons or contractors responding to commercial pressures.

If these occur, the company will be pleased to assist with investigation or advice to resolve any problems occurring.

#### **SITE ANOMALIES**

In the event that conditions encountered on site during construction appear to vary from those which were expected from the information contained in the report, the company requests that it immediately be notified. Most problems are much more readily resolved when conditions are exposed that at some later stage, well after the event.

#### **REPRODUCTION OF INFORMATION FOR CONTRACTUAL PURPOSES**

Attention is drawn to the document 'Guidelines for the Provision of Geotechnical Information in Tender Documents', published by the Institution of Engineers, Australia. Where information obtained from this investigation is provided for tendering purposes, it is recommended that all information, including the written report and discussion, be made available. In circumstances where the discussion or comments section is not relevant to the contractual situation, it may be appropriate to prepare a specially edited document. The company would be pleased to assist in this regard and/or to make additional report copies available for contract purposes at a nominal charge.

Copyright in all documents (such as drawings, borehole or test pit logs, reports and specifications) provided by the Company shall remain the property of Jeffery and Katauskas Pty Ltd. Subject to the payment of all fees due, the Client alone shall have a licence to use the documents provided for the sole purpose of completing the project to which they relate. License to use the documents may be revoked without notice if the Client is in breach of any objection to make a payment to us.

#### **REVIEW OF DESIGN**

Where major civil or structural developments are proposed or where only a limited investigation has been completed or where the geotechnical conditions/ constraints are quite complex, it is prudent to have a joint design review which involves a senior geotechnical engineer.

#### **SITE INSPECTION**

The company will always be pleased to provide engineering inspection services for geotechnical aspects of work to which this report is related.


































Requirements could range from:

- i) a site visit to confirm that conditions exposed are no worse than those interpreted, to
- ii) a visit to assist the contractor or other site personnel in identifying various soil/rock types such as appropriate footing or pier founding depths, or
- iii) full time engineering presence on site.





## GRAPHIC LOG SYMBOLS FOR SOILS AND ROCKS

SOIL		ROCK		DEFECTS AND INCLUSIONS	
	FILL		CONGLOMERATE		CLAY SEAM
	TOPSOIL		SANDSTONE		SHEARED OR CRUSHED SEAM
	CLAY (CL, CH)		SHALE		BRECCIATED OR SHATTERED SEAM/ZONE
	SILT (ML, MH)		SILTSTONE, MUDSTONE, CLAYSTONE		IRONSTONE GRAVEL
	SAND (SP, SW)		LIMESTONE		ORGANIC MATERIAL
	GRAVEL (GP, GW)		PHYLLITE, SCHIST		
	SANDY CLAY (CL, CH)		TUFF		CONCRETE
	SILTY CLAY (CL, CH)		GRANITE, GABBRO		BITUMINOUS CONCRETE, COAL
	CLAYEY SAND (SC)		DOLERITE, DIORITE		COLLUVIUM
	SILTY SAND (SM)		BASALT, ANDESITE		
	GRAVELLY CLAY (CL, CH)		QUARTZITE		
	CLAYEY GRAVEL (GC)				
	SANDY SILT (ML)				
	PEAT AND ORGANIC SOILS				

## UNIFIED SOIL CLASSIFICATION TABLE





Field Identification Procedures (Excluding particles larger than 75 µm and basing fractions on estimated weights)				Group Symbols <sup>a</sup>	Typical Names	Information Required for Describing Soils	Use grain size curve in identifying the fractions as given under field identification	Laboratory Classification Criteria
Coarse-grained soils More than half of material is larger than 75 µm sieve size <sup>b</sup>	Gravels More than half of coarse fraction is larger than 4 mm sieve size	Clean gravels (little or no fines)	Wide range in grain size and substantial amounts of all intermediate particle sizes	GW	Well graded gravels, gravel-sand mixtures, little or no fines	Give typical name; indicate approximate percentages of sand and gravel; maximum size; angularity, surface condition, and hardness of the coarse grains; local or geologic name and other pertinent descriptive information; and symbols in parentheses	Determine percentages of gravel and sand from grain size curve Depending on percentage of fines (fraction smaller than 75 µm sieve size) coarse grained soils are classified as follows: Less than 5% 5% to 12% More than 12% GM, GC, SM, SC GW, GP, SW, SP Borderline cases requiring use of dual symbols	$C_u = \frac{D_{60}}{D_{10}}$ Greater than 4 $C_c = \frac{D_{30}^2}{D_{10} \times D_{60}}$ Between 1 and 3 Not meeting all gradation requirements for GW Atterberg limits below "A" line, or $PI$ less than 4 Atterberg limits above "A" line, with $PI$ greater than 7 $C_u = \frac{D_{60}}{D_{10}}$ Greater than 6 $C_c = \frac{D_{30}^2}{D_{10} \times D_{60}}$ Between 1 and 3 Not meeting all gradation requirements for SW Atterberg limits below "A" line or $PI$ less than 5 Atterberg limits below "A" line with $PI$ greater than 7
		Gravels with fines (appreciable amount of fines)	Predominantly one size or a range of sizes with some intermediate sizes missing	GP	Poorly graded gravels, gravel-sand mixtures, little or no fines			
Fine-grained soils More than 75 µm sieve size is about the smallest particle visible to naked eye	Sands More than half of coarse fraction is smaller than 4 mm sieve size	Clean sands (little or no fines)	Wide range in grain sizes and substantial amounts of all intermediate particle sizes	SW	Well graded sands, gravelly sands, little or no fines	For undisturbed soils add information on stratification, degree of compactness, cementation, moisture conditions and drainage characteristics Example: Silty sand, gravelly; about 20% hard, angular gravel particles 12 mm maximum size; rounded and subangular sand grains coarse to fine, about 15% non-plastic fines with low dry strength; well compacted and moist in place; alluvial sand: (SM)		Liquid limit Plasticity chart for laboratory classification of fine grained soils
		Sands with fines (appreciable amount of fines)	Predominantly one size or a range of sizes with some intermediate sizes missing	SP	Poorly graded sands, gravelly sands, little or no fines			
			Nonplastic fines (for identification procedures, see $ML$ below)	SM	Silty sands, poorly graded sand-silt mixtures			
			Plastic fines (for identification procedures, see $CL$ below)	SC	Clayey sands, poorly graded sand-clay mixtures			
	Silt and clays Liquid limit greater than 50		Medium to high	ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands with slight plasticity	Give typical name; indicate degree and character of plasticity, amount and maximum size of coarse grains; colour in wet condition, odour if any, local or geologic name, and other pertinent descriptive information, and symbol in parentheses		
			Medium	CL	Inorganic clays of low to medium plasticity, gravelly clays, silty clays, lean clays			
			Slight	OL	Organic silts and organic silts of low plasticity	For undisturbed soils add information on structure, stratification, consistency in undisturbed and remoulded states, moisture and drainage conditions		
			Slight to medium	MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts	Example: Clayey silt, brown; slightly plastic; small percentage of fine sand; numerous vertical root holes; firm and dry in place; loess: (ML)		
Highly Organic Soils			High	CH	Inorganic clays of high plasticity, fat clays			
			Slight to medium	OH	Organic clays of medium to high plasticity			
Highly Organic Soils			Readily identified by colour, odour, spongy feel and frequently by fibrous texture	PT	Peat and other highly organic soils			

Note: 1 Soils possessing characteristics of two groups are designated by combinations of group symbols (eg. GW-GC, well graded gravel-sand mixture with clay fines).  
2 Soils with liquid limits of the order of 35 to 50 may be visually classified as being of medium plasticity.





## LOG SYMBOLS

LOG COLUMN	SYMBOL	DEFINITION																		
Groundwater Record		Standing water level. Time delay following completion of drilling may be shown.																		
		Extent of borehole collapse shortly after drilling.																		
		Groundwater seepage into borehole or excavation noted during drilling or excavation.																		
Samples	ES	Soil sample taken over depth indicated, for environmental analysis.																		
	U50	Undisturbed 50mm diameter tube sample taken over depth indicated.																		
	DB	Bulk disturbed sample taken over depth indicated.																		
	DS	Small disturbed bag sample taken over depth indicated.																		
	ASB	Soil sample taken over depth indicated, for asbestos screening.																		
	ASS	Soil sample taken over depth indicated, for acid sulfate soil analysis.																		
	SAL	Soil sample taken over depth indicated, for salinity analysis.																		
Field Tests	N = 17 4, 7, 10	Standard Penetration Test (SPT) performed between depths indicated by lines. Individual figures show blows per 150mm penetration. 'R' as noted below.																		
	N <sub>c</sub> = 5 7 3R	Solid Cone Penetration Test (SCPT) performed between depths indicated by lines. Individual figures show blows per 150mm penetration for 60 degree solid cone driven by SPT hammer. 'R' refers to apparent hammer refusal within the corresponding 150mm depth increment.																		
	VNS = 25	Vane shear reading in kPa of Undrained Shear Strength.																		
	PID = 100	Photoionisation detector reading in ppm (Soil sample headspace test).																		
Moisture Condition (Cohesive Soils)	MC>PL MC≈PL MC<PL	Moisture content estimated to be greater than plastic limit. Moisture content estimated to be approximately equal to plastic limit. Moisture content estimated to be less than plastic limit.																		
(Cohesionless Soils)	D M W	DRY – Runs freely through fingers. MOIST – Does not run freely but no free water visible on soil surface. WET – Free water visible on soil surface.																		
Strength (Consistency) Cohesive Soils	VS S F St VSt H ( )	VERY SOFT – Unconfined compressive strength less than 25kPa SOFT – Unconfined compressive strength 25-50kPa FIRM – Unconfined compressive strength 50-100kPa STIFF – Unconfined compressive strength 100-200kPa VERY STIFF – Unconfined compressive strength 200-400kPa HARD – Unconfined compressive strength greater than 400kPa Bracketed symbol indicates estimated consistency based on tactile examination or other tests.																		
Density Index/ Relative Density (Cohesionless Soils)	VL L MD D VD ( )	<table border="0"> <tr> <th>Density Index (I<sub>p</sub>)</th><th>Range (%)</th><th>SPT 'N' Value Range (Blows/300mm)</th></tr> <tr> <td>Very Loose</td><td>&lt;15</td><td>0-4</td></tr> <tr> <td>Loose</td><td>15-35</td><td>4-10</td></tr> <tr> <td>Medium Dense</td><td>35-65</td><td>10-30</td></tr> <tr> <td>Dense</td><td>65-85</td><td>30-50</td></tr> <tr> <td>Very Dense</td><td>&gt;85</td><td>&gt;50</td></tr> </table> Bracketed symbol indicates estimated density based on ease of drilling or other tests.	Density Index (I <sub>p</sub> )	Range (%)	SPT 'N' Value Range (Blows/300mm)	Very Loose	<15	0-4	Loose	15-35	4-10	Medium Dense	35-65	10-30	Dense	65-85	30-50	Very Dense	>85	>50
Density Index (I <sub>p</sub> )	Range (%)	SPT 'N' Value Range (Blows/300mm)																		
Very Loose	<15	0-4																		
Loose	15-35	4-10																		
Medium Dense	35-65	10-30																		
Dense	65-85	30-50																		
Very Dense	>85	>50																		
Hand Penetrometer Readings	300 250	Numbers indicate individual test results in kPa on representative undisturbed material unless noted otherwise.																		
Remarks	'V' bit	Hardened steel 'V' shaped bit.																		
	'TC' bit 	Tungsten carbide wing bit. Penetration of auger string in mm under static load of rig applied by drill head hydraulics without rotation of augers.																		



## LOG SYMBOLS continued

### ROCK MATERIAL WEATHERING CLASSIFICATION

TERM	SYMBOL	DEFINITION
Residual Soil	RS	Soil developed on extremely weathered rock; the mass structure and substance fabric are no longer evident; there is a large change in volume but the soil has not been significantly transported.
Extremely weathered rock	XW	Rock is weathered to such an extent that it has "soil" properties, ie it either disintegrates or can be remoulded, in water.
Distinctly weathered rock	DW	Rock strength usually changed by weathering. The rock may be highly discoloured, usually by ironstaining. Porosity may be increased by leaching, or may be decreased due to deposition of weathering products in pores.
Slightly weathered rock	SW	Rock is slightly discoloured but shows little or no change of strength from fresh rock.
Fresh rock	FR	Rock shows no sign of decomposition or staining.

### ROCK STRENGTH

Rock strength is defined by the Point Load Strength Index (Is 50) and refers to the strength of the rock substance in the direction normal to the bedding. The test procedure is described by the International Journal of Rock Mechanics, Mining, Science and Geomechanics. Abstract Volume 22, No 2, 1985.

TERM	SYMBOL	Is (50) MPa	FIELD GUIDE
Extremely Low: -----	EL -----	0.03	Easily remoulded by hand to a material with soil properties.
Very Low: -----	VL -----	0.1	May be crumbled in the hand. Sandstone is "sugary" and friable.
Low: -----	L -----	0.3	A piece of core 150mm long x 50mm dia. may be broken by hand and easily scored with a knife. Sharp edges of core may be friable and break during handling.
Medium Strength: -----	M -----	1	A piece of core 150mm long x 50mm dia. can be broken by hand with difficulty. Readily scored with knife.
High: -----	H -----	3	A piece of core 150mm long x 50mm dia. core cannot be broken by hand, can be slightly scratched or scored with knife; rock rings under hammer.
Very High: -----	VH -----	10	A piece of core 150mm long x 50mm dia. may be broken with hand-held pick after more than one blow. Cannot be scratched with pen knife; rock rings under hammer.
Extremely High:	EH		A piece of core 150mm long x 50mm dia. is very difficult to break with hand-held hammer. Rings when struck with a hammer.

### ABBREVIATIONS USED IN DEFECT DESCRIPTION

ABBREVIATION	DESCRIPTION	NOTES
Be	Bedding Plane Parting	Defect orientations measured relative to the normal to the long core axis (ie relative to horizontal for vertical holes)
CS	Clay Seam	
J	Joint	
P	Planar	
Un	Undulating	
S	Smooth	
R	Rough	
IS	Ironstained	
XWS	Extremely Weathered Seam	
Cr	Crushed Seam	
60t	Thickness of defect in millimetres	



11 August, 2016  
Our Ref: 216-1508

**Helm Pty Ltd**  
PO Box 99  
Northbridge NSW 1560


Attention: Mr. Mathew Campbell

**REVIEW OF PROPOSED GROUND FLOOR LEVELS AND COUNCILS FLOOD ADVICE LETTER  
PROPOSED RESIDENTIAL DEVELOPMENT – 177 RUSSELL AVENUE, DOLLS POINT**

Dear Mathew,

We have carried out review of the proposed ground floor drawing PA.03 Revision B and associated vehicle access ramp descending to the basement. We can confirm the current proposal satisfies the requirements of Council's flood advice letter dated 24 February, 2016.

Sincerely,



Michael Green Dip. Eng., AHSCA  
Director

---

**Sydney**

PO Box 442 Bexley NSW 2207  
t: 02 9567 4466  
admin@greenarrow.net.au

**Wollongong**

Suite 5, 50 Crown Street,  
Wollongong, NSW 2500  
t: 02 422644 90  
admin@greenarrow.net.au

## Council Meeting

**9/11/2016**

Item No	9.2
Property	<b>153 Bay Street, Botany</b>
Proposal	Demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment of land into two lots
Cost of Development	\$701,750.00
Report by	Angela Lazaridis- Senior Development Assessment Planner
Application No	(B) DA-2016/105, (R) SF16/1003

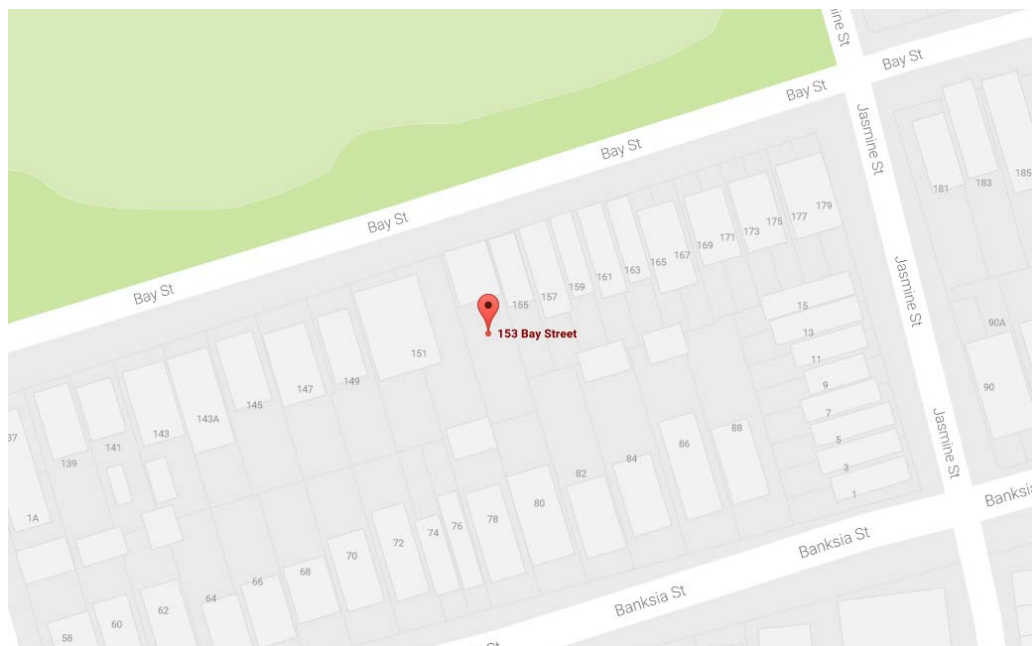
## Officer Recommendation

That Council APPROVE Development Application No. 16/105 for the demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment of land into two lots at 153 Bay Street, Botany, subject to conditions in the attached Schedule.

## Attachments

Planning Assessment Report

## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	2016/105
<b>Date of Receipt:</b>	5 July 2016
<b>Property:</b>	153 Bay Street, Botany Lot 11 Sec G in DP 1787
<b>Owner:</b>	Dennis Borg
<b>Applicant:</b>	As above
<b>Proposal:</b>	Demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment of land into two lots
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$701,750.00
<b>No. of submissions:</b>	Three (3) objections
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	3 October 2016

### Key Issues

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The former City of Botany Bay received Development Application No. 16/105 on 5 July 2016 seeking consent for the demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment into two lots at 153 Bay Street, Botany.

The application was placed on public exhibition for a fourteen (14) day period from 20 July to 3 August 2016. Three objections were received.

On 29 July 2016, Council requested the applicant amend their architectural plans to meet the flooding finished floor level, set back the garages off the boundary and amend the windows to provide greater privacy to the neighbours. This information was provided for consideration on 8 August 2016.

Key issues in the assessment of the proposal include the subdivision pattern and the impact on the heritage item at 151 Bay Street Botany. The subdivision pattern in the area consists of smaller lots with a number of semi-detached dwelling houses along the eastern side of the site. Overall, the proposed subdivision is acceptable in this instance and is discussed in greater detail in Note 2 below. The impact on the heritage item has been discussed in greater detail in Note 1 below. The application was referred to Councils' Heritage Advisor who had no objection to the proposal as the curtilage of the site of the heritage item is not significantly impacted. Additionally, the proposal has been designed to integrate with the heritage item and be consistent with the dwellings along the street.

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

## Background

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### History

There is no town planning history for the site.

The application was placed on public exhibition for a fourteen (14) day period from 20 July to 3 August 2016. Three objections were received.

A site inspection was carried out on 29 July 2016.

On 29 July 2016, Council requested the applicant amend their architectural plans to meet the flooding finished floor level, set back the garages off the boundary and amend to the windows to provide greater privacy to the neighbours. This information was provided for consideration on 8 August 2016.

### Proposal

The development application seeks consent for the demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment into two lots.

The specifics of the proposal are as follows:

#### Demolition and Site Clearing

- Demolition of all existing structures on the site including the dwelling house and front fence.

#### Subdivision

- Subdivision of the site into two separate allotments (Lot A and Lot B) with Lot A having a site area of 268.67sqm and Lot B having a site area of 270.49sqm;
- Lot A will have a street frontage width of 6.095 metres, a rear boundary width of 6.093 metres and a western side boundary depth of 44.095 metres.
- Lot B will have a street frontage of 6.095 metres, a rear boundary width of 6.093 metres and southern side boundary depth of 44.395 metres.

### Ground Floor (both dwellings)

- Construction of the ground floor will include a front entry, an open plan kitchen, living and dining room, front patio, toilet and single garage;
- Construction of a 6.5sqm courtyard in the centre of the development along the side boundaries and construction of a 20.5sqm terrace attached to the rear of the dwelling;
- Installation of sliding doors along the side elevations leading out to the courtyards and five windows and one bi-fold door leading out to the terrace.
- Landscaping is proposed to the front and rear yards with the construction of a 1 metre high rendered brick fence.

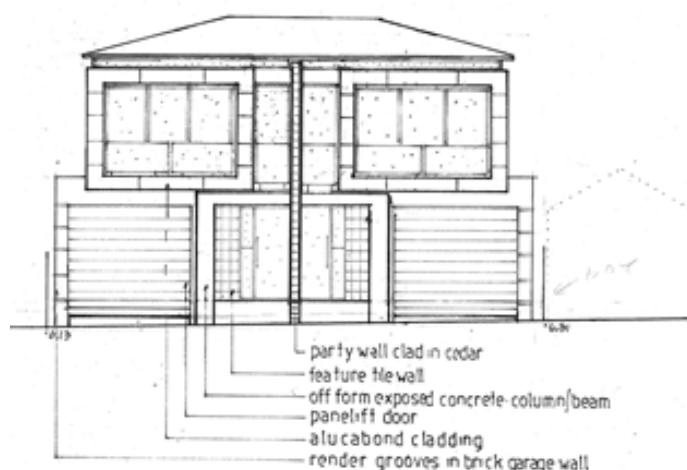
### First Floor (both dwellings)

- Construction of four bedrooms (one with an ensuite), bathroom and void area;
- Construction of front deck/balconies with a total area of 13sqm;
- Installation of ten windows and one sliding door leading out to the first floor balcony.

### Materials of Construction

The proposed development will be constructed using the following materials and colours:

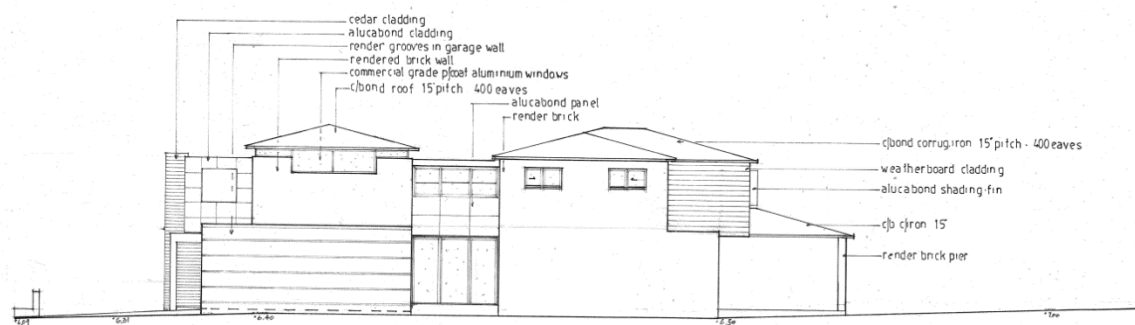
- Rendered brick wall;
- Party wall clad in cedar;
- Feature tile wall;
- Panel lift door;
- Alucabond cladding and panel;
- Render grooves in brick;
- Colorbond roof.



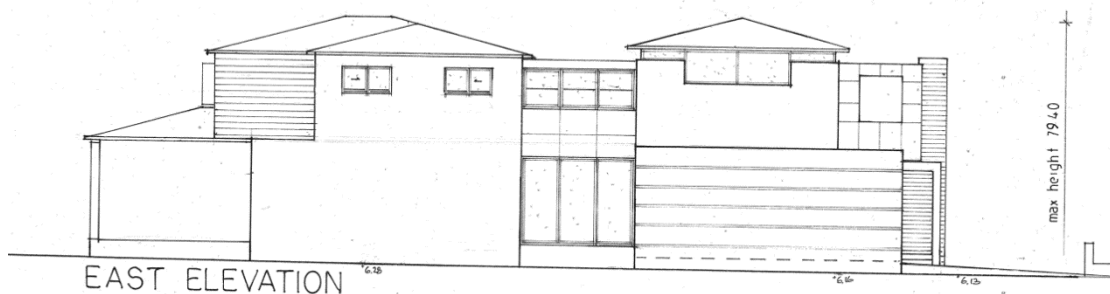
**Figure 1. Proposed Northern Elevation**



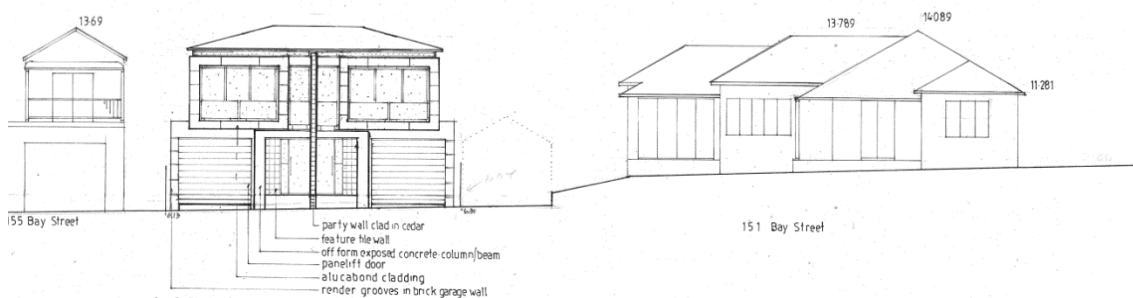
**Figure 2. Proposed Southern Elevation**



**Figure 3. Proposed Western Elevation**



**Figure 4. Proposed Eastern Elevation**



**Figure 5. Northern elevation in comparison with the adjoining dwellings**

## Site Description

The site is legally known as Lot 11 Sec G DP 1787. The subject site is located on the south-eastern side of Bay Street Botany between Daniel Street to the west and Jasmine Street to the east. The site has a north-west to south-east orientation with north-west being the front of the site and south-east being the rear of the site. The site is located in the R2 Low Density Residential zone.

The subject site is rectangular in shape with a total area of 539.2sqm. The site has a street frontage width of 12.19 metres, a rear southern boundary width of 12.186 metres, an eastern boundary depth of 44.395 metres and a western boundary depth of 44.095 metres. The site has a 1 metre fall from the rear south-western corner to the front of the site.

The site currently has a single storey detached brick dwelling house with tiled terracotta roof. The front of the dwelling comprises of a covered verandah and there is an existing unpaved driveway along the eastern side of the site to the rear. The rear of the site has a large grassed area. There is one large tree located along the western boundary of the site that is to be retained as part of the proposal.

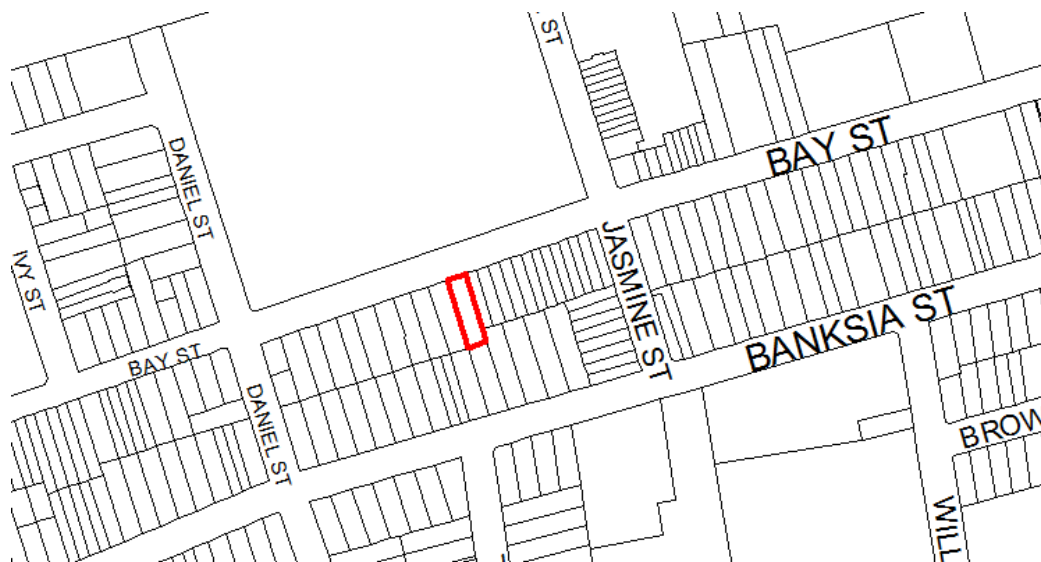


Figure 6. Locality Plan

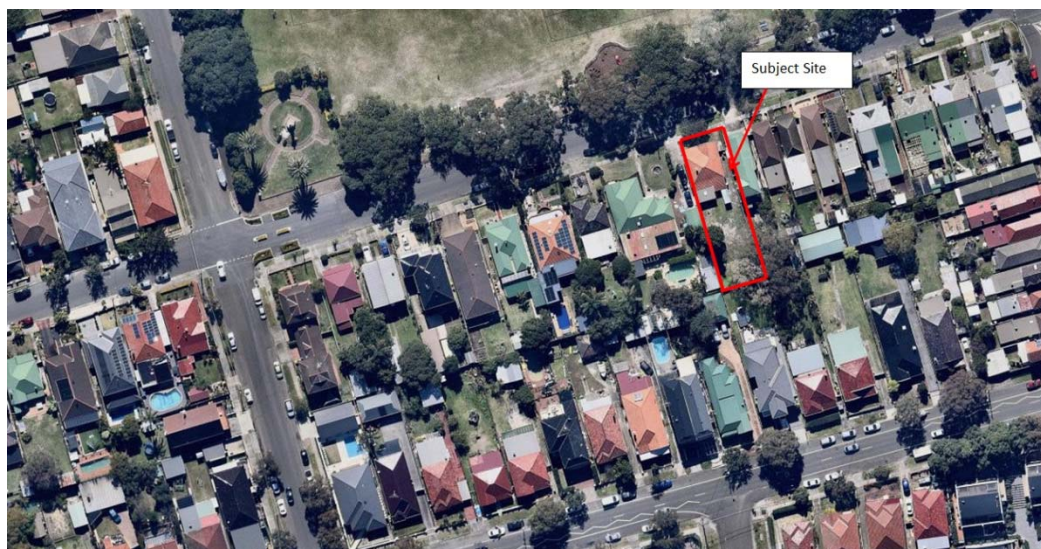


Figure 7. Aerial map of subject site



The adjoining property at 155 Bay Street comprises of a two storey detached brick and clad dwelling house with metal roof and front balcony. The adjoining property at 151 Bay Street is a single storey detached heritage listed dwelling house. The dwelling house is constructed out of cladding and has a metal roof. The rear of the property also contains a detached pool cabana, swimming pool and patio. Council recently approved an extension to the garage located on the eastern side of the site in addition to modifications to the landscaped area within the front setback. 151 Bay Street is over two allotments with a total site area of 1,026.6sqm.

Development surrounding the site comprises of single storey and two storey dwelling houses, both semi-detached heritage listed dwellings and detached dwelling houses. The site is directly opposite Booralee Park and is in close proximity to Botany Aquatic Centre. The site is in close proximity to a number of heritage items located at 151 Bay Street (I21), 145-147 Bay Street (I20), 165-179 Bay Street (I22) and Booralee Park (I61).



**Figure 8. Front elevation of the existing house on the site**



**Figure 9. Rear elevation of the existing dwelling house**



**Figure 10. Existing rear yard on the site**



**Figure 11. Adjoining property at 151 Bay Street**



**Figure 12. Adjoining property at 155 Bay Street**

## Referrals

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The development application was referred to Council's Development Engineer, Landscape Architect, Strategic/Heritage Officer and Environmental Health Officer for comments. Appropriate conditions have been imposed on the development consent to address the relevant issues raised relating to stormwater, flood levels, landscaping, aircraft noise and heritage impact.

## 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 Nos. 73428S\_02 and 734276S\_02 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 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.



## 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:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the objectives of the R2 zone which are:</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>
Does Schedule 1 – Additional Permitted Uses apply to the site?  If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the height of the building?  Does the height of the building comply with the maximum building height?	-  Yes	<p>A maximum height of 8.5 metres applies to the subject site.</p> <p>Lot A = 7.6m from the NGL Lot B = 7.9m from the NGL.</p> <p>The maximum height of the dwellings complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>
What is the proposed Floor Space Ratio?	-  Yes	<p>The maximum Floor Space Ratio requirement is 0.5:1.</p> <p>Lot 1 has a site area of 268.67sqm while Lot B has a site area of 270.49sqm.</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?		<p><u>Lot A:</u></p> <p>Proposed Gross Floor Area: 134.5sqm Proposed Floor Space Ratio: 0.50:1</p> <p><u>Lot B:</u></p> <p>Proposed Gross Floor Area: 134.5sqm Proposed Floor Space Ratio: 0.50:1</p> <p>The Floor Space Ratio for both sites complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	Yes	<p>The site is located in the 'Area 3' zone. The development complies with the maximum Floor Space Ratio Requirement under the Botany Bay Local Environmental Plan 2013 for semi-detached dwellings.</p>
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	<p>The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area. However, the site is directly adjoins 151 Bay Street which is identified as Heritage Item I21- White House, and sits opposite Heritage Item I61- Booralae Park. This is discussed in greater detail in Part 3B of the Botany Bay Development Control Plan 2013 below.</p>
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> </ul>	Yes	<p>Class 4 ASS- The likely disruption or effect on the soil conditions, in addition to possible site contamination has been appropriately considered and is found to be acceptable in this instance. As there is no significant excavation, an Acid Sulfate Soil Management Plan is not warranted.</p>
<ul style="list-style-type: none"> <li>6.2 – Earthworks</li> </ul>	Yes	<p>The proposal involves minor excavation for footings. The amount of excavation is acceptable.</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> <li>6.3 – Stormwater Management</li> </ul>	Yes	The proposed development has provided an absorption trench underneath each driveway in addition to a rainwater tank on each site located along the side boundary. Appropriate conditions have been recommended in the consent.
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> </ul>	Yes	The provisions of AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. The proposal is permissible subject to a condition requiring compliance with the requirements of AS2021-2000. As such, the development is considered to be acceptable with regard to the provisions contained in Clause 6.9.

The objectives and provisions of Botany Bay Local Environmental Plan 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Botany Bay Local Environmental Plan 2013.

#### **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 & Access**

Part	Control	Proposed	Complies
<b>3A.2.</b> Parking Provisions of Specific Uses	<b>C2</b> Semi-detached dwelling house = 1 space	Each dwelling provides a single car garage within the front building footprint. There is direct access to Bay Street. The driveway on both sites can accommodate an additional hard stand parking space.	Yes
<b>3A.3.1</b> Car Park Design	<b>C26</b> The minimum width of the access driveway at the	Each driveway/vehicular crossing is 3 metres wide.	Yes

Part	Control	Proposed	Complies
	property boundary shall be:- (i) For dwelling houses: ▪ 3 metres		

### **Part 3B – Heritage**

The subject site is not a heritage item and is not within a heritage conservation area. The site is in close proximity to a number of heritage items at 151 Bay Street (I21), 145-147 Bay Street (I20), 165-179 Bay Street (I22) and Booralee Park (I61) as identified within Schedule 5 of the Botany Bay Local Environmental Plan 2013. The heritage item closest to the proposal is at 151 Bay Street which is directly adjoining the site to the west. The site currently comprises of a large white timber cottage with side additions to the original dwelling, pool cabana to the rear, swimming pool and garage. In February 2016, an extension to the garage as well as a home office and storage area was approved along the eastern side of the site. The dwelling and associated structures are located over two allotments and has a combined site area of 1,062.2sqm.

Part 3B.7 of the Botany Bay Development Control Plan 2013 relates to development in the vicinity of heritage items or within a heritage conservation area. The SEE provided by the applicant makes reference to the heritage significance of the heritage item and the impact of the proposed development to the neighbouring site. The applicant had originally designed the development so that the height of the development aligned with the heritage item. As Council required the development to raise the finish floor level to accommodate the flooding issue, the proposal is now slightly higher than the maximum height of the heritage item, however still in line with the neighbouring two storey dwelling house at 155 Bay Street. The proposal has been designed to have greater front setbacks than the existing dwelling house on the site and the materials used are a combination of timber panelling (similar to the heritage item) in addition to rendered brick. The roof form predominantly reflects the same form, material and slope found at 151 Bay Street.

The proposed development will not significantly impact the amount of sunlight received to the heritage item as both sites have north-south orientation and there is adequate side setbacks between the two sites/dwellings.

The development application was referred to Council's Heritage Advisor who had no objection to the proposed development:

*"The height, scale and setbacks of the proposed building are appropriate to the context. The setback of the proposed new building is an average of the front setbacks of the two adjacent buildings. The height is slightly over that of the adjacent heritage item. The garage doors are setback to create a shadow line. The proposed exterior materials for the proposed building have been discussed on site and are sympathetic to the adjacent heritage item. The proposal is acceptable in relation to its potential heritage impact on the adjacent heritage item at 151 Bay Street, Botany."*

The proposed development is not considered to adversely impact upon the environmental heritage of Botany Bay nor will it adversely impact upon the heritage significance of the adjoining item, its setting, associated fabric or its views. The heritage curtilage will not be impacted as the proposed development will create a greater front



setback than the existing dwelling house. The approval to the extension of the garage on the neighbouring site lessens the impact of the development onto the heritage house. Therefore, in accordance with the Botany Bay Development Control Plan 2013 and the Heritage Advisor's advice, the proposed development is acceptable when considering the impact on the heritage items.

**Part 3E- Subdivision & Amalgamation -3E.2.2. Residential Torrens Title**

Control	Proposed	Complies
<p><b>C1</b> Development applications shall demonstrate that the proposed subdivision is consistent with the Desired Future Character of the area.</p> <p>Desired Future Character – Subdivision Retain and preserve the rectilinear grid pattern within the Precinct</p>	<p>Two allotments are proposed which are both rectangular in pattern and will maintain the rectilinear grid pattern within the precinct. No existing local character and desired future character has been prepared for the precinct (bounded by Bay Street, Jasmine Street, Daniel Street and Banksia Street).</p>	<p><b>Yes – Refer to Note 1</b></p>
<p><b>C2</b> – Proposed Subdivision must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation</p>	<p>The proposed lots will have a site area of 268.67sqm (Lot A) and 270.49sqm (Lot B), will have a north-west to south-east orientation, rectilinear shape and frontage to Bay Street. The area and dimensions of the proposed allotments are similar to a number of smaller lots along the street. The street comprises a range of lot sizes.</p>	<p><b>Yes – Refer to Note 1</b></p>
<p><b>C3</b>– Development application which proposes the creation of new allotments must be accompanied by a conceptual building plan that demonstrates compliance with relevant building controls.</p>	<p>Building Plans for the development have been provided.</p>	<p>Yes</p>
<p><b>C5</b> –Proposed lots must be of a size and have dimensions to enable the siting and construction of a dwelling and ancillary structures that:</p> <ul style="list-style-type: none"> <li>i) Acknowledge site constraints</li> <li>ii) Address the street</li> <li>iii) Minimize impacts on adjoining properties including access to sunlight, daylight, privacy and views</li> <li>iv) Provide usable private open space</li> <li>v) Protect existing vegetation</li> </ul>	<p>The proposed allotments can accommodate dwelling houses that acknowledge site constraints, street frontage, solar access, private open space, vegetation, flood affectation and contamination.</p>	<p>Yes</p>

Control	Proposed	Complies
vi) Mitigate potential flood affectation and stormwater management requirements vii) Acknowledge contamination of the land viii) Protect heritage items		
<b>C7</b> All lots created shall have at least one (1) frontage to the street.	Both lots have a frontage to Bay Street.	Yes

#### **Note 1 – Prevailing Subdivision Pattern**

Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to two allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. The sites to the west are larger in size than the properties to the east as a result of their subdivision and dwelling styles. The western sites are relatively large in the locality particularly at 151 Bay Street. The subject site is on the border between the larger and smaller sites and as 151 Bay Street is a heritage item, it is considered to be unlikely to be subdivided. It is noted that the DCP does not provide any exclusions to how this subdivision pattern should be calculated in terms of zoning, strata subdivided properties or subdivided developments approved prior to the gazettal of the Botany Bay Local Environmental Plan 2013.

The objectives of Part 3E.2.1 – General Torrens Title Subdivision and Amalgamation of the Botany Bay Development Control Plan 2013 is to provide a building envelope that can accommodate an appropriately sized dwelling without resulting in adverse impacts on the surrounding properties. As demonstrated in the assessment of the development application, the proposed dwellings on Lot A and B at 153 Bay Street generally comply with the DCP controls for dwellings.

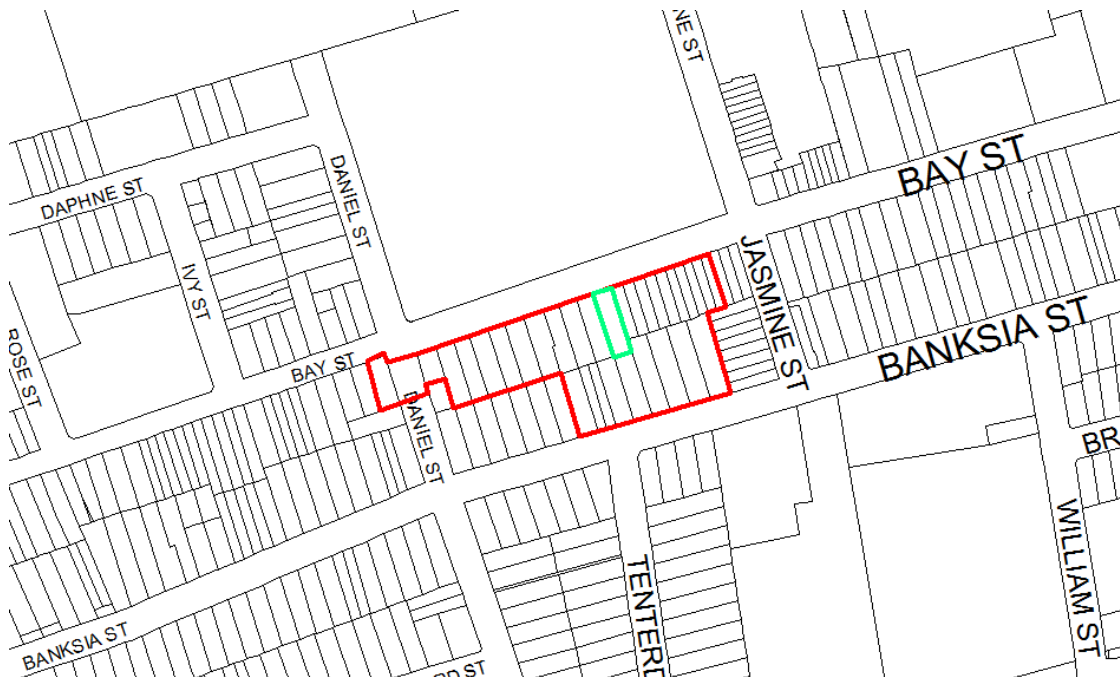
#### Site Area

As part of this development application, the site will be subdivided into two individual allotments namely Lot A (268.67sqm) and Lot B (270.49sqm). An assessment of the lot sizes of ten properties on either side of the subject site as well as the then properties to the rear of the site are as follows:

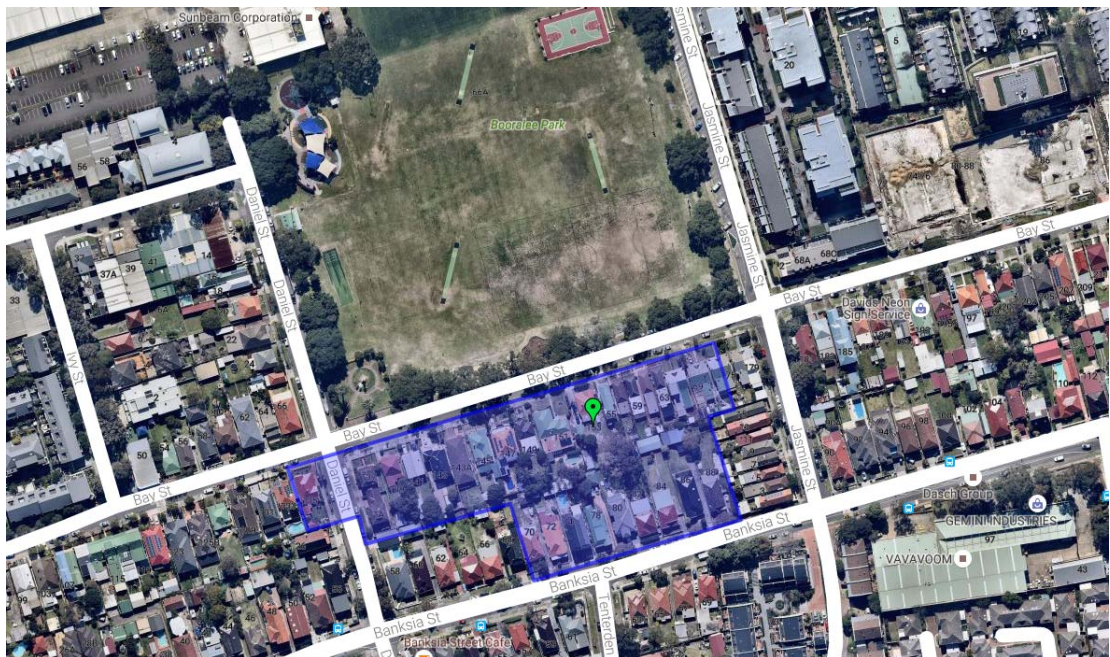
Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed
1a Daniel Street	272sqm	3.33sqm
135 Bay Street	402.9sqm	134.23sqm
137 Bay Street	276.3sqm	7.63sqm
139 Bay Street	507.93sqm	239.26sqm
141 Bay Street	467.9sqm	199.23sqm
143 Bay Street	554.5sqm	285.83sqm

Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed
143A Bay Street	475sqm	206.33sqm
145 Bay Street	563sqm	294.33sqm
147 Bay Street	563.9sqm	295.23sqm
149 Bay Street	495sqm	226.33sqm
151 Bay Street (2 allotments)	1,062.2sqm	793.53sqm
<b>153 Bay Street</b>	<b>Lot A= 268.67sqm; Lot B= 270.49sqm</b>	- -
155 Bay Street	264sqm	-4.67sqm
157 Bay Street	267.1sqm	-1.57sqm
159 Bay Street	266sqm	-2.67sqm
161 Bay Street	271sqm	2.33sqm
163 Bay Street	272.4sqm	3.73sqm
165 Bay Street	225.9sqm	-42.77sqm
167 Bay Street	231.9sqm	-36.77sqm
169 Bay Street	224.7sqm	-43.97sqm
171 Bay Street	220.17sqm	-48.5sqm
173 Bay Street	220.7sqm	-47.97sqm
70 Banksia Street	534.38sqm	265.71sqm
72 Banksia Street	994sqm	725.33sqm
74 Banksia Street	263.3sqm	-5.37sqm
76 Banksia Street	261.26sqm	-7.41sqm
78 Banksia Street	543.84sqm	275.17sqm
80 Banksia Street	535.65sqm	266.98sqm
82 Banksia Street	649.24sqm	380.57sqm
84 Banksia Street	734.9sqm	466.23sqm
86 Banksia Street	728.06sqm	459.39sqm
88 Banksia Street	752.5sqm	483.83sqm

As demonstrated in the table above, the subdivision pattern exhibits a varied pattern in allotment sizes ranging from 1,062.2sqm to 220.17sqm. The pattern directly to the east of the site is originally smaller lots with semi-detached and detached single storey dwelling houses (with the exception of 155 Bay Street next door which is two storeys in nature). Directly to the west of the site, the allotments are larger in nature and contain single and two storey dwelling houses. The neighbouring property is over two allotments and this is not demonstrated in the map below. It is highly unlikely that this site will be redeveloped in the future as it contains a heritage item. Therefore, the maps demonstrate that the immediate area and the surrounding areas particularly along Jasmine Street and Bay Street to the east are inconsistent relating to subdivision and built form and the proposed development will not be out of context in the area.



**Figure 13. Cadastre of Existing Subdivision Pattern for Precinct**



**Figure 14. Aerial of existing subdivision pattern for precinct and subject site**

The applicant provided the following comments relating to the subdivision pattern:

*"In addition to the previous General Objectives, the proposed subdivision of the site into two lots is considered to be consistent with the objectives for Residential Torrens Title subdivision for the following reasons:*

- *the proposed subdivision will be consistent with the existing subdivision pattern of the allotments of land east of the subject site which all comprise similar sized allotments with either small free-standing dwellings each built up to their eastern boundary, or, semi-detached dwellings with a common party wall as a boundary;*
- *the site does not have any unique features or constraints that would otherwise prevent this type of development from taking place;*
- *the proposal will be built to its maximum developable capacity in accordance with Council's current controls and will not prevent future development potential should the controls change; and*
- *the proposed development can be accommodated on the subject site and will be compliant with Council's DCP controls."*

The applicants' assessment is accepted and is further considered in the below summary.

#### Street Frontage Width

As part of the prevailing subdivision pattern, the frontage and depth of surrounding development must be considered. The street frontage widths for adjoining properties along Bay Street, Banksia Street and Daniel Street are as follows:

Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed
1a Daniel Street	44.15m	38.06m
135 Bay Street	12.19m	6.1m
137 Bay Street	13.28m	7.19m
139 Bay Street	12.19m	6.1m
141 Bay Street	11.28m	5.19m
143 Bay Street	13.1m	7.01m
143A Bay Street	11.2m	5.1m
145 Bay Street	13.18m	7.09m
147 Bay Street	13.4m	7.31m
149 Bay Street	10.97m	4.88m
151 Bay Street	24.38m	18.29m
<b>153 Bay Street</b>	<b>Lot A = 6.095m</b> <b>Lot B = 6.093m</b>	- -
155 Bay Street	7.32m	1.28m

<b>Address</b>	<b>Lot Size (in sqm approx.)</b>	<b>Variation (in sqm) from smallest lot proposed</b>
157 Bay Street	7.32m	1.28m
159 Bay Street	7.32m	1.28m
161 Bay Street	7.32m	1.28m
163 Bay Street	7.32m	1.28m
165 Bay Street	6.08m	-0.013m
167 Bay Street	6.1m	0.007m
169 Bay Street	6.1m	0.007m
171 Bay Street	6.1m	0.007m
173 Bay Street	6.1m	0.007m
70 Banksia Street	12.19m	6.1m
72 Banksia Street	13.4m	7.3m
74 Banksia Street	5.9m	-0.193m
76 Banksia Street	6.3m	0.207m
78 Banksia Street	12.19m	6.1m
80 Banksia Street	12.19m	6.1m
82 Banksia Street	12.19m	6.1m
84 Banksia Street	13.72m	7.6m
86 Banksia Street	13.72m	7.6m
88 Banksia Street	13.9m	7.8m

The average street frontage width for properties along the southern side of Bay Street and in the immediate area is 9.7 metres (excluding 1a Daniel Street which has a street frontage greater than the depth of the site and 151 Bay Street which is essentially two allotments in one). The proposed street frontages are smaller than the average size in the area however are consistent with the properties to the east of the site. To the west of the site, the land is larger in allotment size and street width however given that the proposal maintains the minimum 900mm side setback for the dwelling houses (excluding garages) for both allotments and provides appropriate frontage and rear setbacks, the frontage widths of 6.095m and 6.093m is acceptable in this case.

A desktop analysis of the nominated area of 31 properties demonstrates that 9 of the 31 dwelling houses are semi-detached dwellings, predominantly of the older style housing with smaller allotments. These are located at 1a Daniel Street, Bay Street (Nos. 137, 165-167, 169-171, 173) and 74-76 Banksia Street. 14 out of the 31 properties have a site area less than 300sqm and are predominantly semi-detached

dwelling houses and detached dwelling houses, both single storey and two storeys in nature.

On its merits, the appropriateness of the resultant subdivision is acceptable when taking into consideration the existing semi-detached dwellings along Bay Street, the provision of housing opportunities in the locality and compliance with the controls under the Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013.

### ***Part 3G- Stormwater Management***

The proposed development has provided an absorption trench underneath each driveway in addition to a rainwater tank on each site located along the side boundary. The application was referred to Council's Development Engineer for comment who raised no objection to the proposal subject to appropriate conditions recommended in the consent.

### ***Part 3J- Aircraft Noise and OLS***

The provisions of AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. The proposal is permissible subject to a condition requiring compliance with the requirements of AS2021-2000. Appropriate conditions have been imposed in the attached Schedule of conditions of consent.

### ***Part 3K- Contamination***

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and contamination is unlikely. Furthermore, the application has been assessed against SEPP 55 and is found to be satisfactory. Site investigation is not required in this instance.

### ***Part 3L- Landscaping and Tree Management***

The development proposes an adequate amount of landscaping for both sites with both areas having an approximate total of 104.45sqm or 39% of landscaped area. The rear yard currently consists of a Magnolia Tree in close proximity to the western boundary on the site. This tree is to be maintained as part of the proposal. The applicant has proposed to plant one additional tree within each yard. The existing Callistemon street tree is to be retained as part of the proposal. Appropriate conditions have been imposed in the consent attached with the report. Some of the proposed trees and vegetation proposed include *Crinum pedunculatum*, *Dietes grandiflora*, *Sedum 'Gold Mound'* and *Tristaniopsis laurina 'Luscious'*.

### ***Part 3N- Waste Minimisation & Management***

A Waste Management Plan (WMP) was submitted with the application. Conditions are included to ensure all waste generated will be stockpiled, managed and disposed of appropriately.

### ***Part 4A- Dwelling Houses***

The development application has been assessed against the controls contained in *Part 4A of the DCP – Dwellings*. The following table compares the proposed development with the relevant provisions of this policy.



Part	Control	Proposed	Complies
<b>4A.2.4</b> Streetscape Presentation	<b>C3</b> Dwellings must reflect dominant roof lines and patterns of the existing streetscape.	The roof incorporates a hipped roof which is almost identical to the existing dwelling house at 151 Bay Street. It also comprises elements of flat roofing to break the pitched roof form and reduce the bulk of the development.	Yes- Acceptable
	<b>C4</b> Buildings must address the street.	Both dwellings address the street with the dwellings facing Bay Street. The front fence and letter boxes are also located along Bay Street.	Yes
	<b>C6</b> Dwellings front door is to be readily apparent from the street.	The front door at Lot A and Lot B are provided with front entrances located off Bay Street and are readily apparent from the street.	Yes
<b>4A.2.7</b> Site Coverage	<b>C2</b> Sites between 250-300sqm, the maximum site coverage is 60%.	Both Lots A and B have a site coverage of 130.21sqm or 48% each.	Yes
<b>4A.2.8</b> Building Setbacks	<p><b>C1</b> Dwelling houses must comply with the following minimum setbacks as set out in <b>Table 1</b>.</p> <p>Less than 12.5m lot width:</p> <ul style="list-style-type: none"> <li>• Front – comply with prevailing street setback or 6m min.</li> <li>• Side – merit.</li> <li>• Rear – 4m min.</li> </ul> <p>Note: The subject site has an average lot width of 12.19m however after subdivision each lot will have a street frontage width of 6.093 metres and 6.095 metres.</p>	<p><b>Front setback:</b></p> <p>Lot A: 6.1m-7.3m Lot B: 6m-7.5m</p> <p><b>Lot A:</b> <u>Western Elevation:</u> Ground: 200mm (garage) to 4.1m First: 900mm- 2m</p> <p><b>Lot B:</b> <u>Eastern Elevation:</u> Ground: 200mm (ground) to 4.1m First: 900mm-2m</p> <p><b>Common Boundary:</b> The proposed development is for two semi-detached dwellings with a nil setback at the proposed boundary.</p>	Yes

Part	Control	Proposed	Complies
		<b>Rear setback:</b> <b>Lot A:</b> Ground Floor: 17.9m First Floor:15.7m  <b>Lot B:</b> Ground Floor: 17.9m First Floor: 15.17m	
	<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.	<p>The side elevations have been articulated and setback at certain points to break the solidity and long walls along the boundary. The setback will allow for courtyards along the side boundaries. This is also demonstrated on the first floor.</p> <p>The garages have been setback from originally having a nil boundary setback to being set in 200mm as requested by Council.</p> <p>The rear of the first floor is setback behind the patio area which is acceptable.</p> <p>Front and side setbacks have incorporated a mix of material which is similar to developments within the surrounding area.</p>	Yes
<b>4A.2.9</b> Landscape Area	<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> . Table 2 requires the following minimum landscaped area: (i) 20% for sites that have an area between 250sqm-350sqm	<p>The minimum landscaped area for a site with an area between 250sqm- 350sqm is 20%.</p> <p>Both sites will have a total of 104.45sqm of landscaping on the site. This results in 39% for each site. All landscaped area on site (other than the landscaped area within the front setback where the absorption trenches are located) will be fully</p>	Yes

Part	Control	Proposed	Complies
		permeable deep soil planting. The landscape plan demonstrates that one tree is located to the rear of each dwelling and small shrubs will be planted at the rear and front of both sites.	
	<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	The front setback is fully landscaped with the exception of the driveways and planter beds. Paving is restricted to 50% of the front setback. There are currently no trees proposed however a condition of consent is recommended requiring a tree to be planted in the front yard of each lot.	Condition
	<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.	There are no trees proposed within the front setback. A condition of consent is recommended requiring the planting of trees within the front setback.	Condition
<b>4A.3.1</b> Materials and Finishes	<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A Schedule of Colours and Finishes was provided with the development application. The development will be constructed out of rendered brick, weatherboard cladding, aluminium windows, timber cladding and balustrading.	Yes
<b>4A.3.2</b> Roofs and Attics/Dormer	<b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. <b>C3</b> A variety of roof forms will be considered, provided that they relate appropriately to the	The dwellings incorporate a pitched roof form constructed out of colorbond and pitched at 15 degrees. There is also a combination of flat roofing to break the pitched roof form and reduce the bulk of the development. While the pitch of the roof is	No-Acceptable

Part	Control	Proposed	Complies
	architectural style of the proposed house and respect the scale and character of adjoining dwellings.	inconsistent with Council's controls relating to degree of pitch, the proposal is consistent with similar colorbond roofs on the neighbouring properties particularly at 151 Bay Street (heritage item). Therefore, the pitch of the roof is acceptable.	
<b>4A.3.4 Fences</b>	<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style	The plans demonstrate that each site will have a 1 metre high rendered brick front fence (planter box) and letter boxes.	Yes
	<b>C18</b> Side fences of a height of 1.8 metres are not to extend beyond the front building line.  <b>Note:</b> Fences with untextured surfaces that present a blank appearance to the street are unsuitable and discouraged.	The proposal does not specify replacement of the side fences. Part of the neighbouring development at 151 Bay Street has been built to the side boundary. Any replacement of the side fences is to not exceed 1.8 metres in height.	Currently as existing
	<b>C19</b> The maximum height of a rear fence is not to exceed 1.8 metres.	As above.	Currently as existing
<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> </ul>	The proposal has been designed so that none of the new windows on the ground floor and first floor side elevations directly look into the neighbouring properties. The windows on the first floor along the side elevations have been modified so that they have a minimum 1.5 metre sill height. The windows facing the front and rear are located in a manner so	Yes

Part	Control	Proposed	Complies
	<ul style="list-style-type: none"> <li>Increasing sill heights to 1.5 metres above floor level.</li> </ul>	that they will not impact on the amenity of the neighbouring properties.	
	<b>C3</b> First floor balconies are only permitted when adjacent to a bedroom.	There is one balcony located at the front of the dwellings off a bedroom which is acceptable.	Yes
<b>4A.4.3</b> Solar Access	<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.	Solar diagrams were provided with the development application. As the site is north-south orientated, the degree of shadow cast on the neighbouring property is not considered significant. Details relating to shadow cast are outlined in Note 1 below.	Yes- Note 1 below
	<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.	There are no solar panels on the adjoining site that will be impacted by the proposal.	Yes
<b>4A.4.4</b> Private Open Space	<b>C2</b> For sites greater than 250sqm, a minimum area of 36sqm applies.	Each site requires 36sqm of private open space.  Both lots will have approximately 101.6sqm of private open space.	Yes
<b>4A.4.7</b> Vehicle Access	<b>C1</b> Driveways within a property shall have a minimum width of 3 metres.	Both driveways have a minimum width of 3 metres and are located at the front of the site.	Yes

Part	Control	Proposed	Complies
	<b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.	Each site will have one vehicular crossing off Bay Street.	Yes
<b>4A.4.8</b> Car Parking	<b>C1</b> Development must comply with Part 3A – Car Parking	The development provides two off-street parking spaces for each lot. Each dwelling will comprise of a single car garage within the building footprint and hard stand car parking space on the driveway at the front of the site.	Yes
	<b>C10</b> Garages, parking structures (carports and car spaces) and driveways are not to dominate the street. <b>Note:</b> Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.	The garages are not dominating the front setback with the expanse of garage door being 50% of the front elevation. The balconies on the first floor and the ground floor patio are forward of the garages which reduce the prominence of the garages. This is accepted by Council.	Acceptable
<b>4A.6</b> Ancillary development	<b>C1</b> The total gross floor area of ancillary structures must not exceed 60sqm.	There are no ancillary structures proposed.	N/A

#### Note 1- Solar Access

Shadow diagrams were provided with the development application and these were further amended with the amended architectural plans due to the increase in height of the dwelling (result of flooding).

At 9am June 21, the proposal will overshadow three windows along the eastern elevation and part of the rear yard at 151 Bay Street. The applicant has labelled these windows as bedrooms however the objections have confirmed that these are living areas.

At 12pm, the dwelling house at 151 Bay Street will received sunlight to these windows. Part of the existing garage (partially located on the boundary) and the pool cabana (located on boundary) will be overshadowed. However the neighbouring property will receive the minimum 2 hours by this time. The predominant impact at this time is to the subject rear yard which will continue to receive two hours to its private open space.

Prior to 1pm, the neighbouring property at 155 Bay Street will not be impacted by the proposed development. It will continue to receive the minimum 2 hours of sunlight to its living spaces and private open space in the morning as there is a single storey cottage to its east. At 3pm June 21, the proposal will overshadow the western elevation of 155 Bay Street and its rear yard in addition to half of the rear yard on the subject site.

The neighbouring rear property at 82 Banksia Street will be impacted by the proposed development between 2pm to 3pm June 21. The shadow diagrams at March/September 21 show that the property will not be impacted by the proposal. Therefore the amount of sunlight retained throughout the day is compliant with the two hours particularly as it will only impact on its private open space.

As the site is north-south orientated and the adjoining properties are not significantly impacted for more than 2 hours on their sites, the shadow impact is acceptable.

### ***Part 8 – Botany Character Precinct***

Part 8.4.2 Desired Future Character of the Botany Precinct has been considered in the assessment of the application. This section provides rationale for determining the appropriateness and descriptive strategic direction for development in Botany.

The site is located within the R2 Low Density Residential zone of the Botany Precinct between Daniel Street and Jasmine Street and directly opposite Booralee Park.

The proposal will surpass the established 3-4 metre front setbacks of dwellings to the east of the site however will still be forward of 145-151 Bay Street as a result of the elevated land and topography. The dwellings are considered to be consistent with two storey dwelling houses existing on the street and within the immediate area.

The desired future character relevant to the proposed new dwellings include:

- Encourage site layout and building styles and designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles;
- Encourage dwelling styles that maintain and complement existing development patterns;
- Maintain and enhance low density residential accommodation in the form of detached/attached dwellings with a maximum height of 2 storeys in the remainder of the precinct;
- Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character;
- Maintain roof forms to reflect the characteristics of the prevailing designs within the street.

Both dwellings have been designed to address the street, are not considered to have an excessive bulk and scale, accommodate a mixture of setbacks to break up the front, side and rear elevations and incorporate different materials that are consistent with the existing development along Bay Street and in the surrounding areas and with two storey dwellings in the area. The dwellings are compliant in height, setback, site coverage, have ample amount of landscaping and private open space and can cater for two parking spaces on each site. The proposal will not create any negative heritage impacts particularly as there are a number of heritage items on the southern side of Bay Street in the same block and the proposal will not impact on the heritage curtilage at 151 Bay Street.



Accordingly, the proposal is considered suitable for the subject site and is considered compatible with the desired future character as described in the Botany Bay Development Control Plan 2013 for the Botany 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 will have no significant adverse environmental, social or economic impacts in the locality.

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

The subject site is not known to be affected by any natural hazards or other site constraints that are 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 site is impacted by overland flow therefore the finished floor level of the ground floor is to be raised to meet Council's requirements. The application was referred to Councils Stormwater and Development Engineer who required the finished floor level of the ground floor to be raised to RL 7.00AHD. The applicant has since amended the plans to meet the required finished floor level.

Accordingly, it is considered that the site is suitable to accommodate the development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 20 July to 3 August 2016. Three (3) objections were received as part of the proposal. The issues raised in the objections are summarised as follows:

- *Proposal is not of an appropriate form or scale for the site;*

Comment: The development complies with the height, Floor Space Ratio and site coverage controls within Council's Botany Bay Local Environmental Plan and Botany Bay Development Control Plan 2013. The development is commensurate to a single freestanding two storey dwelling house which allows for a Floor Space Ratio of 0.55:1. While the dwellings surrounding the subject site are single storey in nature, the site adjoining the east of the subject site is a two storey freestanding dwelling house which height aligns with the proposal. There are a number of larger two storey dwelling houses/semi-detached dwellings on the street further to the west of the site which are not out of character with the street and proposal. The proposal also provides adequate rear setback for the site.

- *The proposal is not in keeping with the character of the surrounding residences and street character;*

Comment: As provided in the report above, the character of the area consists of single storey and two storey dwelling houses. There are a number of semi-detached

dwellings/cottages located to the east of the site which are heritage items and of older stock. In regards to the subdivision patterns, there is an evident pattern of smaller, more narrow allotments therefore the development will not set a precedent for the area nor will it detract from the low density residential area. The proposal has a front setback that is greater than the existing dwelling and a number of dwellings to the east to allow for a break in form so that it is not dominant. The proposal is a more contemporary addition to the street as a result of the materials used and the different forms of roofing provided, however it is not considered that the development is not in keeping with the character of the locality.

- *Two bedroom windows on the eastern dwelling will look directly into our backyard as the building will be built close to boundary fence without adequate room for landscaping;*

Comment: Windows along the side boundaries, particularly on the first floor have been amended so that they have a minimum sill height of 1.5 metres to prevent any overlooking into the neighbours yards. Windows along the rear elevations are located approximately 15.6 metres from the rear boundary therefore there is a good distance between the site and the rear neighbouring sites. The rear of the sites has more than 70sqm of landscaped area for each site including the planting of one tree.

- *The proposed development will reduce the afternoon sunlight to rear backyard;*

Comment: The shadow diagrams provided demonstrate that a small portion of the rear yard of one of the neighbouring properties will be impacted by the proposed development between 2pm to 3pm June 21. The shadow diagrams at March/September 21 show that the property will not be impacted by the proposal. Therefore the amount of sunlight retained throughout the day is compliant with the two hours. The neighbouring site has a north to south orientation with north being their rear yard. As the proposed development is not directly in front or obstructing the site, it is not expected that there will be significant overshadowing issues to this neighbour.

- *Proposed development shows complete disregard to the heritage listed weatherboard house adjoining the site which will be impacted significantly in terms of its heritage presence, privacy and overshadowing;*

Comment: A heritage assessment has been carried out in accordance with Part 3B of the Botany Bay Development Control Plan 2013 and is discussed in the report above. The heritage impact has been considered and is acceptable as per the discussion.

- *There is little justification in the demolition of the existing dwelling house as it is a representative of similar federation dwellings and pattern in the area;*

Comment: The house is not in a dilapidated condition and is an example of a federation dwelling however it is not a heritage item and is not in a heritage conservation area which requires dwellings to be protected and maintained. Therefore, the owner of the property does have the opportunity to demolish the structure should they wish and replace it with a low scale residential development.

- *The two storey presentation is inconsistent with the predominant single storey dwelling houses along the street. The garages have been built to the side boundary and are the dominant feature of the street elevation. Approximately 70% of the street elevation is garage doors which are unsympathetic with the street and heritage property next door;*

Comment: The dwellings are two storeys in nature. The street is predominantly single storey however there are examples of two storey developments at 1a Daniel Street, 137, 141, 143, 143A and 155 Bay Street. The dwellings at 145, 147, 149 and 151 Bay Street are single storey however due to the slope of the land are elevated to a height resembling a two storey house. The garages have been amended so that they are now setback 200mm from the side boundaries. The garage doors themselves take up 50% of the street elevation which is in accordance with the maximum prescribed by the Botany Bay Development Control Plan 2013.

- *Development is proposed on the boundary which is unacceptable particularly as the approved extension to the garage at 151 Bay Street was required to provide a 1 metre setback from the side boundary. Council is to require a similar setback for the proposed development. Furthermore, the front setback of the garage extension of 151 Bay Street was required to be setback 8.8 metres so that the curtilage of the heritage item will not be impacted. A building line past this will severely impact on the curtilage of the heritage item;*

Comment: The applicant has amended the plans so that there is a 200mm setback from the side boundaries in response to an objection. The application at 151 Bay Street was submitted with a 1 metre side setback to accommodate bin storage. The DCP states that Council will generally not permit a structure on the boundary for greater than 6 metres. Should the approved garage at 151 Bay Street have been on the boundary for a total length of 17 metres, the application would not have been supported due to amenity issues with the subject site. Amendments to the proposal of the development application at 151 Bay Street reduced the bulk of the garage by having an increased front setback of 8.8 metres, creating an increased curtilage for the site. The proposed development of 6-7 metre front setback is significantly greater than the existing dwelling which had a front setback of 3m-4m. The curtilage has not been reduced.

- *The proposed materials are unsympathetic to the predominant pattern of brick and weatherboard cottages. The tile party wall, concrete entry and alucobond panels are commonly found in commercial developments;*

Comment: The majority of the development is constructed in materials that are similar to materials used in surrounding developments. The DCP encourages a variety of materials, and the materials selected are considered to be appropriate within a residential area.

- *The colorbond roof is stated to 'echo the roof of the heritage dwelling' however the roof is stepped back from the front building line and is proportionally shallow pitched therefore not visible from the street and park, therefore the dominant street elevation is that of a flat roof;*

Comment: Due to the curtilage of the heritage item, the proposed dwelling will be most visible from its western side elevation. The proposed changes in roof with hipped, to resemble the roof style of the heritage item, and flat, to reduce the bulk of the development, is acceptable. The roof forms will be visible and will not dominate the streetscape particularly as they are not substantially higher than the neighbouring properties.

- *The proposed development compromises the amenity of the neighbouring properties. No shadow diagrams have been provided with notification however the bulk and scale will contribute to overshadowing onto the living areas on the heritage item;*

Comment: Shadow diagrams are not provided in the notification package to neighbours however were available for viewing at Council. As addressed above, the shadow diagrams provided to overshadow the western neighbour in the morning and the eastern neighbour in the afternoon June 21. The sites are orientated north to south therefore the proposed development will not completely overshadow any neighbour for the full day. Overshadowing is addressed in Part 4A.4.3 of the Botany Bay Development Control Plan 2013.

- *Prior to the lodgement of the subject application, the site removed a number of large trees within the rear yard of the site and in the opinion of the objector, was done so that there was no issues surrounding tree removal with Council. Objection unsure if Council approved this tree removal or owner did it to facilitate his proposed plans;*

Comment: Council has imposed a condition in the consent requiring the planting of trees within the front and rear setbacks of both properties.

- *The proposed development is too large and consumes more of the site than is appropriate for this area as the existing house is single storey. Squeezing two driveways and garages onto this narrow block will destroy the streetscape for 15 metres and require removal of further trees;*

Comment: The proposed development complies with site coverage and Floor Space Ratio which are the requirements that Council has established for the area and is permissible. Therefore the development is not considered an overdevelopment of the site. In terms of streetscape, the site currently has an existing vehicular crossing along its north-eastern side therefore the proposal will only be for one additional vehicular crossing. The street has many examples of either double garages or vehicular crossings which are found at 1a Daniel Street, 137, 141, 143, 143A and 155 Bay Street. As the site is located directly across from a park, the other side of Bay Street contains a large number of available car spaces on street that are available. There is an existing street tree at the front of the site which is not proposed for removal as part of the development application.

- *Concern about the development being built to the side boundary particularly as one side of the boundary contains no fence. Issues with access into neighbouring site is raised;*

Comment: The applicant has setback the garages by 200mm. Although not specified in the application, a boundary fence is likely to be installed particularly along the western side of the site to prevent access into either of the two properties.

- *The side and front setbacks of 151 Bay Street allow for outdoor private space to be utilised. The design of the proposed development does not take this into account and is totally inappropriate in this circumstance;*

Comment: Should construction of the approved extension to the garage be completed at 151 Bay Street, the side setback will not be utilised for private use. The proposed development has a front setback greater than the existing house, therefore will not impact on the front setback amenity at 151 Bay Street. The windows along the side elevations have been amended so that they do not directly look into the neighbouring properties. Also, the advantages of the proposal are that the development achieves a rear setback greater than the 4 metre minimum.

- *Windows along the side boundaries look into two bedrooms, two family living areas, pool area and outdoor areas on the neighbouring property. This poses substantial privacy issues;*

Comment: As stated above, the proposal has been amended so that windows along the side boundaries now have a minimum sill height of 1.5 metres. The windows looking directly into the rear yards of the subject sites are within Bedroom 4 (in each dwelling). As it is a bedroom and not a principal living space and there is not direct sightline to the side boundaries, these windows are acceptable.

- *The proposal removes a further two to three car spaces on the street with the establishment of two driveways and will result in further tree removal and degradation of the street. Noting that each dwelling has four bedrooms, the amount of car parking does not cater for the need;*

Comment: The proposal will potentially remove two spaces from the street however the development proposes one garage on each dwelling and one space along the driveway resulting in four off-street car parking spaces. The DCP controls require semi-detached dwelling houses to have one space per dwelling. The proposal complies in this regard however it is acknowledged that there is a loss of on-street car parking. The site has the benefit of having a park directly opposite therefore there is more opportunity for parking across the street than in a typical residential street.

- *There are a group of smaller plots that have thinner workers cottages on them to the east of the proposed property; it appears that the development is attempting to group itself into that 'group' when in fact it sits within the larger Californian bungalow and federation houses on the street. Also note the smaller terraces to the east are all single story from the front streetscape and their 2 storey element is both sympathetic and in keeping with their historical heritage;*

Comment: The developments to the east are smaller in nature however are still considered to be part of the pattern of development for subdivision and local character. The sites to the east are smaller and are considered to be separated by 151 Bay Street which is the largest site on the street (one dwelling over two lots measuring a total site area of 1,062.2sqm). The sites west of 151 Bay Street are greater than 450sqm in size. The development resembles development found at 155 Bay Street.

### **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 City of Botany Bay's Section 94 Development Contributions Plan 2016 became effective on 14 June 2016. The Plan applies to all development applications lodged before the commencement of this Plan, but not yet determined. The subject DA was lodged before the commencement of the Plan and is not yet determined and as such is applicable.

#### Contribution Rates

1 x New 4 Bedroom dwellings: \$21,981.87  
1 x New 4 Bedroom dwellings: \$21,981.87

Total Contribution: \$43,963.74

### Credit

Since there is an existing dwelling house on the existing lot, the applicant is entitled to a credit. The credit applies to the smaller of the new dwellings. The dwellings are the same size therefore a credit applies to one dwelling.

Credit applicable: \$21,981.87

Subtotal: \$43,963.74- \$21,981.87= \$21,981.87

As the total amount of each dwelling is over \$20,000.00, the section 94 contribution rate is capped at \$20,000.00

### Total contribution

The total Section 94 Contribution applicable to the proposed development is **\$20,000.00**. In accordance with the Plan, the contribution is to be paid prior to the release of the subdivision certificate.

## **Conclusion**

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Development Application No.16/105 for the demolition of the existing dwelling, construction of 2 x two storey semi-detached dwellings and subdivision of the allotment into two lots at 153 Bay Street, Botany, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The development is compliant in height, Floor Space Ratio, site coverage, landscaped area, private open space and car parking. The amenity of the subject development and the neighbouring development will not be adversely impacted by the development and continues to receive adequate sunlight and appropriate visual privacy. The development is not considered to be out of context in the area and in the street as it proposes similar street frontage widths and site areas of a number of sites to the east of the subject site. The subdivision pattern is acceptable as there are a number of semi-detached smaller lots along Bay Street. The inconsistency in lot sizes further benefits the site in its subdivision pattern. The development is not considered to impact on the adjoining heritage item at 151 Bay Street which has adequate setback between the proposed development and the heritage dwelling and will not impact on the heritage curtilage of the neighbouring site. Therefore, the proposal is recommended for approval, subject to conditions of consent in the attached Schedule.

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## Attachment

### Schedule 1 – Conditions of Consent

Premises: 153 Bay Street, Botany

DA No: 16/105

#### 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°	Author	Dated Received
Floor Plans and Roof Plans	George Katsilis Architect	Dated August 2016; Received 8 August 2016
Site Plan, Elevations and Section		Dated August 2016; Received 8 August 2016
External Materials and Colour Schedule		Received 8 August 2016
Sediment and Erosion Control Plan		Received 5 July 2016
Landscape Planting Plan	Michael Siu Landscape Architect	Dated 21 June 2016; Received 5 July 2016
Demolition Plan	John Lowe and Associates Pty Ltd	Received 5 July 2016

Documents	Author	Date Received
Statement of Environmental Effects	GPL Planning	Received 5 July 2016
BASIX Certificate Nos. 73428S_02 and 734276S_02	Prepared by George Katsilis	Dated 8 June 2016; Received 5 July 2016
Design Excellence Statement	George Katsilis	Dated 30 June 2016; Received 5 July 2016
Site Waste Management Plan	Dennis Borg	Received 5 July 2016
Soil Absorption Assessment	Rafeletos Zanuttini Pty Ltd	Dated 27 June 2016; Received 5 July 2016

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in Lot 11 Sec G DP 1787 and, 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 Certificates (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- 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 persons intention to commence the erection of the building.

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

- 6. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.
- 7. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92.
  - a) Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design.
  - b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
- 8. Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.

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

- 9. Prior to the issue of a Construction Certificate, the subdivision is to be registered.
- 10. 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.
- 11. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
  - a) Builders Security Deposit \$13,400.00 (Condition No. 14)
  - b) Development Control \$1,260.00
  - c) Section 94 Contributions \$20,000.00 (Condition No. 12)

12. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.
13. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
14. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$13,400.00 (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.
15. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, 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 will result in the applicant 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.
16. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall 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 and E-07. As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of each new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.
17. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal 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.
18. 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 but not limited to:
  - a) Provisions made in the Stormwater Management Plans by Rafeletos Zanuttini dated 30 June 2016.

19. All plumbing stacks, vent pipes 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. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
20. The Applicant is to submit payment for a Tree Preservation Bond of \$750.00 to ensure protection of the Council street tree from damage during construction. The duration of the Bond shall be limited to a period of 6 months after issue of the Occupation Certificate. At the completion of the 6 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
21. 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 Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of *AS2021 – 2000* shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
  - b) Detailed roof and ceiling construction,
  - c) Wall and ceiling corner details and,
  - d) External door specification,
  - e) Acoustically treated mechanical ventilation.
22. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not limited to:
- a) The floor level of the habitable areas of the building shall be at least RL 7.00 AHD.

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

23. 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: -
    - 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.
24. 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.
25. 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.
26. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
27. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
28. 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.
29. Erosion and sediment control devices shall be installed 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 Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device 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.

30. 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 construct vehicular crossings, footpath, kerb and gutter over road reserve
  - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
  - f) Permit to place skip/waste bin on footpath and/or nature strip
  - g) Permit to use any part of Council's road reserve or other Council lands
31. In order to ensure that the Callistemon street tree in Bay Street and the Magnolia tree in rear setback beside the eastern boundary are protected during construction, and their health and structural stability ensured, the following is required:
- a) Prior to commencing demolition the trees are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete. Fencing shall be erected to ensure the public footway is unobstructed;
  - b) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work;
  - c) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

### **DURING WORKS**

32. 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.
33. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
34. 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.
35. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall 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) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
  - n) Sewer – common sewerage system ad08.
36. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, 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.
37. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
  - b) Occupational Health and Safety Regulation 2001;
  - c) Protection Of the Environment Operations Act 1997 (NSW); and
  - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
38. Any material containing asbestos found on site during the demolition process the 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 10m2 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.
  - e) No demolition materials shall be burnt or buried on the site.
39. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure.

- b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings
- 40. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
- 41. No demolition materials shall be burnt or buried on the site.
- 42.
  - 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.
- 43. Should the demolition 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 Councils road reserve must also have prior approval of Council.
- 44. 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.
- 45. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 46. 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.
- 47.
  - a) 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;
  - b) 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.

- c) 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:
  - i) Protect and support the adjoining premises from possible damage from the excavation, and
  - ii) Where necessary, underpin the adjoining premises to prevent any such damage.

48. 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 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:

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.

49. 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.

50.

- 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.
51. 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 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.
52. 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.
53. 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.

54. In order to ensure that the Callistemon street tree in Bay Street and the Magnolia tree in rear setback beside the eastern boundary are protected during construction, and their health and structural stability ensured, the following is required:

- a) All TPZ's are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
- b) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- c) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection so as not to unduly impact or stress the tree.
- d) Ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any street tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application.
- e) Excavation for the western crossover shall be undertaken manually. If major roots are encountered Council's Tree Officer is required to inspect and provide advice. A raft slab may be required.
- f) Any masonry boundary fencing/walls or retaining walls shall be of pierced or bridged construction to minimise damage to major or structural street tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- g) There shall be no trenching for new subsurface utilities or the location of new overhead services within the primary root zone or canopy of any street tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- h) The Applicant shall undertake any tree maintenance/remedial pruning as required by at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

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

55. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
56. 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 required 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).
57. Prior to the issue of an Occupation Certificate, 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 accepted practice.
58. 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.
59. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Bay Street, adjacent to development, reconstruct the existing footpath for the full length of the proposed new properties in accordance with Council Infrastructure Specifications; and
  - b) On Bay Street, adjacent to development, reconstruct the existing kerb and gutter for the full length of the proposed new properties in accordance with Council Infrastructure Specifications.
60. 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.
61. Prior to the issue of the Occupation Certificate, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention system, in relation to the building footprint, shall be shown on a scale sketch and attached as an annexure to the plans/ forms.
62. Prior to the issue of any Occupation Certificate(s), 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 Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.

63. Prior to the issue of Occupation Certificate, maintenance schedule of the on-site detention system shall be prepared by a qualified engineer and included in the Positive Covenant of the 88B Instrument, as a cross-reference or appendix.
64. The Council nature strip in Bay Street 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.
65. 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 FOR THE ONGOING USE**

66. 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.
67. The buildings are not be used as a boarding house.
68. The building is approved as a single dwelling on each site for use and occupation by a single family. 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.
69. 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.
70. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
71.
  - 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) Noise from any air-conditioning units (measured as the  $L_{aeq}$  15 minute) is not to exceed the background level (measured as the  $L_{a90}$  15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).



Note: In order to meet this condition, the compressors and any other noise generating part of the air conditioning unit, are to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

72. 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. 16/105 dated as 5 July 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

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## Council Meeting

**9/11/2016**

Item No	9.3
Property	<b>16A Vernon Avenue, Eastlakes</b>
Proposal	Section 82A Application review of determination No. 15/231 for the construction of a secondary dwelling attached to the northern side of the existing dwelling.
Cost of Development	\$55,000.00 (Original DA)
Report by	Angela Lazaridis, Senior Development Assessment Planner
Application No	(B) DA-2015/231, (R) SF16/1003

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## Officer Recommendation

That the determination of Development Application DA-2015/231 for the construction of a secondary dwelling attached to the northern side of the existing dwelling at 16A Vernon Avenue, Eastlakes, be reviewed pursuant to section 82A of the Environmental Planning & Assessment Act 1979 and that the determination be changed from refusal to APPROVAL, subject to the conditions of consent in the attached Schedule.

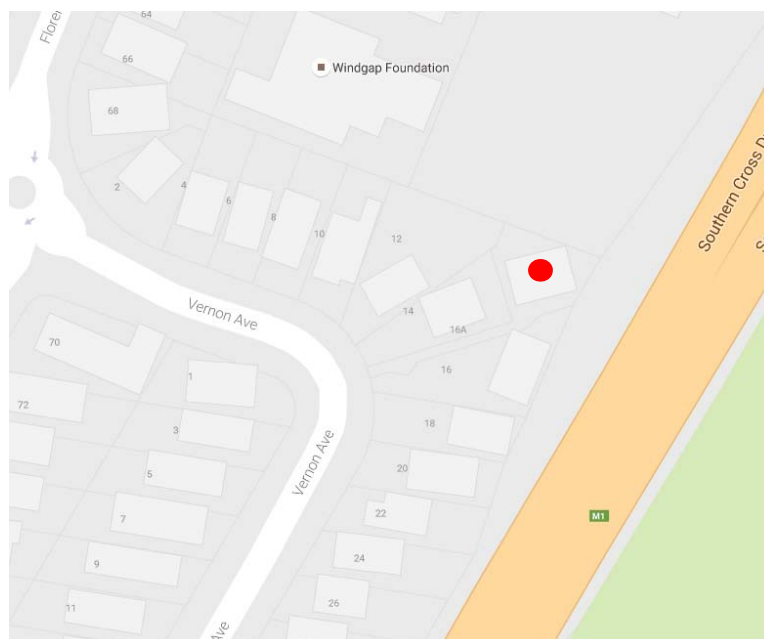
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## Attachments

Planning Assessment Report

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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	Section 82A review of refusal of DA-15/231
<b>Date of Receipt:</b>	24 August 2016
<b>Property:</b>	16A Vernon Avenue, Eastlakes Lot 202 on DP 815306
<b>Owner:</b>	Nadir and Belqis Ahmadi
<b>Applicant:</b>	Nadir Ahmadi
<b>Proposal:</b>	Section 82A Application review of determination of DA-15/231 for the of a secondary dwelling attached to the northern side of the existing (
<b>Recommendation:</b>	Approval
<b>Value:</b>	\$55,000.00
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	12 October 2016

### Key Issues

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Development Application No. DA-2015/231 for the construction of a secondary dwelling attached to the northern side of the existing dwelling at 16A Vernon Avenue Eastlakes was refused by the former City of Botany Bay Council at the Development Committee meeting on 18 May 2016.

The former City of Botany Bay received the subject Section 82A Review of Determination of this decision on 24 August 2016.

The application was placed on public exhibition for a fourteen (14) day period from 12 October to 26 October 2016. No objections were received.

Following the refusal of DA-15/231, the applicant made design amendments to the proposal including increasing the setbacks of the dwelling from 900mm to 1.3m and 1.5m, reconfiguration of the dwelling to remove one bedroom to create a larger living area, changed the roof pitch from skillion to pitched roof therefore increasing the overall height of the secondary dwelling from 4.1m to 4.5m, made provision for a door opening to allow direct access from the internal living area to a private courtyard; and increased the provision of landscaped area from 20% to 36% to comply with Council's minimum landscaped area control. The amended proposal satisfies two of the three reasons for refusal with the third reason relating to the constraint of the battle-axe subdivision. As the proposal now complies within Council's controls within the Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 as well as the controls within the State Environmental

Planning Policy (Affordable Rental Housing) 2009, the proposal is considered to be satisfactory.

The application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and it is recommended that Council resolve to change the previous refusal issued on 18 May 2016 to an approval.

## Recommendation

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That the determination be changed from refusal to approval pursuant to section 82A of the Environmental Planning & Assessment Act 1979 and subject to the conditions of consent attached to this report.

## Background

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### History

DA-2014/137 was for a similar proposal (single storey two bedroom secondary dwelling attached to the northern side of the existing dwelling) and was considered at the Council meeting on 4 February 2015. The DA was determined by way of refusal. The reasons of refusal are outlined below:

1. *The proposed development is not in the public interest and as it is considered unsuitable for the site as the layout of the proposed secondary dwelling provides poor residential amenity to the existing dwelling and the proposed development provides inadequate setbacks and landscaping as the proposed development is located on a battle-axe allotment. (Environmental Planning and Assessment Act 1979 Section 79C(1)(c)).*
2. *The proposed development fails to meet the objectives and provisions of the Botany Bay Development Controls Plan 2013, in relation to Part 3J – Aircraft Noise and OLS (C2). (Environmental Planning and Assessment Act 1979 Section 79C (1)(a)(iii)).*
3. *The number of kitchens proposed for use of a habitual nature is unacceptable.*

On 5 August 2015, the applicant lodged an application for a s82A request to review the determination.

However, the application for a s82A review was withdrawn on 1 December 2015, as the application was lodged 19 days before the 6 month period ended, which did not allow sufficient time to conduct the review.

On 1 December 2015, the applicant lodged a fresh Development Application No. DA-2015/231 which was considered at the Council meeting on 18 May 2016. The reasons of refusal raised within DA-2014/137 are outlined below with comment on how these matters had been addressed in Development Application No. DA-2015/231:

### Reasons for refusal:

- 1 *The proposed development is not in the public interest and as it is considered unsuitable for the site as the layout of the proposed secondary dwelling provides poor residential amenity to the existing dwelling and the proposed development provides inadequate*

*setbacks and landscaping as the proposed development is located on a battle-axe allotment.*

**Comment:** The proposed development will have no significant adverse impact on the public interest.

#### Amenity

The residential amenity of the existing dwelling will not be adversely impacted by the approval and construction of the proposed secondary dwelling.

The existing site is completely covered in concrete. The area on the north-western side of the dwelling is vacant and unused and is in a location relative to the existing dwelling that it is unlikely to be used as POS, and would therefore remain unutilised. This is due to the fact that the area to the east is treated as the rear yard and is accessed via the ground level of the principal dwelling. The secondary dwelling would make adequate use of this area and provide for the residential needs within a low density environment.

The location of the secondary dwelling on the northern side of the existing dwelling means the bedrooms receive solar access from mid-morning to afternoon as the sun moves across their northern façade. The kitchen and adjoining living room receive afternoon sun, having a western orientation.

#### Setbacks

The setbacks provided are acceptable given the unique orientation of the allotment. The plans (as amended) provide an increased setback from the common boundary with No. 14 Vernon Avenue, thereby bringing the secondary dwelling into line with the existing building line of the principal dwelling. As a result, the setback to the adjoining neighbour at No. 14 Vernon Avenue is also increased and in line with the existing setback to this neighbour. As discussed further in the report, the shadow diagrams indicate that the secondary dwelling will cast a shadow over the north-eastern part of the rear yard of No. 14 Vernon Avenue from 9am – 10am. At 11am the shadow covers a small portion of the greenhouse in the rear yard and by 12pm (midday) there is no overshadowing of No. 14 Vernon Avenue, with the shadows falling across the rear yard of No. 16 Vernon Avenue to the south-east (existing overshadowing from the dwelling). As such, the usable part of the rear yard of No. 14 Vernon Avenue has relatively unrestricted solar access from 11am onwards and the entire rear yard has unrestricted solar access from 12pm onwards.

#### Landscaping

The approval of the secondary dwelling will provide the opportunity to convert 86.2sqm of the concreted area on the subject site into deep soil landscaping. This will significantly improve the amenity on the site for the secondary dwelling and principal dwelling, and provide additional screening to No. 12 Vernon Avenue and the Eastlakes Public School.

The plans (as amended) provides a 22sqm increase in landscaped area to what was previously proposed under DA-14(137) by increased landscaping along the northern boundary and additional landscaping at the rear of the principal dwelling.

In total, the site will increase landscaping on the existing site from 1% to 19.6%.

- 2 *The proposed development fails to meet the objectives and provisions of the Botany Bay Development Control Plan 2013, in relation to Part 3J – Aircraft Noise and OLS (C2).*

**Comment:** The original development application was accompanied by a Noise Intrusion Assessment, prepared by Acoustic Logic. The assessment concluded that the

development would be constructed to comply with AS2021-2000 and in accordance with Part 3J Aircraft Noise & OLS in Botany Bay Development Control Plan 2013.

This application has been submitted with an updated Noise Intrusion Assessment, prepared by Acoustic Logic. The site is located within the 20-25 ANEF contour where, by Part 3J.2, Control C2 states that 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 of AS2021:2000. Further, the General Objectives of Part 3J are relevant to Council in preparing a Development Control Plan relating to Operations at Sydney Airport. The General Objectives are not intended to be met by the applicant. Part 3J.2 is applicable to the proposed development. Objective 1 of Part 3J.2 (Aircraft Noise Exposure Forecast) states: *To provide a discretionary approach by Council in the assessment of proposed development within localities affected by aircraft noise*. It is considered that based on the information provided to Council, the proposed development can comply with the required noise attenuation as required under AS2021-2000 and Part 3J of the Botany Bay Development Control Plan 2013. As such, the proposed development meets Objective O1 of Part 3J.2. Part 3J.3 and 3J.4 are not applicable.

The report concludes that *"Aircraft noise intrusion from aircraft movements at Kingsford Smith (Sydney) Airport have been assessed to comply with the provisions of Part 3J of the Botany Bay Development Control Plan 2013 and AS2021:2000 – Aircraft Noise Intrusion – Building Siting and Construction. Provided that the treatments set out in Section 4.2 of this report are employed, external noise impacts on tenants occupying the development will comply with relevant acoustic criteria applicable at the site."*

The assessment within the Noise Intrusion Assessment is satisfactory and a condition has been recommended that the development be constructed in accordance with the recommendations of this report. This is a standard condition applied to development applications seeking development of a residential nature within the 20-25 ANEF contour.

- 3 *The number of kitchens proposed for use of a habitable nature is unacceptable.*

**Comment:** At ground floor of the principal dwelling, the cook-top has been removed and the double bowl sink converted into a single-bowl sink as part of Development Application DA- 158/231. These changes are not considered satisfactory therefore a condition has been recommended in the consent to delete the bar/kitchen area from the ground floor of the dwelling house.

The plans provided with Development Application 15/231 are provided below:

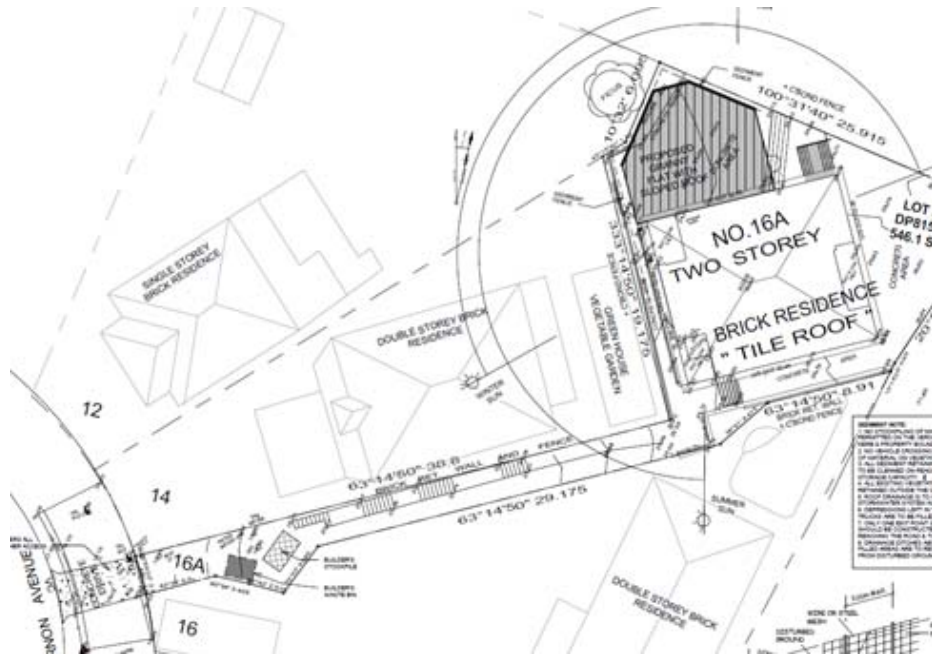


Figure 1: Proposed secondary dwelling refused by Council

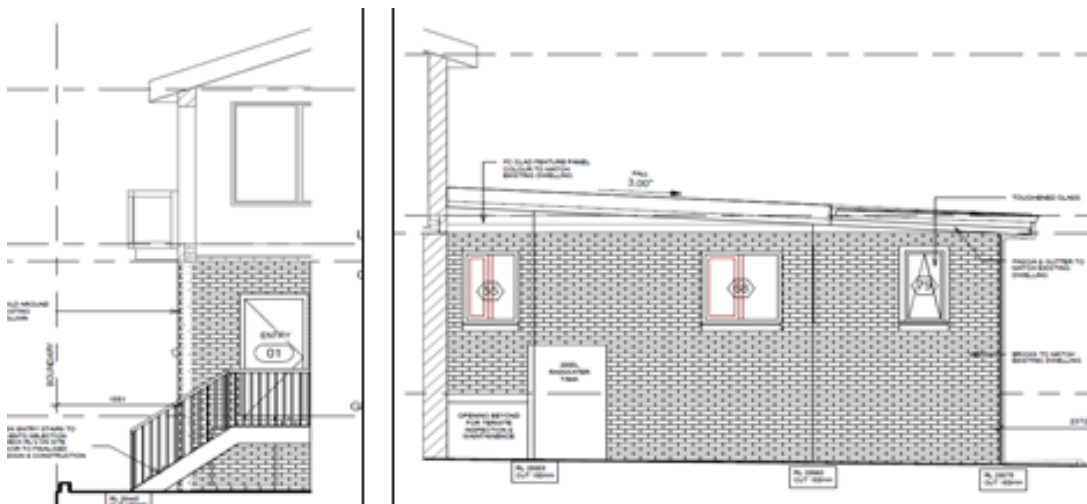


Figure 2: South elevation/entry (left) and east elevation/rear (right) refused by Council



Figure 3: North elevation refused by Council





**Figure 4: West elevation refused by Council**

Although recommended for approval, the development application was determined by way of refusal. The reasons of refusal were as follows:

1. *The site is a battle-axe lot and this is a constraint to the development. (Environmental Planning and Assessment Act 1979 section 79C(1)(e).*
2. *The proposed development provides inadequate setbacks and landscaped area in quantitative terms and does not comply with the Botany Bay DCP 2013 (Environmental Planning and Assessment Act 1979 section 79C(1)(b)).*
3. *The proposed development provides inadequate landscaped area in qualitative terms as it is located around the perimeter of the site and is not useable or practical; and does not comply with the Botany Bay DCP 2013 (Environmental Planning and Assessment Act 1979 section 79C(1)(b)).*

The subject Section 82A Review of Determination was lodged on 24 August 2016 and provides changes to the proposal which are considered below in the report. Below outlines the reasons of refusal from DA-15/231 and how the applicant has addressed these reasons of refusal:

- 1 *The site is a battle-axe lot and this is a constraint to the development.*

**Supporting information from the applicant:**

*"The site requirements for secondary dwellings in ARH SEPP include battle-axe lots as follows.*

*Part 2 Lot requirements states:*

- (1) Development for the purposes of a secondary dwelling may only be carried out on a lot that:*
  - (a) at the completion of the development will have only one principal dwelling and one secondary dwelling, and*
  - (b) if it is not a **battle-axe lot**, has a boundary with a primary road, measured at the building line, of at least the following:*
    - (i) 12 metres, if the lot has an area of at least 450 square metres but not more than 900 square metres,*
    - (ii) 15 metres, if the lot has an area of more than 900 square metres but not more than 1500 square metres,*

- (iii) 18 metres, if the lot has an area of more than 1500 square metres, and
  - (c) if it is a **battle-axe lot**, has an access laneway of at least 3 metres in width and measuring at least 12 metres by 12 metres, excluding the access laneway.
- (2) A lot on which a new secondary dwelling is erected must have lawful access to a public road.

The reason for refusal is invalid because a battle-axe lot is not an impediment to the development of the site for a secondary dwelling under the State Environmental Planning Policy (Affordable Rental Housing). The proposal satisfies the requirements for battle-axe lots under the State Environmental Planning Policy (Affordable Rental Housing) 2009. The reason for refusal includes a reference to Section 79C(1)(e) which relates to Public Interest.

Council's determination is at odds with the Council officer's report which states that the granting of approval would have no significant adverse impact on the public interest (refer to page 50 of the Council assessment officer's report).

The proposal is in the public interest because it:

- provides housing to meet the needs of the community in a low density environment, which is consistent with the relevant objective of the 2(a) Residential zone in Botany Bay Local Environmental Plan 2013;
- complies with the key planning controls in terms of building height and Floor Space Ratio in Botany Bay Local Environmental Plan 2013;
- does not result in any unreasonable amenity impacts to the adjoining properties;
- adds to the stock of housing accommodation available in Eastlakes; and
- provides an alternative affordable housing option."

**Comment:** Noted.

- 2 The proposed development provides inadequate setbacks and landscaped area in quantitative terms and does not comply with the Botany Bay DCP 2013

#### Supporting information from the applicant:

"Part 4A section 2.8 of Botany Bay Development Control Plan 2013 establishes the setbacks controls applicable to residential development. The proposal complies with these controls as shown in **Table 2** below.

**Table 2 - Setbacks**

Boundary	Setback Control	Proposed	Complies
Front	Maintain existing or minimum 6m	There is no front as it is a battle-axe lot	N/A
Side	900mm up to two floors	- 1.5m ( to the north - Eastlakes Public School) - 1.3 m ( to the northwest - 14 Vernon Avenue)	Yes
Rear	4m	7.5 m (RMS easement)	Yes
Eaves	Min. 450 mm	Min.450mm	Yes

Part 4A section 2.9 of Botany Bay Development Control Plan 2013 establishes the landscaped area control applicable to residential development. Part 3E Section 2.2 excludes the access handle when calculating the site area as follows:

*"C12 Any proposed battle-axe allotment without a frontage to the street must have a minimum site area of 450m<sup>2</sup> and width of 12 metres.*

*Note: Battle-axe lots which are serviced via an access corridor are considered to be allotments without a frontage to the street. **Where the access corridor is less than 8m wide, it shall not be included in the calculation of the minimum allotment area for either lot (our emphasis).**"*

*The site has an area of 438sqm excluding the access handle. A minimum landscape area of 35 per cent therefore applies to the proposal under Botany Bay Development Control Plan 2013.*

*The proposal provides 157sqm or 36 per cent of landscaped area, which complies with the minimum landscaped area control.*

*The existing site is largely devoid of any landscape area, except for the access handle, which equates to no more than one per cent of the total site area. The increase in landscape area will be achieved by removing the hardstand area around the existing dwelling house.*

*This would improve the environmental performance by:*

- increasing natural rainwater filtration and reducing the impact of stormwater on Council's drainage infrastructure; and*
- providing the opportunity for planting of trees and shrubs to improve the visual amenity of the site.*

*The proposal would result in a significant improvement compared to the existing situation in terms of landscaped area. It is recommended that a detailed Landscape Plan is provided to the Certifying Authority, prior to issue of an occupation certificate.*

*Refer to Drawing SK502 Issue 4 dated 21 August 2016 accompanying the Section 82A application."*

**Comment:**

The development does comply with the setbacks required under the Botany Bay Development Control Plan 2013. In relation to the comment regarding to the width of the access corridor, the reference quoted above is in relation to controls on battle-axe in relation to new subdivision, it is not relevant to landscaped area. Additionally, the Council Officer's assessment report for the development application indicated that the applicable landscape area provision was 19.6% and reference was as made to the standard should the battle-axe handle be excluded.

- 3 *The proposed development provides inadequate landscaped area in qualitative terms as it is located around the perimeter of the site and is not useable or practical; and does not comply with the Botany Bay DCP 2013*

**Supporting information from the applicant:**

*"The landscaped area is consistent with the established pattern of low density residential development in the Botany LGA, which is characterised by dwellings with landscaped setbacks at the perimeter of the site (i.e. landscaped zones between the building and the boundary).*

*The proposed secondary dwelling would have a landscaped private courtyard of 15sqm accessible from the internal living area. The ground floor of the secondary dwelling will be elevated above ground level by approximately 1.4 m and a landing with six steps would facilitate direct access to the private courtyard from the internal living area. The courtyard would be suitably proportioned to enable an outdoor table and chairs and passive recreation*

*activities such as reading, sunbaking or gardening. It would also receive a minimum of 3 hours direct sunlight at the winter solstice providing good amenity for the future occupants.*

*The hardstand area at the rear of the existing dwelling would be replaced by a landscaped rear yard directly accessible from the ground floor internal living areas of the dwelling. The rear yard would be suitably proportioned to enable a range of active and passive recreation activities for the occupants. It would also receive a minimum of 3 hours direct sunlight at the winter solstice providing good amenity for the future occupants. Refer to Drawing SK502 Issue 4 dated 21 August 2016 accompanying the Section 82A application."*

**Comment:**

The reason for refusal were based on the reliance on landscaped area and the reduced side setbacks, therefore it was not seen as being consistent with the intent of the Botany Bay Development Control Plan 2013. The subject proposal increases the amount of landscaped area across the site and the side setbacks.

An assessment of Council's key controls within the Botany Bay Local Environmental Plan and Botany Bay Development Control Plan 2013 has been provided in the report below.

**Description of the Proposed Development- Review Application**

The Section 82A Review of Determination of DA-15/231 proposes the following changes pursuant to Section 82A(4)(c) of the EP&A Act to the development that was refused by Council on 18 May 2016:

- Deletion of one bedroom resulting in an increased internal living area;
- Minor amendments to the external wall configuration to improve setbacks to the side boundaries from 900mm to 1.3 metres (to the northeast) and 1.5 metres (to the north);
- Change in roof pitch from skillion to pitched roof increasing the overall height from 4.1m to 4.5m;
- Provision of a door opening to allow direct access from the internal living area to a private courtyard; and
- Increase the provision of landscaped area from 20% to 36% to comply with Council's minimum landscaped area control.

The proposal is illustrated in Figures 5-9 below. Amendments to the original proposal have been annotated in Figure 7 and 9:

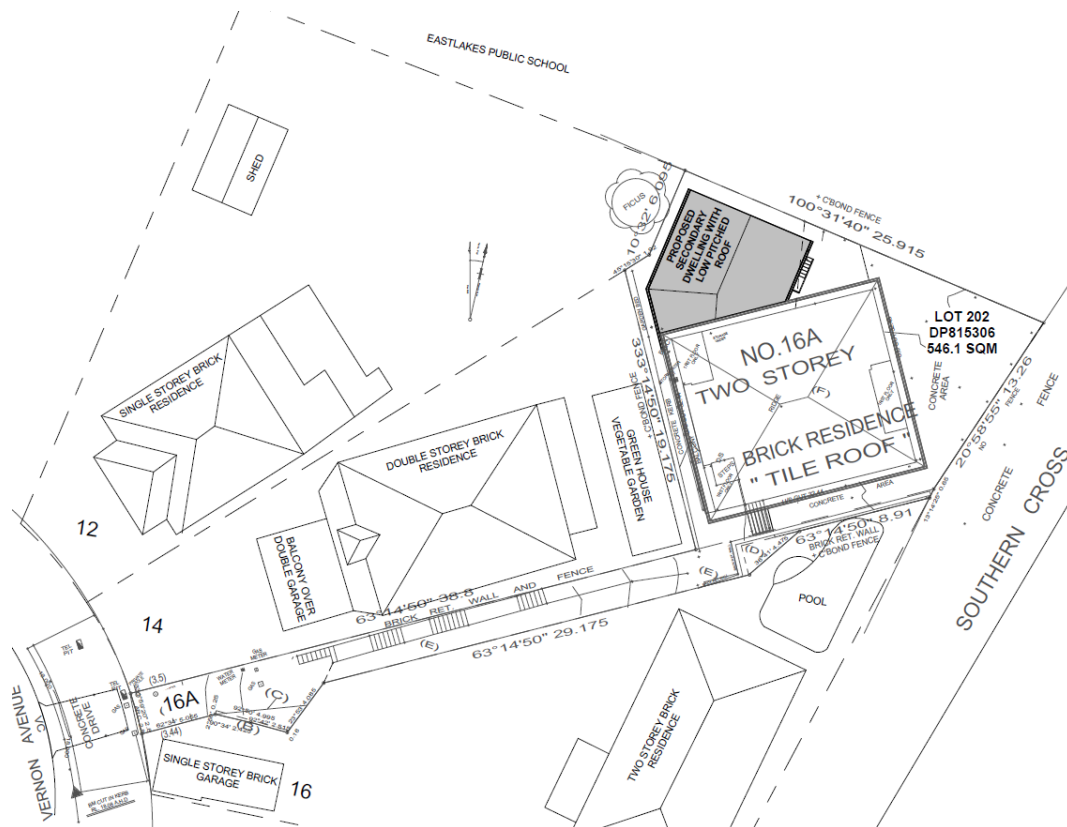


Figure 5. Proposed Site Plan

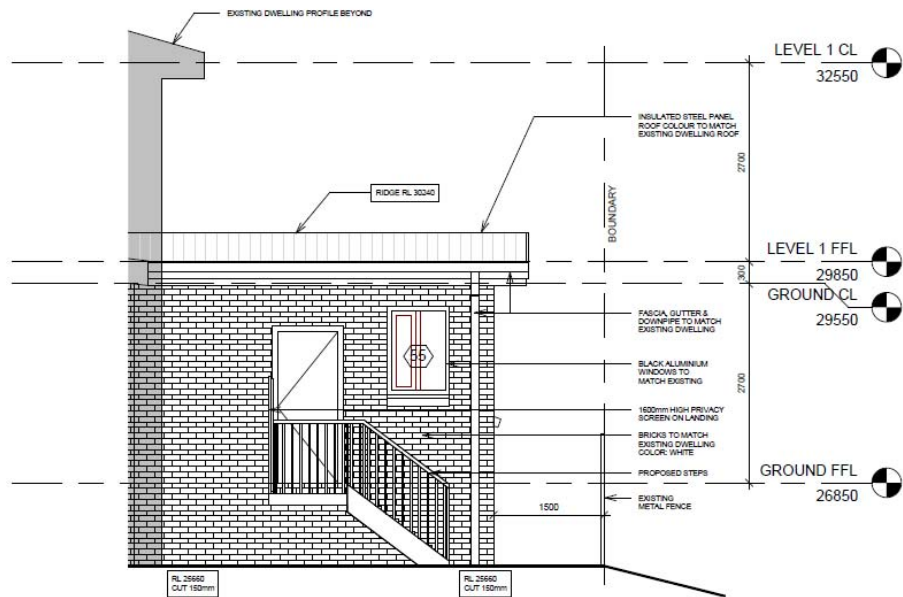
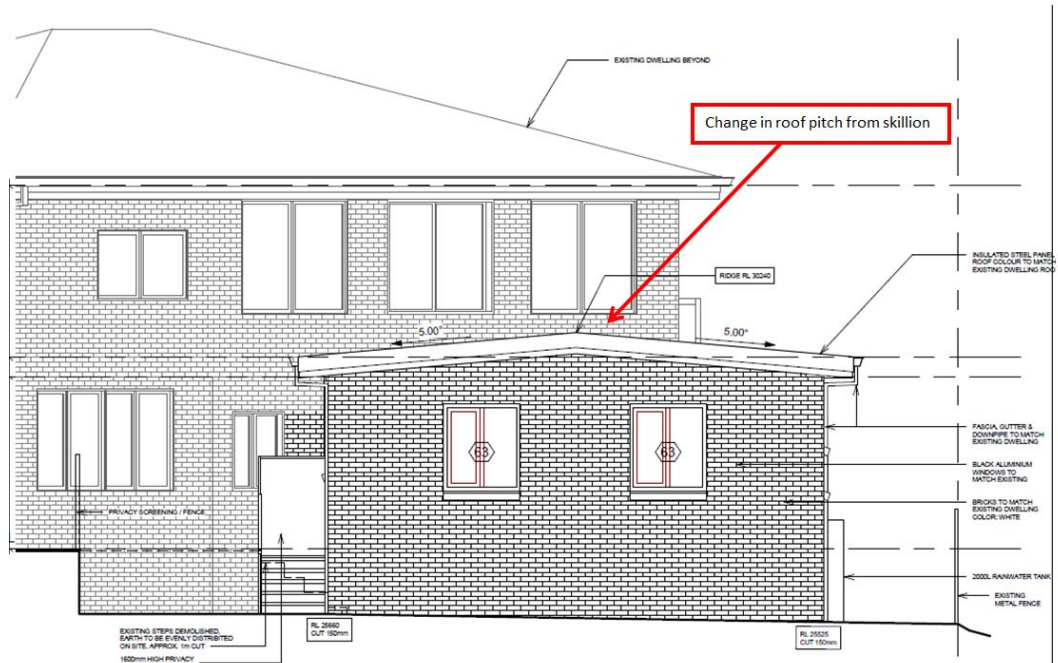
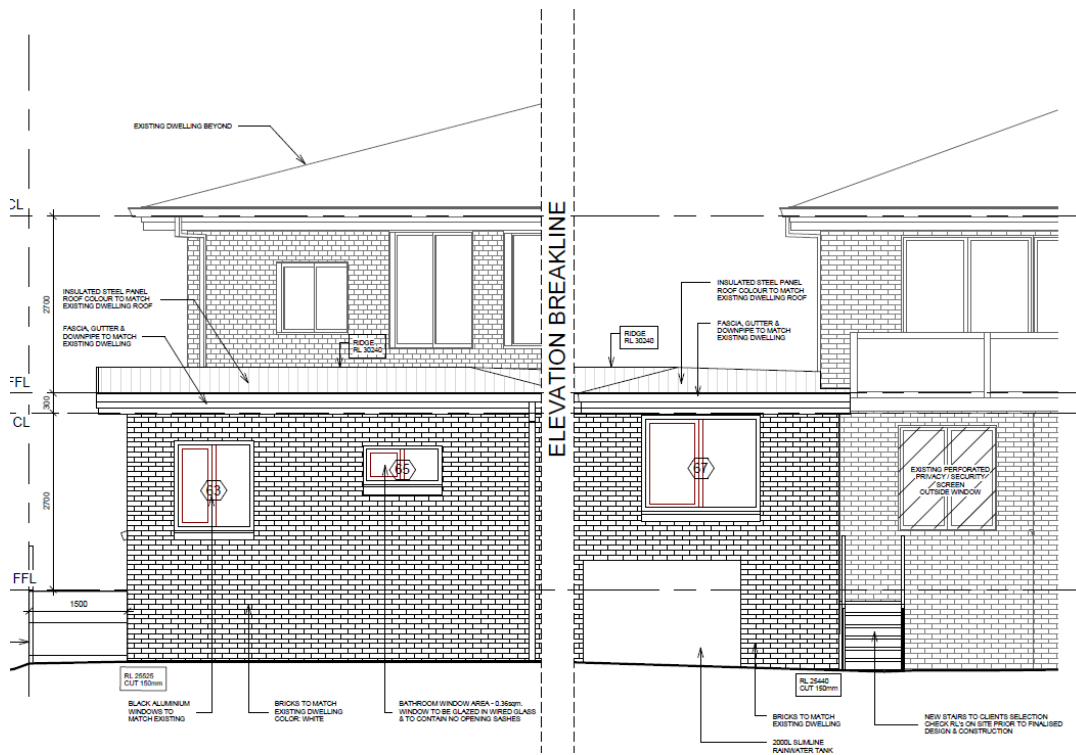


Figure 6. Proposed Eastern Elevation

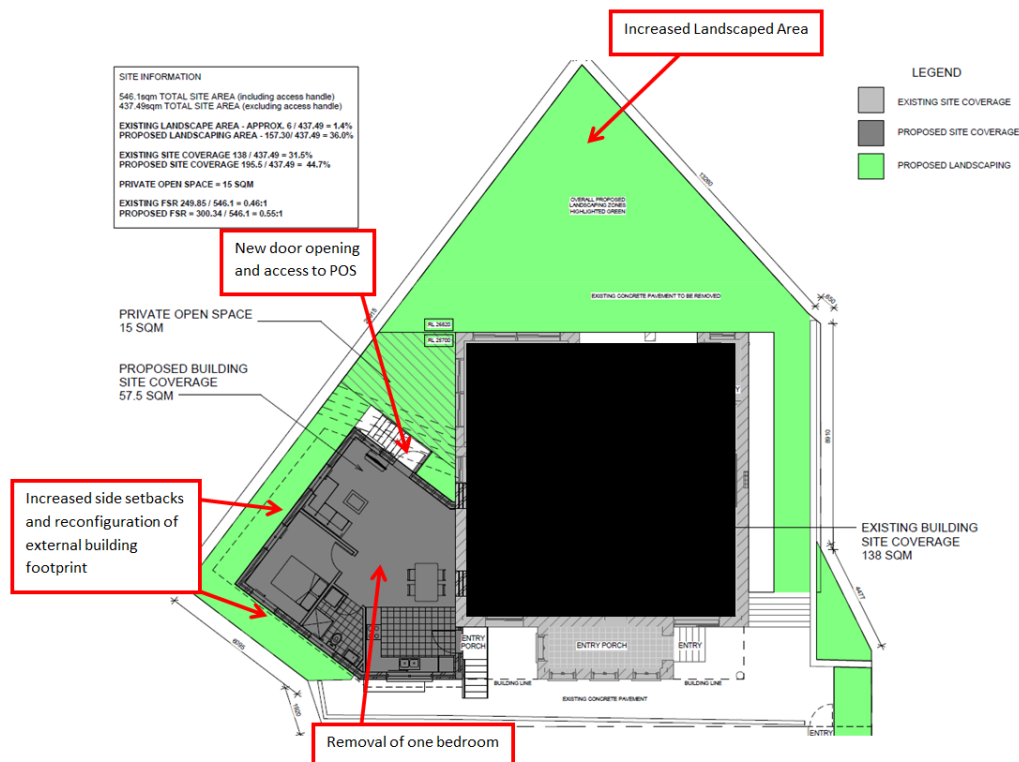


**Figure 7. Proposed Northern Elevation**



**Figure 8. Proposed Western Elevation**





**Figure 9. Amended plans demonstrating the changes from DA-15/231**

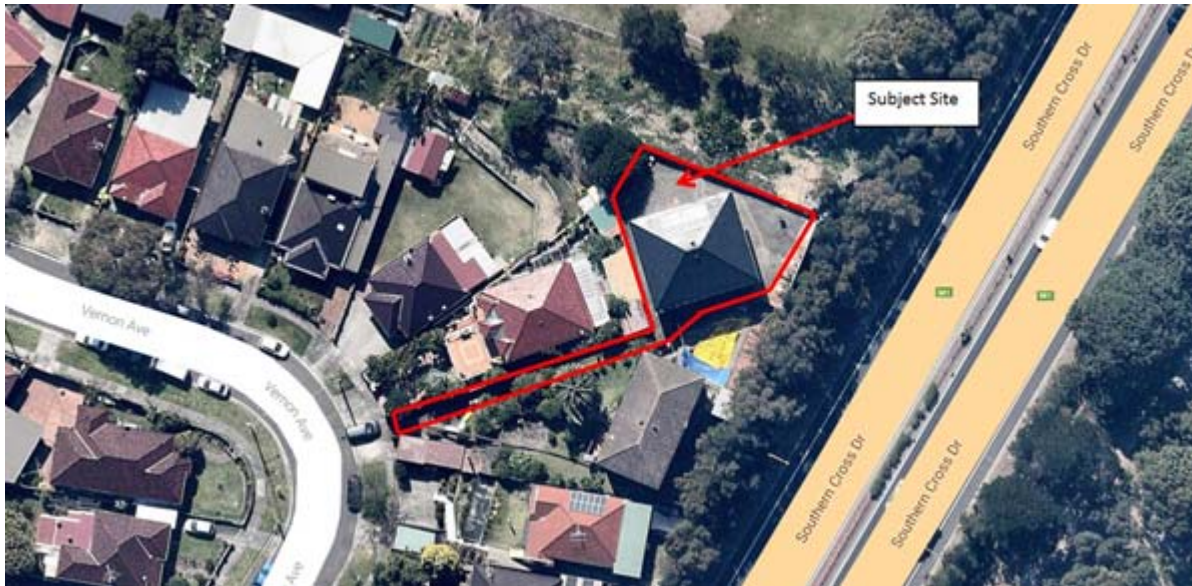
## Site Description

The subject site is located on the north-eastern corner of Vernon Avenue backing onto Southern Cross Drive. The subject site is a battle-axe allotment with an area of 546.1sqm and a 2.8m wide access handle (pedestrian access only) to Vernon Avenue. The area of the lot excluding the access handle is 438sqm. The subject site is an elevated lot and sits at RL 26m AHD, with Vernon Avenue sitting at RL 18m AHD. A 20% slope exists between Vernon Avenue and the subject site. The level difference between the ground level of the subject site and the rear yard of No. 14 Vernon Avenue is approximately 2m. The level difference is demonstrated in **Figure 12** below. The allotments to the south are also elevated but start to gradually step down towards the south.



**Figure 10. Locality Plan**





**Figure 11. Aerial Map of subject site**

The rear eastern boundary abuts Southern Cross Drive and has a length of 13.91m, and the northern side boundary abuts the Eastlakes Public School and has a length of 25.92m.

The site is located within the R2 Low Density Residential zone of Eastlakes and currently contains a two storey dwelling. The site is mostly sealed with a small pocket of garden bed located along the side boundary adjoining No. 12 Vernon Avenue to the front of the site and a strip of landscaped area along the access handle. Access to the dwelling is via a set of steps along the access handle from Vernon Avenue, and one car parking space is provided within the front of the access handle.

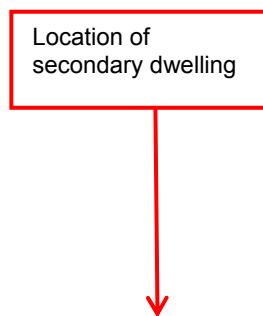
Development surrounding the site consists of a mix of single and two storey detached dwellings. To the immediate south-west is No. 14 Vernon Avenue which is a two-storey brick dwelling. Adjoining the site to the north-west (by a 6m common boundary) is No. 12 Vernon Avenue which is a single storey brick dwelling with a rear yard obscured from the subject site by an existing tree (refer to **Figure 14**). To the north is the Eastlakes Public School and Southern Cross Drive to the east. Adjoining the site to the south is No. 16 Vernon Avenue which is a 2 storey brick dwelling.



**Figure 12: Access handle containing the footpath leading up to the dwelling (left) and bottom of the access handle leading to the hardstand space (right)**



**Figure 13:** Adjoining neighbour at No. 14 Vernon Avenue: (left) view looking north-west across their rear boundary; and (right) view looking south-west towards their rear boundary.



**Figure 14:** (Left) Tree blocking the view to the rear yard of No. 12 Vernon Avenue; and (right) the playground of the northern adjoining Eastlakes Public School

## Referrals

Development Application No. DA-2015/231 was referred to Council's Development Engineer, Landscape Architect and Building Surveyor for comments. As there have not been major changes proposed, the original comments still apply. Therefore, appropriate conditions have been imposed on the development consent to address the relevant issues raised relating to stormwater, flood levels, landscaping, and aircraft noise and heritage impact.

## **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*.

### ***Section 82A Provisions***

Pursuant to Section 82A of the EP&A Act, an applicant may request that the Council review a determination of an application, subject to various tests, which are considered below:-

- If Council was the consent authority - in this case the Council was the consent authority.
- The determination was not for a complying development certificate, designated development, integrated development, or a determination made by the council under Division 4 in respect of an application by the Crown - in this case, the proposal was not for any of these types of development.
- A determination cannot be reviewed after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination - this timeframe is 6 months, with DA-2015/231 having been refused by the Council on 18 May 2016, resulting in this review application being made within the specified time frame.
- The applicant may make amendments to the development described in the original application, subject to the consent authority being satisfied that the development, as amended, is substantially the same development as the development described in the original application (s82A(4)(c)) – in this case, it is considered that the changes to increase the amount of landscaped area and setbacks, increase direct access from internal living area to POS and reduce the number of bedrooms within the secondary dwelling from two to one, results in the application as proposed in the Review Application, being substantially the same development as the original application.
- The council may review the determination if it has notified the request for review in accordance with the regulations, if the regulations so require, or a development control plan, (where applicable) and considered any submissions made concerning the request for review – in this case, the Review Application was notified in accordance with Botany Bay Development Control Plan 2013 with no submissions being received.
- As a consequence of its review, the council may confirm or change the determination – in this case, the recommendation to change the determination from refusal to approval.



- If the council reviews the determination, the review must be made by the council, the council must make the decision – in this case, the original DA was refused by the Development Committee and therefore this Review Application is referred to Council for a decision.

Accordingly, it is considered that a Section 82A review is available and is considered below.

## **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. 754215S dated 22 August 2016 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 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.

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

The provisions of Division 2 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 apply to secondary dwellings as follows in the table below.

<b>Applicable Clause</b>	<b>Provision</b>	<b>Proposed development</b>	<b>Complies</b>
Clause 19 – definition	<i>Secondary dwelling</i> means a self-contained dwelling that: a) Is established in conjunction with another	The application seeks Council consent for the construction of an attached secondary	Yes

Applicable Clause	Provision	Proposed development	Complies
	dwelling (the <i>principal dwelling</i> ), and b) Is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and c) Is located within, or is attached to, or is separate from, the principal dwelling.	dwelling to the northern side of the existing dwelling. The application does not propose any subdivision of the land.	
Clause 20 – Land to which Division applies	This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land.	The site is zoned R2 Low Density Residential in the Botany Bay Local Environmental Plan 2013.	Yes
Clause 22 – Development may be carried out with consent	(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposed development will result in a principal dwelling and secondary dwelling on the land and no other dwelling/s.	Yes
	(3)(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and	<p>The Floor Space Ratio including the existing dwelling on site and the proposed secondary dwelling is 0.55:1 as follows:</p> <ul style="list-style-type: none"> <li>Existing Dwelling (excluding outdoor storage room): 249.85sqm (0.46:1)</li> <li>Proposed Secondary Dwelling: 50.5sqm</li> <li>Total Gross Floor Area: 300.34sqm (0.55:1)</li> </ul> <p>The proposed Floor Space Ratio complies with the Botany Bay Local Environmental</p>	Yes

Applicable Clause	Provision	Proposed development	Complies
		Plan 2013 standard, which is 0.55:1.	
	(3)(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	The secondary dwelling is 50.5sqm which is less than the permitted maximum Gross Floor Area of 60sqm.	Yes
	(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) Site Area (i) the secondary dwelling is located within, or is attached to the principal dwelling, or (ii) the site area is at least 450 square metres. (b) Parking If no additional parking is to be provided on the site.	The secondary dwelling is attached to the principal dwelling. The site area is 546.1sqm.  The application does not propose any additional car parking for the secondary dwelling.	Yes  Yes
	(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4) of Clause 22.	The application complies with the standards set out in subclause (4) of Clause 22.	Yes
Clause 23 – Complying Development	Applies to secondary dwellings seeking approval under Complying Development	Complying development is not proposed.	N/A
Clause 24 - Subdivision	A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division	Subdivision is not proposed.	N/A

It is considered the proposal is compatible with the existing dwelling on the site and adjoining properties in relation to the bulk, scale and site coverage. These matters have been further addressed under the *Botany Bay Local Environmental Plan 2013*, and it is demonstrated that the building satisfies all relevant planning objectives as identified in the Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013.

### 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:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the objectives of the R2 zone which are:</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>
Does Schedule 1 – Additional Permitted Uses apply to the site?  If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the height of the building?  Does the height of the building comply with the maximum building height?	-  Yes	<p>A maximum height of 9 metres applies to the subject site.</p> <p>Secondary dwelling 4.5 metres.</p> <p>The maximum height of the dwellings complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>



Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p>Yes</p>	<p>The maximum Floor Space Ratio requirement is 0.55:1.</p> <ul style="list-style-type: none"> <li>Existing Dwelling: 249.85sqm (0.46:1)</li> <li>Proposed Secondary Dwelling: 50.5sqm</li> <li>Total Gross Floor Area: 300.34sqm (0.55:1)</li> </ul> <p>The Floor Space Ratio complies with the Floor Space Ratio Requirement within the Botany Bay Local Environmental Plan 2013.</p>
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	N/A	<p>The site is not located in the 'Area 3' zone.</p>
<p>Is the land affected by road widening?</p>	N/A	<p>The subject site is not affected by road widening.</p>
<p>Does the application propose any miscellaneous permissible uses on site?</p>	Yes	<p>The Clause 5.4(9) states that secondary dwellings permitted under the Botany Bay Local Environmental Plan 2013 must not exceed 60sqm in floor area or 20% of the total floor area of the principal dwelling whichever is the greater.</p> <p>20% of the principal dwelling is 47sqm. As such, the 60sqm control applies.</p> <p>The total floor area of the secondary dwelling is 50.5sqm, which is less than the permitted 60sqm in floor area. As such, it is permitted under this clause.</p>
<p>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?</p>	N/A	<p>The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.</p>
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply—</p> <ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> </ul>	<p>N/A</p> <p>Yes</p>	<p>The site is not impacted by Acid Sulfate Soils.</p>



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

There are no current Draft Environmental Planning Instruments applicable to this development.

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

The following Development Control Plan is relevant to this application.

### **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 & Access***

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3A.2.</b> Parking Provisions of Specific Uses	<b>C2</b> Secondary Dwelling = As per State Environmental Planning Policy (Affordable Rental Housing) 2009	The existing single car parking space located within the access handle near Vernon Avenue will be maintained on site. No additional car parking is proposed to service the secondary dwelling as this is not required under the State Environmental Planning Policy (Affordable Rental Housing) 2009.	Yes
	<b>Table 1</b> of Part 3A Parking and Access <ul style="list-style-type: none"><li>2 spaces / dwelling with more than 2 bedrooms</li></ul>	The existing dwelling has 5 bedrooms but due to the site being a battle-axe allotment and accessed via an access handle for pedestrian traffic only, the front of the access handle can only accommodate one car space.	No - Existing

#### ***Part 3G- Stormwater Management***

The proposed new secondary dwelling will have a 2,000L aboveground rainwater tank located on the north-eastern side of the secondary dwelling. There is an existing stormwater drainage culvert pit located at the rear of the site, to which the existing downpipes are connected. The proposed development will be connected to the existing stormwater pit located at the front of the site. Development Application No. DA-2015/231 was referred to Council's Development Assessment Engineer who raised no

objection to the proposed development, therefore the minor modifications as part of this review will not impact on their comments.

### ***Part 3J- Aircraft Noise and OLS***

The provisions of AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. DA-2015/231 (parent DA) had an acoustic report provided and prepared by Acoustic Logic. There has been no change to the building materials proposed as part of this review. The proposal is permissible subject to a condition requiring compliance with the requirements of AS2021-2000. As such, the development is considered to be acceptable with regard to the provisions contained in Clause 6.9.

### ***Part 3K- Contamination***

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and contamination is unlikely. Furthermore, the application has been assessed against SEPP 55 and is found to be satisfactory. Site investigation is not required in this instance.

### ***Part 3L- Landscaping and Tree Management***

The Section 82A Application was provided within amended landscape plan. Currently, the site comprises of 1sqm of landscaped area which is found along the access handle. The previous landscape plan proposed 20% landscaping. The amended landscape plan demonstrates 35% landscaping. This is now compliant with Council's controls within the Botany Bay Development Control Plan 2013.

### ***Part 3N- Waste Minimisation & Management***

A Waste Minimisation Management Plan (WMP) was submitted with the previous application. Conditions have been recommended to ensure that all waste generated will be stockpiled, managed and disposed in accordance with the submitted WMP.

### ***Part 4A- Dwelling Houses***

The development application has been assessed against the controls contained in *Part 4A of the DCP – Dwellings*. The following table compares the proposed development with the relevant provisions of this policy.

**Note:** Part 3E.2.2, Control C12 of the Botany Bay Development Control Plan 2013 states that any battle-axe subdivision allotment to be serviced via a driveway easement shall not be included as part of the site area for the allotment which it serves when preparing documentation satisfying Council's development standards regarding the future development potential of the land. As such, Council's calculations are based on a site area of **438sqm** (which excludes the access handle) for Development Control Plan provisions such as site cover and landscaped area.

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>4A.2.7</b> Site Coverage	<b>C2</b> Sites greater than 300sqm, the maximum site coverage is 50%.	The site has a site coverage of 45% (195.5sqm). Site coverage does not include eaves.	Yes

Part	Control	Proposed	Complies
4A.2.8 Building Setbacks	<b>C1</b> Dwelling houses must comply with the following minimum setbacks as set out in <b>Table 1</b> . Greater than 12.5m lot width: <ul style="list-style-type: none"> <li>• Front – comply with prevailing street setback or 6m min.</li> </ul>	<b>Front:</b> The site does not have a front setback as it is a battle-axe subdivision. The access handle off Vernon Avenue is 38.8 metres long.	Yes
	<ul style="list-style-type: none"> <li>• Side – 900mm.</li> </ul>	<b>North:</b> 1.5 metres (to Eastlakes Public School)  <b>North-west:</b> 1.3 metres (to 14 Vernon Avenue)	Yes
	<ul style="list-style-type: none"> <li>• Rear – 6m min.</li> </ul>	7.5 metres (to RMS easement)	Yes
	<ul style="list-style-type: none"> <li>• Nil setbacks- 6m</li> </ul>	N/A	N/A
	<ul style="list-style-type: none"> <li>• Eaves- 450mm</li> </ul>	450mm eaves are provided	Yes
4A.2.9 Landscape Area	<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> . Table 2 requires the following minimum landscaped area: <ul style="list-style-type: none"> <li>(i) 35% for sites between 400sqm to 450sqm</li> <li>(ii) 40% for sites that are greater than 450sqm</li> </ul>	Based on a site area of 438sqm (excluding the access handle), the amount of landscaped area provided is 157sqm or 36%. This complies with the Council's minimum requirement.  Including the access handle and the landscaping contained therein, the landscaped area required is 40% and the proposal is 161.5sqm or 30%. However in accordance with Part 3E.2.2 and as stated above, landscaped area is based on a reduced site area of 438sqm therefore	Yes

Part	Control	Proposed	Complies
		the amount of landscaped area is acceptable.	
<b>4A.3.1</b> Materials and Finishes	<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A separate Schedule of Colours and Finishes has not been provided with the review however the architectural plans indicate that the secondary dwelling will be constructed out of face brick to match the existing dwelling, metal roof and aluminium windows. This is acceptable.	Yes
<b>4A.4.1</b> Visual Privacy	<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 secondary dwelling consists of six windows- two within the living room, two within the bedroom, one within the kitchen and one within the bathroom.</p> <p>One living room window and bedroom window faces Eastlakes Public School. The site is elevated and there is an existing side boundary fence obstructing some of the view, therefore it is considered that there is no direct sightline to the school playground.</p> <p>One bedroom window and the bathroom window will be facing into the rear yard of 12 Vernon Avenue. The bathroom window is proposed as frosted therefore will not create any overlooking impact. The site at 12 Vernon Avenue contains significant vegetation and large trees which will obstruct direct sight to the secondary dwelling.</p> <p>The kitchen window faces the boundary between the site and 14 Vernon</p>	Yes

Part	Control	Proposed	Complies
		<p>Avenue. The kitchen window and the bedroom window on the western elevation both overlook the neighbouring property. The bedroom window is a secondary window for the bedroom. Accordingly, it is recommended that the proposed kitchen window and the bedroom window on the western elevation both be replaced with a highlight window having a minimum sill height of 1.5m above the floor level of the secondary dwelling. This will ensure the privacy of the adjoining property is maintained. The remaining windows look into the rear yard of the subject site. Therefore with the recommended conditions the overall visual privacy impact is not significant and is acceptable.</p>	
<b>4A.4.3</b> Solar Access	<p><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.</p>	<p>Amended shadow diagrams were provided with the review application. The POS of the secondary dwelling is orientated to the north and will receive the minimum 2 hours of sunlight between 9am and 12pm.</p> <p>The secondary dwelling will overshadow the north-eastern side of the rear yard and dwelling at 14 Vernon Avenue between 9am to 10am. The rear shed/greenhouse will be shadowed from 11am to 12pm. The rear yard from midday onwards will not be impacted by the proposal and will receive sunlight from midday</p>	Yes



Part	Control	Proposed	Complies
		onwards. The neighbouring properties at Eastlakes Public School and 12 Vernon Avenue are not impacted by the proposal.	
	<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.	There are no solar panels on the adjoining site that will be impacted by the proposal.	Yes
<b>4A.4.4</b> Private Open Space	<b>C2</b> For sites greater than 250sqm, a minimum area of 36sqm applies.	The site will continue to provide greater than 100sqm of private open space.	Yes
<b>4A.4.8</b> Car Parking	<b>C1</b> Development must comply with Part 3A – Car Parking	Refer to Part 3A section of the report above.	Yes
<b>4A.5.2</b> Secondary Dwellings	<b>C2</b> A secondary dwelling must not result in overdevelopment of the site.	The site complies with the maximum Floor Space Ratio and site coverage control (on the basis of a site area of 438sqm). The construction of an attached secondary dwelling is not considered to be an overdevelopment of the site.	Yes
	<b>C3</b> A secondary dwelling must be accessed via the primary street to which the principal dwelling house presents.	The secondary dwelling is accessed off the access handle which connects through to Vernon Avenue.	Yes
	<b>C5</b> Secondary dwellings must be designed to capture predominant roof lines and patterns of the existing streetscape.	The proposed roof of the structure is pitched with a low slope. The pitched roof form is consistent with the roof form of the two storey dwelling house on the site.	Yes

Part	Control	Proposed	Complies
	<b>C10</b> Side and rear setbacks should be stepped or modulated, and long walls articulated by projecting or recessing architectural elements to avoid bulky or monotonous development.	The secondary dwelling is not of a regular shape and comes off at an angle from the dwelling it is attached to. The wall length and height is appropriate and does not dominate the site. The secondary dwelling is not bulky in nature therefore it is acceptable.	Yes
	<b>C15</b> One primary private open space is to be provided for the secondary dwelling. This is in addition to the private open space required for the principal dwelling in Part 4A.5.4 – Private Open Space.	<p>The secondary dwelling contains one bedroom therefore the minimum private open space required is 8sqm.</p> <p>The site provides 15sqm of private open space for the secondary dwelling which is separated from the principal open space for the dwelling house. In total, the site has over 100sqm of private open space.</p>	Yes
	<b>C16</b> The primary private open space may be provided as a balcony, or at ground level, at the rates specified in Table 3. Studio: 4sqm (area) 1m (depth) 1 bed: 8sqm (area) 2m (depth)	The private open space is located on the ground floor and complies with the minimum 8sqm requirement.	Yes
	<b>C17</b> The private open space area is to be: (i) Located with direct access to the internal living areas of the dwelling; (ii) Located to maximise solar access; (iii) Generally level and useable; (iv) Appropriately landscaped; and (v) Located or screened to ensure adequate privacy.	The private open space is located on the ground floor with access from the living room. The space is north orientated and will receive sunlight. The space will be appropriately landscaped and is separated from the principal dwellings private open space by privacy screening.	Yes

## ***Part 8 – Eastlakes Character Precinct***

Part 8.1.2 Desired Future Character of the Eastlakes Precinct has been considered in the assessment of the application. This section provides rationale for determining the appropriateness and descriptive strategic direction for development in Eastlakes.

The site is located within the R2 Low Density Residential zone. Developments along the area contain mainly residential dwelling houses to the west and south, the Eastlakes Public School to the north and the Southern Cross Drive to the east. The subject site is the only battle-axe allotment in the immediate area.

The proposal will fit in with the existing residential area. The secondary dwelling will not be visible from the street and will be designed at an appropriate scale in comparison to the adjoining dwellings. The principal dwelling will remain largely unchanged (with the exception of bricking up the northern window to Bedroom 2) and the proposed development is not likely to create adverse impacts to the surrounding areas.

Accordingly, the proposal is considered suitable for the subject site and is deemed compatible with the desired future character as described in the Botany Bay Development Control Plan 2013 for Eastlakes precinct.

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

Clause 92 of the regulation has been considered and there are no applicable provisions to the development.

### **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 subject site is not known to be affected by any natural hazards or other site constraints that are 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 site has an RMS easement on the north eastern side of the site. The proposed location of the secondary dwelling will not interfere with this easement. Accordingly, it is considered that the site is suitable to accommodate the development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the subject Section 82A Application was notified to surrounding property owners for a fourteen (14) day period from 12 October to 26 October 2016. No objections were received as part of the proposal.

### **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 City of Botany Bay's Section 94 Development Contributions Plan 2016 became effective on 14 June 2016. The Plan applies to all development applications lodged before the commencement of this Plan, but not yet determined. The refused DA was determined prior to the Contribution Plan coming into effect. The Section 82A application has been lodged after the commencement of the plan therefore the current plan is applicable.

### Contribution Rates

1 x New 1 Bedroom dwelling: \$7,821.88

### Total contribution

The total Section 94 Contribution applicable to the proposed development is **\$7,821.88**. In accordance with the Plan, the contribution is to be paid prior to the issue of the Construction Certificate.

## Conclusion

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Section 82A Application review of determination No. 15/231 for the construction of a secondary dwelling attached to the northern side of the existing dwelling at 16A Vernon Avenue, Eastlakes, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The plans provided within the review have been modified from the original plans presented with DA-15/231 by increasing the size of the landscaped area, reducing the amount of bedrooms from two to one bedroom and increasing the setbacks of the development to mitigate solar and visual privacy impacts. Two of the three reasons of refusal have been addressed to comply with Council's requirements relating to landscaped area. The third reason relating to the battle-axe subdivision constraint has been addressed under a merit assessment and is considered acceptable.

As the original DA was refused by the Development Committee under the delegation of the former City of Botany Bay Council, the higher delegate, the Council (now the Administrator) must make the determination hence this application must be referred with a recommendation to the Council meeting.

The Council may decide that the site is suitable for a secondary dwelling, given the changes to the landscaping proposed and increased setbacks. If this is the case, the conditions of consent are as noted in the assessment report in **Attachment A**, and are to be adopted.

Alternatively, the Council may reconfirm the refusal of the application based on the suitability of the battle-axe subdivision area constraint.

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## Attachment

### Schedule 1 – Conditions of Consent

**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.

<b>Drawing N°</b>	<b>Author</b>	<b>Dated Received</b>
Overall Ground Floor Plan (Drawing No. A100, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Ground Floor Plan (Drawing No. A101, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Overall First Floor Plan (Drawing No. A102, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
First Floor Plan (Drawing No. A103, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
East Elevation (Drawing No. A150, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
North Elevation (Drawing No. A151, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
West Elevations (Drawing No. A152, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
South Elevation (Drawing No. A153, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Sections (Drawing No. A200, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Sections (Drawing No. A201, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Sections (Drawing No. A202, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Landscape Diagram (Drawing No. SK-501, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016

Documents	Author	Date Received
S82A Report	Plandev Pty Ltd	Dated August 2016 Received 24 August 2016
Noise Intrusion Assessment (Revision 1)	Acoustic Logic	Dated 13 April 2015 Received 1 December 2015
BASIX Certificate (No. 576419S)	Building Design & Draft	Dated 21 October 2015 Received 1 December 2015
Engineering Report	Savvas Polycarpou	Dated 24 October 2014 Received 1 December 2015
Waste Management Plan	Nadir Ahmadi	Received 1 December 2015
Shadow Study – Winter Solstice (drawing No. A-400, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Shadow Study – Winter Solstice (drawing No. A-401, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
FSR Calculations (Drawing No. SK-500, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016
Detail Survey (Drawing No. CCAD5/DATA/2967(2))	Cedar Surveying Services	Survey Dated 17 May 2014 & Drawn 23 May 2014 Received 1 December 2015
Stormwater Drainage Concept Plan and R.W Tank Details (drawing No. 2668/1A)	S. Polycarpou	Dated 31 October 2014 Received by Council 1 December 2015
Site Plan & ECP (Drawing No. A095, Revision 4)	ASAT Designs	Dated 21 August 2016; Received 24 August 2016

2. No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
3. This Consent relates to land in Lot 202 in DP 815309 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
4.
  - 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 (dwelling). The installation must satisfy the following:-

- i) smoke alarms must comply with Australian Standard 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 Volume 2. Building Code of Australia.
- 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. 754215S dated 22 August 2016 and received by Council 24 August 2016 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 *Environmental Planning & Assessment Act 1979*, 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*.
- 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 WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE**

- 7. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
  - a) Development Control                      \$600.00 (GST Exempt)
  - b) Damage Deposit                              \$3,100.00 (GST Exempt) (Condition No. 8)



c) Section 94 Contributions \$7,821.88 (Condition No. 9)

8. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$3,100.00 (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.
9. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$7,821.88**, to be paid to Council prior to the issue of the Construction Certificate.
10. 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 the Principal Certifying Authority. The survey shall identify any existing damages to the road, kerb, gutter, footpath, 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 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.
11. Prior to the issue of the Construction Certificate, amended plans are to be provided to the Principal Certifying Authority demonstrating:
  - a) The proposed kitchen window and the bedroom window on the western elevation both be replaced with a highlight window having a minimum sill height of 1.5m above the floor level of the secondary dwelling;
  - b) The existing bar/kitchen on the ground floor of the dwelling house is to be deleted.
12. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
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) and Australian Standard AS 3500.

14. 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 but not limited to the provision for a Rainwater Tank with minimum 2000L capacity, satisfying all relevant Council and Australian Standards.

15. Building plans must be lodged through the 'Sydney Water Tap in' service for approval prior to commencement of works.
16. 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.
17. The building shall be designed in accordance with AS2021- 2000: 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*. Details shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.
18. Prior to the issue of a Construction Certificate, the applicant is to provide documentation to the Principal Certifying Authority that the block retaining wall along the common boundary with No. 14 Vernon Avenue is structurally sound.

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

19. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
  - 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.
20. 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 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.
21. Erosion and sediment control devices shall be installed 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 Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water 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.
22. 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 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*.
23. 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.
24. 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.
25. This Consent shall not preclude the developer from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.

#### **DURING WORKS**

26. During works the applicant is to ensure that the block retaining wall along the common boundary with No. 14 Vernon Avenue is not compromised or damaged and that any structural damage is rectified.
27. The external colours are to be of a neutral tone and should match the existing semi-detached dwelling as close as possible.
28. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, 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.
29. 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.
30. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) New South Wales Occupational Health and Safety Act, 2000;

- b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - d) Protection Of the Environment Operations Act 1997 (NSW);
  - e) Protection Of the Environment Operation (Waste) Regulation 2014; and
  - f) Department of Environment and Climate Change Waste Classification Guidelines (2008).
31. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
32. 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) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
33. Throughout the demolition and 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.
34. The approved Waste Management Plan (as referenced at Condition No. 1) shall be complied with at all times during demolition, construction and on-going use of the site.
35. 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.
36. Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006). Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
37. The demolisher shall:
- a) Cause motor vehicles leaving the site with demolition material and the like to have their loads covered; and,
  - b) Ensure that the wheels of vehicles leaving the site do not track soil and other waste material on to the public roads adjoining the site.

38. The demolition by induced collapse, the use of explosives, implosions or on-site burning is not permitted.
39. No demolition materials shall be burnt or buried on the site.
40. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
41. Should the demolition 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 Councils road reserve must also have prior approval of Council.
- 42.
- a) 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;
  - b) 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.
43. The following shall be complied with during construction and demolition:
- 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 20dB(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 05:00pm
    - ii) Saturday 08:00am to 01:00pm

- iii) No demolition or construction to take place on Sundays or Public Holidays.
  - d) Silencing
    - i) All possible steps should be taken to silence construction site equipment.
- 44. 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.
- 45.
  - 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 (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.
  - 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.
- 46. 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.
- 47. During demolition and 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.



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

48. Any damage not shown in the photographic survey and dilapidation survey submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to occupancy of the development.
49. Prior to the issue of the Occupation Certificates, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed in accordance with all relevant standards.
50. Prior to the issue of any Occupation Certificate(s), 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 Infiltration System. Refer to Appendix A of the SMTG for suggested wording.
51. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
52. The areas identified in the Landscape Diagram (refer to Condition No. 1) are required to be deep soil, fully permeable and soft landscaped to provide screening and privacy for adjoining residents and enhance greening of the property in line with Council's Botany Bay Development Control Plan 2013 requirements. To satisfy this condition, all existing paving and hard surfacing in as indicated in the Landscape Diagram are to be removed and replaced with soft landscaping (including grass, ground covers, shrubs, plants and trees) and including the following.
  - a) A minimum of one (1) evergreen tree, at least 1.8m in height and 75L pot size, shall be installed in the proposed landscaping zone at the rear of the existing dwelling (north eastern corner). The species selected should be native, have low water requirements, be suited to the local soils and have a minimum height at maturity of 6m;
  - b) Screen planting is required along the northern (proposed) and north-western (existing landscape area) property boundary adjoining the secondary dwelling to provide screening and privacy for adjoining residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a minimum height of 3-4m. Planter beds shall be a minimum width of 0.75m to accommodate this planting.
  - c) The existing landscape area within the access handle and adjacent no. 14 Vernon Avenue shall be landscaped. Suitable landscaping shall include tall shrubs.
53. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscaper to certify that landscaping has been installed in accordance with the landscape conditions. The Certificate is to be submitted to Council.

54. The Council nature strip shall be suitably repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
55. The development shall provide a minimum of 91sqm of permeable landscaping area on site.
56. 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*.
57. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the above report in Condition No. 15 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. 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 Australia Acoustical Consultants).

#### **CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE**

58. The application has been approved for the construction and use for the purpose of a 'secondary dwelling' pursuant to the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. In accordance with the Standard Instrument, a 'secondary dwelling' is defined as a self-contained dwelling that (a) is established in conjunction with another dwelling (the principal dwelling), and (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and (c) is located within, or is attached to, or is separate from, the principal dwelling. In this regard, there shall be no subdivision of the site that would result in the principle dwelling and the secondary dwelling being on separate lots of land.
59. The building is approved as a secondary dwelling for use and occupation by a single family. It shall not be used 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.
60. 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.
61. Ongoing maintenance of the nature strip shall be undertaken by the occupier or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the nature strip under any circumstances at any time.
62.
  - 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) Noise from any air-conditioning units (measured as the  $L_{aeq\ 15\ \text{minute}}$ ) is not to exceed the background level (measured as the  $L_{a90\ 15\ \text{minute}}$ ) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

**Note:** In order to meet this condition, the compressors and any other noise generating part of the air conditioning unit, are to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

63. 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. 12/231/01 dated as 1 December 2015 and further amended on 24 August 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

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## Council Meeting

**9/11/2016**

Item No	9.4
Property	<b>25 Hicks Avenue, Mascot</b>
Proposal	Construction of two storey dwelling
Cost of Development	\$430, 776.12
Report by	Courtney Coleman, Development Assessment Planner
Application No	DA-2016/081, SF16/1003

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## Officer Recommendation

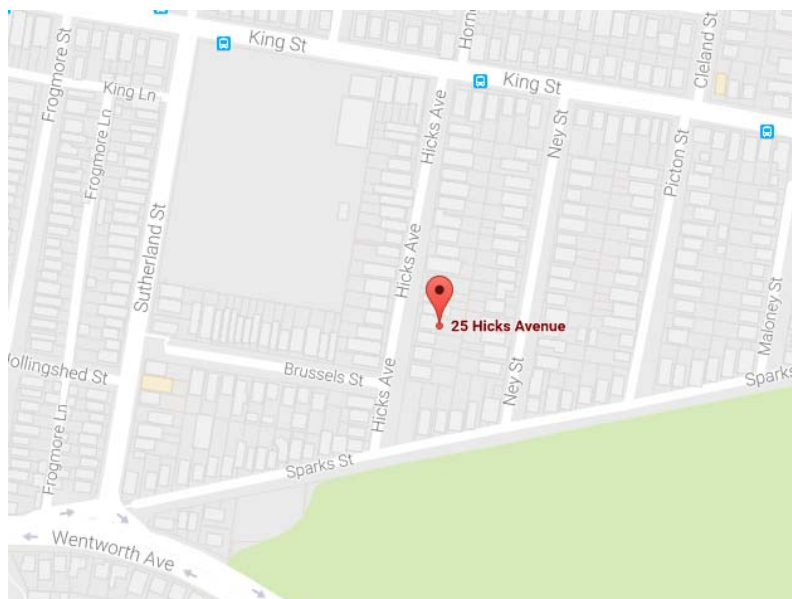
- 1 That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest because it is consistent with the objectives of the height of building standard and the objectives for the R2 Low Density Residential zone.
  - 2 That the development application DA-2016/081 for the construction of a two (2) storey dwelling at 25 Hicks Avenue, Mascot 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 NSW Department of Planning and Environment be advised of Council's decision.
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## Attachments

Planning Assessment Report

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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Application Number:	2016/81
Date of Receipt:	6 June 2016
Property:	25 Hicks Avenue, Mascot Lot A DP 301997
Owner:	Mr G H Loh & Ms J Zheng
Applicant:	Mr Gerald Loh
Proposal:	Construction of a new two storey dwelling house
Recommendation:	Approval
Value:	\$430, 776
No. of submissions:	Nil
Author:	Courtney Coleman, Development Assessment Officer
Date of Report:	28 September 2016

### Key Issues

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Council received Development Application No. 16/81 on 6 June 2016 seeking consent for the demolition of the existing structures on site and construction of a new two storey dwelling at 25 Hicks Avenue, Mascot.

The application was referred to Council’s heritage advisor, given the proximity to heritage item I127 adjoining at 27 Hicks Avenue, Mascot. Heritage comments raised concern with the modern flat roof form adjacent to the heritage item and requested a more sympathetic roof form, in keeping with the heritage item and prevailing roof forms in the street. Council received revised plans altering to a pitched roof form, in a pitch form in keeping with the adjacent heritage item. This change in roof form together with the requirement to have a raised finished floor level to mitigate against flooding resulted in an exceedence in building height, requiring a clause 4.6 variation request, which was provided to Council.

The development 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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That the variation under clause 4.6 to the height of buildings development standard be supported and the development be APPROVED, subject to conditions.

## Background

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### History

The application was placed on public exhibition for a fourteen (14) day period from 22 June to 6 July 2016. No objections were received as part of the proposal.

On 25 July 2016, Council requested a revision to the roof form design based on comments received from Council's Heritage Advisor. Revised designs were received on 3 August and 17 August 2016, which amended the roof of the proposed development providing a hipped and gable roof form, which also resulted in an increase in height of the proposed dwelling.

A site inspection was carried out on 27 July 2016.

On 6 September 2016, based on the revised plans Council requested additional information relating to height, site coverage, landscaping and solar access. A Clause 4.6 relating to height, revised plans and further justification for solar access were provided to Council on the 14 and 16 September 2016.

### Proposal

The development application seeks Council consent for now vacant site for the construction of a new two storey dwelling, two car garage and site landscaping and at 25 Hicks Avenue, Mascot.

The specifics of the proposal are as follows:

#### Ground Floor

To the ground floor of the new dwelling is proposed a double garage, entry, foyer, bedroom/gym, bathroom, laundry, kitchen, dining, theatre room, lounge room, patio, alfresco area and stairs leading to the first floor.

#### First Floor

The first floor of the new dwelling proposes a leisure area three (3) bedrooms, bathroom, ensuite a balcony to front elevation and a rear green roof area over the first floor with access via a bedroom.

#### Materials of Construction

The proposed development will be constructed using the following materials and colours:

- External wall – render Wattyl Solargard Colourbond paperback.
- External blueboard – render Wattyl Solargard Bambusa.
- External corbel – render Wattyl Solargard sheer granite.
- External feature cladding – DecoBatten – DecoWood Bush Cherry.
- Roof sheeting, downpipes and gutter (behind parapets) – Colorbond – classic cream.
- Window frames – UVPC (unplasticized polyvinyl chloride) white.

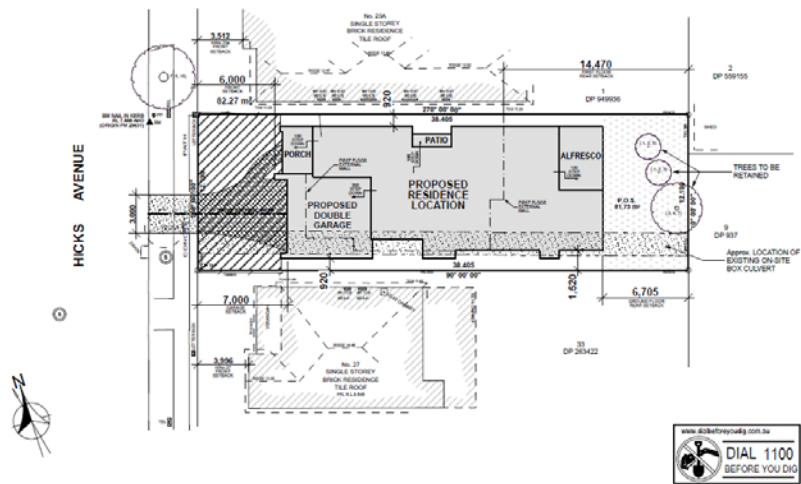


Figure 1 – Proposed Site Plan



Figure 2 – Proposed North and West Elevations





**Figure 3 – Proposed South and East Elevations**

### Site location and context

The subject site is located on the eastern side of Hicks Avenue between Brussels Street to the south and King Street to the North. The subject site is regular in shape with an area of 469.177m<sup>2</sup> and has a 12.190 metre frontage to Hicks Avenue. The rear boundary has a length of 12.19 metres, the northern side boundary is 38.405 metres and the southern side boundary is 38.405metres. The site is fairly level.

The site is located within the R2 Low Density Residential zone and is currently vacant. A previous single storey brick cottage was demolished under Complying Development Certificate No. 011D16 issued on 23 February 2016 by CDC Private Certifiers Pty Ltd.



**Figure 4. Locality Plan**



**Figure 5. Aerial map of subject site**

Development surrounding the site consists of a mix of single storey and two storey detached dwellings located within the street, with 23 Hicks Avenue a single storey dwelling house and 27 Hicks Avenue, heritage item I127, a single storey dwelling house.



**Figure 6. Front elevation of subject site**

## **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 (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. 723925S 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:

<b>Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	Yes	The site is zoned R2 Low Density Residential under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the R2 Low Density Residential zone which are as follows:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		<p><i>To provide for the housing needs of the community within a low density residential environment.</i></p> <p><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p> <p><i>To encourage development that promotes walking and cycling.</i></p>
<p>Does Schedule 1 – Additional Permitted Uses apply to the site?</p> <p>If so what additional uses are permitted on the site?</p>	N/A	Schedule 1 does not apply to the site.
<p>What is the maximum building height?</p> <p>Does the height of the building exceed the maximum building height?</p>	<p>-</p> <p><b>No – refer to note 1 below</b></p>	<p>A maximum building height of 9m applies to the subject site.</p> <p>The elevations demonstrate that the maximum ridge height is 9.6m.</p>
What is the proposed FSR?	Yes	<p>Site area – 468.1m<sup>2</sup></p> <p>Proposed Gross Floor Area –257.5m<sup>2</sup></p> <p>Proposed Floor Space Ratio - 0.55:1</p> <p>Maximum Floor Space ratio - 0.55:1</p>
Does the FSR of the building exceed the maximum FSR?	Yes	The proposal does not exceed the maximum FSR.
<p>Is the site within land marked “Area 3” on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p>	N/A	The site is not within Area 3, which states to refer to Clause 4.4A of the Botany Bay Local Environmental Plan.
The following provisions in Part 6 of the Local		



Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
6.9 – Development in areas subject to aircraft noise.	Yes	<p>The subject site is located within the 25-30 Australian Noise Exposure Forecast contour where residential development is classified as conditional.</p> <p>An acoustic report has been provided to demonstrate how the proposal will comply with the recommendations of the Australian Standard AS2021-2000, satisfying the provisions of Part 6.9 of the Botany Bay Local Environmental Plan 2013.</p>

#### **Note 1- Clause 4.6 Variation to Height**

The site is nominated as having a maximum building height of 9m on the height of building map, and with a proposed maximum height of 9.6m, which is a breach of 0.6m.

The breakdown of the height is proposed as follows in AHD:

- Existing ground level – variable across the site from R.L8.03 to R.L8.25.
- Garage - R.L8.950.
- Ground floor – R.L9.050.
- Ground floor ceiling – R.L 12.050.
- First floor – R.L12.350.
- First floor ceiling – R.L15.350.
- Roof ridge height – RL17.842.

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposals variation to the 9m height of building requirement, stating that it is unnecessary and unreasonable in the particular circumstances. Excerpts of the applicant's response are provided below:

*"The degree of non-compliance is minor, being only 0.592m. This non-compliance has been brought about following Council's Hydraulic Engineers requesting that the building be raised 0.8m for flood reasons. Accordingly, the building has been raised by 0.8m during the course of 25 Hicks Avenue Mascot the development application. The applicant has complied with the request to raise the ground level of the building, albeit that it creates a more onerous access to the dwelling.*

- *The building form is consistent with other dwellings within the street. There are several other two storey pitched roof buildings in the immediate vicinity and the resultant form is consistent with the form of some surrounding dwellings.*
- *Furthermore, given the planning controls relating to the area, it is likely that further development in the immediate area will be comparable in form to that proposed.*
- *The non-compliance relates to a small portion of the building, being the pitch of the roof within the middle portion of the building only. Again the degree of non-compliance is minor.*
- *The amenity to neighbours will not be unreasonably affected by the non-compliance. Good solar access is achieved to neighbouring dwellings and no view is affected. The neighbour to the south receives very good solar access to the rear garden and to the rear facing main living space.*

- *The non-compliance does not result in any significant degree of additional bulk.*
- *The proposed building bulk is entirely appropriate within the context of the site. The SEE goes into detail about the context of the site and the reasonableness of the proposal in built form terms.*
- *In terms of the objectives of the clause, the following is offered.*
  - *The additional height will not visually dominate the streetscape. There are other comparable built forms in the area. The proposal is consistent with objectives (b), (c) and (e).*
  - *No significant view is affected. No public domain views are affected. The proposal is consistent with objective (d).*
  - *No neighbour or public area is unduly impacted in terms of solar access. Additional*
  - *Overshadowing is minor and not unreasonable. The proposal is consistent with objective (d)."*

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the Height of Building development standard is not expressly excluded from this Clause (CI 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 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.

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 separately 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 height, in that it is viewed as a minor variation of 7%. The additional height does not result in a great increased bulk, and due to the east-west orientation of the site does not result in a significant increase to overshadowing. The Floor Space Ratio of the proposal does not exceed the development standard, with the increase in height allowing for a pitched roof form, in line with the streetscape and the adjoining heritage item and an increased floor level addressing flooding. The development standard would therefore be unreasonable in this instance in order to accommodate a two storey dwelling with a pitched roof on the subject site.

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

Officer's Comments:

- Council has nominated that the site is subject to flooding and the proposed design has raised the finished floor level of the building in response to this.
- The applicant has demonstrated that although there is an increase in height that the sites orientation results in the existing overshadowing to the adjacent properties windows.
- The built form proposed is in keeping with similar development in Hicks Avenue streetscape and is compliant with Councils Floor Space Ratio controls.
- 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 with the rear portion of the dwelling being in single storey only.

*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 Height of Building 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 Botany Bay Local Environmental Plan 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 subject site has responded to particular issues affecting the site i.e. flooding and appropriate roof design adjacent to a heritage item to provide the best outcome for a two storey dwelling house on this site. Council recognises that the proposal meets the objectives of Clause 4.6 and those of the height of building standards notwithstanding the proposed noncompliance. The proposal will facilitate a two storey dwelling

house within the R2 Low Density Residential zone, which generally meets the required desired future character of the Mascot Precinct.

#### *Objectives of the Height of Building*

The objectives of Clause 4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013 are:

- *To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner.*
- *To ensure that taller buildings are appropriately located.*
- *To ensure that building height is consistent with the desired future character of an area.*
- *To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*
- *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.*

#### *Officer's Comments:*

The proposal is consistent with the objectives of the height of building development standard for the following reasons:-

- The non-compliant height does not create inappropriate scale or bulk for the development.
- Hicks Avenue and the surrounding streets are characterised by single and two storey dwelling houses, setting the prevailing streetscape and density of the area, which the development is in keeping with, given the two storey form, and is viewed as contributing to the existing character of the area.
- The variance in height is predominantly viewed as the uppermost roof pitch section, not contributing to the bulk of the dwelling, and aims to maintain the pitch and form of the roofs prevalent within the street. It is not viewed to be noticeably larger in scale than the other two storey dwellings within the street. The two storey portion of the development is limited in size, towards the front of the dwelling, allowing for improved solar access into the rear of the adjoining property, with privacy screens adjacent off the green roof area to minimise loss of privacy.
- The proposed dwelling has been design to be in keeping with the streetscape and has taken into consideration the amenity of the adjoining property regarding solar access and privacy and contributes to the Mascot 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 dwelling house is a permissible use within the R2 Low Density Residential Zone and is 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 anew two storey dwelling on the subject vacant 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 the Botany Bay

Development Control Plan 2013 with regard to the Part 8 Desired Future Character for the Mascot Precinct. There were no objections received during the public notification period for the proposal.

### Summary

The Clause 4.6 exception to the height of building control 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 & NSWLEC 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.

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 height of building development standard for 25 Hicks Avenue is in the public interest. On this basis, it is recommended that the development standard relating to the maximum height of building for the site pursuant to Clause 4.3 of the Botany Bay Local Environmental Plan 2013 should be varied in the circumstances as discussed above.

### **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**

The following Development Control Plan is relevant to this application;

### **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 & 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 development proposes to provide 2 car parking spaces on site, which is compliant with the controls.

The proposal is compliant with control 28, which is to provide a 3m minimum width access driveway at the property boundary, which the proposal provides.

#### ***Part 3B – Heritage***

The proposal is adjacent the Botany Bay Local Environmental Plan 2013 heritage Item I127 house at 27 Hicks Avenue, Mascot, to the immediate south. Council's Heritage Advisor reviewed the proposal. The adjacent heritage item is a single storey detached Federation Queen Anne style brick house. The subject site, prior to demolition under Complying Development Certificate included a single storey detached brick Inter-war California Bungalow style house. The site is not within a Heritage Conservation Area.

A number of issues were identified for consideration including how the design of new dwelling was viewed from street in relation to the adjacent heritage item and the overall impact on the adjacent heritage item. The most significant issues were the proposals compliance with 8.7.2 Desired Future Character of the Botany Bay Development Control Plan 2013 Part 8 Character Precincts, in particular form, massing, scale and streetscape, regarding maintaining roof forms to reflect the characteristics of the key designs within the street.

The main roof form within the street is hipped and gabled. The proposed new dwelling roof form was originally presented as a flat roof form, which did not reflect the prevailing street roof forms. The proposed dwelling is also slightly elevated, increasing the overall height of the building. It was recommended that the proposed dwelling be redesigned to reflect the roof form (but not detailing) of the existing dwelling at No. 31 Hicks Avenue, being a hipped roof with gable end facing the street.

The applicant provided Council with a number of roof design variations on 3 August 2016 and 17 August 2016 for review, including the current proposal with a main hipped roof and gable end facing the street. This design now complies with the relevant Development Control Plan controls and will blend in with the prevailing roof forms in the streetscape and with the adjacent heritage item. Council Heritage Advisor provided comment that the proposal is now acceptable in the context of the adjacent heritage item, and will not adversely affect the heritage item.

### ***Part 3G- Stormwater Management***

The proposed development has provided two 5,000L rainwater tanks to be installed on site. All rainwater collected from the roof will be directed towards this rainwater tanks as a 7m<sup>3</sup> infiltration pits on the site.

Through discussions with Council prior to the applications lodgement, Council's drainage and development engineers, in conjunction with a site investigation of the site, determined that there was a stormwater drain traversing under 25 Hicks Ave between Hicks Avenue and Ney Street, Mascot, through the site.

Council's Development and Drainage Engineers in these early discussions had no objection to development on the site subject to conditions of consent. Also, where a future Development Application was granted approval by Council, as a condition of consent, the applicant would be required to formalise the following easements:

- "2.00m wide Easement to Drain Water" over the existing stormwater infrastructure, and
- "0.90m wide Easement to Drain Water" along the southern property boundary for overland flow.

It was also stated that while Council would consider allowing construction over the existing stormwater culvert, the application would need to provide details regarding how the existing culvert would be protected during the demolition of existing building, during construction and in perpetuity.

The site was found to be flood affected. The finish floor levels for the new proposed dwelling will need to be above the 1 in 100 year flood levels plus 500mm freeboard, for the ground floor to be raised to RL8.8 for habitable and 8.67 for non-habitable. The proposal has floor levels greater than this at 9.2 habitable and 8.9 non-habitable.

Council's development engineer has reviewed this proposed application, and has no objection with the development and has provided conditions to be included within the consent.

### ***Part 3H- Sustainable Design***

BASIX Certificate No. 723925S dated 9 May 2016 and prepared by Damian O'Toole Town Planning P/L is provided with the application, committing to environmental sustainable measures.

### ***Part 3J – Aircraft Noise and OLS***

The site is within the 25-30 ANEF contours where residential development is classified as unacceptable, and was submitted to Council with an Acoustic Report by Acoustic Logic. The application was also referred to Councils Environmental Health Officer for comment.

The proposal will be conditioned to meet the requirements of the Acoustic report and those of AS2021-2000 Acoustic – Aircraft Noise Intrusion – Building Sitting and Construction to adequately address aircraft noise.

### **Part 3K- Contamination**

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and contamination is unlikely. Furthermore, the application has been assessed against State Environmental Planning Policy 55 and is found to be satisfactory. Site investigation is not required in this instance.

### **Part 3L- Landscaping and Tree Management**

A Landscape Plan has been submitted as part of the application. The application was referred to Council's Landscape Architect for comment. The proposal, in addition to the required landscaping at ground level proposes a green roof at the rear of the dwelling. Requirements regarding the water use as per control 8 are to be conditioned.

Council's Landscape Architect had no objection to the proposal.

### **Part 3N- Waste Minimisation & Management**

A waste management plan by LW Designs – Architectural Drafting Services has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

### **Part 4A- Dwelling House**

The development application has been assessed against the controls contained in *Part 4A of the Botany Bay Development Control Plan – Dwelling House*. The following table compares the proposed development with the relevant provisions of this policy.

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>4A.2.4</b> Streetscape Presentation	<b>C1</b> 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 proposed development is in keeping with the desired future character of the area as it retains the predominantly low density residential character in providing a detached dwelling with a maximum of 2 storeys, as further outlined in discussion regarding section 8.7.2 desired future character for the Mascot Character Precinct.	Yes
	<b>C2</b> Development must be designed to reinforce and	The current character of the streetscape, within the R2 Low	Yes

Part	Control	Proposed	Complies
	maintain the existing character of the streetscape.	Density Residential zone, presents a combination of single and two storey dwelling houses. There is a prevailing roof form through the street, and as seen in the adjacent heritage item, as hipped and gabled, which the proposal includes.	
	<b>C3</b> Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).	The proposal includes a hipped and gable roof, reflective of the dominant roof lines of the streetscape.	Yes
	<b>C6</b> The entrance to a dwelling must be readily apparent from the street.	The proposed design includes the entrance at the front of the dwelling in view of the street.	Yes
	<b>C7</b> Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	The proposed dwelling house has a habitable room window facing the street.	Yes
	<b>C9</b> A street number for the property is to be clearly identifiable from the street.	Street numbering details have not been provided; however this requirement will be conditioned.	Yes – see condition
	<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.	The dominant characteristic design features prevalent through the street include the use of brickwork and render for the facades of the premises in addition to a mixture of hipped and gable roofs throughout the street. These elements are retained in the proposed development.	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.	The proposed two storey dwelling is sited within a street which currently includes some two storey dwellings in close proximity to the proposal, including 26 Hicks Avenue and 31 Hicks Avenue, Mascot.	Yes
<b>4A.2.5 Height</b>	<b>C1</b> The maximum height of buildings must not exceed the maximum height identified in the Height of Buildings Map and Clause 4.3 of the	A maximum height of 9 metres applies to the subject site.  The dwelling proposes a maximum height of 9.6 metres.	No – see <b>Note 1</b> above

Part	Control	Proposed	Complies
	Botany Bay Local Environmental Plan 2013.		
	<b>C3</b> New buildings are to consider and respond to the predominant and characteristic height and storeys of buildings within the neighbourhood, and consider the topography and shape of the site.	The proposed dwelling considers and responds to the characteristic number of stories within the street, as there are a number of two storey dwellings.	Yes
<b>4A.2.7</b> 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 – 230.1m <sup>2</sup>  Deep Soil zones- 171.1m <sup>2</sup>  Soft Landscape Areas – 172.6m <sup>2</sup>  Hard Landscape Areas – 33.8m <sup>2</sup>	N/A
	C2 For sites over 200m <sup>2</sup> the maximum site coverage is: 200 – <250m <sup>2</sup> 65% of the lot 250 – <300m <sup>2</sup> 60% of the lot >300m <sup>2</sup> 50% of the lot	The site area of the development is 468.1m <sup>2</sup> . The site coverage proposed is 49%, 230.1m <sup>2</sup> which complies with the required maximum of 50%.	Yes
<b>4A.2.8</b> Building Setbacks	<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	The lot width of the site, 12.190m is less than 12.5m, therefore the setbacks required are as follows:  The proposed dwelling had a minimum front setback to the dwelling is 6.6m.  The side setbacks proposed on both sides are 900mm, and are in keeping with the visual pattern of the adjoining development and streetscape. The setback allows for privacy, visual amenity and natural daylight access where possible, given the site orientation for sites adjacent.  The rear setback is 6.8m	Yes  Yes  Yes  Yes



Part	Control	Proposed	Complies
	Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions	No zero lot lines are proposed as part of this proposal	N/A
	Eaves – 450mm minimum from boundary	The proposed dwelling includes eaves which are at least 450mm from the boundary	Yes
	<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.	Modulation is provided in the proposal along both the side and rear of the proposal, through stepped walls.	Yes
<b>4A.2.9</b> Landscape Area	<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> .  Table 2 requires the following minimum landscaped area: >450 m <sup>2</sup> - 40%  Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	The landscape provided on site is 176m <sup>2</sup> , providing 38% landscaped area.  The landscaping for this site is seen to be acceptable, given the size of the landscaping provided, the majority of which is deep soil zones, 171.1m <sup>2</sup> , allowing for an appropriate scale and type of landscaping. In addition, a green roof of 54.8m <sup>2</sup> is provided, which has not been included in landscaped area, however does increase the number of plantings on site.	No acceptable -
	<b>C3</b> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	The landscaped area proposed is predominantly deep soil area, 171.1m <sup>2</sup> , on site.	Yes
	<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted	The front setback provides 58% landscaped area and paved areas for driveway and entry path only.	Yes

Part	Control	Proposed	Complies
	to a maximum of 50% of the front setback area.		
	<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.	The site frontage to Hicks Avenue includes two Bangalow Palm trees.	Yes
<b>4A.3.1</b> Materials and Finishes	<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A Schedule of Colours and Finishes was provided.	Yes
	<b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, in that it draws from streetscape and incorporates a number of features including a mixture of render and wood cladding.	Yes
<b>4A.3.2</b> Roofs and Attics/Dormer	<b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	The proposed main hipped roof, with gable end facing the street, is the predominant roof form and pitch of the street.	Yes
<b>4A.3.3</b> Fences	<b>C1</b> Front fences are to compliment the period or architectural style of the existing dwelling house.	The front fence design has not been provided in detail within this proposal. The landscape plan proposes a front fence with electric sliding gate. The design will be conditioned to comply.	Yes – see <b>Condition</b>
	<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50%	The fence height and transparency will be conditioned to comply.	Yes – see <b>Condition</b>

Part	Control	Proposed	Complies
	transparent or open style to allow for passive surveillance (refer to Figure 19).		
	<b>C17</b> Access gates must be hung so that the direction of swing is inward.	The proposed combined access and garage gate, slides within the property, to allow for access to the site.	N/A
<b>4A.3.4</b> Heritage	<b>C1</b> If a development site is in the vicinity of a Heritage Item or a Heritage Conservation Area, or the subject site contains a Heritage Item, or is located within a Heritage Conservation Area, compliance with Part 3B - Heritage is required.	The development is adjacent to heritage item I127, and has been assessed against Part 3B – Heritage previously in this report.	Yes
<b>4A.3.5</b> Voids	<b>C1</b> Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported.	The two void spaces proposed centre around the staircase connecting the ground and first floor of the development, which would minimally exceed the Floor Space Ratio if infilled.	No – see <b>note 2</b>
	<b>C2</b> Voids shall only be supported where they are provided to increase the amenity to primary living areas or circulation areas, and not unreasonably impact upon the amenity of adjoining properties.	The voids proposed do not unreasonably impact upon the amenity of adjoining properties as it does not increase further visual privacy impacts and allows for increase light and ventilation for the primary circulation area at the front of the dwelling and the primary living area in the leisure area noted on the first floor.	Yes
	<b>C3</b> Voids are to connect related uses and spaces, and should not compromise the useability of spaces.	The void proposed connects the entryway and vertical circulation space to the upstairs leisure of access way to the other rooms on the first floor.	Yes
<b>4A.4.1</b> Visual Privacy	<b>C2</b> Visual privacy for adjoining properties must be minimised by: using windows which are narrow or glazing Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings	The two windows from the adjoining property at 27 Hicks Avenue face the garage wall, which includes no openings.  The windows facing 23 A Hicks Avenue have been offset so as to not directly face those opposite.  The green roof area proposed, at the rear of the first floor of the	Yes

Part	Control	Proposed	Complies
	Screening opposing windows, balconies and courtyards; and Increasing sill heights to 1.5 metres above floor level.	dwelling includes two large expanses of glass through a sliding glass door and large window. Large privacy screens run along the green roof to consolidate visual privacy for the two adjacent dwellings.	
	<b>C3</b> First floor balconies are only permitted when adjacent to a bedroom.	There is a balcony and green roof area's both adjacent to bedrooms only.	Yes
	<b>C5</b> First floor balconies are only permitted at the rear of the dwelling if wholly located over the ground floor, providing the requirements in <b>C1, C2 and C3</b> above are met.	<p>The balcony for the proposed development is located at the front of the dwelling.</p> <p>The green roof, whilst not a balcony is a large expanse of accessible roof and as such has been reviewed against the requirement of a balcony. The green roof is located at the rear of the dwelling and is located wholly over the ground floor and meets the privacy requirements of C1, C2 and C3.</p>	Yes
	<p><b>C7</b> Balconies are to be designed to minimise overlooking to other properties.</p> <p><b>Note:</b> Where a proposed development increases the potential for overlooking of adjoining properties, the Council may require balconies to be limited in size and in some cases, fitted with privacy screens or fin walls. Partially recessed balconies are encouraged at the rear to ensure the privacy of surrounding properties is maintained.</p>	<p>The balcony at the front of the dwelling does not overlook other properties, given that it predominantly faces the street, with privacy screening for the portion that faces the adjoining dwelling at 27 Hicks Avenue.</p> <p>The green roof area also includes large vertical screening along the length of the roof area adjacent to the 23 and 27 Hicks Avenue boundaries.</p> <p>Glass balustrading is proposed to the rear of the green roof overlooking the rear private space of the dwelling to properties adjacent to the rear of the site. The setback of the green roof is 6.8m with the additional setbacks of those dwellings providing an adequate visual privacy buffer.</p>	Yes
<b>4A.4.2</b> Acoustic Privacy	<b>C4</b> New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed	The new dwelling proposed is within the 25-30 Australian Noise Exposure Forecast contour. The proposal has been assessed against Part 3J	Yes

Part	Control	Proposed	Complies
	and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction). Note: Details to be included in the Development Application. For further details in relation to Aircraft Noise refer to Part 3J - Development Affecting Operations at Sydney Airport.	– Aircraft Noise and OLS, previously in the report.	
	<b>C5</b> The introduction of noise abatement measures to achieve compliance with the current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	The proposal includes an air conditioning condenser on the first floor balcony, set behind vertical slatwork screening facing the street frontage.	Yes
<b>4A.4.3</b> Solar Access	<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.	Amended shadow diagrams were provided with the development application as a result of the change to the roof form, with the greatest impact being to the property to the south, 27 Hicks Avenue, Mascot.  The shadow diagrams show that the two windows facing the northern frontage of 27 Hicks Avenue, Mascot do not receive at least 2 hours of solar access between 9am and 3pm on 21 June to window. The use of these areas was not stated.  50% of the private open space for 27 Hicks Avenue receives sunlight on June 21 Between 9am and 3pm.	No – <b>Refer to Note 3</b>
<b>4A.4.4</b> Private Open Space	<b>C1</b> Each dwelling is to have a private open space that: (i) Has at least one area with a minimum area of 36m <sup>2</sup> ;	The site provides a 52.6m <sup>2</sup> for Private Open Space.  The Private Open Space proposed complies with Council's controls.	Yes

Part	Control	Proposed	Complies
	<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>Note: Private open space is not to include:</p> <p>(i) Non-recreational structures (including garages, tool sheds and such like structures);</p> <p>(ii) Swimming pools; and</p> <p>(iii) Driveways, turning areas and car spaces, drying areas and pathways.</p>		
<b>4A.4.7</b> Vehicle Access	<p><b>C1</b> Driveways within a property shall have a minimum width of 3 metres.</p> <p>Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).</p>	The proposed driveway width is varies from 3m to 5.7m, meeting the minimum required width, as it is not adjacent to a solid structure.	Yes
	<p><b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.</p>	One vehicle crossing is proposed to this site.	Yes
<b>4A.4.8</b> Car Parking	<p><b>C3</b> Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building</p>	The dwelling's car parking is provided through a garage integrated within the dwelling, with access from the main street facade.	Yes

Part	Control	Proposed	Complies
	alignment. For existing and new dwellings, a garage or carport in order of priority must be:  (i) Located at the rear of the site with access from a rear lane;  (ii) At the rear of the site with access from the street frontage;	The site does not have rear lane access.  Locating the garage at the rear of the premises, with access from the street frontage would result in an increase to site coverage and a reduction in landscape provision on the site.	N/A  Yes
	(iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or (iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment.	The location of the garage within the dwelling is situated towards the right hand side of the property, with a setback of 400mm from the most forward section of the front building alignment, and 7m setback from the front boundary. A further setback would increase the hard landscaped area of the site.	No – acceptable
	<b>C4</b> Car parking structures must be located and designed to: (i) Comply with AS2890.1 and (ii) Conveniently and safely serve all users; (iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street; (iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape; (v) Be compatible in scale, form, materials and finishes with the associated dwelling; (vi) Not reduce availability of kerbside parking; (vii) Retain any significant trees; and	The proposed attached garage is integrated into the proposed dwelling house. It is in keeping with the scale of the proposed dwelling house, being less than 50% of the façade.  The garage door is proposed to be approximately 400mm setback from the surrounding wall and is integrated within the front façade of the building.  The garage door will be conditioned to be compatible in scale form material and finishes with the associated dwelling.	Yes



Part	Control	Proposed	Complies
	(viii)Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.		
	<b>C8</b> In new development the garage/carport is to be setback 5.5 metres from the front boundary.	The proposed garage is setback 7m from the front boundary.	Yes

## Note 2 – Voids

The proposed design includes two voids, based around the stairwell, on the northwest of the dwelling.

The largest void approximately 9.3m<sup>2</sup> is located at the front of the dwelling, next to and including the staircase and is located over the entryway on the ground floor and off the leisure area on the first floor. It includes a single large glass window that runs continuously from ground to first floor.

The second void is to the rear of the staircase, 2.3m<sup>2</sup>, adjacent to the northern frontage and does not include and windows.

These void spaces are not reasonable to infill, as they allow for additional light and ventilation to the staircase and the main entrance. The large window on the front western elevation results in making this void impractical to infill. The second of the two voids is smaller and impractical to infill.

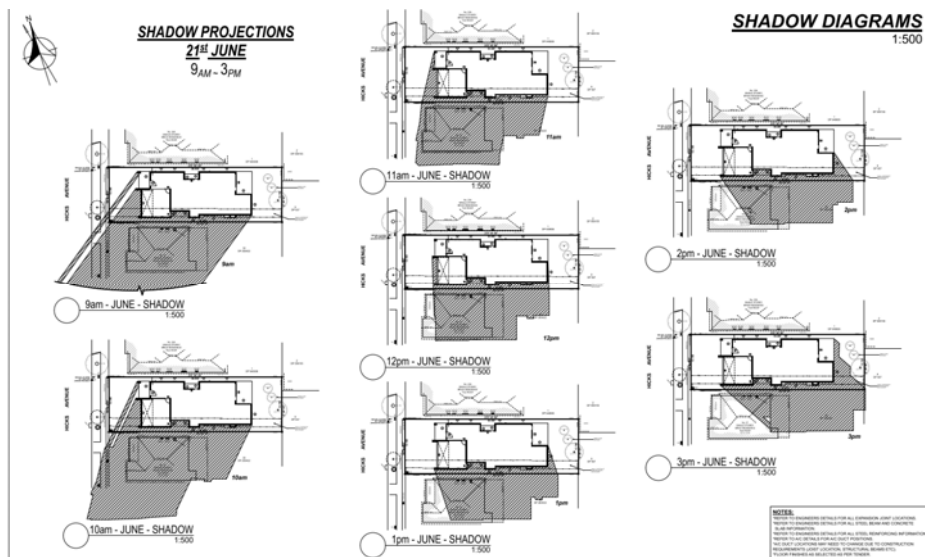
If these voids were filled, this would result in an FSR exceedence of 1% and would not negatively impact on the adjacent dwelling or streetscape. The infill would not create additional bulk to the dwelling. The staircase location would provide a buffer between the additional floor space and windows which overlooked adjacent properties, mitigating privacy impacts. Potential floor area closer to the window facing the street could provide increased opportunity for passive surveillance.

## Note 3 – Solar Access

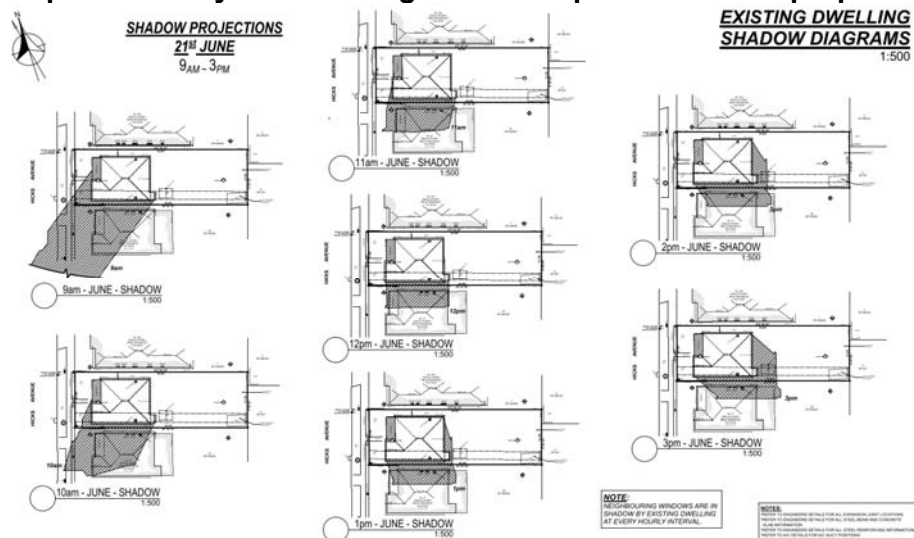
The subject site has an east to west orientation with east being the rear of the site while west is the front of the site. 25 Hicks Avenue is currently vacant but previously included a single storey dwelling house. The overshadowing caused by the two storey dwelling house proposed falls to the south of the site, to 27 Hicks Avenue, Mascot.

The applicant provided revised shadow diagrams as a result of the amended plans provided to Council. These amendments altered the roof form, to be more in keeping with the streetscape and adjacent heritage item, demonstrating a non-significant change to the shadow due to this roof form.

The adjacent property of 27 Hicks Avenue, Mascot has two windows facing the proposed development, however there uses are not known. Figures 7 and 8 below show the shadow impact to these windows on June 21, demonstrating that they are shadowed from 9am to 3pm on this date, with the same impact caused via the single storey dwelling previously existing on the site. Given the orientation of the site and that this appears to be an existing issue it is seen as acceptable.



**Figure 7. Proposed hourly shadow diagram- 9am-3pm June 21 for proposed dwelling**



**Figure 8. Proposed hourly shadow diagram 9am- 3pm June 21 for previous dwelling**

Consideration has been given to the Land & Environment Court planning principle on the impact on solar access of neighbours from *Parsonage vs Ku-ring-gai* (2004) NSWLEC 347 and as amended by *The Benevolent Society vs Waverley Council* (2010) NSWLEC 1082 is addressed as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The proposed works are for a two storey dwelling house. This will replace a previous single storey dwelling house which occupied the site prior to its demolition. The applicant has provided to Council shadow diagrams of that single storey dwelling, demonstrating identical shadow impacts to these two windows on June 21. It is expected that the proposal will contribute to further overshadowing on the site, given the increase in height, however the proposed works, replacing the previously dwelling, is seen to have similar shadow impact to the neighbouring dwelling with regard to these two windows.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The shadow diagrams provided show the impact to solar access to the whole site, including the increased impacts to the private open space, accessed from the rear of the dwelling. There is a noticeable loss in solar access to the rear of the dwelling; however the solar access to the primary open space at the rear of the dwelling maintains 50% or more solar access on June 21.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposals design places the bulk of the development at the front of the property, with the rear of the dwelling dropping to a height of 6.4m, including the vertical slatwork screening. This change in height allows for greater sunlight to the primary open space of the dwelling. The proposal complied with setback requirements. It does however include a 4.6 request for variation regarding height of 600mm. This height increase is due to the request by Council to include a pitched hip and gable form, in keeping with the adjacent heritage item and to increase the floor level of the proposal due to flooding and overland flow affecting the site. The height increase on shadow is not seen as overly significant to the impact to the windows, as now superseded shadow diagrams for the original roof design show the same shadowing to the windows for June 21. The overshadowing is not a result of poor design.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the open space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: The primary open space of the 27 Hicks Avenue will also continue to receive 2 hours during June 21, which can be attributed to the large size of the rear open space on the site and the stepped down height to the rear of the development proposed at 25 Hicks Avenue, Mascot.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: The existing side fences and eaves do contribute to the overshadowing on the site, as this shadow would be similarly place to those caused by the dwelling. The side fence is noted as being existing and the proposal has included higher floor levels due to flooding and overland flow, and does somewhat contribute to overshadowing of the open space, however it is not seen as significant in contributing to the shadow impact to the two windows at 27 Hicks.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: The immediate streetscape includes other dwellings of a similar height and scale as those proposed. There are also numerous sites that are existing within the street which are likely to be demolished and redeveloped in a similar fashion to what is being considered on this site. Given the orientation of the street it is likely that these developments would have similar issues to this proposal given the east-west subdivision pattern. The proposal is not excessive in scale or height.

## Summary

The planning principles on solar access have been considered with regard to the subject application. Having regard to these principles, the impacts of the development are acceptable.

### **Part 8 – Mascot Character Precinct**

Part 8.7.1 Desired Future Character of the Mascot Precinct has been considered in the assessment of the application.

The site is located within the R2 Low Density Residential zone of the Mascot Precinct between Brussels Street and King Street.

The desired future character relevant to the proposed new dwelling include:

- Encourage site layout, building styles and designs which promote commonality and a visual relationship with the surrounding built form and dwelling styles;
- Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character.
- Maintain roof forms to reflect the characteristics of the prevailing designs within the street.
- Encourage dwelling styles that maintain and complement existing development patterns;
- Maintain and enhance low density residential low density residential accommodation in the form of detached/attached dwellings with a maximum height of 2 storeys in the remainder of the precinct;
- Promote urban design and uses that enhance to the character of the area and protect and are sympathetic to the significance of Heritage Items.

The dwelling has been designed to address the street and is consistent with the streetscape and the adjacent heritage item. The dwellings are compliant regarding FSR, setbacks, site coverage, private open space and is considered to have acceptable height, landscaping and solar access to neighbouring sites. As such the proposed works are suitable for the site and are in keeping with the desired future character of the Mascot Precinct as per Botany Bay Development Control Plan Part 8 Character Precincts.

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

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

The development application was referred to Council's Development Engineer, Landscape Architect and Environmental Health Officer for comments. Appropriate conditions have been imposed on the development consent to address the relevant issues raised. 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 subject site is not known to be affected by any natural hazards or other site constraints that are 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 site is impacted by overland flow and flooding therefore the finished floor level of the ground floor was raised to meet Council's requirements. Prior to lodgement the application was referred to Council's Drainage and Development Engineer who required the finished floor level of the ground floor to be raised

to RL8.8 for habitable and 8.67 for non-habitable. The proposal has floor levels greater than this at 9.2 habitable and 8.9 non-habitable.

Accordingly, the site is suitable to accommodate the development. The proposed development, being the construction of a new two storey dwelling to a site located within the R2 Low Density Residential, is a suitable development in the context of the site and the locality. Accordingly, it is considered that the site is suitable to accommodate the 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 22 June to 6 July 2016. No submissions were received.

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

Granting approval to the proposed development will have no adverse impact on the public interest

### **Section 94 Contributions**

The City of Botany Bay's Section 94 Development Contributions Plan 2016 became effective on 14 June 2016. The Plan applies to all development applications lodged before the commencement of this Plan, but not yet determined. The subject DA was lodged before the commencement of the Plan and is not yet determined and as such is applicable. The proposal replaces the previously existing dwelling on site. Hence no additional dwellings are proposed and no contribution is required.

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## **Conclusion**

Development Application No. 16/81 for the demolition of the construction of a two storey dwelling house at 25 Hicks Avenue, Mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*. The application was amended to provide a more sympathetic roof form, in keeping with the heritage item and prevailing roof forms in the street. The altering to a pitched roof form, together with the requirement to have a raise finished floor level to mitigate against flooring, resulted in an exceedence in building height, requiring a clause 4.6 variation to a development standard, which is supported and is recommended for approval subject to conditions of consent in the attached Schedule.

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## **Attachment**

### **Schedule 1 – Conditions of Consent**

**Premises: 25 Hick Avenue, Mascot  
16/81**

**DA No:**

### **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.

<b>Drawing</b>	<b>Author</b>	<b>Dated Received</b>
Site Plan Plan- Rev F	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Ground Floor Plan- Rev F		Dated 13 September 2016; Received 14 September 2016
First Floor Plan- Rev F		Dated 13 September 2016; Received 14 September 2016
Roof Plan- Rev F		Dated 13 September 2016; Received 14 September 2016
Elevations- Rev F		Dated 13 September 2016; Received 14 September 2016
Elevations – Rev F		Dated 13 September 2016; Received 14 September 2016
Section – Rev F		Dated 13 September 2016; Received 14 September 2016
LPDA 16 - 392 / 1 - Landscape Plan- Issue E	Conzept Landscape Architects	Dated April 2016, Received 16 September 2016
LPDA 16 - 392 / 2 – Details 1	Conzept Landscape Architects	Dated April 2016, Received 16 September 2016
LPDA 16 - 392 / 4 – Specification	Conzept Landscape Architects	Dated April 2016, Received 16 September 2016

<b>Reference Documents</b>	<b>Author</b>	<b>Date Received</b>
BASIX Certificate No. 723925S	Damian O'Toole Town Planning Pty Ltd	Dated 9 May 2016; Received 6 June 2016
Survey Plan	Geosurv consulting surveyors, planners and engineers	Dated 20 November 2016; Received 6 June 2016
Schedule of Finishes	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Aircraft Noise Intrusion Assessment	Acoustic Logic	Date 5 May 2016, Received 6 June 2016.
Concept Stormwater Management Plan	Law and Dawson	Dated 30 April 2016; Received 6 June 2016

Statement of Environmental Effects and Heritage Assessment	Damian O'Toole Town Planning Pty Ltd	Dated May 2016; Received 6 June 2016
Waste Management Plan	LW Designs Architectural Drafting Services	Received 11 April 2016
Streetscape Elevation – Rev F	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Shadow Diagrams Mar/Jun	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Shadow Diagrams Sep/Dec	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Proposed Shadow - June - Hourly	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Existing Shadow - June - Hourly	LW Designs Architectural Drafting Services	Dated 13 September 2016; Received 14 September 2016
Clause 4.6- Exception to Development Standard- Height of Building	Damian O'Toole Town Planning Pty Ltd	Received 29 August 2016

2. This Consent relates to land in Lot A in DP 301997 and, 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 (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- 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 persons intention to commence the erection of the building.

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

- 6. 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.
- 7. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
  - a) Builders Security Deposit \$6,700.00
  - a) Development Control \$855.00
- 8. Prior to the issue of the Construction Certificate, revised plans are to be provided to Council for approval requiring the following modifications:
  - b) Design of the front fence design, which shall be limited to an overall height no greater than 1.2m and the height of the solid section of the

fence shall be limited to 600mm. Minimum 50% opening shall be provided in the slats area of the fence and in colours and materials in keeping with the associated dwelling.

- c) The materials of the garage door, which are to be of compatible material and finishes with the associated dwelling.
  - a) Demonstrate how water recycling and reuse, and integration of roof gardens with alternate energy sources, is to be incorporated.
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 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.

10. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit of \$6,700.00 (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 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 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. A dilapidation report of 23 and 27 Hicks Avenue, including a photographic survey prepared by a Practising Structural Engineer, must be prepared in respect of the property known as 25 Hicks Avenue. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior the release of the Construction Certificate.
13. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall 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.

As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the

new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.

14. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal 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.
15. 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) Provisions made in the Stormwater Management Plan by Dawes, dated 30 April 2016.
16. 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 Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.
  17. The measures required in the acoustical assessment report prepared by Acoustic Logic Report Number 20160618.1 and dated 05/05/2016 shall be undertaken in accordance with the provisions of AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building. Details must be provided with the Construction Certificate.
    - a) The work detailed in the report includes:
    - b) Appropriate acoustic glazing to stated windows and doors,
    - c) Detailed roof and ceiling construction,
    - d) Wall and ceiling corner details and,
    - e) External door specification,
    - f) Acoustically treated mechanical ventilation.

**Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

**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: -
    - 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.
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. 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.
21. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.

22. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
23. 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.
24. 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.
25. 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.)*

- b) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- c) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- d) Permit for roads and footways occupancy (long term/ short term),
- e) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- f) 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,
- g) Permit to place skip/waste bin on footpath and/or nature strip, and
- h) Permit to use any part of Council's road reserve or other Council lands.

### **DURING WORKS**

26. 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 te Local Environmental Planhone 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 te Local Environmental Planhone number.
  - b) Any such sign is to be removed when the work has been completed.
27. 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.
- 28.
- 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.
29. 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 Councils road reserve must also have prior approval of Council.
30. 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.

31. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
32. 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.
- 33.
- a) 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;
  - b) Existing structures and or services on this and adjoining properties are not endangered during any 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.
  - c) 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:
    - i) Protect and support the adjoining premises from possible damage from the excavation, and
    - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
34. 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 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:

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.

35. 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.

36. 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) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

37. 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.
- 38.
- 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.
39. 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 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.
40. 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.
41. 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.
42. The Applicant has permission to remove one (1) Street tree (*Callistemon* sp.) located within the Council nature strip in Aloha Street in front of the property. Note: Trees are not permitted to be removed until the Construction Certificate has been issued.
43. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- (a) A qualified Arborist with their own public liability insurance must be engaged.
  - (b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
  - (c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
- Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

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

44. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
45. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
46. 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).

47. 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.
48. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
  - a) On Hicks Avenue, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
  - b) On Hicks Avenue, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
49. 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.
50. Prior to the issue of any Occupation Certificate(s), 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 Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
  - b) Restriction on the use and to maintenance the first floor roof top area as a green roof.
51. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which: –
  - a) Acknowledges that:
    - i) The land is within a 25-30 ANEF contour;
    - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and
  - b) Requires the Owner to maintain the noise attenuation work in accordance with the conditions of this Consent; and
  - c) The terms of such positive covenant shall provide that it can only be varied by the City of Botany Bay.
52. 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.

53. Prior to the issue of Occupation Certificate(s), the following easements shall be created in conjunction with Council:
  - a) Register new 2.0m wide “Easement to Drain Water” over the existing stormwater culvert, and
  - b) Register new 0.9m wide “Easement to Drain Water” along the southern property boundary for overland flow.
54. The Council nature strip in Hicks Avenue 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.
55. 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 FOR THE ONGOING USE**

56. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
57. 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.
58. The building is approved as a single dwelling on each site for use and occupation by a single family. 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.
59. 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.
60. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
61. 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.

62. 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.

63. 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. Noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

**Note:** in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

64. 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. 16/81 dated as 6 June 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

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## Council Meeting

**9/11/2016**

Item No	9.5
Property	<b>44 Wilson Street, Kogarah</b>
Proposal	Construction of a two (2) storey residential dwelling house
Cost of Development	\$447,855.00
Report by	Michael Maloof, Development Assessment Planner
Application No	(R) DA-2016/388

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## Officer Recommendation

- 1 That Council support the variation to the floor space ratio (FSR) control as contained in Clause 4.4(2) - Floor Space Ratio of Rockdale Local Environmental Plan (LEP) 2011, in accordance with the request under Clause 4.6 of Rockdale LEP 2011 submitted by the applicant.
  - 2 That Development Application DA-2016/388 for the construction of a two (2) storey residential dwelling house at 44 Wilson Street Kogarah NSW 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 NSW Department of Planning and Environment be advised of Council's decision.
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## Attachments

- 1 Planning Assessment Report and Draft Notice of Determination
- 2 FSR Clause 4.6 Variation
- 3 Addendum FSR Clause 4.6 Variation
- 4 Site Plan
- 5 Elevations Plans



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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/388
<b>Date of Receipt:</b>	17 May 2016
<b>Property:</b>	44 Wilson Street, KOGARAH NSW 2217 Lot 12 DP 553656
<b>Owner:</b>	Mr Henry Martin
<b>Applicant:</b>	Mr Henry Martin
<b>Proposal:</b>	Construction of a two (2) storey residential dwelling house
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	No submissions received
<b>Author:</b>	Michael Maloof
<b>Date of Report:</b>	20 September 2016

### Key Issues

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The key issues related to this application are:

- Floor Space Ratio
- Flooding

### Recommendation

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1. That Council support the variation to the floor space ratio (FSR) control as contained in Clause 4.4(2) - Floor Space Ratio of Rockdale LEP 2011, in accordance with the request under Clause 4.6 of RLEP 2011 submitted by the applicant.
2. That Development Application DA-2016/388 for the construction of a two (2) storey residential dwelling house at 44 Wilson Street Kogarah NSW 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 NSW Department of Planning and Environment be advised of Council's decision.

### Background

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#### History

Council's records show that there are no recent applications previously lodged for the subject site.

#### Proposal

Council is in receipt of a development application DA-2016/388 at 44 Wilson Street KOGARAH NSW 2217, which seeks consent to construct a new two (2) storey residential dwelling.

The proposal consists of:

- A new two storey dwelling with a lounge, entry, kitchen, family/meals room, laundry, bathroom and stair on the ground floor, and four bedrooms, ensuite, bathroom and sitting room on the first floor
- A front and side balcony on the first floor and open terrace to the site (rear) adjacent to the existing swimming pool
- A double garage attached to the side of the dwelling with 2 on site car parking spaces
- Direct access to the site from Scarborough Lane
- Retain the existing swimming pool

## Site location and context

The subject site is known as Lot 12 in DP 553656, at 44 Wilson Street KOGARAH NSW 2217. The site is a rectangular shape with front and rear boundary widths of 12.98m and 16.815m, respectively. The side boundaries are 31.720m and 31.485m deep. The total site area is 469.1 sq.m. The topography of the site is such that it has a modest fall to the east (to Scarborough Lane) of 0.4m.

The subject site contains a two-storey dwelling house with attached garage at the southern end of the dwelling. The site is located on the northern side of Wilson Street and the western side of Scarborough Lane on a corner just south of Austral Street. Adjoining development to the side includes a dwelling house to the west along Wilson Street and single storey villa dwellings to the north fronting Austral Street. Between the dwelling house on the site and the villas to the north is a battle axe handle providing access from Scarborough Lane to the rear of the adjoining property to the west fronting Wilson Street. A two storey dual occupancy development is situated on the opposite side of Wilson Street to the south. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

The proposal will include the removal of three existing trees adjacent to the western boundary and three trees in the front setback (north east corner) of the site. However appropriate conditions are to be included in the Draft Notice of Determination regarding protection of existing trees.

## 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 (Building Sustainability Index: BASIX) 2004**

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate

number is 679112S\_02.

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

Reduction in Energy Consumption 48 %

Reduction in Water Consumption 40 %

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
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 3	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
6.8 Biodiversity protection	Yes	Yes - see discussion
6.9 Riparian land, watercourses and artificial waterbodies	Yes	Yes
6.10 Wetlands	Yes	Yes
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 two storey dwelling house 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.

### 2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing dwelling house and attached garage and hence satisfies the provisions of this Clause.

#### 4.3 Height of buildings

The height of the proposed building is 8.28m (RL 10.479 - NGL 2.2) and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map. Further, the proposed development will result in a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

#### 4.4 Floor space ratio - Residential zones

The proposed development does not comply with clause 4.4(2) in RLEP 2011, which restricts the floor space ratio (FSR) to 0.5:1 in a Low Density Residential R2 zone. The proposed development will have a floor space of 247.15m<sup>2</sup> which is 12.6m<sup>2</sup> over the maximum FSR and will result in an overall FSR of 0.526:1.

The applicant's request to vary the development standard Clause 4.4 ( Floor Space Ratio) is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). This has been addressed in the next section of this report (refer to section 4.6). 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. Further, it is considered that the proposed FSR satisfies the objectives of Clause 4.4.

#### 4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, 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 of the relevant zone.

- 5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and
- 5(b) the public benefit of maintaining the development standard.

#### **Development Standard to be varied**

The applicant has sought to vary clause 4.4 (2) of the Rockdale LEP 2011 which relates to the maximum floor space ratio of the proposed dwelling house development which is limited to 0.5:1. The proposal will have a floor space ratio of 0.526:1 which exceeds the maximum FSR permitted by 12.8m<sup>2</sup> (or 2.6%). Clause 4.4 (2) of the RLEP 2011 states:

- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The objectives of this clause are as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

### **Justification of the Variation**

The applicant has submitted a detailed justification to the proposed variation to the development standard. It is stated that the proposed variation:

- It would be unreasonable to enforce strict compliance with the FSR clause for this development when Council has abandoned the clause in the past, the requested variation is only minor in comparison to other variations approved. To reduce the home to comply with the 0.50:1 FSR would reduce the size of the bedrooms and living areas, we believe this to be unnecessary due to the minimal amount it exceeds the requirement.
- Strict compliance will not hinder nor help the management, development and conservation of natural and artificial resources as specified in Section 5(a)(i). It would however hinder the economic use and development of the site, by not being flexible and preventing the construction of the proposed home which was designed to fit within an irregular shaped site and to complement the surrounding area.
- The floor space ratio standard has been abandoned and examples were given in Kogarah, Monterey and Kyeemagh of variations to the FSR control up to 6%
- The subject site contains an area which is just 9.1m<sup>2</sup> (2%) over the threshold for which additional floor space is ordinarily granted being an FSR of 0.55:1 and not limited to 0.5:1
- The controls should be applied flexibly as the proposal complies with the remaining controls including height, streetscape, private open space and so on.
- The minor non compliance allows a well designed home which will increase the value of the site and surrounding area. It will also achieve a better outcome.
- The applicant has argued that strict compliance with the standard would be unreasonable and necessary in the circumstances of the case.

### **Council Comments:**

The applicant's submission is supported in the context of clause 4.6 based on their justification outlined above.

Pursuant to clause 4.6(4)(i), Council must be satisfied that applicant's written request has adequately addressed the matters required to be demonstrated by sub clause 3. In this instance, the applicant has adequately addressed the matters in sub clause 3 based on the justification above and has shown that Council has previously varied the floor space ratio control in the case of other dwellings in the area. In this regard, Council is satisfied that the applicant has addressed the relevant matters.

Pursuant to clause 4.6(4)(ii) Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the

objectives of the relevant zone. In this instance, the application is consistent with the objectives of the standard and those of the R2 Low Density Residential zone and accordingly the proposal is in the public interest. The proposed variation is not visually prominent (compared to other dwellings in the precinct) and the proposed development is not likely to set an undesirable precedent within the locality. The proposed floor space ratio will have minimal adverse impact in terms of building dominance, solar access, light and air.

Further, the proposal is consistent with the relevant objectives of Clause 4.4 of the RLEP 2011. In this regard, strict compliance with the floor space ratio controls is considered to be unreasonable and/or unnecessary in the circumstances of the case. Further, there is sufficient environmental planning grounds to justify contravening the development standard. Accordingly, the proposal is acceptable in respect to the floor space of the proposed dwelling house.

#### 5.9 Preservation of trees or vegetation

The site contains trees that are subject to approval by Council under clause 5.9 of RLEP 2011 conferred by:

- (a) development consent, or
- (b) a permit granted by Council.

The proposal will involve the removal of three existing trees adjacent to the western side boundary (a Ficus, Pittosporum and Metrosideros), an Avocado tree next to the existing swimming pool and another three existing trees in the north eastern corner of the site (2 x Melaleuca and Mulberry) fronting fronting Scarborough Lane.

A detailed landscape plans prepared by a qualified landscape architect has been submitted with the application. The plan shows the removal of the existing mature trees and their species and includes the provision of replacement trees and protection measures for existing vegetation on the site.

Council's Tree Management Officer has raised no objections to the proposal and has recommended appropriate conditions to be imposed in the draft Notice of Determination. These conditions relate to the protection and retention of existing vegetation and the removal of site trees subject to suitable replacement trees being planted in appropriate locations.

In this regard, the amenity of the area will be preserved and accordingly, the proposed development satisfy's the requirements and meets the objectives of this Clause.

#### 6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affects the property. Development Consent is not required as the proposed works involve the disturbance of less than 1 tonne of soil and the works are not likely to lower the watertable.

#### 6.2 Earthworks

Earthworks including excavation are required on site for the footings for the house and fence. 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 51.0m AHD. The building height is at 8.28m (RL10.479m) 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 retention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

#### 6.8 Biodiversity protection

Council's Environmental Management Officer has stated that due to the small scale of works this proposal is not likely to impact on the nearby endangered ecological condition. The Tree Management Officer has advised the tree removal has been given as the Fig species is not appropriate for its current situation and has impacted on the other two species.

However due to the environmental sensitivity of the nearby natural area as per Tree Management Officer condition these trees need to be replaced. In this regard, the replacement trees as per Council's Tree Management Officer conditions are to be planted. These tree species are to be chosen from Appendix B Part A - Indigenous Plant List general or Appendix B Part B - Wetland Corridor Plant List of Rockdale City Council's Landscape Technical Specifications. This has been addressed through the imposition of a condition of development consent.

### **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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.3 Groundwater Protection	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.6 Development on Sloping Sites	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.1.8 Biodiversity	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Dwelling	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.3.2 Private Open Space - Low density residential	Yes	Yes
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
4.6 Parking Rates - Dwelling House	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
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The site and adjoining properties are relatively flat and contain 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 absorption trench tank. A stormwater plan has been submitted.

#### 4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3, however it is considered that excavation in relation to the proposed building is not deep enough to cause any adverse impact on the Zone. Notwithstanding, an appropriate condition is to be included in the consent to ensure the provisions of this Clause are satisfied.

#### 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.

#### 4.1.7 Tree Preservation

The development proposal involves the removal of one Avocado tree and six other mature trees as outlined previously in this report (refer to section 5.9 titled Preservation of Trees or Vegetation).

Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the protection and retention of existing trees and the removal of site trees subject to suitable replacement trees being planted in appropriate locations.

#### 4.1.8 Biodiversity

The proposal will include the removal of existing trees and replacement with at least three new trees and other landscape vegetation. These trees have been chosen from Council's Indigenous Plant List or the Wetland Corridor Plant List from Council's Landscape Technical Specifications. Given the proximity of the site to the nearby natural area, Council's Environmental Strategist has stated the replacement trees will be beneficial and contribute to the area. In this regard, no objections are raised to the proposal.

#### 4.1.9 Lot size and Site Consolidation - Dwelling

For dwelling house development, a minimum lot size of 450m<sup>2</sup> and a minimum width of 15m at the front building alignment is required. However, a dwelling house may be erected on a parcel of land which existed as a separate parcel on 30 March 1973. The subject site complies with the minimum lot size (469.1m<sup>2</sup>) and width requirements. In this regard, the the allotment size is considered to be sufficient for a dwelling house development and complies with the relevant landscaping, parking and access provisions. The proposal is therefore consistent with the objectives and requirements of this standard.

#### 4.2 Streetscape and Site Context - General

The proposal is located in a low density R2 Residential zone. The immediate context is relatively low scale, consisting of single and two storey dwelling houses and dual occupancy developments.

However, the area is undergoing change, as reflected in a number of new dwelling house developments. The proposed dwelling house development 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 front setback is consistent with the variable setbacks of surrounding two storey buildings and in this regard the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height requirements but exceeds the floor space ratio control by 5.4% (12.6m<sup>2</sup>). Notwithstanding this, the proposed development has been designed with appropriate use of articulation and modulation to the facades via the incorporation of balconies, pedestrian entries at ground level, upper level voids and range materials which adds visual interest to the facades.

The proposal will require changes to the footpath along Scarborough Lane with the relocated driveway and vehicle crossing. The proposal will not involve any changes to the footpath and existing brick kerb in Wilson Street.

The development provides for a balanced approach and is suitable in its orientation with the new dwelling facing the park along Scarborough Lane. The building also presents well to Wilson Street with a high fence similar to the existing fence along this frontage with the dwelling clearly visible behind the fence. A range of materials, colours and finishes is proposed to provide for a modern contemporary building.

The proposed development will have a front door, family room and lounge room window addressing the street, with the building's frontage and entry points being readily apparent from the street. The proposed development has been designed with front balconies and family room and lounge room windows that will provide casual surveillance of the street. Further, the proposed fences, landscaping, and other features have been sited so as to provide clearly defined public, semi public and private spaces.

#### 4.2 Streetscape and Site Context - Fencing

The proposal will include a 1.2m high masonry fence in front of the dwelling house (fronting Scarborough Lane) with a dwarf wall and metal infill panels between piers being up to 50% transparent while a 1.8m high colour bond fence will front Wilson Street. This fence will provide an appropriate context with the street directly in front of the dwelling house. The colour bond fence is not considered unreasonable as it will replace the existing color bond fence and extend along Scarborough Lane up to the southern external wall of the dwelling house (left side) and will enclose the private open space area which includes a pool and lawn. Accordingly, the proposal is acceptable in respect to fencing and no objections are raised to the scheme in this regard.

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

The submitted landscape plan is acceptable and is to be incorporated into the draft Notice of Determination by way of a condition of development consent. The proposal provides adequate landscaping area with 144m<sup>2</sup> of private open space that is private even though it is adjacent to Wilson street, it is separated by a 1.8m high fence and is private. The landscaped area has 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 dwelling house will cast a shadow to the south west during the morning and south east over Scarborough Lane in the afternoon in mid winter. However, the proposal affords more than 3 hours of direct solar access to the adjoining property and 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 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 2.7m to the ground and first floors.

#### 4.4.5 Visual privacy

The proposed dwelling house with attached garage has been designed and sited to minimise the overlooking of adjoining properties, incorporating:

- privacy screens to the western sides of the rear first floor balcony
- highlight windows with sill height of 1.7m above finished floor level in the rear elevation on the first floor, and
- windows are offset to preclude views into windows of adjacent buildings

The proposal has been designed and sited to minimise overlooking and retain adequate privacy between adjacent dwellings. The dwelling house overlooks the park to the east and is appropriate in respect to its context, siting and design.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties.

#### 4.6 Parking Rates - Dwelling House

The development will have minimal impact on access, parking and traffic in the area. The provision of 2 car spaces is in accordance with RDCP 2011.

#### 4.6 Car Park Location and Design

The proposal will include provision of a double garage attached to the proposed dwelling house with direct access from Scarborough Lane. Accordingly, the proposed double garage complies with the minimum dimensions and access requirements under Council's DCP 2011 and is acceptable in this regard.

#### 4.6 Driveway Widths

The proposal will have a 4m wide opening at the front property boundary and can comply with the maximum width requirement for a vehicular crossing under Council's 2011. A condition of development consent has been included in the draft Notice of Determination. Accordingly, the proposal is acceptable in this regard.

#### 5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

The proposed dwelling will have a front setback to Wilson Street of 7.427m while the front setback to Scarborough Lane is between 2.564m and 3.38m to the dwelling house and 5.5m to the garage. While the setback complies along the Wilson Street frontage, they do not comply along the Scarborough Lane frontage. However, the dwelling fronts Scarborough Lane and is consistent with the prevailing setbacks of neighbouring dwellings (villas to the north) which front the lane. As such, the setbacks provided are consistent with the streetscape and the objectives of the setback controls under Council's DCP.

DCP2011 requires a 1.2m side setbacks and a 3m and 6m rear setback to the ground and first floor respectively. The proposal involves a northern side setback of 1.8m on the ground floor and 3.8m on the first floor. However, the proposal involves a rear setback of 1.2m on both floors to the western side boundary of the site. This is a result of the orientation of the proposed dwelling house facing Scarborough Lane, being the same as the existing house on the site. In this regard, the proposal does not comply with the minimum rear setback control under Council's DCP 2011. Despite this non compliance, the design of the dwelling house includes an appropriate western (rear) elevation with highlight windows, is not likely to result in any unreasonable level of overlooking, is appropriate for the configuration of the site and is not unlike the existing dwelling house on the site. In this regard, the

proposal is consistent with the objectives of the setback control and is acceptable in this instance.

The first floor contains a 2m wide balcony in the northern elevation which is setback 1.8m from the side boundary. This is not unreasonable and will not result in any excessive overlooking since the adjoining property contains a battle axe handle with a driveway for the adjoining dwelling house and adjacent landscape plantings. Furthermore, the design is similar to the balcony on the northern elevation for the existing dwelling house on the site. As such, the setback from the northern boundary is acceptable in respect to the setback requirements under Council's DCP 2011.

Accordingly, the proposal is not considered to adversely impact upon the adjoining dwellings 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.

#### 5.1 Building Design - General

The proposed dwelling house 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 and is appropriately designed such that it does not dominate the site. The proposal complies with the height control applying to the land but exceeds the maximum permissible floor space ratio by 5.4% (or 12.6m<sup>2</sup>). This is not considered unreasonable as outlined previously in this report. The proposal includes appropriately designed garages and internal staircases. 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.

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

Clause 92 of the Environmental Planning and Assessment 2000 has been considered, and the requirements for demolition have been considered and compliance with Australian Standard AS 2601—1991: The Demolition of Structures is a recommended condition of consent.

### **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 however, excavation for the proposed dwelling is not deep enough to cause any adverse impact on the direction of flood waters and the building has been designed in accordance with the requirements outlined in Council's Flood Advice Letter and a Flood Management Plan has been implemented subject to the imposition of conditions of development consent.

#### **Construction**

The residential building is to be constructed in brick veneer with roof tiles and a concrete ground floor slab with timber first floor. 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 dwelling house has been assessed against the relevant DCP 2011 and found to comply, apart from the floor space ratio control which was addressed previously in this report. In this regard, the proposal represents a suitable redevelopment of the site and is acceptable in respect to the context and location of the subject site.

### **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.

### **S94A Fixed development consent levies**

Section 94A of the Environmental Planning and assessment Act 1979 (as amended) applies to the proposal. In this regard, a standard condition of development consent has been imposed in respect to a levy applied under this section.

### ***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 8.28m (RL 10.479) 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.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Architectural Plans, Job No. 2010649, Drawing Sheet Nos. 1 to 6 inclusive,	Masterton Homes	12/08/15	17/05/16
Landscape Plan, Design No. L 2010649-05,	Scapewise Design	28/04/16	17/05/16
Stormwater Management Plan, Job No. 112177, Drawing Nos. 1 to 3 of 3, Issue B,	StormCivil	27/04/16	17/05/16

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 (679112S\_02) 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 dwelling 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.



## **Development specific conditions**

The following conditions are specific to the Development Application proposal.

9. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
  - (i) permit stormwater to be retained 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.
10. 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.
11. 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.

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

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

12. 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.

13. 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.
14. 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.
15. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:
  - i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
  - ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.

2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

Note: This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

16. 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.
17. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
18. All 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.
19. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
20. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile 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 in 25 and shall include all relevant levels, grades (%) and lengths.

21. Any part of the proposed building within 3m of the proposed absorption tank shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base or alternative design certified by structural engineer.

Any part of the proposed building within 3m of the existing swimming pool shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the pool structure. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

22. The driveway over the absorption tank shall be either constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank base or constructed as a structural slab so that no load is transferred to the plastic drainage cells. This requirement shall be reflected on the Construction Certificate plans and supporting documentation from structural engineer.
23. 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.

All discharge to the drainage cells is to go firstly through the manufacturers recommended and correctly sized filtration unit before being piped directly into the drainage cells. The base of the absorption tank system shall have minimum 0.5m separation from the highest known ground water table.

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

## **Prior to commencement of works**

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

24. 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.

25. 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.

26. 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.
27. 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.
28. 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.
29. 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.

30. 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.
31. 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.
32. 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.

- 33. 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.

- 34. 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.
- 35. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
- 36. 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.

37. 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.
38. 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 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.
39. 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.
40. 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.
- 41. 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.
  - 42. All existing trees located within the site may be removed.
  - 43. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.



## **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.

44. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
45. 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.
46. 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.
47. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
48. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
49. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
50. At least three (3) native or ornamental trees of at least 25 litre pot size and capable of growing to a minimum height of five (5) metres shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
51. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
52. The width of the single driveway shall be minimum width of 3.0m and maximum of 4.5m at the property boundary.
53. 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 occupation of the development.
54. 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.

55. 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.
56. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial 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.
57. 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 Probability (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.
58. 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.
59. All modular drainage cell installations must be inspected, and a compliance certificate under Part 4A of the Environmental Planning and Assessment Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.
60. Flow through open form fencing (louvres or pool fencing) is required for all new front fencing and all internal fences and gates up to the 1% AEP flood level. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Documentation shall be provided to Certifying Authority prior to occupation.
61. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 24 February 2016.
62. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

63. 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.

## **Roads Act**

64. The following works will be required to be undertaken in the road reserve at the applicant's expense:
  - i) construction of a new fully constructed concrete vehicular entrance/s;
  - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iii) removal of redundant paving;
  - iv) smooth transition with new driveways and footpath areas
65. 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.
66. 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.
67. 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.
68. 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. 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. All asbestos fibre demolition material and asbestos dust shall be handled, stored

and removed in accordance with the relevant legislation and guidelines including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- e. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- f. 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.



# Masterton HOMES

12<sup>th</sup> July 2016

Rockdale City Council  
PO Box 21  
Rockdale N.S.W 2216

**PROPOSAL:** Proposed New Dwelling.  
**PROPERTY:** 44 Wilson Street, Kogarah

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Referring to our application currently before council in accordance with Clause 4.6 of RLEP Masterton Homes wishes to apply for a variation to the Floor Space Ratio.

We propose to build a double storey brick veneer home that is consistent with the size and scale of other homes along Wilson Street. Rockdale Council's LEP 2011 has a maximum FSR of 0.5:1 (234.55m<sup>2</sup>) we respectfully request approval to increase the FSR to 0.526:1 (247.15m<sup>2</sup>).

The site is located opposite a public reserve and sporting fields, with Wilson Street bordering the left boundary and a driveway access handle bordering the right boundary; the site has only one immediate neighbour ensuring our proposal has no adverse impacts on the adjoining dwellings.

## **Clause 4.6 Exceptions to development standards**

1. The objectives of this clause are as follows:

- a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,

*This clause allows Council the flexibility to approve development that does not have strict compliance with the LEP. We believe this design has considered all aspects of the development standards, i.e. setbacks, building heights, streetscape, POS, landscaping, neighbours views and overshadowing ensuring the 2.6% variation has no adverse effect on the adjoining properties.*

- b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

*The minor non-compliance provides for a well-designed home which will increase the value of not only the subject site but will also boost the value of the surrounding area. Providing the requested flexibility in the clause will achieve a better outcome.*

2. Development 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. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

*Rockdale Council has utilised this clause and approved several properties that exceed the Floor Space Ratio (FSR) permitted within the subject zone, thereby abandoning the FSR requirement. This is evident in the following DA approvals which have been permitted a larger variation in the FSR than requested for in this application:*

*DA2015/442 – 25 President Avenue, Kogarah – 5% FSR variation approved*

DA2016/33 – 125 Monterey Street, Monterey – 4.1% FSR variation approved  
DA2016/162 – 101 General Holmes Drive, Kyeemagh – 6% FSR variation approved

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

*Strict compliance with the FSR would be unreasonable as at an additional 2.6% the non-compliance is only minor and is consistent with the recent direction of development throughout the Kogarah/Rockdale area which has seen the increase in building size.*

*The subject site is located opposite a large open reserve and playing fields; the site is located on a corner with a secondary street on the left and a driveway access handle on the right hand side providing a large open feel around the site it is because of the location and openness of the site that the minor increase in FSR will not adversely impact the surrounding area or adjoining properties*

- b. that there are sufficient environmental planning grounds to justify contravening the development standard

*The subject site is located on a corner lot and therefore has additional site constraints; we have complied with boundary setbacks, private open space and landscape requirements. The proposed house is not a bulky or oversized building; it provides the owners a well-designed home with the living and bedroom areas they require for comfortable living.*

*The property is opposite a large open reserve and playing fields; the site is located on a corner with a secondary street on the left and a driveway access handle on the right hand for the rear property; whereas the property to the right of the access way adjoining subject site is the start of an area zoned with a 0.6:1 FSR. Adding further supports the fact that the negligible increase of 0.026:1 in FSR for this development will cause no adverse impact to the surrounding area.*

**What is the name of the environmental planning instrument that applies to the land?**  
*Rockdale Local Environmental Plan 2011*

**What is the zoning of the land?**  
*Zone R2 Low Density Residential*

**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.*

**What is the development standard being varied?**  
*Floor Space Ratio (FSR)*

**Under what clause is the development standard listed in the environmental planning instrument?**  
*Clause 4.4*

**What are the objectives of the development standard?**  
*(1) The objectives of this clause are as follows:*

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.

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

*As the site is 469.1m<sup>2</sup> the required FSR is 0.50:1 or 234.55m<sup>2</sup>*

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

*The proposed FSR is 0.526:1 or 247.15m<sup>2</sup>*

**What is the percentage variation (between the proposed and the environmental planning instrument)?**

*There is a 2.6% (12.6m<sup>2</sup>) variation requested*

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

*It would be unreasonable to enforce strict compliance with the FSR clause for this development when Council has abandoned the clause in the past, the requested variation is only minor in comparison to other variations approved. To reduce the home to comply with the 0.50:1 FSR would cause design issues in reducing the size of the bedrooms and living areas, we believe this to be unnecessary due to the minimal amount it exceeds the requirement.*

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

*Strict compliance will not hinder nor help the management, development and conservation of natural and artificial resources as specified in Section 5(a)(i)*

*It would however hinder the economic use and development of the site, by preventing the construction of the proposed home which was designed to fit within an irregular shaped site and to complement the surrounding area.*

**Is the development standard a performance based control?**

*No, this is not a performance based control.*

**Would strict compliance with the standard be unreasonable or unnecessary? Why?**

*It would be unreasonable to enforce strict compliance with the FSR clause for this development when Council has abandoned the clause in the past, the requested variation is only minor in comparison to other variations approved. To reduce the home to comply with the 0.50:1 FSR would cause design issues in reducing the size of the bedrooms and living areas, we believe this to be unnecessary due to the minimal amount it exceeds the requirement.*

**Are there any sufficient environmental planning grounds to justify contravening the development standard?**

*Council has created sufficient environmental planning grounds that justify the contravening of the FSR control by abandoning the control as demonstrated in the approvals issued with larger variations to the control then that requested for this development. In approving the following developments, council has set a precedent and should in all fairness allow this smaller variation to proceed.*

*DA2015/442 – 25 President Avenue, Kogarah – 5% FSR variation approved*

*DA2016/33 – 125 Monterey Street, Monterey – 4.1% FSR variation approved*

*DA2016/162 – 101 General Holmes Drive, Kyeemagh – 6% FSR variation approved*

Accepting this proposal will result in an orderly and economic use of the land by accommodating an attractive new dwelling appropriate for the residential zone in which it is located.

For the reasons outlined above, we respectfully request that council exercise its discretion and allow the proposal to proceed in accordance with the submitted plans.

Should you require any further information, please feel free to contact me on 9821-5175 or email: [rebecca.hanratty@masterton.com.au](mailto:rebecca.hanratty@masterton.com.au)

Yours Faithfully

**Rebecca Hanratty**  
Technical Services  
**Masterton Homes**  
Ph: (02) 9821-5175



## **Justification – Addendum to the Clause 4.6 Variation**

**From:** Henry Martin

**Sent:** Tuesday, 20 September 2016 10:17 PM

**To:** Michael Avinou; Christine Dalton; Rebecca Hanratty; rafeliamartin@gmail.com

**Subject:** Fw: 44 Wilson Street Kogarah - DA-2016/388 - Job 2010649 - Lot 12, 44 Wilson Street KOGARAH NSW 2217 - (Martin)

Hi Michael,

We have consulted our solicitor who has advised:

The applicant is owner of an irregularly shaped residential corner lot. The front lot line is not perpendicular to the side lot lines and trapezoid in shape. The awkward shape of the lot results in any development to have a wider frontage and narrow depth in nature making it difficult for the owner to improve the property with adequate living areas.

How is strict compliance with this development standard unreasonable or unnecessary in this particular instance?

We note that under section 4.0 Note 1 of Rockdale City Council Development control plan no 56, a bonus of a total of 0.55:1 for properties not exceeding 460 SQM is permissible. The Lot is 469.1 SQM however due to the awkward size and shape (trapezoid and corner lot), we would like council to consider the bonus in this development. If the bonus was considered, development would result in floor ratio of 0.526:1 and well below the 0.55:1.

Accepting this proposal will result in an orderly and economic use of the land by accommodating an attractive new dwelling appropriate for the residential zone in which it is located.

The proposed development has no adverse effect on adjoining properties.

The second garage on the property will allow a boat to be parked in the premises rather than using up street space. Please note that Scarborough Lane is narrow with heavy traffic of parked vehicles during the summer and winter sports season.

We point out that Rockdale Council has recently merged with Botany Council and similar concessions should apply to properties in both areas. Botany Bay Local Environment Plan section 4.4A allows for the bonus of 0.55:1 to apply to lots with areas >450 SQM.

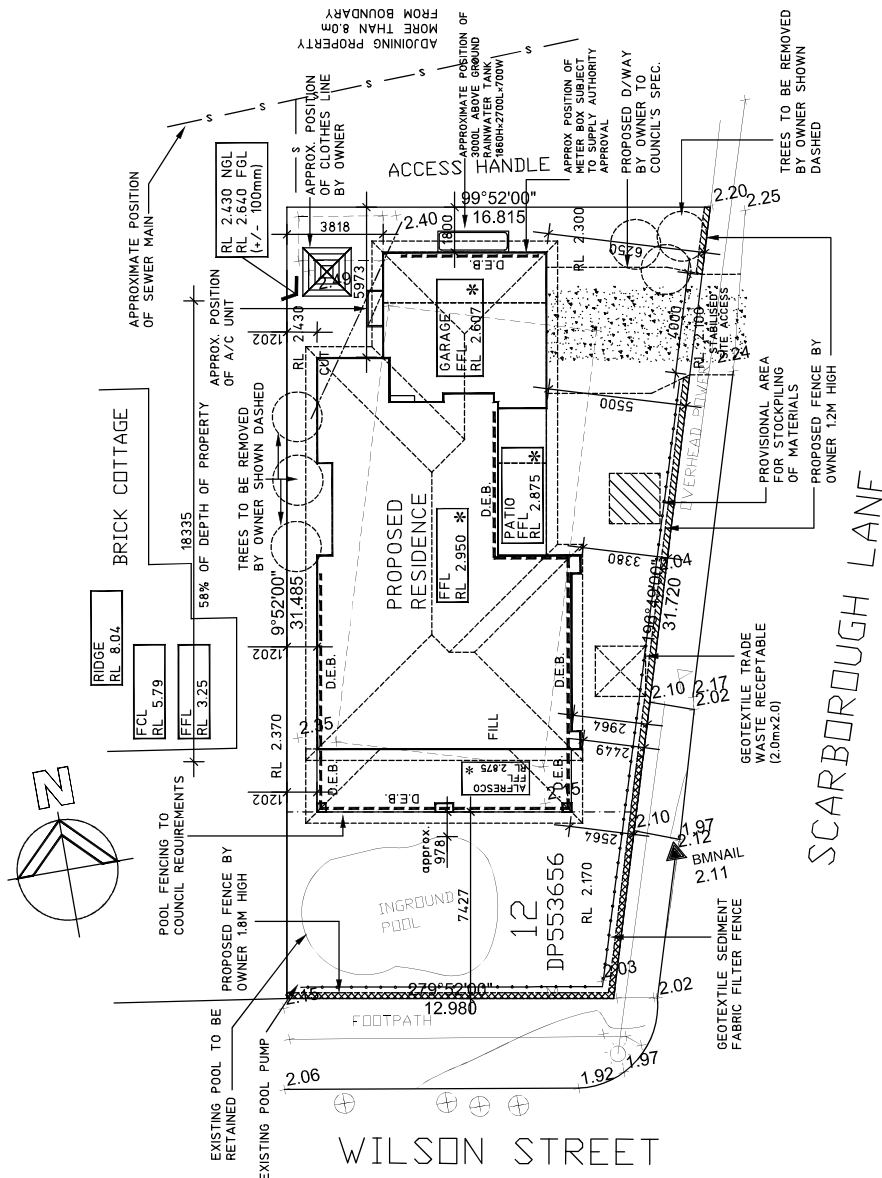
Michael the year is nearly over and we have not achieved as much as we would have wanted to. We really want to have the DA secured by December if we can and would appreciate your assistance in moving this faster.

Yours Sincerely,

Henry Martin

Tel: 0432326900

BASIX & SITE INFORMATION		Proposed Residence	
BASIX CERTIFICATE NUMBER: 679112s	CONSTRUCTION CERTIFICATE NUMBER: ---	For: Mr & Mrs MARTIN	
<b>SITE DETAILS</b> LOT NUMBER: 12 DP NUMBER: 553656 URB REFERENCE: NOT AVAILABLE SITE AREA: 468.10m <sup>2</sup> HOUSE AREAS: MEASURED TO EXTERNAL WALLS GROUND FLOOR: 124.97m <sup>2</sup> FIRST FLOOR: 154.79m <sup>2</sup> GARAGE: 38.60m <sup>2</sup> ALFRESCO: 25.25m <sup>2</sup> PORCH: 11.25m <sup>2</sup> FRONT BALCONY: 7.06m <sup>2</sup> SIDE BALCONY: 13.00m <sup>2</sup> AREA: 374.92m <sup>2</sup> DRIVEWAY/PATHS TO BOUNDARY: 28.98m <sup>2</sup>		<b>Lot No: 12, 44 Wilson St</b> <b>Suburb: KOGARAH</b> <b>Council: ROCKDALE</b>	
<b>EXCAVATION &amp; SITE NOTES</b> SCRAPE SITE TO FORM A LEVEL BUILDING PLATFORM (EXTENT OF EXCAVATION & BATTER TO BE DETERMINED ON SITE. BACKFILL AGAINST FOOT OF SLOPE). SEWER CONNECTION TO AUTHORITIES REQUIREMENTS UP TO A DISTANCE OF 10.0M WATER CONNECTION FROM EXISTING WATER METER TO HOUSE TEMPORARY PROTECTIVE FENCING TO BLOCK TO MEET SAFETY REQUIREMENTS. PROVIDE A NEW GALVANISED CONSUMER PROPERTY POLE. SITE LEVELS SUBJECT TO SECOND SITE INSPECTION. SUBJECT TO POSITION OF SERVICES * DESIGN LEVELS MAY VARY BY +/- 100mm		<b>ITEMS BY OWNER</b> RETAINING WALLS TO BE COMPLETED TO ENG'S DETAILS (IF REQUIRED). DISH DRAINS (IF NEEDED) TO AUTHORITIES REQUIREMENTS. EXISTING TREES, STUMPS, CONC. PATHS, BUILDINGS, ETC., TO BE DEMOLISHED FROM BUILDING AREA PRIOR TO 2ND SITE INSPECTION. DEMOLITION BY OWNER	
<b>PROJECT DETAILS</b> NO. OF BEDROOMS: 4 NO. OF BATHROOMS: 2 TOTAL AREA OF ROOF MEASURED TO THE OUTSIDE OF GUTTERS (CARPORT & GARAGE): 60.00m <sup>2</sup> AREA OF PROVIDED MANSION & LAWN: 600.00m <sup>2</sup>		<b>STORMWATER</b> MIN. RAINWATER TANK SIZE REQ: 3000 litre MIN. ROOF AREA CONNECTED TO RAINWATER: 60.00m <sup>2</sup> RAINWATER USES: AS PER BASIX REMAINDER OF ROOFWATER & OVERFLOW TO: T.B.A. HYDRAULIC DESIGN REQUIRED: YES	
<b>WATER</b> KITCHEN TAP FITTING RATING: 4 STAR SHOWERHEAD RATING: 3 STAR TOILET RATING: -DUAL FLUSH (3/6 litre) BATHROOM TAP FITTING RATING: 4 STAR		<b>THERMAL COMFORT/ENERGY</b> EXTERNAL WALL SURFACE: BROCK VENER WALL COLOUR: MEDIUM ROOFING MATERIAL: TILES ROOF COLOUR: SARKING CEILING INSULATION: R3.5 AIR CONDITIONING INCLUDED: YES HOT WATER SYSTEM: GAS INSTANTANEOUS STAR RATING: 2.5 OR HIGHER COMPACT FLUORESCENT LIGHTING: AS PER BASIX COOKING APPLIANCES: GAS COOKTOP, ELECTRIC OVEN CLOTHES DRYING LINE REQUIRED: AS PER BASIX WIND DRIVEN VENTILATORS REQUIRED/QT: ---/-	
<b>WIP (WORKS IN PROGRESS)</b> DRAINAGE REQUIRED: YES/NO		FLOOR SPACE RATIO MAX. ALLOWED: 0.50:1 = 234.55m <sup>2</sup> PROPOSED: 0.526:1 = 247.15m <sup>2</sup> (inside of external walls)	
<b>LANDSCAPING</b> MIN. REQ: 50% = 234.55m <sup>2</sup> PROVIDED: 43.5% = 204.20m <sup>2</sup>		<b>RIDGE HEIGHT</b> MAX. ALLOWED: 9.00m PROPOSED: 7.738m	
<b>CARPARKING</b> MIN. REQ: 2 SPACES PROVIDED: 2 SPACES		<b>PRIVATE OPEN SPACE</b> MIN. REQ: 15% = 70.40m <sup>2</sup> PROVIDED: 22.4% = 105.16m <sup>2</sup>	
<b>DRAWING:</b> 1 CONTRACT PLAN 1 2 AMENDMENTS 1 3 AMENDMENTS 2 4 COUNCIL SUBMISSION 1 5 COUNCIL SUBMISSION 2 6 AMENDMENTS 3 7 AMENDMENTS 4 8 AMENDMENTS 5 9 AMENDMENTS 6 10		<b>TENDER:</b> 1 CONTRACT PLAN 1 2 AMENDMENTS 1 3 AMENDMENTS 2 4 COUNCIL SUBMISSION 1 5 COUNCIL SUBMISSION 2 6 AMENDMENTS 3 7 AMENDMENTS 4 8 AMENDMENTS 5 9 AMENDMENTS 6 10	



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## Council Meeting

**9/11/2016**

Item No	9.6
Property	<b>56 Terry Street, Arncliffe</b>
Proposal	Integrated Development Construction of a multi dwelling housing development containing five (5) dwellings with basement parking, strata subdivision and demolition of existing structures
Cost of Development	\$900,000.00
Report by	Mariam Fares, Development Assessment Planner
Application No	(R) DA-2016/394

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## Officer Recommendation

- 1 That the development application DA-2016/394 for the construction of a multi dwelling housing development containing five (5) dwellings with basement parking, strata subdivision and demolition of existing structures at 56 Terry Street, Arncliffe, 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.
  - 2 That the objectors be advised of Council's decision.
- 

## Attachments

- 1 Planning Assessment Report
- 2 Amended Elevations
- 3 Amended Landscape Plan
- 4 Amended Site Plan

## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/394
<b>Date of Receipt:</b>	21 May 2016
<b>Property:</b>	56 Terry Street, ARNCLIFFE NSW 2205 Lot 5 SecL DP 2271 Lot 6 SecL DP 2271
<b>Owner:</b>	Mr Wassim Hijazi
<b>Applicant:</b>	Mr Carlos Hafouri
<b>Proposal:</b>	Integrated Development - Construction of a multi dwelling housing development containing five (5) dwellings with basement parking, strata subdivision and demolition of existing structures
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Four (4) submissions and a petition comprising 24 signatures from 13 households
<b>Author:</b>	Mariam Fares
<b>Date of Report:</b>	17 October 2016

### Key Issues

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The key matters related to this application are:

- Petition received with 24 signatures from 13 households, objecting to the proposed development.
- Four (4) submissions received regarding loss of privacy, traffic, parking, damage to property, over development of site.
- Amended plans received addressing non-compliant issues.

### Recommendation

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1. That the development application DA-2016/394 for the construction of a multi dwelling housing development containing five (5) dwellings with basement parking, strata subdivision and demolition of existing structures at 56 Terry Street Arncliffe, 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.

2. That the objectors be advised of Council's decision.

### Background

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## History

The following applications have previously been considered by Council in relation to the subject site:

BA-1989/892 for a Swimming Pool (in-ground) - Approved on 04-Dec-1989

There are no other previous applications found council records for the subject site.

## Proposal

Council is in receipt of a development application DA-2016/394 at 56 Terry Street Arncliffe which seeks consent to carry out the demolition of existing structures and the construction of a multi dwelling housing development containing five (5) dwellings with basement parking and strata subdivision into 5 lots.

The proposal in detail involves:

- 5 x 3 bedroom dwellings, with combined living and dining areas, kitchen, bathroom, patio and external laundry at ground floor level.
- First floor of each dwelling comprises 3 bedrooms, a bathroom and an ensuite to the main bedroom
- All dwellings will have pedestrian access from a walkway along the southern side of the site, as well as direct access from the basement level via internal staircases located in each double garage.
- The basement contains 10 residential car spaces allocated to the dwellings (2 spaces per dwelling) along with associated bin storage area within each garage.
- A single visitor / car wash bay is provided at ground level from Tantallon Lane to the rear of the property.
- The basement comprises a nil setback to the eastern side of the property, a 0.9m setback to the rear boundary, and minimum 6m setback to the front and western property boundaries.
- Private open spaces for all dwellings are located along the western side of the site, and will include periphery landscaping along the western boundary. All POS areas are located as an extension off the main living areas of the dwellings.
- Dwelling 1 has been oriented to address Terry Street and comprises direct street pedestrian access.
- All trees onsite are proposed to be removed, with new tree planting and landscaping proposed.
- Four vents associated with the basement are located on the eastern side of dwellings adjacent to the pedestrian pathway.





Figure 1 - Proposed development viewed from Terry Street

## Site location and context

The subject site is legally known as Lots 5 & 6 in DP 2271, 56 Terry Street, Arncliffe. The site is regular rectangle in shape with front and rear boundary widths of 18.29m and side boundaries 48.785m in length. The total site area is 892sq.m. The site has a fall of approximately 2m from the rear to the front. The site contain two allotments that is currently occupied by a 2 storey dwelling with a swimming pool and two metal sheds.



Figure 2 - Aerial context

A two storey dual occupancy development adjoins the site to the west, a two storey dwelling adjoins the house to the east, and a rear lane (Tantalum Lane) located south of the subject site. The surrounding area within close proximity to the subject site is characterised by a mix of single and two storey low and medium density dwellings.

## 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.91A - Development that is Integrated Development**

The proposal includes excavation works for a basement car parking level that will transect the water-table during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW deemed that the construction proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 8th August 2016

which have been included in the Draft Notice of Determination.

## **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 719026M. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 40%

Reduction in Water Consumption 40%

Thermal Comfort Pass

A condition has been imposed on the notice of determination to ensure that these requirements are adhered to.

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone R3 Medium Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Development in areas subject to aircraft noise	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes
6.12 Essential services	Yes	Yes

#### 2.3 Zone R3 Medium Density Residential

The subject site is zoned R3 - Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as multi dwelling housing which constitutes a permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

#### 2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing structures on the site and hence satisfies the provisions of this Clause.

#### 4.3 Height of buildings

The height of the proposed building is 8m at the highest point and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map. Further, the proposed development will result in a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

#### 4.4 Floor space ratio - Residential zones

A maximum 0.6:1 FSR applies to the subject site. The gross floor area of the proposed development has been calculated as 535sq.m over a site area of 892sq.m. In this regard, the proposed floor space ratio (FSR) for the development is 0.59:1 and the proposal complies with this development standard.

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.

#### 5.9 Preservation of trees or vegetation

All trees within the subject site are proposed to be removed, with replacement planting detailed within the submitted landscape plan. The existing street tree within the frontage of the site to Terry Street is to be retained.

Council's Tree Management Officer has not objected to the removal of proposed trees on site. Accordingly, conditions of consent have been imposed in the draft Notice of Determination to ensure the protection of the existing street tree.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the proposed excavation will not extend below 1m AHD and therefore dewatering below 1m AHD will not be necessary. In this regard, an acid sulphate management plan will not be necessary.

#### 6.2 Earthworks

The proposal involves excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

#### 6.3 Development in areas subject to aircraft noise

The development is on land that is located near the Sydney (Kingsford-Smith) Airport and is between 20 and 25 ANEF (2033) contours. Further, the development will result in an increase in the number of dwellings or people affected by aircraft and in accordance with this clause, the proposed development requires noise mitigation measures.

The proposal was accompanied by an Acoustic Report prepared by Noise and Sound Services dated April 2016, which addresses the matter of aircraft noise and details noise amelioration measures to be incorporated into the construction of the development in order to minimise aircraft noise impacts to

future occupants, in compliance with the Australian Standards for indoor design sound levels. The proposed development complies with the requirements and objectives of this clause. A condition has been imposed in the draft Notice of Determination requiring the development to meet with the Australian Standards for indoor design sound levels.

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

No Draft Environmental Planning Instruments apply 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>
4.1.3 Groundwater Protection	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - Multi Dwelling Housing	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.3.2 Private Open Space - Multi dwelling housing	Yes	Yes
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
4.4.6 Noise Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Multi-dwelling Housing	Yes	Yes - see discussion
4.6 Parking Rates - Multi Dwelling Housing	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
5.1 Storey Height and Setbacks - Multi Dwelling Housing	Yes	Yes - see discussion
5.1 Frontage Setback - Rear Lane	Yes	Yes - see discussion
5.1 Building Design - Multi Dwelling Housing	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.1 Residential Subdivision	Yes	Yes

#### 4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3. The proposed development involves excavation for a basement level which intercepts the watertable and therefore is an integrated development. The proposal was referred to the Office of Water who has provided approval subject to the imposition of conditions in the notice of determination.

#### 4.1.9 Lot size and Site Consolidation - Multi Dwelling Housing

For multi dwelling housing, Rockdale DCP 2011 requires a minimum site frontage of 18m is required on sites that do not front a classified road. The subject site involves two lots with a combined street frontage of 18.29m which complies with this requirement

#### 4.2 Streetscape and Site Context - General

The proposal is located in a R3- Medium Density Zone. The immediate context is relatively low scale, consisting of single and two storey dwellings and multi dwellings. The proposed multi dwelling development 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.

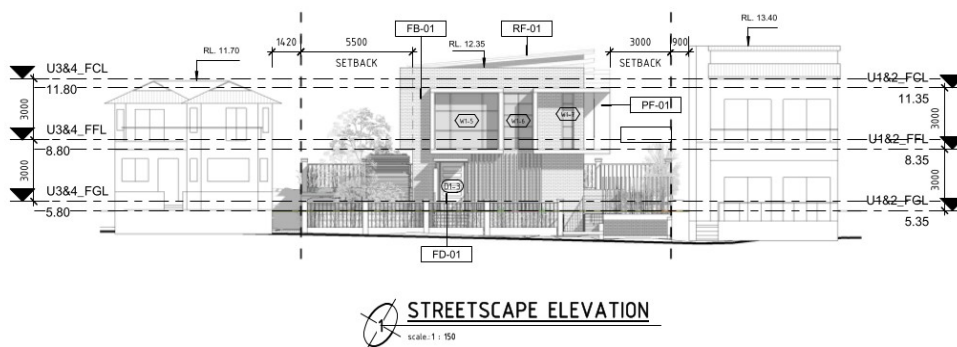


Figure 3 - Streetscape view

The proposed front setback is consistent with the variable setbacks of surrounding two storey buildings and in this regard the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades via a range materials which adds visual interest to the facades.

The proposed development will have a front door addressing Terry Street, with the building's frontage and entry points being readily apparent from Terry Street. The proposed fences, landscaping, and other features have been sited so as to provide clearly defined public, common and private spaces.

#### 4.2 Streetscape and Site Context - Fencing

Plans indicate the provision of 1.8m high open form front fencing, being masonry rendered columns 1.8m in height, 0.4m masonry base with aluminium grates between columns. Concern is raised in regards to the proposed high front boundary fencing, despite its open form nature, as existing front boundary fencing within Terry Street and close to the subject site is generally no higher than 1.2m.

Accordingly the proposal has been conditioned to restrict the height of front fencing to 1.2m in height.

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

As per the provisions of this clause a minimum of 25%(223sq/m) of the site is required to be retained as landscaped area. Plans indicate a total of 293.7sq/m of landscaped area on site and thus the proposal complies with and exceeds the requirements of this clause. The proposal is satisfactory in this regard.

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

The proposed development will have minimum impact of the level of sunlight currently received by adjoining properties and within the development site. A minimum of 3 hours of solar access is retained to the habitable rooms and private open space areas of neighbouring dwellings.

#### 4.4.3 Natural Lighting and Ventilation - Residential

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

#### 4.4.5 Visual privacy

The proposed multi dwelling has been designed and sited to minimise the overlooking of adjoining properties, incorporating landscape screening located along boundary fences and large side setbacks to adjoining neighbours.

The plans were also amended and involved the removal of all first floor balconies on both eastern and western elevations. The bedroom windows on the eastern elevation are frosted to a height of 1.5m.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties.

#### 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. A condition is recommended to be imposed in the Notice of Determination for the development to ensure that party walls are designed to comply with the requirements of the BCA and submitted acoustic report and thus be consistent with the objectives of this clause.

#### 4.4.6 Noise Impact

An Acoustic report prepared by a suitably qualified Noise Consultant has been submitted with the application which provides recommendations on appropriate measures to be incorporated into the design of the building so it will comply with the Australian Standard 1. 2021 – 2000 Acoustic – Aircraft Noise standards. Appropriate conditions have been incorporated in the draft Notice of Determination for the implementation and compliance of the recommendations in the Acoustic report.

#### 4.5.1 Social Equity - Multi-dwelling Housing

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that all residential developments are flexible, maximise housing choice and provide equality of access. Part 4.5.1 requires that a minimum of one dwelling be provided as an adaptable in accordance with AS 4299.

A condition will be imposed in the draft notice of determination for unit 5 to be an adaptable unit that

complies with AS 4299 Adaptable Housing within the multi dwelling development. The proposal is therefore considered to satisfy the requirements of Part 5.4 of RDCP 2011 subject to inclusion of recommended conditions.

#### 4.6 Parking Rates - Multi Dwelling Housing

The proposed development requires 10 residential parking spaces and 1 visitor space in accordance with the requirements of this clause. The development proposes 2 parking spaces for each 3 bedroom dwelling within the basement level. A visitor parking space/car wash bay is located at ground level at the rear of the development with access from Tantallon Lane. The proposed development provides a total of 11 parking spaces which is in accordance with the requirements of this clause.

#### 4.6 Vehicles Enter and Exit in a Forward Direction

The vehicles within the basement are proposed to enter and exit the parking spaces in a forward direction. A condition has been recommended to be incorporated in the Notice of Determination accordingly.

#### 4.6 Access to Parking

Visitor parking is accessed via Tantallon Lane. A condition has been imposed in the recommended consent for signage to be installed at the basement entry to state "*No visitor parking permitted within basement level. Visitor car space is located to the rear and accessible from Tantallon Lane*".

#### 5.1 Storey Height and Setbacks - Multi Dwelling Housing

The proposed front setback is 5.5m - 6m, this is consistent with the prevailing street setbacks along Terry Street, and accordingly compliant with the provisions of DCP 2011.

DCP 2011 requires a minimum side setback of 4.5m. Where dwellings do not primarily address side boundaries, side setbacks may be a minimum of 3m. The proposal comprises a western side setback of 6m-6.3m, and eastern side setback of 3.8m-4.4m. Further, the proposal is not considered to adversely impact upon the adjoining dwelling by way of overshadowing and will not significantly reduce the solar access, light and air received by the adjoining dwelling. Therefore, the proposed setbacks for the development are consistent with the objectives of this control.

#### 5.1 Frontage Setback - Rear Lane

The proposed development provides a 3m setback to the rear lane. Amended plans have been received with the rear dwelling now addressing the Lane, with a fence and private garden. The proposed development is consistent with this clause.

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

Clause 92 of the Environmental Planning and Assessment 2000 has been considered, and the requirements for demolition have been considered and compliance with Australian Standard AS 2601 —1991: The Demolition of Structures is a recommended condition of consent.

### **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:

#### *Electricity Pole*

The location of the proposed driveway conflicts with the existing location of an electricity supply pole within the road reserve at Terry Street. As such the proposal has been conditioned to require the applicant to relocate the pole to avoid conflict with the new driveway location. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate and be responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

### *Safety and Security*

Safer by Design principles of crime prevention through environmental design are incorporated into Rockdale's DCP and this aspect is included in the assessment of this proposal. The proposal has been designed as a secure development, with restricted access to private and communal areas. The proposed development further provides for passive surveillance to Terry Street and Tantallon Lane through verandahs and windows. The proposal is satisfactory with regards to safety and security.

### *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.

### *Strata Subdivision*

A subdivision plan was submitted with the proposal which outlines the proposed subdivision of the site into five strata allotments with private and common property across the site. The proposal has been conditioned appropriately to enable the strata subdivision of the site to occur and to enable dwellings to be held in separate ownership.

## **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 proposal was publicly notified in accordance with the provisions of Rockdale DCP 2011. A total of 4 submissions were received, as well as one (1) petition with 24 signatures from 13 households.

The issues raised in the submission are discussed below:

### *Loss of Privacy*

Comment: The proposed development complies with the side setback requirements of DCP 2011, provides appropriate side boundary fencing and further incorporates periphery landscape planting along side boundaries which has the capability to grow to a mature height of 3m.

It is reiterated that plans were amended to delete previously proposed first floor balconies fronting the



common side boundaries. Given the aforementioned, the proposed development provides a reasonable level of visual privacy between the adjoining properties.

#### *Damage to Property due to excavation*

Comment: A condition has been included in the Notice of Determination for a dilapidation survey to be undertaken of all properties in the vicinity which could be potentially affected by the construction of this development and for any damage caused to other properties during construction to be rectified.

The proposal is an Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW issued General Terms of Approval (GTA's) appropriate to this activity subject to conditions detailing requirements of construction with regards to managing ground water which have been included in the Draft Notice of Determination.

#### *Traffic/Parking*

Comment: The proposed development provides sufficient parking on site in accordance with relevant requirements as previously discussed within this report.

#### *Visitor parking accessed from Tantallon Lane*

Comment: The proposed development has legal access to Tantallon Lane and the proposed visitor parking space will be consistent with the existing adjoining garage structures and parking spaces which are also accessed via Tantallon Lane. Any potential future unauthorised parking shall be managed appropriately by Councils Regulatory Officers.

#### *Over development of site*

Comment: The site is within a R3 - Medium Density Residential Zone under the provisions of Rockdale LEP2011, and therefore multi-dwelling housing developments are permissible. The proposal complies with the FSR, Height and other relevant requirements for the site and is not deemed to be an overdevelopment of the property.

#### *Noise impacts from driveway*

Comment: The proposed driveway is located via Terry Street, this is consistent with existing means of vehicular access from Terry Street. The location of the driveway and potential acoustic impacts associated with its usage are not considered to be unreasonable. Further, there is sufficient landscape along the eastern boundary of the site which will assist in ameliorating noise associated with residential vehicles entering and exiting the basement.

#### *Impact on property value of adjoining developments*

Comment: No material evidence or valuation prepared by a registered valuer has been provided to substantiate this claim. It is acknowledged that market factors outside the control of the proposal such as supply and demand, interest rates etc. may have a general impact on property value.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, subject to compliance with the proposed condition in the recommended consent, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

## Schedule 1 - Draft Conditions of consent

### 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
DA003 Issue V2 (Site Plan)	Resolut	08 September 2016	14 September 2016
DA201 - DA202 v4 (Elevations)	Resolut	14 October 2016	15 October 2016
DA301 V2 (Section)	Resolut	08 September 2016	14 September 2016
DA101-DA103 V3 (Floor plans)	Resolut	13 October 2016	14 October 2016
LA-001 Issue B (Landscape plan)	Outliers Design Studio	23 September 2016	23 September 2016
DA 005 V2 (Subdivision Plan)	Resolut	08 September 2016	14 September 2016

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 719026M 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. 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.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

### 7. Integrated Development - Office of Water

Terms of approval:

#### General

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 fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

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. Documentation (referred to as a 'report') comprising measurements, maps, bore

logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. 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 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.
- (iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- (iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]

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

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

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

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

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

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

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

### **During excavation**

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

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

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

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

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

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

T. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

### **Following excavation**

U. Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:

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

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

8. Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment.
9. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
  - (i) permit stormwater to be retained 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.
10. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped 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 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 requirement 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.
11. 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.
  12. Temporary dewatering of the site to construct the subsurface structure is not permitted.
  13. 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.
  14. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
  15. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
  16. The development shall comply with the Building Code of Australia requirement for walls dividing occupancies. A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of party walls between residential dwellings.

A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

17.
  - a) In order to ensure the design quality excellence of the development is retained:
    - i. Resolut Building Solutions is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
    - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
    - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
  - b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
18. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed

within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

19. External paths and ground surface adjoining the walls of the building shall be graded and drained away from the dwelling in such a manner as to not cause a nuisance to adjoining properties.
20. All hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
21. *Landscaping*
  - a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
  - b) Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
  - c) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
  - d) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
  - e) All retaining walls are to be masonry, not timber. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer. Details to be submitted with CC drawings.

The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, 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 the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

22.
  - (i) The retaining wall at the boundary adjacent to the driveway to the basement shall be a maximum 1.2m high. Where this cannot be achieved, a 45 degree visibility splay shall be provided at the basement entry to ensure pedestrian and vehicle safety.
  - (ii) A swept path analysis is required to show that B99 vehicles can safely access the garages and minimum 300mm clearance is provided either side of the turning path. Entry and exit from the basement shall be in forward direction. The basement car park and access ramp shall be certified by a qualified Civil/Traffic Engineer prior to the issue of a Construction Certificate.
  - (iii) The shared space for an adaptable unit car space shall be accessible and not closed with wall. Proposed unit 5 shall have a wider garage door to provide an area for manoeuvring a wheelchair.
23. The recommendations of the Aircraft Noise and BCA Assessment Report dated April 2016 and prepared by Noise and Sound Services shall be implemented on site. Details are to be illustrated upon Construction Certificate drawings prior to the issue of the Construction Certificate.



## Prior to issue of the construction certificate

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

24. 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 \$14,823. 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.
  25. 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.
  26. 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.
  27. A Section 94 contribution of \$76,623.21 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 compliance certificate / subdivision certificate / 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).
- Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.
28. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
  29. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within residential dwelling number 5, and between this dwelling and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

30. The applicant shall confer with Energy Australia to determine if:

- a. An electricity distribution substation is required.
- b. Installation of electricity conduits in the footway is required.

Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.

31. The approved plans must be submitted to Sydney Water (Tap In) to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
32. Prior to issue of the Construction Certificate, two 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.
33. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows prepared by a qualified Civil Engineer and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
34. Any part of the proposed building within 3m of the proposed absorption trench/tank shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
35. Car wash bay shall be minimum 3.5m wide and 5.5m long. A note shall be added for the car wash bay to be shared for loading and unloading with Van and visitor space. Visitor car space shall also operate as a car wash bay. A tap shall be provided. Car wash bay shall be covered and shall be waterproof outlet. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management section 7.5.5. A sign shall be fixed saying 'Visitor/ Car Wash space and loading and unloading with van space.'

Details shall be provided with the plans accompanying the Construction Certificate.

36. 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. Amended stormwater design and plans shall be submitted to Certifying Authority for assessment. The amended design shall address the following issues:
- (a) Absorption rate shall be determined by Geotechnical Engineer,
  - (b) Absorption system shall be designed for all the impervious areas,
  - (c) The basement pump storage shall be designed in accordance with section 4.2.4 of Council's Technical specification - Stormwater Management,
  - (d) Basement pump shall be directed to the absorption system and absorption

system shall have overflow outlet to the Terry street kerb outlet.

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.

37. Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:
- (a) ingress and egress of vehicles to the site;
  - (b) loading and unloading, including construction zones;
  - (c) predicted traffic volumes, types and routes; and
  - (d) pedestrian and traffic management methods.
- Copies of the TMP shall be submitted to Council.
38. As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;
- (a) Implement all recommendations contained in the report prepared by Geo-Environmental engineering, reference number G15130BEX-R01F, Dated 5 May 2016.
  - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
  - (c) Confirm the proposed construction methodology
- To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.
- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
  - (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.
- Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.
39. The relocation of the existing electricity supply pole in the road reserve at Terry Street is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.
40. Basement car spaces shall incorporate a device capable of removing oil from the

driveway and carpark stormwater run-off into the drainage system as per Rockdale Technical Specification - Stormwater Management. A cleaning and maintenance schedule is to be supplied with the construction certificate.

41. Front fencing shall comprise a maximum height of 1.2m. Details are to be illustrated upon Construction Certificate drawings for approval by the PCA prior to the issue of the Construction Certificate.

## **Prior to commencement of works**

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

42. 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.
43. 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.

44. 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.

45. 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.
46. 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.
- 47. Prior to the commencement of work, a Tree Protection Zone shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines around the existing street tree located at the front of the site which is required to be retained. 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 Zone at any time.
- 48. 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.
- 49. 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.
- 50. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- 51. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
- 52. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction. Copies of the CMP shall be submitted to Council.
- 53. Prior to the commencement of work, Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed. If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are

easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damage is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same meaning as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

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

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

54. 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.
55. 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.
56. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
57. 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.

58. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
59. 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.
60. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

61. 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.
62. 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 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.

63. 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.

64. 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.
- 65. 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.
  - 66. The existing street tree located at the front of the property is not to be removed or pruned, including root pruning, without the written consent of Council.
  - 67. The existing street tree located on the nature strip at the front of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
  - 68. All existing trees located within the site may be removed.

### **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.

- 69. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.

70. 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.
71. 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.
72. Lots 5 & 6 in DP 2271 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 occupation.
73. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
74. Vehicles shall enter and exit the basement 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".
75. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
76. The width of the driveway accessed from Terry Street shall be of 3.6m at the property boundary and driveway access from the laneway shall be maximum of 3m at the property boundary.
77. The provision of a 0.9 metre wide right of footway in favour of Bayside Council along the boundary with Tantallon Lane. The right of footway is to be covered by a Section 88E Instrument, which may only be varied or extinguished with the consent of Bayside Council. Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88E Instrument with the Land Titles Office.
78. One (1) Bollard shall be provided in the shared area for the adaptable unit as per AS2890.6.
79. 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 occupation of the development.
80. Prior to occupation, a registered surveyor shall certify that the driveway over the footpath and within the property have been constructed in accordance with the approved driveway profile. 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.

81. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
82. Testing and evaluation of the wall insulation system is to be carried out at post construction stage by a suitably qualified acoustical engineer to illustrate compliance with conditions of this consent. A report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.
83. The noise reduction measures specified in the noise report prepared by Noise and Sound Services dated April 2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
84. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
85. 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.
86. 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.
87. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater retention facility to provide for the maintenance of the retention facility.
88. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
89. The drainage system shall be constructed in accordance with the approved drainage plans. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided on the driveway. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

90. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

91. Signage shall be installed at the basement entry to state " No visitor parking allowed in the basement. Visitor space is located at the rear and accessible from the Tantallon Lane".
92. Eleven (11) off-street car spaces shall be provided in accordance with the submitted plan. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

### **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.

93. The provision of a 0.9 metre wide right of footway in favour of Rockdale City Council along the boundary with Tantallon Lane. The right of footway 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 release of the Strata Certificate.
94. Lots 5 & 6 in DP 2271 shall be consolidated into one allotment. A copy of the plan of consolidation shall be submitted to Council prior to release of Strata Certificate.
95. The subdivision is to occur in accordance with the conditions of this consent and any subsequent S96 modifications prior to release of the Strata Certificate.
96. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
97. As construction of the building nears completion, or after it has been completed, council or an accredited certifier shall inspect the building, and the common property areas around the building so as to be satisfied that:
  - The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed.
  - The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building.
  - Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
98. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.
99. All visitor car parking spaces are to be clearly shown as common property on the Strata Certificate for the strata subdivision.
100. The parking spaces on site are to be allocated to each dwelling as per the approved plans and development consent DA-2016/394.
101. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater retention facility to provide for the maintenance of the retention facility.

A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater pump system to provide for the maintenance of the pump system.

## **Roads Act**

102. 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.

103. The following works will be required to be undertaken in the road reserve at the applicant's expense

- i) construction of two new fully constructed concrete vehicular entrance/s;
- ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iii) removal of redundant paving;
- iv) smooth transition with new driveways and footpath areas

104. 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.
105. 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.
106. 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.
107. 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).

## **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. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- 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. In order for the final Strata Certificate to be signed and released by Council, the following must occur:
- i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site retention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the 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.
- f. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage

and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- g. 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.
- h. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority’s guideline - "Lead Alert - Painting Your Home".
- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.

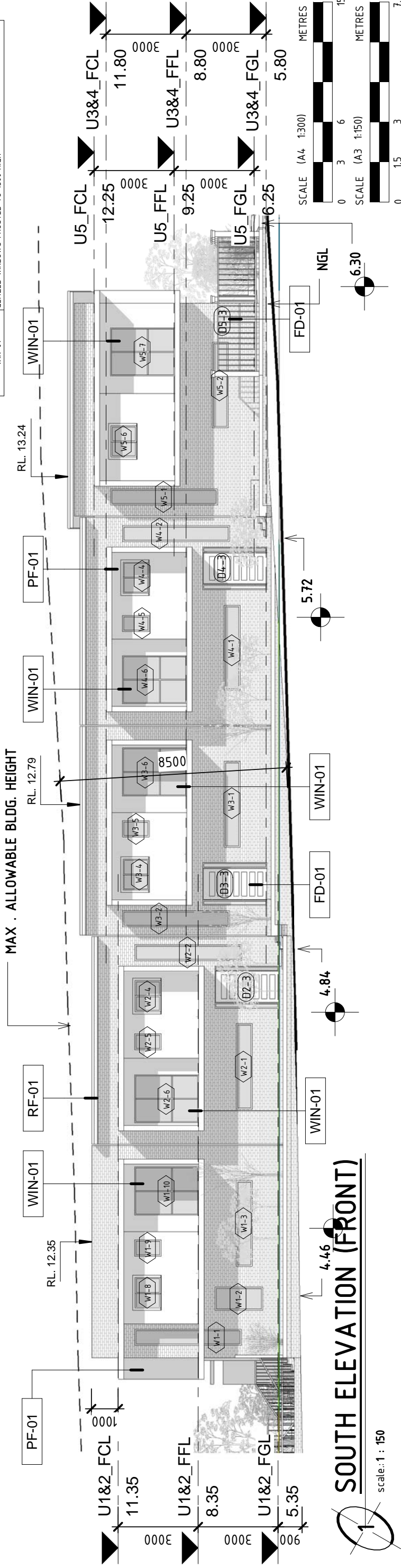




NORTH ELEVATION (REAR)

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KEYNOTE LEGEND-01	
KEY VALUE	KEYNOTE TEXT
AF-01	ALUMINIUM SLIDING WINDOWS & DOORS: DULUX 'APO GREY' OR EQUAL
FB-01	FACEBRICK: AUSTRAL "SIMMENTAL SILVER" OR SIMILAR
FD-01	FRONT DOOR: TIMBER(GOLDEN OAK COLOUR)
PF-01	RENDERED & PAINTED SURFACES: "LEXICON" DULUX-PCWF6 OR APO GREY OR SIMILAR
PF-02	RENDERED & PAINTED SURFACES: "DULUX SELF DESTRUCT" OR SIMILAR
RF-01	COLORBOND KLIP LOC ROOF & GUTTERS: IRONSTONE OR SIMILAR WITH INSULATION
RWT	2000 LITRES ABOVE GROUND RAINWATER TANK TO BASIX REQUIREMENTS. REFER TO HYD. ENGR'S DETAIL
WIN-01	GLAZED WINDOWS FROSTED TO 1500 HIGH



SOUTH ELEVATION (FRONT)

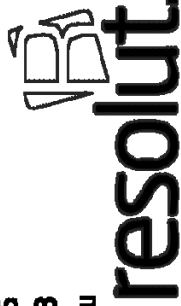
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Resolut Building Solutions

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NO	DESCRIPTION	DATE
1	ISSUED FOR DA	17.05.2016
2	ISSUED FOR DA V2	08.09.2016
3	ISSUED FOR DA V3	13.10.2016
4	ISSUED FOR DA V4	14.10.2016

PROPOSED MULTI DWELLING  
DEVELOPMENT

56 TERRY STREET ARNCLIFFE NSW

NORTH & SOUTH ELEVATION

Project number	R201601109
Date	17.01.2016
Drawn by	RS/KB/JD/EN
Checked by	RS / C.J.H

DA201

Scale

1 : 150



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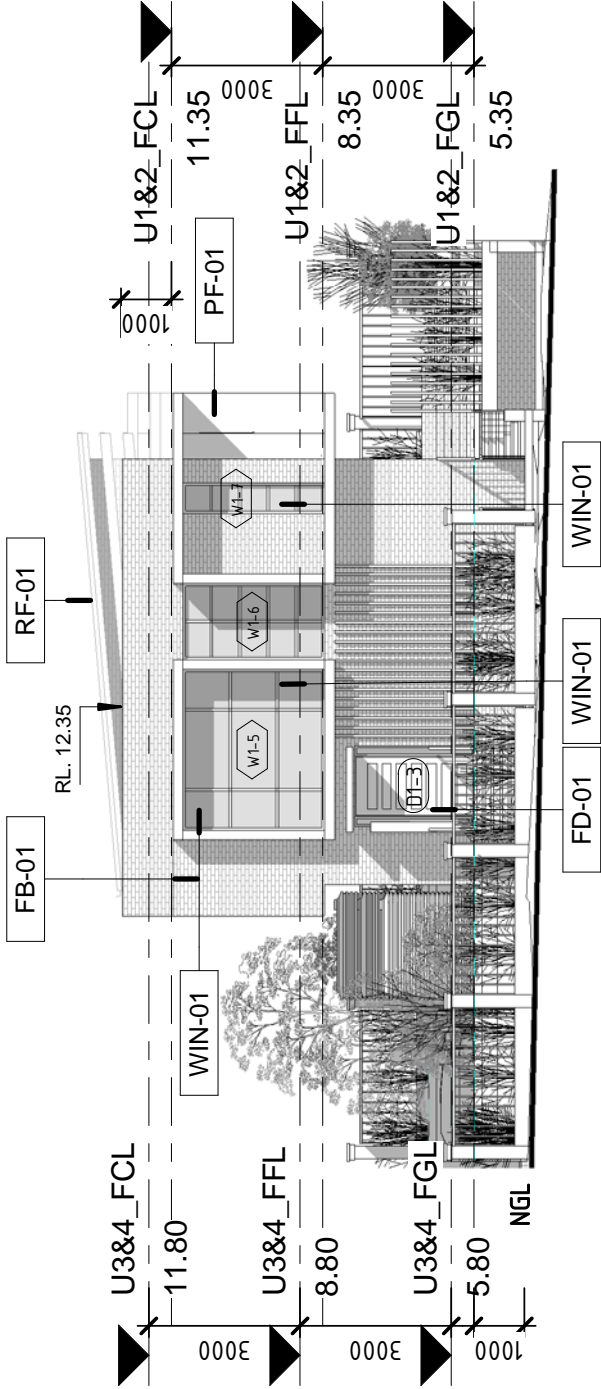


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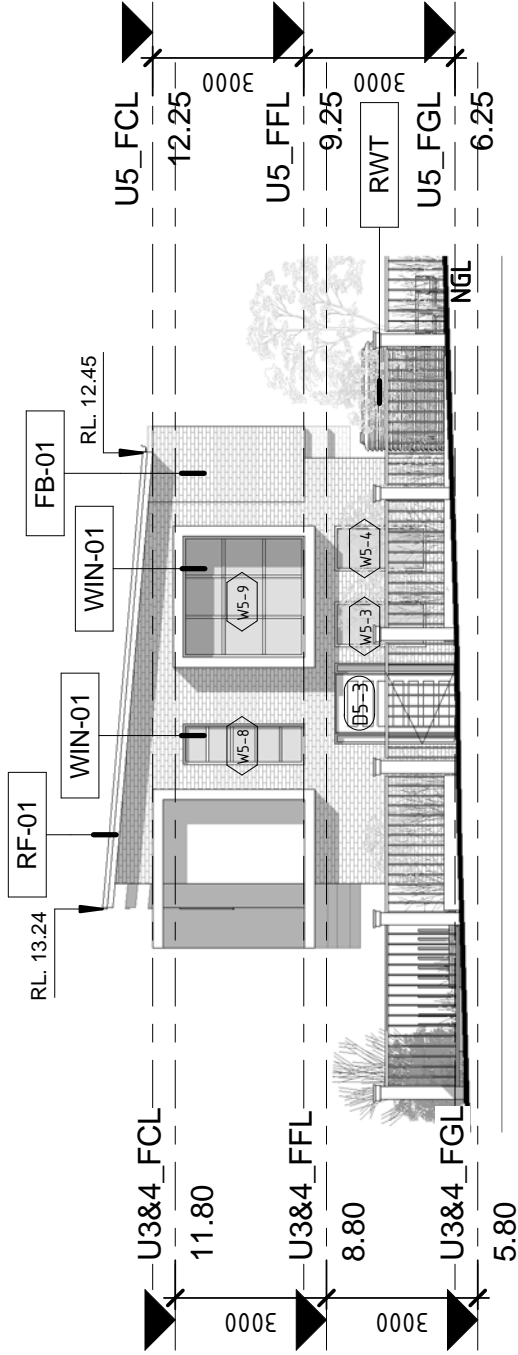
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PROPOSED MULTI DWELLING DEVELOPMENT	
56 TERRY STREET ARNCLIFFE NSW	
EAST & WEST ELEVATION	
Project number	R201601109
Date	17.01.2016
Drawn by	RS/KB/JD/EN
Checked by	RS / C.J.H



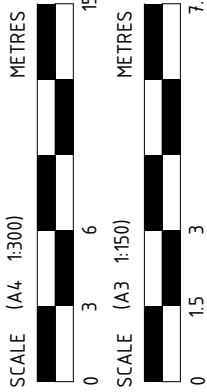
WEST ELEVATION (LEFT SIDE)

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EAST ELEVATION (RIGHT SIDE)

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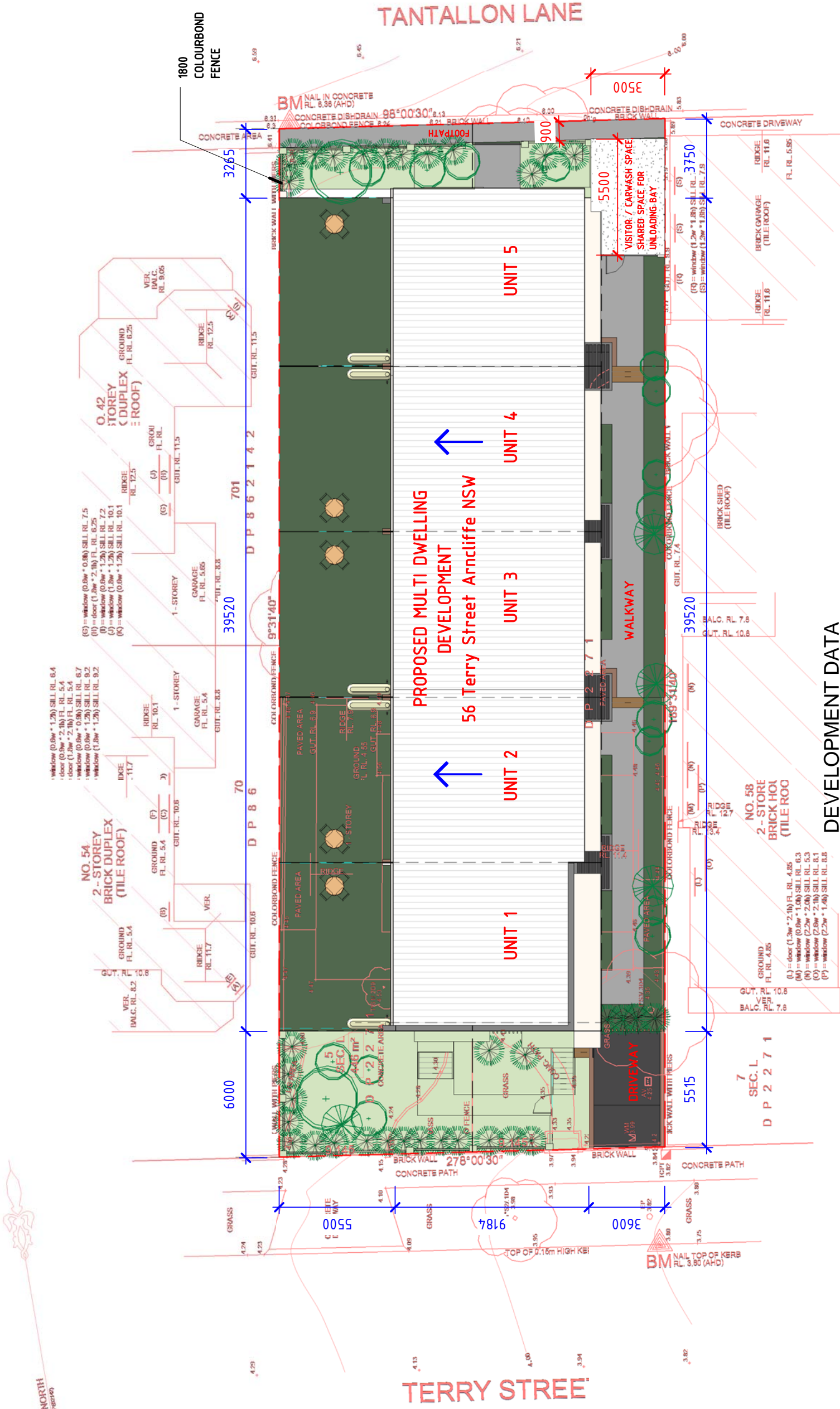


KEYNOTE LEGEND-01	
KEY VALUE	KEYNOTE TEXT
FB-01	FACEBRICK: AUSTRAL "SMMENTAL SILVER" OR SIMILAR
FD-01	FRONT DOOR: TIMBER(GOLDEN OAK COLOUR)
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RF-01	COLORBOND KLIP LOC ROOF & GUTTERS: IRONSTONE OR SIMILAR WITH INSULATION
RWT	2000 LITRES ABOVE GROUND RAINWATER TANK TO BASIX REQUIREMENTS. REFER TO HYD. ENGR'S DETAIL
WIN-01	GLAZED WINDOWS FROSTED TO 1500 HIGH







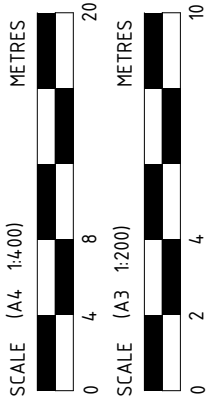
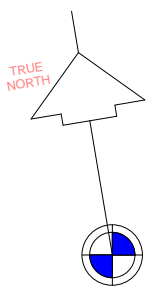


**SITE / ROOF PLAN**  
scale: 1 : 200

**SITE AREA**  
892 m2  
**FSR**  
0.6:1  
**Max FSR allowed**  
535.2 m2  
**Landscape**  
20%  
**Min. Landscape Area Required**  
178.4 m2  
**Private Open Space Min. Required / unit**  
50 m2

**DEVELOPMENT DATA**

PROPOSED FSR	
Name	Area
UNIT 1 - FL	56 m <sup>2</sup>
UNIT 1 - GL	53 m <sup>2</sup>
UNIT 2 - FL	54 m <sup>2</sup>
UNIT 2 - GL	53 m <sup>2</sup>
UNIT 3 - FL	54 m <sup>2</sup>
UNIT 3 - GL	53 m <sup>2</sup>
UNIT 4 - FL	54 m <sup>2</sup>
UNIT 4 - GL	53 m <sup>2</sup>
UNIT 5 - FL	54 m <sup>2</sup>
ADAPTABLE	
UNIT 5 - GL	53 m <sup>2</sup>
ADAPTABLE	
Grand total	537 m <sup>2</sup>



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NO	DESCRIPTION	DATE
1	ISSUED FOR DA	17.05.2016
2	ISSUED FOR DA V2	08.09.2016

PROPOSED MULTI DWELLING DEVELOPMENT		SITE / ROOF PLAN
Project number	R201601109	
Date	17.01.2016	
Drawn by	RS/KB/JD/EN	
Checked by	RS / C/JH	
Scale	As indicated	

**DA100**

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**Council Meeting**

**9/11/2016**

Item No	9.7
Property	<b>1 Duke Street, Brighton Le Sands</b>
Proposal	Alterations to mixed use building including modifications to ground floor boarding house to provide three (3) additional boarding rooms (11 in total) and alterations to first floor dwelling/boarding house manager residence to provide a third level.
Cost of Development	\$180,000.00
Report by	Ben Tesoriero, Creative Planning Solutions Pty Limited (CPS)
Application No	(R) DA-2016/164

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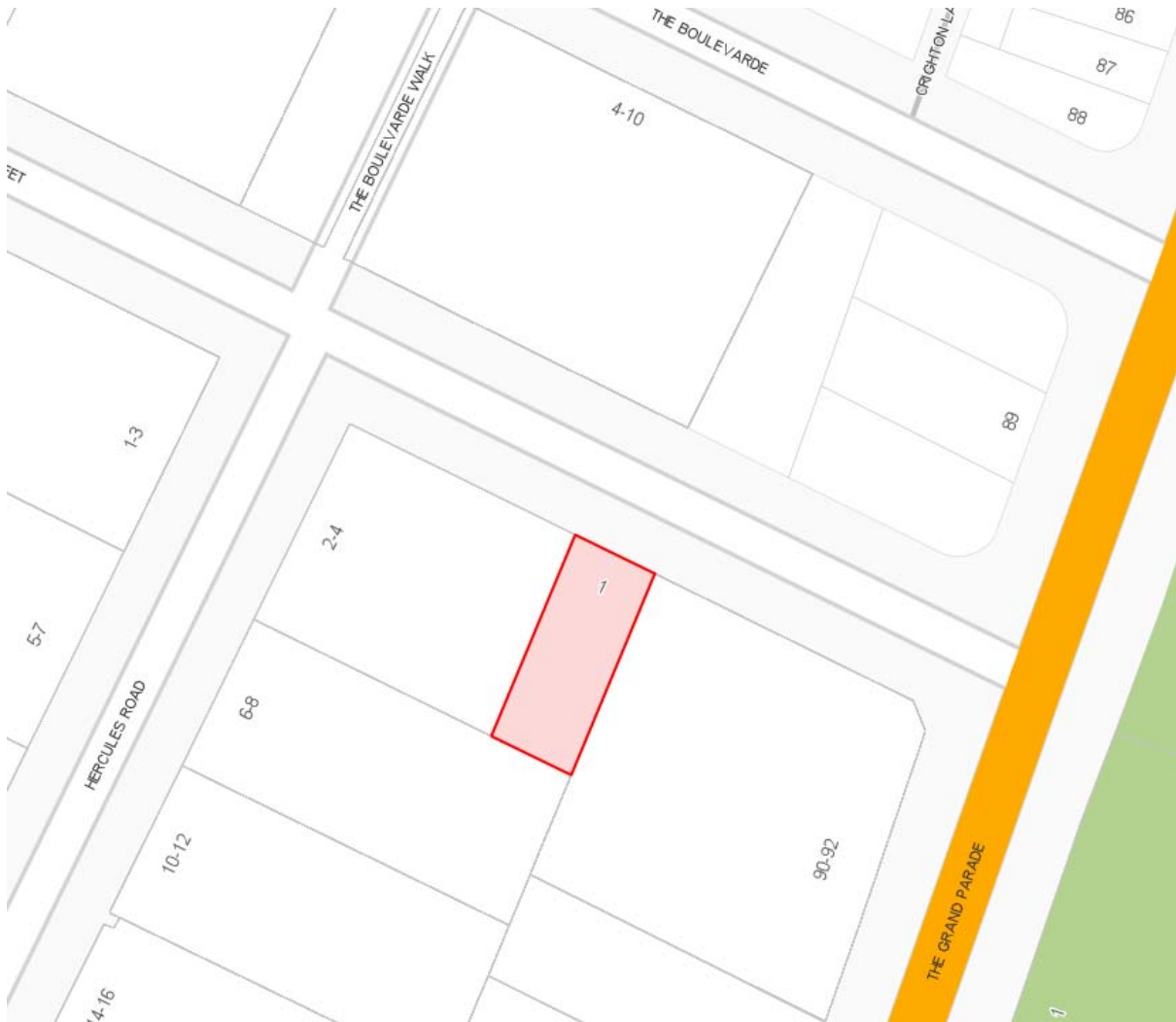
**Officer Recommendation**

- 1 That the development application DA-2016/164 for alterations to mixed use building including modifications to ground floor boarding house to provide three (3) additional boarding rooms (11 in total) and alterations to first floor dwelling/boarding house manager residence to provide a third level at 1 Duke Street Brighton Le Sands 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, which preclude the use of the unauthorised boarding rooms from the consent.
  - 2 That the objectors be advised of Council's decision.
- 

**Attachments**

- 1 Planning Assessment Report
- 2 Draft Notice of Determination
- 3 Site Plan
- 4 Northern / Southern Elevations
- 5 Eastern Elevation
- 6 Western Elevation

## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Application Number:	DA-2016/164
Date of Receipt:	16 May 2016
Property:	1 Duke Street, Brighton Le Sands NSW 2216
Owner:	Mr Mario Fragassi and Mrs Maria Fragassi
Applicant:	Mr J Spili
Proposal:	Alterations to mixed use building including modifications to ground floor boarding house to provide three (3) additional boarding rooms (11 in total) and alterations to first floor dwelling/boarding house manager residence to provide a third level.
Recommendation:	Approval.
No. of Submissions:	Five (5) submissions objecting to the proposal were received. One (1) of these submissions included a petition with fifteen (15) signatures
Author:	Ben Tesoriero – Creative Planning Solutions Pty Limited (CPS)
Date of Report:	18 October 2016

### Key Issues

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This report considers a Development Application (DA) for the addition of a third level to an existing mixed use building, alterations to first floor dwelling/managers residence and consent for the use of three (3) unauthorised boarding rooms to an existing boarding house to create a total of 11 boarding rooms.

Having regard to the relevant planning requirements and the heads of consideration in Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act), it has been determined the proposed addition of a third level to the existing mixed use building and alterations to the first floor dwelling are generally acceptable, subject to conditions of consent.

However, it has been determined that the proposal to regularise the use of three unauthorised boarding rooms is unsupportable on the following basis:

- The existing boarding house on the site has failed to comply with the existing conditions of consent under DA No. 147/86 which require the provision of two

stacked car parking spaces within the western setback of the building. Further the addition of three (3) unauthorised boarding rooms to the existing boarding house without the provision of any parking for the boarding house is considered not to satisfy the provisions of clause 29(1)(e) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP);

- Two of the three boarding rooms within the unauthorised component of the boarding house have a gross floor area of 10.18m<sup>2</sup> which is 15% less than the 12m<sup>2</sup> minimum for a single lodger boarding room under the provisions of clause 29(1)(f) of the ARHSEPP;
- The proposal seeks consent for 3 additional boarding rooms, taking the total on site to 11 boarding rooms. It is not considered satisfactory that a boarding house with 11 rooms does not include a communal living room when having regard to the provisions of clause 30(1)(a) of the ARHSEPP which species Council must not consent to development unless it is satisfied at least one communal living room will be provided in a boarding house that has 5 or more boarding rooms;
- The provisions of clause 30(1)(h) prescribe that at least one parking space is to be provided for a bicycle, and one space for a motorcycle, for every five (5) boarding rooms. For the unauthorised component of the boarding house this would necessitate parking for one (1) bicycle and one (1) motorcycle, however no such provisions are included in the applicant's proposal.

Having regard to the above non-compliances, it is noted that those relating to clause 30 of the ARHSEPP are development standards, and as such, variations cannot be lawfully approved without consideration being given to a clause 4.6 written request from the applicant demonstrating why it is unreasonable or unnecessary to comply with such provisions in the circumstance of the case.

A request for these 'written requests' was made to Council to pass onto the applicant on 19 September 2016. However in the applicant's response to the additional information request, no such information was forthcoming. On this basis, it is the opinion of the consultant assessing officer that consent should not be provided to the boarding house component of the DA.

It is acknowledged that the provisions of clause 30(2) of the ARHSEPP allow for minor alterations and additions to boarding houses without having to comply with the aforementioned development standards under clause 30(1). However it is the opinion of the consultant assessing officer that the alterations and additions are not 'minor' due to the 37.5% increase in the number of boarding rooms, and 20% increase in the number of lodgers on the site. This intensification of the use, and subsequent impacts the proposal ensues on the built environment and functionality of the boarding house – i.e. parking, non-compliant accommodation size etc. is considered to result in more than a minor modification to the existing approved development.

As detailed in the Background section contained within this report, the advice from Council officers in relation to the subject DA has been to condition the aforementioned issues with parking, and the non-provision of a communal room. It has also been the direction from Council officers that the non-compliant sizes of two of the unauthorised boarding rooms may be justifiable.

In the opinion of the consulting assessing officer, there are inherent difficulties in conditioning car parking to comply with the existing consent under DA No.147/86 for the boarding house – that is to provide parking within the western side setback. As demonstrated within this report, the western side setback is of inadequate dimension to accommodate the two parking spaces due to the positioning of the existing building, support piers, and side boundary. There is no opportunity elsewhere on the site to provide such parking either.

As such, the existing development is in a situation where it is unable to comply with the existing conditions under DA No.147/86, and by further approval of the use of three additional unauthorised boarding rooms, the lack of parking provision will compound this issue.

Parking constraints were raised by objectors as part of the notification of the DA, and in light of the proposal's non-compliances with relation to parking, these objections are considered to have merit.

Furthermore, it is the opinion of the assessing officer there is difficulty in justifying boarding rooms that are of a size less than the minimum 12m<sup>2</sup> prescribed by the ARHSEPP, whether they are currently being occupied or not. The non-compliance results in two boarding rooms that are over 15% smaller than the minimum prescribed, yet a distinct opportunity would exist to combine the two non-compliant boarding rooms into a compliant single or double lodger room.

On the above basis the subject DA is recommended for approval, subject to the deletion of the use of the unauthorised boarding rooms from the proposal.

It is then the recommendation of the assessing officer that Council initiate orders to revert the boarding house back to its originally approved status by deleting the three unauthorised boarding rooms.

It is also advised Council should then liaise with the applicant regarding their non-compliance with the existing car parking conditions of DA No.147/86 with the potential of lodging the a Section 96 application to have this condition modified, should the applicant be able to demonstrate adequate planning ground for the provision of no parking, and should it be acceptable to Council.

## Recommendation

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1. That the development application DA-2016/164 for alterations to mixed use building including modifications to ground floor boarding house to provide three (3) additional boarding rooms (11 in total) and alterations to first floor dwelling/boarding house manager residence to provide a third level at 1 Duke Street Brighton Le Sands 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, which preclude the use of the unauthorised boarding rooms from the consent.
2. That the objector's advised of Council's decision.



# Background

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## History

DA Approval (C.147/86) was granted by Council on 13<sup>th</sup> November 1986 for the proposed extension to the existing boarding house and managers residence at the site, subject to the following conditions:

- a) *The licensed number of boarders not to increase because of the extension.*
- b) *Provision to be made for stack parking two (2) cars on-site at the western side of the building, when required.*
- c) *The existing fibro extension at the rear of the boarding house to be demolished and replaced with a brick building matching the existing material and contain a shower, toilet and laundry*
- d) *The extensions not to exceed those shown on drawings No. 1 and 2 dated 21st August, 1986, and submitted with the original application.*
- e) *No signs to be erected on the building.*
- f) *The upstairs section not to be used for renting purposes.*

DA-2016/164 was lodged with Council on 30 October 2015 seeking consent for the addition of a third level to the existing mixed use building. The proposed third level adds a second floor to the first floor dwelling/boarding house managers residence which is positioned above a ground floor boarding house. No change to the boarding house was sought at ground level as part of the original DA to Council.

The originally submitted DA for the above works was notified from 9 – 24 November. No submissions were received.

CPS was assigned to undertake the assessment of the originally submitted DA on 18 April 2016. On 16 May 2016 the completed assessment report, compliance checklist and draft consent was issued to Council by the consultant assessing officer. As part of the completed assessment report, CPS recommended Council ensure the building proposed to be altered as part of the subject DA was lawfully approved.

Subsequent to this advice, investigations by Council officers identified that components of the boarding house on the ground floor were inconsistent with the eight (8) room boarding house approval under DA No. 147/86. These non-approved components of the boarding house relate to three additional boarding rooms being included within the boarding house, and a number of internal and external reconfigurations. These aspects are discussed in more detail further in this report.

Following identification of this issue, Council allowed the applicant to make an amendment to their DA to broaden the scope of what the DA was seeking consent for. In particular, the scope was broadened to cover the use of the unauthorised works, being the three (3) additional boarding rooms to permit an eleven (11) room boarding house on the site.

On 17 August 2016 the subject DA was re-notified to adjoining properties in accordance with the provisions of DCP2011 with the following amended DA description:

*Addition of third level to existing mixed use building, alterations to first floor dwelling and addition of three (3) boarding rooms to existing boarding house to create a total of 11 boarding rooms.*

In response to the re-notification of the amended DA, five (5) submissions were received objecting to the proposal. It is noted however that two (2) of these submissions are from the same address.

On 2 September 2016 CPS was re-engaged by Council to undertake the assessment of the applicant's amended proposal, which now seeks consent for the use of the unauthorised component of the existing boarding house.

At this point it is important to make clear that the DA is to only seek consent for the use of the unauthorised component of the boarding house, and that a separate building certificate application would need to be lodged with Council to regularise the unauthorised works, or physical components of the building should DA2016/164 be approved.

A preliminary assessment of the amended plans submitted by the applicant as part of the revised DA by CPS identified the following issues which were raised with Council on 19 September 2016:

- **Car Parking** - The unauthorised component of boarding house fails to comply with the minimum parking standards provided by *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

Furthermore, the existing consent for the current boarding house (Application No: 147/86), imposed a condition requiring stack parking of two (2) cars on-site at the western side of the building.

The site inspection revealed that no parking spaces have been included at the western side of the building for the boarding house, and as such the proposal fails to comply with the aforementioned consent condition.

- **Bicycle and motorcycle parking** – The unauthorised component of the boarding house fails provide at least 1 bicycle parking space and 1 motorcycle space as required by the ARHSEPP.
- **Communal living area** – The proposal does not include a communal room, and as such fails to achieve compliance with the provisions of the ARHSEPP.
- **Solar access** – To achieve compliance with the solar access provisions of the ARHSEPP, the boarding house would need to provide a communal room that receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter. This has not been provided by the applicant.
- **Accommodation size** – Two of the three unauthorised rooms within the boarding house fail to achieve compliance with the minimum room sizes specified by the ARHSEPP.

- **Adequate bathroom and kitchen facilities** – Concerns were raised over whether adequate bathroom and kitchen facilities are provided for the boarding house given such detail was not demonstrated on the applicant's amended plans.

It is understood the above issues were conveyed to the applicant by Council officers, and on 28 September 2016 revised plans were submitted to Council which have sought to address the outstanding issues.

The revised plans were provided to CPS on 28 September 2016, along with directions from Council with regard to the outstanding matters of non-compliance. This included the following:

- **Parking** – It was Council's preference that the issue of parking be conditioned to ensure it is compliant with Council's previous consent i.e. DA No. 147/86 – i.e. two car spaces to be provided on-site for the boarding house in addition to the garage for the residence.
- **Bicycle/motorcycle parking** – There is sufficient area on-site to accommodate motorcycle and bicycle parking. As such this should also be conditioned to comply.
- **Communal living area** – A condition could be included whereby boarding Room 9 is removed and the kitchen space enlarged to make it a dining area.
- **Solar access** – Due to the orientation of the site and nature of surrounding development, compliance with the solar access provisions of the ARHSEPP is unlikely to be achieved should Room 9 be converted into a common room.
- **Accommodation size** – In Council's view the variation to the minimum accommodation size was considered minor, and justifiable.
- **Adequate facilities** – Amended plans were submitted by the applicant which now demonstrate the location of amenities and facilities for the boarding house – i.e. bathrooms etc.

The assessment report contained herein is based on the above information submitted to date, along with the directions provided by Council officers.

*Note: A review the NSW Boarding House Register suggests the existing boarding house is not registered. It is recommended that Council investigates whether the subject boarding house is identified as a 'register able boarding house' as defined by clause 5 of the Boarding Houses Act 2012, and pursue any enforcement procedures if necessary.*

## Proposal

Council is in receipt of a development application DA-2016/164 at 1 Duke Street, Brighton Le Sands, which seeks consent for the addition of third level to existing mixed use building adding a second floor the existing dwelling/boarding house managers residence, alterations to the first floor dwelling and addition of three (3) boarding rooms to an existing approved boarding house to create a total of eleven (11) boarding rooms.

The development associated with the existing mixed use building can be detailed as follows:

- Ground Floor (existing boarding house) – use of three (3) additional boarding rooms (rooms 4/10/11). A detached one-storey building located in the rear corner of the subject site (south-west corner) is proposed to accommodate two (2) of the additional boarding rooms (10/11). An existing room adjoining the garage in the main boarding house is also to be used as a boarding room (room 4).
- First Floor (existing dwelling/boarding house managers residence) – addition of a staircase directly adjacent to existing staircase.
- Second Floor (proposed addition to dwelling/boarding house managers residence) – the addition of two (2) bedrooms and a bathroom with adjoining balcony located to the rear, and family/rumpus extended into a large front street facing courtyard/terrace with a nil setback along the eastern boundary.

## Site location and context

The subject site is known as Lot C in Deposited Plan 341097, and is located at 1 Duke Street, Brighton-Le-Sands NSW 2216. The site is rectangular in shape with front and rear boundary widths of 12.40m, and is 40.43m deep. The site has a total site area of 501.33sq.m and is not subject to any major slopes or gradient changes.

A two-storey mixed use building and two (2) one-storey outbuildings are situated on the subject site. The ground floor component and the outbuildings are used as part of a boarding house, and the first floor component of the building is used as a dwelling for the manager of the boarding house below.

One (1) of the outbuildings is attached to the mixed use building and according to the submitted Ground Floor Plan, is used for a toilet, shower and storage space associated with the boarding house.

An outbuilding is detached and is located in the rear south-western corner of the site which accommodates two of the three unauthorised boarding rooms within the boarding house.

The existing boarding house and dwelling (identified as the manager's residence) were approved in 1986 as per Application No. 147/86. The attached outbuilding is identified in the approved plans, however the detached outbuilding is not. As outlined above, it is this component which is used to accommodate two of the three unauthorised boarding house rooms for which the subject DA is seeking consent for their use.

It is noted that while the subject DA is seeking consent for the use of these unauthorised boarding rooms, Council be advised a building certificate would need to be lodged and approved prior to the occupation of the unauthorised components of the development.

The subject site addresses Duke Street to the south and is only 90m east of Brighton-Le-Sands beach.

The site adjoining the subject site to the east, at 90-92 The Grand Parade, is comprised of three (3) x residential flat buildings each three-storey's in height and constructed of red brick. Adjoining to the west, at 2-4 Hercules Street, is a four-storey residential flat building also

constructed of red brick. To the rear, at 6-8 Hercules Street, is a four-storey residential flat building. See **Figure 1** for aerial image of adjoining developments.



**Figure 1:** Aerial image illustrating the subject site and adjoin developments

Across the road of the subject site there is an eight (8) storey residential flat building development and a four-storey residential flat building. Accordingly, the subject site is recognised to be located within a high density residential area.

## Referrals

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The subject DA was not subject to any external referrals.

The development application was referred to the following Council Officers:

### Development Engineer

As part of the assessment of the subject DA, the proposal was referred to Council's Development Engineer for comment. In their response dated 11 May 2016, the following comments were made:

- **Storm water** – as per the concept plan, storm water runoff will be connected to the existing storm water system. A condition will be inserted prior to Occupation Certificate to certify the existing system.
- **Access and Parking** – The residential component will have more than three (3) bedrooms. Hence, as per Section 4.6 of DCP2011, two (2) car spaces shall be required. The existing double garage is considered sufficient.

No changes have been proposed to the existing boarding house.

- **Flooding** – The site is not flood affected
- **Recommendation** – approval, subject to conditions.

*Assessing Officer Comment* – The above response from the Development Engineer was made prior to Council allowing the applicant to modify the DA to cover the unauthorised works to the boarding house. Further discussions on the proposal's performance against the parking provisions of the ARHSEPP are made later in this report.

*Environmental Health Officer*

Councils EHO reviewed the proposal and noted that should the boarding house component of the development be supported, standard conditions of consent were to be imposed to ensure it operates in accordance with relevant legislative requirements.

## 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 (Building Sustainability Index: BASIX) 2004**

The applicant has submitted a BASIX Certificate for the alterations and additions to the existing dwelling. The Certificate number is A233682, dated 28 October 2015.

In accordance with the submitted BASIX the development is required appropriately insulate the new walls and ceilings, and provide for 450mm shading devices to the majority of proposed windows.

A condition shall be imposed within any consent to ensure that the requirements of the BASIX certificate are adhered to.

With regard to the unauthorised components of the boarding house, it is noted that no BASIX Certificate has been issued for this, however it is understood the environmental performance of these building would be subject to a Section J report that would need to be included as part of any building certificate application to Council for regularisation of these building component.

Nevertheless, it is acknowledged that the recommendation by the consultant assessing officer is the use of the unauthorised boarding room component of the subject DA be refused.

## **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Division 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) relates to development for the purpose of boarding houses on land zoned R1, R2, R3, R4, B1, B2 and B4. As the subject site is zoned R4, Division 3 applies to the proposed development.

Clause 29 prescribes standards that cannot be used to refuse consent to which Division 3 applies. For full compliance assessment of the proposal against the provisions of the ARHSEPP, reference should be made to the attached compliance checklists. The notable standards, and standards for which the development can be refused are discussed as follows:

### *Clause 29(1) - Density or Scale*

Pursuant to clause 29(1), since the subject site is within a land use zone that permits residential flat buildings and does not contain a heritage item, the consent authority cannot refuse consent to development which proposes floor area expressed as a floor space ratio (FSR) of the existing maximum FSR permitted on the land, plus 0.5:1.

Under the provisions of clause 4.4(2A) of LEP2011, the subject site has a maximum FSR of 0.55:1. Accordingly when applying the provisions of clause 29(1) of the ARHSEPP, the maximum permitted FSR on the subject site is 1.05:1.

As such, development for the purposes of a boarding house (including manager's residence) on the subject site cannot be refused on the grounds of density or scale when expressed as an FSR of less than 1.05:1.

In this regard, the applicable FSR is considered to be calculated as follows:

The proposed development seeks consent for the addition of a second level to the existing dwelling/managers residence (resulting in a third storey for the building), and the use of existing building for an additional three (3) boarding rooms. The resulting floor space ratio after the construction of the third storey as additions for the existing dwelling is 1.02:1, which is within the allowable FSR of the LEP2011.

However, in accordance with clause 29(1) of the ARHSEPP, the development for boarding houses on the subject land cannot be refused on the grounds of density or scale if the density or scale of the buildings when expressed as a FSR are not more than 1.05:1.

On this basis the bulk and scale of the overall development, including the use of the additional boarding house component, is considered satisfactory.

Note: It is the recommendation of this report that the unauthorised boarding rooms not be included as part of the development consent, and as such, Room 10 and 11 should be precluded from the GFA/FSR calculation. When this is undertaken, the resultant FSR when considered the alterations to the boarding house manager's dwelling is 0.97:1.

#### Clause 29(2)(a) – Building Height

If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land, then Council cannot refuse development consent for a boarding house on the basis of building height.

The unauthorised components of the boarding house are single storey only, and as such do not breach the 14.5m building height limit for the land under RLEP 2011.

The additional components to the boarding house building – i.e. the extensions to the dwelling/managers residence results in a building height of 10.56m which is below the 14.5m height limit.

Based on the above, the proposal is considered satisfactory when having regard to building height.

#### Clause 29(2)(b) – Landscaped Area

If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located, then Council cannot refuse consent to the boarding house development on the basis of landscaped area.

The proposal relates only to the unauthorised use of the premises for three (3) boarding rooms, and as such does not impact on the front setback. For these reasons, the landscaping arrangements on site remain as existing.

#### Clause 29(2)(c) – Solar Access

Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter, then Council cannot refuse consent to the boarding house on the basis of solar access.

The current boarding house does not include a communal living room, and as such this development standard has no work to do.

Reference is also made to the comments below in relation to ‘communal living rooms’ – see discussion on clause 30(1)(a).

#### Clause 29(2)(d) – Private Open Space

If at least one private open space area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, then consent cannot be refused on the basis of inadequate private open space.

The proposed development will provide an open space area of 71m<sup>2</sup>, and as such achieves compliance with the minimum requirements of the ARHSEPP.

#### Clause 29(2)(e) – Parking

Clause 29(2)(e) of the ARHSEPP includes car parking standards for boarding house development. So long as these standards are met, Council cannot refuse consent to a



boarding house proposal on the grounds of parking. If a boarding house development does not meet these parking standards, this does not mean that Council must refuse consent however – see clause 29(4) of the ARHSEPP.

The flexibility within this clause allows Council some discretion. This flexibility is in place where it can be demonstrated that a lower rate of parking is acceptable given the circumstances of the case. Such an example may be where alterations and additions to an existing boarding house are proposed.

Given the proposal seeks consent for the use of an unauthorised extension to a boarding house, it is important to take into consideration the existing approval when determining the appropriateness of the proposed parking arrangements.

The existing consent for the current boarding house (Application No: 147/86), imposes a condition requiring:

*‘(b) provision to be made for stack parking of two (2) cars on-site at the western side of the building, when required’.*

The requirement for the on-site parking is considered to be activated by the current proposal which is seeking approval for the intensified use of the site. It is also argued the requirement for parking is triggered by the provisions of the ARHSEPP which stipulate a minimum parking rate for boarding houses.

When considering the provisions under clause 29(2)(e) of the ARHSEPP (i.e. 0.2 spaces per boarding room), parking for 3 vehicles would be required – rounded up from 2.2 spaces as per the DCP2011.

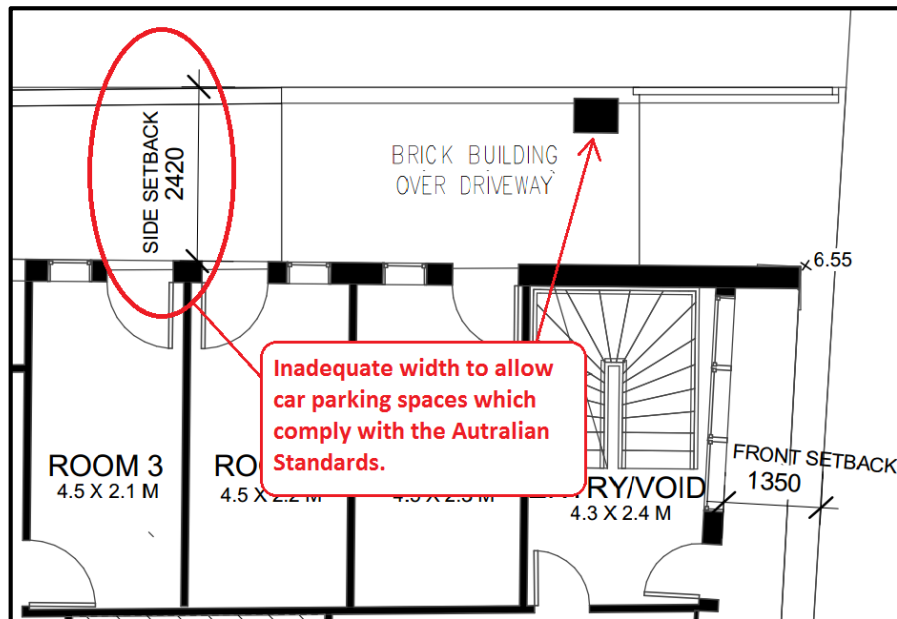
Having regard to the existing conditions of consent, the intensified use of the site, and also the minimum parking provisions of the ARHSEPP, it is considered appropriate that a minimum of two (2) car parking spaces be provided on site.

This advice by the consultant assessing officer was provided to Council officers on 19 September 2016. It was also advised that the site would appear incapable of providing the two car parking spaces as required by the existing consent DA No.147/86, and now as required to comply with the provisions of the ARHSEPP. This was because the western side setback has been obstructed by a gate, planter boxes, and the building alignment. Additionally the western side setback include a building support pier, and appears to be of inadequate dimension to allow the parking of a motor vehicle in compliance with the relevant Australian Standards.

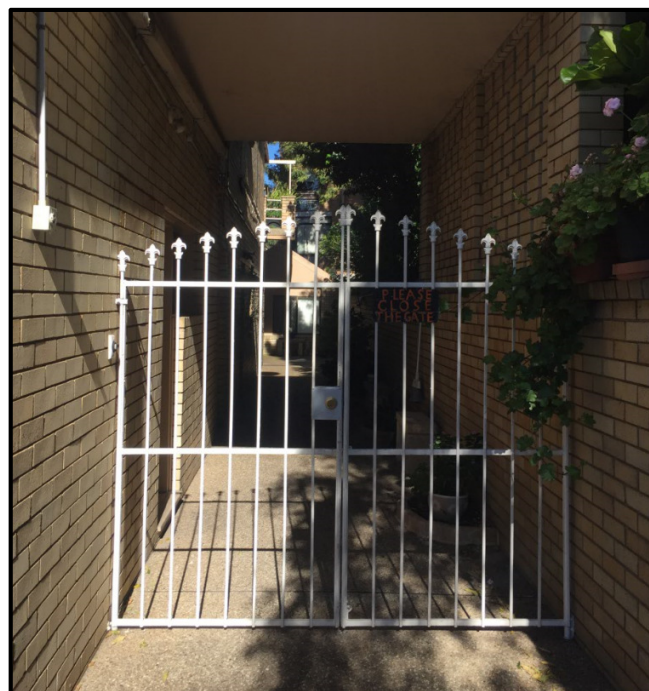
In a response from Council on 28 September 2016, it was advised that this issue should be conditioned to ensure it is compliant with Council's previous consent i.e. DA No. 147/86 – i.e. two car spaces to be provided on-site for the boarding house in addition to the garage for the residence.

The difficulty with this direction from Council officers is there will be no opportunity for the applicant to comply with the consent condition, or comply with the previous consent condition under DA No.147/86.

For this reason, it is the opinion of the assessing officer that the boarding house component of the DA be refused.



**Figure 2:** Extract of the applicant's revised plans showing the western side setback of the building where the two car parking spaces were to be located under the previous DA No. 147/86. Concerns are raised over the adequacy of this area to accommodate the intended parking given the dimensions appear incapable of accommodating car parking spaces to comply with the Australian Standards.



**Figure 3:** Photograph taken during the site inspection showing the western side setback of the building where the two car parking spaces were to be located under the previous DA No. 147/86..

Noted in this image is the narrow width and gate which would make parking in this areas unachievable. As such, it is considered application of the condition recommended by Council would be impracticable.

#### Clause 29(2)(f) – Accommodation Size

The consent authority must not refuse consent on the grounds of accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least 12sqm for a room intended to be used by a single lodger, and at least 16sqm for a room intended used for two (2) lodgers.

Two (2) of the proposed boarding rooms have a gross floor area of 10.18sqm, with the third boarding room having a gross floor area of 14sqm.

Accordingly, the consent authority is within its rights to refuse consent on the grounds of accommodation size, should it be determined that the room sizes are too small in terms of liveability and contemporary expectations.

This issue was raised with Council officers on 19 September 2016, and in Council's response on 28 September 2016 it was advised the non-compliance was minor and should not warrant refusal.

While it is understood some consideration needs to be given that these two non-compliant boarding rooms are existing, it is the opinion of the consultant assessing officer that being at least 15% below than the minimum specified by the ARHSEPP for a single lodger room is unacceptable from a liability perspective, and as mentioned the contemporary expectations of boarders. Furthermore, the inadequate room size is considered unacceptable when there is an opportunity to combine these two boarding rooms into a single larger and compliant boarding room for one or two lodgers.

For this reason, it is the recommendation of the assessing officer that the proposed use of the unauthorised boarding rooms be refused on inadequate accommodation size.

Should Council however consider the non-compliant boarding rooms to be acceptable despite the provisions of the ARHSEPP, then a draft consent for the development has been included.

Clause 30 prescribes a consent authority must not consent to development to which the ARHSEPP applies unless it is satisfied of each of the standards listed under clause 30 are achieved.

It is noted that clause 30(2) of the ARHSEPP does not apply for the purposes of minor alterations and additions to an existing boarding house. However it is the opinion of the consultant assessing officer that the alterations and additions are not 'minor' due to the 37.5% increase in the number of boarding rooms, and 20% increase in the number of lodgers on the site. This intensification of the use, and subsequent impacts the proposal ensues on the built environment and functionality of the boarding house – i.e. parking, non-compliant accommodation size etc. is considered to result in more than a minor modification to the existing approved development.

As such result, despite the proposal constituting alterations and additions, the necessity to comply with the development standards of the ARHSEPP prevail.

On this basis, the following is an assessment of the proposal against the development standards covered under clause 30 of the ARHSEPP.

#### *Clause 30(1)(a) – Communal Living Room*

Pursuant to clause 30(1)(a), Council must not consent to development unless it is satisfied at least one communal living room will be provided if a boarding house has 5 or more boarding rooms.

The proposal seeks consent for 3 additional boarding rooms, taking the total on site to 11 boarding rooms. Council do not consider it is satisfactory that a boarding house with 11 rooms not include a communal living room.

The applicant has not demonstrated through submission of clause 4.6 written request that it is unreasonable or unnecessary to comply with this standard in the circumstances of the case.

This constitutes a further reason why the boarding house component of the proposal should be refused.

#### *Clause 30(1)(b) – Size of Boarding Rooms*

Pursuant to clause 30(1)(b), Council must not consent to development unless each boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of not more than 25 square metres.

None of the unauthorised boarding rooms the subject of this consent include a gross floor area of 25m<sup>2</sup> or greater.

#### *Clause 30(1)(c) – Number of Lodgers*

Pursuant to clause 30(1)(c), Council must not consent to development unless each boarding room will be occupied by not more than 2 adult lodgers.

The applicant has not detailed how many lodgers are proposed to accommodate the unauthorised boarding rooms, however it is taken these are single boarding rooms (due to the apparent size). If this is the case, then compliance with the above development standard is achievable.

It is the recommendation of this report that the unauthorised use of the boarding rooms component of the DA be precluded from the consent. As such, this issue is considered redundant given the use of the unauthorised boarding rooms will not be approved.

#### *Clause 30(1)(d) – Bathroom and Kitchen Facilities*

Pursuant to clause 30(1)(c), Council must be satisfied adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,

Following an assessment of the applicant's plans for the unauthorised component of the boarding house, concern was raised with Council on 19 September 2016 whether adequate bathroom and kitchen facilities are provided, subject to the use of 3 additional boarding rooms resulting in a total of 11 boarding rooms. The concern was based on the plans including insufficient detail to ascertain the size and number of water closets and showers.

Additionally, no floor plan layouts were shown for the 3 additional boarding rooms to demonstrate whether these rooms include internal kitchen or bathroom facilities.

Revised plans submitted by the applicant and provided to the consultant assessing officer on 28 September 2016 now demonstrate the boarding house as including a kitchen, as well as three bathrooms. Across these three bathrooms there is a total of three toilets, one bath/shower, and a dedicated shower. None of the boarding rooms are shown to include internal facilities.

Based on the additional detail shown on the plans, there is considered be satisfactory bathroom and kitchen facilities provided to the boarding house development to achieve compliance with this development standard.

*Clause 30(1)(e) – On Site Manager*

Pursuant to clause 30(1)(c), a boarding house must include accommodation for a boarding house manager if it includes 20 or more lodgers.

Given the boarding house can accommodate a maximum of 18 lodgers, compliance with this provision is met due to the development including less than 20 lodgers. In any event, the applicant's DA submission notes a boarding house manager resides on premises within the dwelling located on the floor above.

*Clause 30(1)(f) – repealed.*

*Clause 30(1)(g) – Use of Ground Floor*

This clause relates to boarding houses on land zoned primarily for commercial purposes. Given the subject site is located within an R4 zone, this clause is taken not to apply.

*Clause 30(1)(h) – Bicycle and Motorbike Parking*

Pursuant to clause 30(1)(a), Council must not consent to development unless it is satisfied at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.

With regard to the subject proposal, at least 1 bicycle parking space and 1 motorcycle space must be provided for use of the additional boarding rooms.

This issue was raised with Council officers on 19 September 2016. In Council's response on 28 September 2016, it was advised that sufficient space was available on the site to accommodate the required bicycle and motorcycle parking.

Despite this not been indicated on the plans, there would be sufficient parking space for this to occur within the western side setback. However the concern is the current condition under DA No.147/86 which requires two stacked car parking spaces within this western side setback, and also the condition Council officer's have suggested to enforce those two car parking spaces in this location under the current DA.

This would conflict with two stacked car parking spaces and make access for parking of a motorcycle, and to a lesser extent bicycles, difficult to achieve in this area.

As such, given the applicant has not been able to demonstrate this is achievable, and given no clause 4.6 written request that compliance with this standard is unreasonable or

unnecessary in the circumstances of the case has been submitted, it is the opinion of the assessing officer this standard has not been complied with. This is a further reason why the boarding house component of the DA should be precluded from any consent.

#### *Clause 30A – Character of Local Area*

The subject site and surrounding land is currently zoned R4 High Density Residential under the provisions of LEP2011. The zoning along with comparable previous zonings of the land, have resulted in the local area being characterised by residential flat building developments that are 4-8 storeys high typifying the urban morphology.

The proposal to increase the height of the current building by one storey will result in the subject mixed use building having a height of three storeys. This places the building at a comparable height to that of the adjoining residential flat building to the east of the site, and below the height of the adjoining four-storey residential flat building to the west of the site at 2 Hercules Road. The proposal will remain well below the height of the existing eight storey residential flat building opposite the site at 10 The Boulevard.

The FSR of the development, as recommended for approval minus the unauthorised boarding rooms, will remain compliant with the permitted FSR limit when taking into consideration the provisions of the ARHSEPP.

With regards to the use of the building, it is considered the expansion of the boarding house manager's residence will not impact on the character of the local area, as this is simply an extension of the existing approved use of the manager's residence, which is existing and inherent to the site's existing approved use.

The physical elements of the unauthorised boarding rooms are considered unlikely to result in an impact on the character of the local area, as these rooms are located within the rear setback, and within the existing boarding house itself. However, there is an argument the impacts on the built environment from the unauthorised boarding house may detract from the character of the area, particularly due to the reliance upon on-street parking.

This would provide further justification for precluding the use of the unauthorised boarding rooms from the consent.

## **Rockdale Local Environmental Plan 2011**

The following are relevant matters from Council's LEP 2011 that need to be taken into consideration.

#### *Clause 2.1 – Land Use Zones*

The subject site is zoned R4 – High Density Residential. The proposal seeks to add a third storey to the existing building for the purpose of extending an existing dwelling/manager's residence contained in on upper level of the building, and seeks consent for the use of three (3) additional boarding rooms.

Accordingly, the proposed development is best defined as alterations and additions to existing residential dwelling, and approval for the use of an unauthorised component to an existing boarding house on the subject site.

Within the R4 zoning development for the purpose of a “boarding houses”, ‘dwelling’ and ‘mixed use development’ are permissible subject to council consent.

*Note: The boarding house component of the proposal is permissible and subject to the provisions of the ARHSEPP as outlined earlier in this assessment report.*

The proposed development is further considered to satisfy the objectives of the R4 zone as it will provide for the housing needs of the residents and supports the supply of a variety of housing types.

The following are development standards pursuant to Council's LEP 2011. These are applicable to the proposed development.

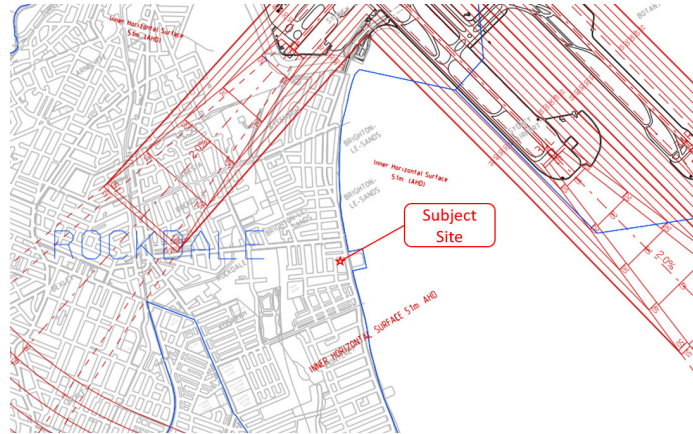
CLAUSE	REQUIREMENT	PROPOSED	COMPLIES
Cl 4.3 – Height of Buildings	Max height = 14.5m	<b>Proposed max height = 10.56m</b> (Ridge line 17.08 - ground level 6.52)	Yes
Cl 4.4 – Floor Space Ratio	Max FSR is 0.55:1 plus 0.5:1 = 1.05:1  <i>Refer to discussion on clause 29(1)(c)(i) earlier in report</i>	Development as proposed:  Boarding House GFA – 173.52sqm First floor of dwelling GFA – 134.92sqm Second floor of dwelling GFA – 84.32sqm Total GFA – 392.76sqm  Site area: 384.3m <sup>2</sup>  <b>Proposed FSR = 1.02:1</b>  <b>Development as recommended for approval (i.e. minus Boarding Room's 10 and 11)</b>  Boarding House GFA – 153.16sqm First floor of dwelling GFA – 134.92sqm Second floor of dwelling GFA – 84.32sqm Total GFA – 372.4sqm  Site area: 384.3m <sup>2</sup>  <b>Proposed FSR = 0.97:1</b>	Yes

#### Clause 6.1 – Acid Sulfate Soils

The subject site is located on land identified as containing Class 5 Acid Sulfate soils. However, the proposed development does not include any earthworks and accordingly there is no likely chance that any acid sulfate soils will be disturbed by the proposed development.

#### Clause 6.4 Airspace Operations

The subject site is located within the ‘Inner Horizontal Surface’ obstacle height limit which prescribes a 51m AHD obstacle surface height limit. Refer to **Figure 4**. As the proposed development will only result in the increased height of 17.08m AHD, the consent authority can be satisfied that the proposed development will not compromise the effective and ongoing operation of the Sydney (Kingsford-Smith) Airport.



**Figure 4:** Extract of the 'Prescribed Airspace for Sydney Airport Obstacle Limitation Surface, illustrating the location of the subject site being affected by the 'Inner Horizontal Surface 51m AHD surface limit.

Additionally, considering the presence of buildings with heights of up to 23m in height in the vicinity the proposed development, it is envisaged there will not be an impact on Building Height Civil Aviation or OLS.

It is also noted the subject site is located outside the ANEF contour 20 as per the Figure 14.5 regarding 2033 ANEF for Sydney Airport signed and dated 03/12/2012.

#### Clause 6.7 – Stormwater

The proposed development will not result in any additional impervious area as it is contained within the existing building footprint. The new roof associated with the third storey addition will be connected to existing storm water drainage system, as indicated on the submitted Proposed Roof Plan prepared by Trident Design & Construction (dated 29/10/2015).

As detailed earlier within this report, Council's development engineer has reviewed the proposal and does not object on grounds of storm water management. The proposal is satisfactory with regards to the provisions of this clause.

#### Clause 6.12 – Essential Services

The existing development located on the subject site currently has access to the essential services detailed in clause 6.12. An advisory note will be included in any consent notice suggesting that the utility services are consulted with prior to commencing works to fully understand their requirements before commencing any work.

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

No draft environmental planning instruments that would impact on the proposed development on the subject site have been identified for the purposes of this assessment.

### **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

As covered by Section 79C(3A)(b) of the Environmental Planning and Assessment Act 1979 (the Act), if a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

With the above in mind, the following outlines those aspects of the proposal which have been assessed as non-compliant with the applicable development controls under DCP2011, but nonetheless have been determined acceptable as they are able to achieve the objects of those standards.

Clause	Requirement	DCP2011	Proposed	Complies	Objectives
<b>General principles for development</b>					
4.1	Site Planning	Views/Vistas Stormwater Management - Technical Spec	Min Impact Stormwater to Technical Spec.	Yes Yes	Satisfied Satisfied
4.2	Streetscape and site context	Setbacks consistent with existing.	Setbacks are consistent with existing building and streetscape setbacks.	Yes	Satisfied
		Pedestrian environment.	Entry door addressing street.	As existing no change proposed.	Satisfied
		Streetscape perspective	The proposal provides for sympathetic building materials and articulation to results in a coherent streetscape.	Yes	Satisfied
4.3	Landscape Planning & Design	Landscaped area min. 25%	No change to ground floor landscaping.	n/a	n/a
		P.O.S – 80sq/m min.	106.35 sq/m	Yes	Satisfied
4.4	Sustainable building design	Energy efficiency Solar Access	BASIX Certificate	Yes	Satisfied

Clause	Requirement	DCP2011	Proposed	Complies	Objectives
4.4	Sustainable building design	Visual and Acoustic Privacy	Opportunities for overlooking resulting from the proposed development exist. However, with reference to site context, adequate visual and acoustic privacy is maintained.	<b>No</b> - See <i>discussion</i>	Satisfied
		Solar Access	Submitted shadow diagrams have been observed to use an incorrect north point. A review of neighbouring development POS and windows suggest that sufficient solar access will be maintained for adjoining development.	<b>No</b> - See <i>discussion</i>	Satisfied
4.6	Car Parking, Access & Movement	5 beds / 2 spaces	2 spaces	Yes	Satisfied
5.1	Storey Height & Side Setbacks	2 storeys	The subject dwelling will be limited to two storeys	Yes	Satisfied
		0.9m – Grd flr 1.2m – 1 <sup>st</sup> flr	0.9m 1.2m	<b>No</b> - See <i>discussion</i>	Satisfied

### Summary of Non compliances:

#### 1. Private Open Space & Visual Privacy (Part 4.3.2 and Part 4.4.5) - rear balcony

- The proposed rear facing balcony on the third floor of the development will have overlooking opportunities into the rear setbacks of adjoining developments to the rear. Refer to the images below (**Figure 4**) for site photo images illustrating overlooking opportunities. However, in reference to development control 4 of Part 4.3.2 of the DCP2011, the 'usability' of the POS of adjoining buildings is considered to be already severely impacted by the existing balconies of existing three and four storey residential buildings in the vicinity.

Accordingly, overlooking from the third storey rear balcony development is not considered to impact the usability of adjoining POS any further than what is existing and as such is considered to be acceptable in the circumstance of this case.



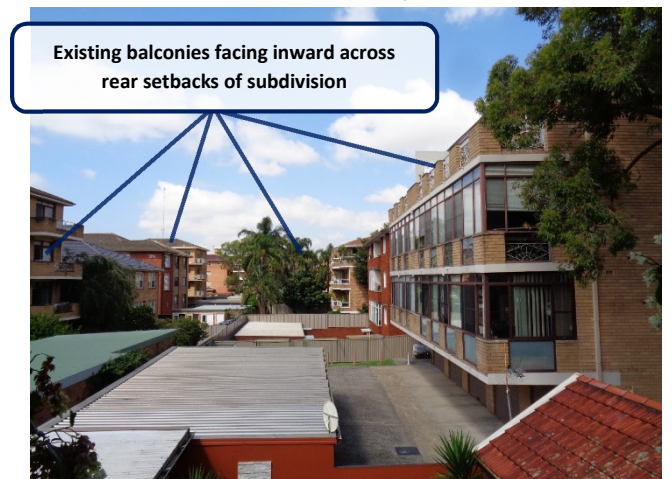
P1 - View looking at existing rear balcony from adjoining eastern property.  
Source: CPS, May 2016



P2 - View from adjoining eastern property looking at existing balconies of property to rear of subject site.  
Source: CPS, May 2016



P3- View from subject building's existing rear balcony.  
Source: CPS, May 2016



P4- View from subject building's existing rear balcony.  
Source: CPS, May 2016



P5- View from adjoining eastern property looking south.  
Source: CPS, May 2016



P6 - View from subject site western boundary looking at existing balconies from adjoining western property.  
Source: CPS, May 2016

*Figure 4 – Selection of site inspection photos illustrating presence of existing rear facing balconies and subsequently associated levels of expected visual privacy*



## Private Open Space (Part 4.3.2) continued – rear balcony

- The intrinsic privacy of the third floor rear facing balcony is considered to be impacted by direct viewing from existing balconies of adjoining buildings to the west at 2-4 Hercules Road. Accordingly, it is considered appropriate to condition a privacy fence 1.8m in height erected from FFL on the western side of the third storey balcony. Refer to **Figure 5** for diagrammatic representation.

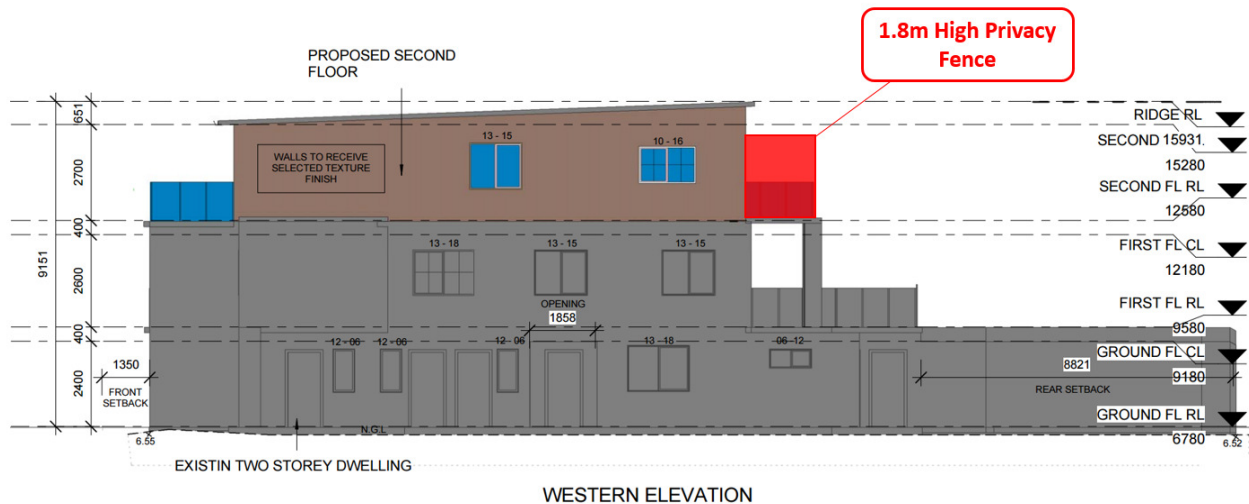


Figure 5 – Adapted Western Elevations illustrating location of proposed privacy fence

## 2. Solar Access (Part 4.4.2)

- The Shadow Diagrams submitted with the DA appear to have a misaligned north point. When comparing the submitted Survey, which includes a reference to north, to that of the submitted Shadow Diagrams, it is obvious that the resulting shadows are incorrectly cast. Refer to **Figure 6** for diagrammatic representation. However, with reference to development control 4 of Part 4.4.2 of the DCP, it is considered that the development and adjoining development will not be unduly impacted by overshadowing from the proposed development, as identified by the following aspects:
  - Due to the eastern location of the POS of adjoining property at 6-8 Hercules Rd, this adjoining development is not considered to be negatively impacted by overshadowing of proposed development.
  - Adjoining property to the west, 90-92 The Grand Parade, will be overshadowed by the proposed development, however the overshadowing is considered to only impact the hard stand area of the driveway to the garages located to the rear. The communal open space of 90-92 The Grand Parade is located approx. 27m from the proposed development which will not be impacted by any overshadowing resulting from the proposed development.

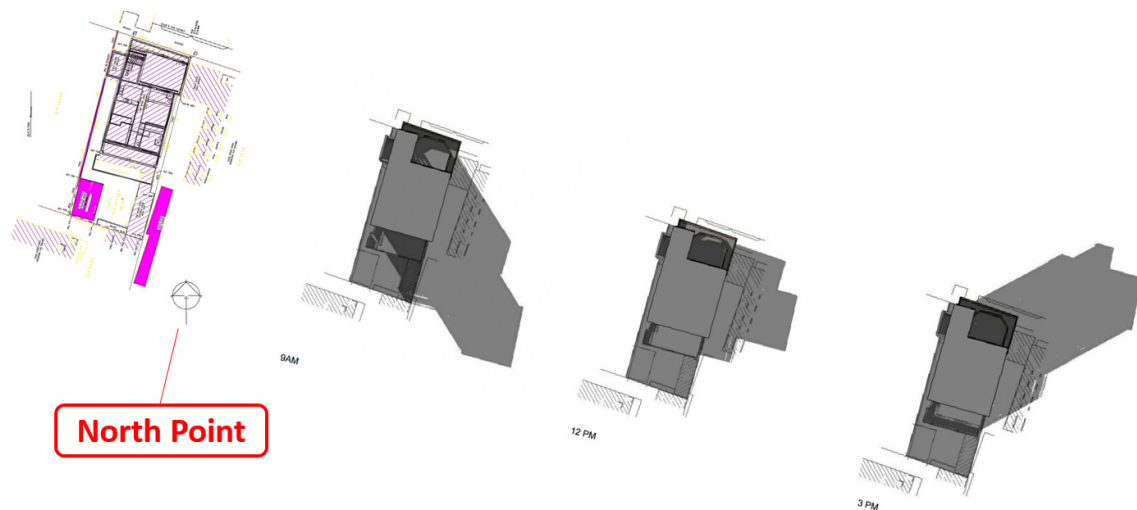


Figure 6 – Comparison Site Survey with reference north point with Shadow Diagrams for June 21

### 3. Visual and Acoustic Privacy (Part 4.4.5) – east facing windows

- Windows from the family/rumpus room and bedroom 4 are located within 6m and will provide for direct viewing from windows of the Residential Flat Building on adjoining property at 90-92 The Grand Parade, to the west. Refer to **Image 1** for photographic representation. Accordingly, with reference to development control 1 of Part 4.4.5 of the DCP, the window of the family/rumpus room and the window of bedroom 4 shall be conditioned to include fixed obscure glazing in any part of the window below 1.7m above FFL. Refer to **Figure 6** for diagrammatic representation, and further below for the recommended conditions.



**Image 1 – Photo of adjoining development to the west of the subject site, illustrating presence of windows looking directly at the subject building (source: photo taken during site inspection).**

Source: CPS, May 2016

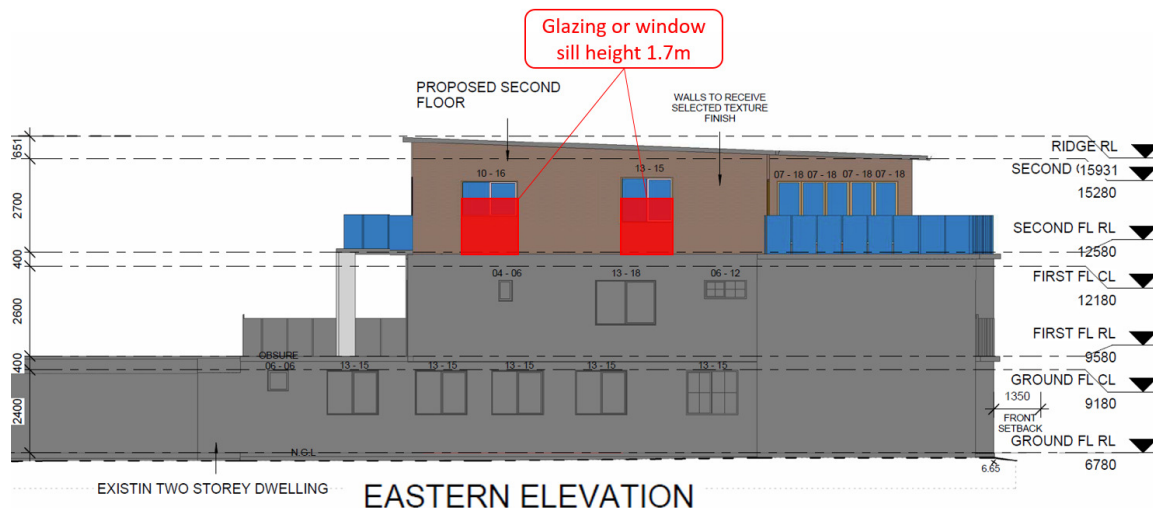


Figure 6 – Adapted Eastern Elevations illustrating windows required to have 1.7m high obscure glazing

#### Conditions to be imposed:

##### **1.8 Metre High Privacy Screen to Balcony**

A 1.8 metre high privacy screen, measured from the finished floor level, shall be installed to the western elevation of the rear facing balcony located on the third storey.

##### **Obscure Window Glazing**

To assist in the maintenance of visual privacy, Window (13-15) located adjacent to the family/rumpus room and Window (10-15) located in Bedroom 4 shall have obscure glazing to a height of 1.7m from the finished floor level.

#### **4. Side Setback (Part 5.1) – eastern boundary wall**

- The existing second floor of the subject building provides for a nil boundary setback to the existing garage for a length of approximately 6.7m from the front of the eastern boundary and a 175mm setback for a length of approximately 4.5m on the eastern boundary. The proposed third floor addition seeks to provide for a 0.9m side setback from the third floor building wall to the eastern boundary which is a continuation from the eastern building wall of the ground and second floor. Considering the setbacks of the existing building the proposed eastern setback is satisfactory in this circumstance for the following reasons:
  - View sharing is not impacted
  - The scale of the proposed development is consistent with adjoining development and the streetscape
  - The façade of the subject wall is consistent with the entire building
  - Windows located on this setback will be conditioned to have obscure glazing to a heights of 1.7m from FFL to ensure privacy is maintained.

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

Clause 92 of the Environmental Planning and Assessment 2000 has been considered, and the requirements for demolition have been considered and compliance with Australian

Standard AS 2601—1991: The Demolition of Structures is a recommended condition of consent.

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

### ***Safety & Security***

The recommendation of this assessment report is that the unauthorised components of the boarding house not form part of the consent. It is also recommended that Council initiate orders to revert the boarding house back to its originally approved status by deleting the three unauthorised boarding rooms.

This would then leave the proposed alterations and additions to the existing boarding house manager's residence on top of the building. Given the balance of the works are essentially residential in nature, they are not considered to be of a use that would result in any negative safety or security impacts.

### ***Waste Management***

The operational waste management arrangements for the proposal will remain largely unchanged as a result of the recommendation of this report. That is because the existing unauthorised boarding rooms are not consented to, and are to be reverted back to their originally approved arrangements. As for the residence on top of the boarding house, it is anticipated the waste management arrangements will continue as existing.

Any waste associated with the construction of the alterations and additions to the dwelling/manager's residence will be subject to the construction waste management plan.

### ***Accessibility***

Given the recommendation is for the unauthorised component of the boarding house to be precluded from the consent, and that Council initiate orders to revert this back to its originally approved state, there are not considered to be any changes to the accessibility arrangements for the boarding house that haven't already been consented to by Council under the previous DA, i.e. C.147/86.

Access arrangements to the boarding house manager's residence on top of the boarding house will remain as existing, i.e. via the entry and staircase fronting the street.

### ***BCA Compliance***

Standard conditions of consent will be included to ensure the proposal satisfactorily complies with the provisions of the Building Code of Australia.

It is noted that the unauthorised component of the boarding house will not be included as part of the development consent, and as such, the applicant will be required to revert this aspect of the building back to its originally approved state.

Accordingly, if there are non-compliances with the BCA associated with the unauthorised boarding rooms, then these would no longer exist once these aspects are deleted from the development.

### ***Density and Scale***

The proposed development achieves compliance with the density and scale provisions of both the ARHSEPP and LEP2011. On this basis, the proposal cannot be refused consent on the basis of density or scale when having regard to clause 29(1) of the ARHSEPP. Reference

should be made to the assessment contained earlier in this report for a detailed response on the proposal's ability to comply with the provisions of the ARHSEPP for further details.

### ***Visual Privacy***

The proposed development has been designed in context to neighbouring development and provides for commensurate privacy to adjoining and surrounding properties. The existing privacy afforded to the private open space areas in the adjacent rear setbacks to the site are already impacted upon by rear facing balconies of the existing three and four storey residential flat buildings. Accordingly, the proposed development will not result in any additional overlooking to the private open space areas not currently being overlooked.

In reference to the visual privacy of adjoining neighbouring developments to the sides of the subject site, the proposal will include additional design considerations such as obscure glass to a height of 1.7m from the FFL of proposed Window 13-15 adjacent to the family/rumpus room and Window 10-15 located in Bedroom 4. A privacy screen to a height of 1.8m from the FFL on the western side of the rear third storey balcony is also proposed to ensure privacy is maintained. These design considerations are to be ensured through recommended conditions of consent.

The privacy measures will ensure that a reasonable level of privacy is maintained between adjoining properties. Further, the location and design of the proposed additions, including the proposed balconies, will ensure that noise intrusion to adjoining properties is reduced.

Despite the challenging environment, the proposed development has generally been designed and located to minimise overlooking of adjoining and surrounding properties.

With regard to the use of the unauthorised boarding houses, it is noted that these occupy existing buildings, and are located on the ground floor of the building. As such, no overlooking opportunities arise.

### ***Noise***

The applicant has submitted to Council a comprehensive Noise and Vibration Impact Assessment dated 22 February 2016 that has been prepared by a suitably qualified acoustic consultant. The results of the noise and vibration assessment have found, that subject to the consultant's recommended mitigation measures, the proposed development is acceptable with respect to noise and vibration impacts.

### ***Overshadowing***

The proposal presents an acceptable level of overshadowing and is unlikely to significantly impact on the level of solar access to adjoining development, or over the development itself. The proposed development is not considered to result in adjoining residential properties receiving less than a minimum 3 hours of sunlight between 9am and 3pm in mid-winter.

Therefore, solar access to adjoining property is to be retained in accordance with the requirements of DCP 2011.

### ***Traffic and Parking***

As outlined earlier in this report, the current development on the site fails to comply with the existing consent condition under DA No.147/86 for two parking spaces to be provided within



the western side setback of the building,

Despite the recommendation of the Council officer that this effectively be re-conditioned as part of the subject DA, concerns have been raised over the inadequate dimension of the western side setback to accommodate parking spaces in accordance with the relevant Australian Standards. Concerns are also raised over whether conditioned parking spaces in this location would provide constraints in relation to site access, particularly for those boarding rooms in the rear of the site which are only accessible via the western side setback.

Accordingly, the unauthorised boarding room component of the DA is not being recommended for approval by the consultant assessing officer.

As for the dwelling/boarding house manager's residence component of the proposal, it is noted that referral of this part of the DA (i.e. prior to it being modified to include the unauthorised boarding house) was made to Council's Development engineer for comment. The response from the Development Engineer is that the proposal is satisfactory from a parking perspective, subject to conditions.

### ***Character / Streetscape***

The boarding house component of the proposal (i.e. unauthorised boarding rooms) is considered to have an unacceptable impact on the surrounding streetscape by virtue of its reliance upon on-street parking. This reliance arises from a non-compliance with the existing conditions of consent which relate to parking for the boarding house, and also the requirements of the ARHSEPP for the additional parking as a result of the unauthorised boarding rooms.

The balance of the proposal relating to the dwelling/manager's residence on top of the boarding house is considered to be acceptable given the character of development surrounding the site which is built to higher densities, and also the dwelling component being able to satisfy the parking requirements of Council – refer Development Engineer referral response.

### ***Natural Hazards***

The property is identified as including Class 5 Acid Sulphate Soils. The proposal does not include any earthworks and as such there is no risk to exposing acid sulfate soils.

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

This report has undertaken a thorough assessment of the proposal's impacts on the natural and built environment, whilst also assessing compliance against the relevant environmental planning instruments and development control plans.

The alterations and additions to the dwelling/manager's residence on top of the boarding house are considered to be a suitable redevelopment of the subject site, demonstrated largely by the ability of these works to achieve satisfactory compliance with the provisions of LEP2011 and DCP2011.

However approval for the use of the unauthorised component of the boarding house is not recommended based on the failure to achieve compliance with key development standards covered under the ARHSEPP, and also existing conditions of consent for the boarding house under DA No. 147/86. For this reason, the unauthorised boarding rooms within the existing previously approved boarding house are not considered suitable for the site – as

demonstrated through this report.

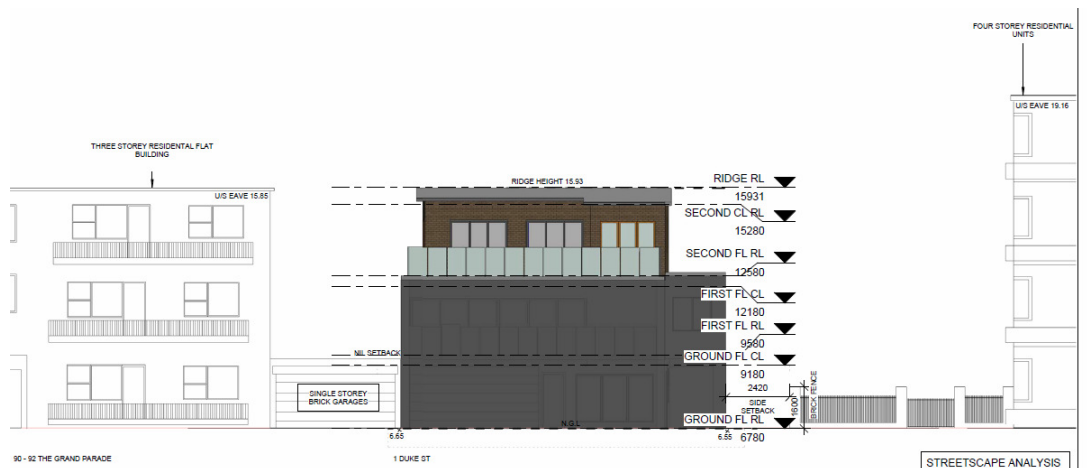
## S.79C(1)(d) - Public submissions

The development has been notified in accordance with the provisions of DCP2011. In response, five (5) submissions objecting to the proposal were received, one (1) of these submissions included a petition with fifteen (15) signatures. The submissions are considered as follows:

### *View loss of Botany Bay*

Comment: The development will result in a maximum height of 10.56m. The LEP2011 permits development on the subject site to a maximum height of building of 14.5m. Accordingly, the provisions of the LEP2011 permit development up to 4-storeys on the subject site. This means that the 'right' to access the views of Botany Bay for land impacted by the proposed development is diminished as the subject land has the potential to develop to the permitted height of 14.5m.

Notwithstanding the above, the submitted streetscape elevation illustrates that the third floor addition will be of a similar height as the existing adjoining development to the east (which is located in the direct view line of Botany Bay). Therefore, it is considered that the extent of view loss is not extensive and limited to the third floor apartments of the adjoining development at 2-4 Hercules Road.



*Figure 7 – Streetscape elevation of the proposed development demonstrating the height of the proposal (coloured image) is comparable to the building located to the east of the site (left of frame) thus not resulting in any view loss to the existing residential flat building to the west of the site (right of frame).*

As such, it is considered to be unreasonable for Council to refuse the proposed third floor addition which falls 3.94m below the permitted height limit.

### *Parking and additional traffic generated by the additional boarding rooms / lack of parking provided.*

Comment: As part of the assessment of the subject DA the proposal, minus the boarding house, was referred to Council's Development Engineer who has indicated that this component of the DA satisfactorily complies with the two car spaces required under DCP2011.

As for the parking associated with the unauthorised boarding house, reference is made to previous discussion in this report where the consulting assessing officer concurs with the objectors that inappropriate parking provision is provided when having regard to the exiting condition of consent under DA No.147/86 and also the provision of clause 29(1)(e) of the ARH SEPP.

It is noted that the recommendation of this report is that the unauthorised component of the boarding house not be approved, partly due to the parking impact. It also recommended that Council initiate orders in relation to the unauthorised works.

#### *Overshadowing and solar access*

Comment: The DCP2011 requires that adjoining development not be overshadowed by more than three (3) hours during 9am to 3pm on the winter solstice. There is no evidence to suggest that the development will overshadow any adjoining developments by more than three (3) hours during 9am to 3pm on the winter solstice.

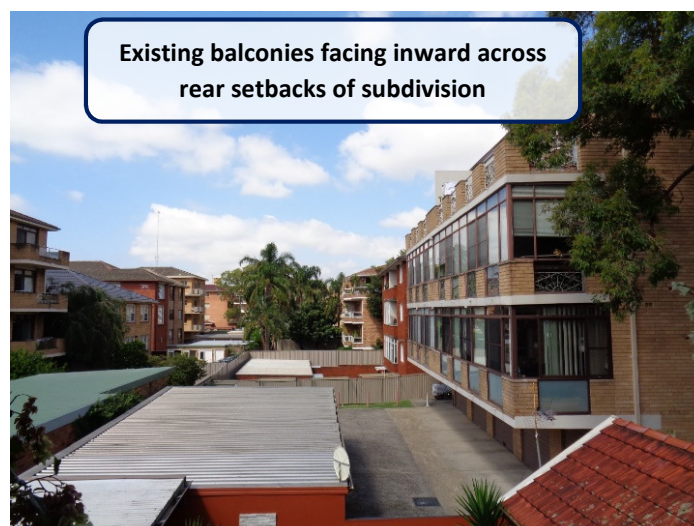
In this regard, to require that the development to be redesigned to further minimise overshadowing impacts beyond what is acceptable under DCP2011 is considered to be unreasonable.

#### *Loss of privacy / overlooking of neighbouring properties*

Comment: Reference is made to the discussions contained in the response to the proposal's non-compliance with DCP2011 earlier in this report for a detailed assessment of potential loss of privacy through overlooking.

It should be noted that the level of privacy afforded to developments is directly correlated to the density of the area in which a development is to occur. For example, a suburban dwelling house on a large allotment has the reasonable expectation of receiving greater level of privacy than an apartment in a high density area.

With this in mind, the local area is reflective of a high density residential environment as evident by the prevalence of residential flat buildings. Moreover, as the image below identifies, the privacy of the existing balconies are already severely impacted by inward facing balconies of developments in the subdivision block.



The proposed rear facing terrace is not out of character and is not considered to result in significant impacts on the existing level of privacy.

Notwithstanding the above, the proposed third floor terrace addition may provide opportunities for overlooking into the adjoining development to the west (2-4 Hercules Road). Accordingly, condition of consent has been recommended to erect a privacy fence 1.8m high on the western side of the third storey terrace/balcony.

With regards to the above comments, and subject to conditions of consent, it is considered that visual privacy can be maintained to an acceptable level through minimising overlooking opportunities.

#### *Excessive site coverage/ overdevelopment*

Comment: The proposal does not seek to expand the existing building footprint and as such does not seek to vary Council's site coverage development control. The existing building footprint was subjected to an assessment at the time of its approval.

It is concurred that at approval for the unauthorised boarding rooms would result in an over development of the site which is identified through the boarding houses inability to comply with the parking provisions communal living areas, minimum accommodation sizes prescribed by the ARH SEPP, For this reason it is the recommendations of the assessing officer that this aspect of the proposed not be supported.

#### *Expired boarding house certificate*

It is acknowledged that the boarding house certificate submitted with the development application is expired. Should it be determined by Council the current boarding house is required to be registered with NSW Governments Department of Fair Trading, the boarding house manager be appropriately advised.

It is noted again that this report recommends that the unauthorised component of the development application be deleted from the proposal and be subject to a separate S.96 application.

#### *Safety concerns*

Comment: It is a recommendation of this report that current boarding house be reverted back to the boarding house approved under DA No. 147/86. As such, it is considered that the proposal will not result in any security impacts not already approved and consented to under DA No.147/86.

The dwelling located above the boarding house is occupied by the manager of the boarding house which is considered to be satisfactory in terms of managing the boarding house.

#### *Out of character*

Comment: The subject building is existing and is considered to be part of the urban fabric. The proposed third floor addition to the dwelling/manager's residence will result in the building having a more comparable building height to adjoining developments. Accordingly, the dwelling component of the proposed development is not considered to be out of character with the local area or streetscape.

The proposed extension to the boarding house is however considered to have an unacceptable impact on the surrounding streetscape by virtue of its reliance upon on-street parking. This reliance arises from a non-compliance with the existing conditions of consent which relate to parking for the boarding house, and also the requirements of the ARHSEPP for the additional parking as a result of the unauthorised boarding rooms.

Again, reference is made to the assessment of the proposal against the DCP2011 traffic and parking provisions contained earlier in this report for further details.

#### *Construction impacts*

Comment: The proposed development shall be conditioned to comply with Council's permitted hours of construction, and shall minimise the excessive noise in accordance with the *Protection of the Environment Operations Act 1997*.

#### *Devaluation of property*

Comment: Property values are not a valid planning consideration under Section 79C of the Act. Council cannot refuse a development application based on speculative impacts of property value.

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

The alterations and additions to the dwelling under the subject DA are considered to be in the public interest as these works are satisfactorily compliant with the provisions of Council's LEP2011 and DCP2011.

However, given the issues with the boarding house development that have been identified as part of this assessment, including the range of non-compliances with the ARHSEPP, and also existing conditions of consent under DA No. 147/86, it is considered the boarding house component of the DA is not in the public interest, and as such should be precluded from any DA consent.

Our Ref: DA-2016/164  
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Mr Johnny Spili  
69 Fontainebleau St  
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-2016/164
<b>Property:</b>	1 Duke Street, BRIGHTON LE SANDS NSW 2216 Lot C DP 341097
<b>Proposal:</b>	Alterations to mixed use building including modifications to ground floor boarding house to provide three (3) additional boarding rooms (11 in total) and alterations to first floor dwelling/boarding house manager residence to provide a third level.
<b>Authority:</b>	Council

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**Determination:**

**Date of determination:**

**Date consent commences:**

**Date consent lapses:**

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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.

Plans and documents by Trident Design & Construction

Title	Sheet No	Dated	Received by Council
Existing Site Plan	2 of 12	29/10/2015	30/10/2015
Existing First Floor Plan	4 of 12	29/10/2015	30/10/2015
Proposed Second Floor Plan	5 of 12	29/10/2015	30/10/2015
Proposed Roof Plan	6 of 12	29/10/2015	30/10/2015
North & South Elevations	7 of 12	29/10/2015	30/10/2015
Proposed Western Side Elevation	8 of 12	29/10/2015	30/10/2015
Proposed East Elevations	9 of 12	29/10/2015	30/10/2015
Proposed Sections	10 of 12	29/10/2015	30/10/2015
Streetscape Analysis	11 of 12	29/10/2015	30/10/2015

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 (A233682) 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. New building work shall not commence without the prior Development Consent of Council.
7. 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.
8. The courtyard and balcony shall not be enclosed at any future time without prior development consent.
9. The dwelling shall be used as a single occupancy only.
10. 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.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

11. Vehicles shall not be parked, stored or displayed on the public footpath at any time.
12. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of

the Protection of the Environment Operations Act, 1997.

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. 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.
15. A 1.8 metre high privacy screen, measured from the finished floor level, shall be installed to the western elevation of the rear facing balcony located on the third storey.

### **Obscure Window Glazing**

To assist in the maintenance of visual privacy, Window (13-15) located adjacent to the family/rumpus room and Window (10-15) located in Bedroom 4 shall have obscure glazing to a height of 1.7m from the finished floor level.

16. All 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.
17. Colours and textures of materials used in the extension shall be compatible with the existing building.
18. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
19. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
20. All hot water systems which are located on the balcony of a dwelling must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
21. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.  
  
Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.
22. No modifications are approved to the existing approved boarding house on site. The existing approved boarding house is to operate in conjunction with approval DA-147/86.
23. Two car spaces within the existing garage are to be allocated to the dwelling house on site.



## Prior to issue of the construction certificate

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

24. 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 \$2,635. 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 \$17.00.
25. 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.
26. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:
  - i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
  - ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

### Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.
2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for

exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

Note: This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

27. A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.
28. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
29. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
30. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. 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. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
31. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. 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.

32. Timber framing members shall comply with the relevant provisions of the National Timber Framing Code AS 1684-1999. Details of the roof truss, truss layout and proposed method of bracing shall be submitted to the Principal Certifying Authority prior to the first inspection.
33. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

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

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

34. 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.

35. 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.
36. 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.
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.
38. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work.

Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

39. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
40. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to commencement of works.
41. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
42. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

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

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

43. 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.
44. 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.
45. 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, and
  - ii. prior to pouring any in-situ reinforced concrete building element, and
  - iii. prior to covering the framework for any floor, wall, roof or other building element, 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.

46. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also

required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

- Sediment control measures
- Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
- Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

47. 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.

48. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.

49. 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. 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.
- ii. 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.
- iii. 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.

50. 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 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.

51. 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.
52. The new building work shall be protected in accordance with the provisions of AS 3660.1-2000 "Termite Management - Part 1: New Building Work", as required by Part 3.1.3 of the Building Code of Australia. Certification is required to be submitted to the Principal Certifying Authority (PCA), prior to the next stage of works to ensure that the selected method of treatment is in compliance with the relevant provisions of the standard. Such certification is to be prepared by a suitably qualified person.
53. The following conditions are necessary to ensure minimal impacts during construction:
  - i. 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. 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.
54. 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.

## **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.

55. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
56. 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.
57. 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.
58. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
59. 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.
60. Prior to issue of any Occupation Certificate a registered plumber or other suitably qualified professional is to check the existing stormwater system for the building and shall provide a certificate stating that the system is in a satisfactory and is in good working condition. If the existing system, or (any element of the system), cannot be certified as being satisfactory and in good working condition then the substandard section of the existing system is to be renewed.  
Where a Private Certifier issues an Occupation Certificate the Certificate mentioned in the above paragraph must be provided to Council.
61. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.
62. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

63. Prior to issue of any Occupation Certificate a registered plumber or other suitably qualified professional is to check the existing stormwater system for the building and shall provide a certificate stating that the system is in a satisfactory and is in good working condition. If the existing system, or (any element of the system), cannot be certified as being satisfactory and in good working condition then the substandard section of the existing system is to be renewed.

Where a Private Certifier issues an Occupation Certificate the Certificate mentioned in the above paragraph must be provided to Council.

## Roads Act

64. 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.

65. 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.

66. 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.

## 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. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. All asbestos fibre demolition material and asbestos dust shall be handled, stored



and removed in accordance with the relevant legislation and guidelines including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. 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.
- e. 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.
- f. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's guideline - "Lead Alert - Painting Your Home".
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. 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 Marta M Gonzalez-Valdes on 9562 1666

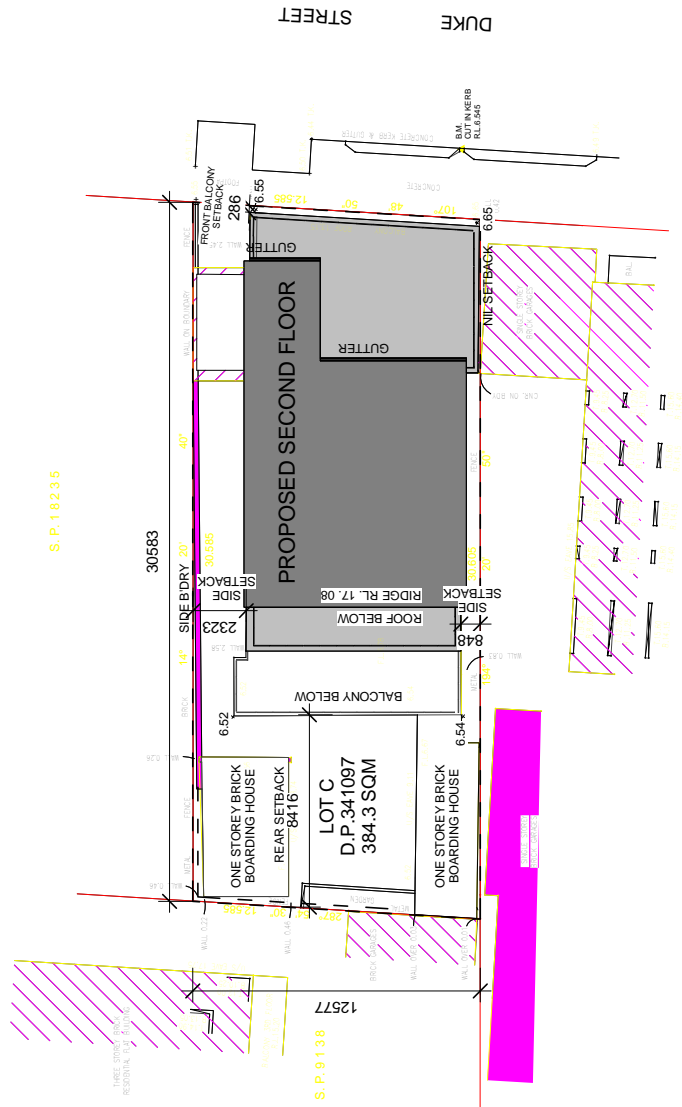
**Luis Melim**  
**Manager - Development Services**

NOTE :  
- ALL STORM WATER TO BE CONNECTED TO EXISTING.  
- ALL ENGINEERING REQUIRED TO BE READ IN CONJUNCTION WITH THE SUPPLIED DETAILS.  
- BUILDER TO VERIFY WINDOW OPENINGS WITH SELECTED WINDOW MANUFACTURER  
- BUILDER TO VERIFY DIMENSIONS ON SITE DUE TO THE NATURE OF WORKS

SITE CALCULATIONS:  
SITE AREA 389.3 SQM  
ALLOWABLE F.S.R  
EXISTING F.S.R  
PROPOSED F.S.R

214.11 SQM @55%  
123 SQM @31.60%  
207 SQM @53.17%

EXISTING:  
BOARDING HOUSE GROUND FLOOR 163 SQM  
RESIDENCE FIRST FLOOR 123 SQM  
BALCONY 10 SQM  
ROOF GARDEN 44 SQM  
ENTRY VOID 11 SQM  
PROPOSED:  
SECOND FLOOR 84 SQM  
ENTRY VOID 24 SQM  
ROOF TERRACE 48 SQM  
BALCONY 19 SQM  
DEDUCTIONS:  
ENTRY VOID 11 SQM  
GARAGE 24 SQM  
BOARDING HOUSE 163 SQM  
ROOF GARDEN 44 SQM  
ACCORDING TO SEPP



EXISTING SITE PLAN

## PROPOSED SECOND STOREY ADDITION

MR. & MRS.  
FRAGASSI  
1 DUKE STREET,  
BRIGHTON-LE-SANDS

Sheet :	2 OF 12	JOHNNY SPILLI
Project number	1325	
Date	29/10/15	Scale
		1 : 200



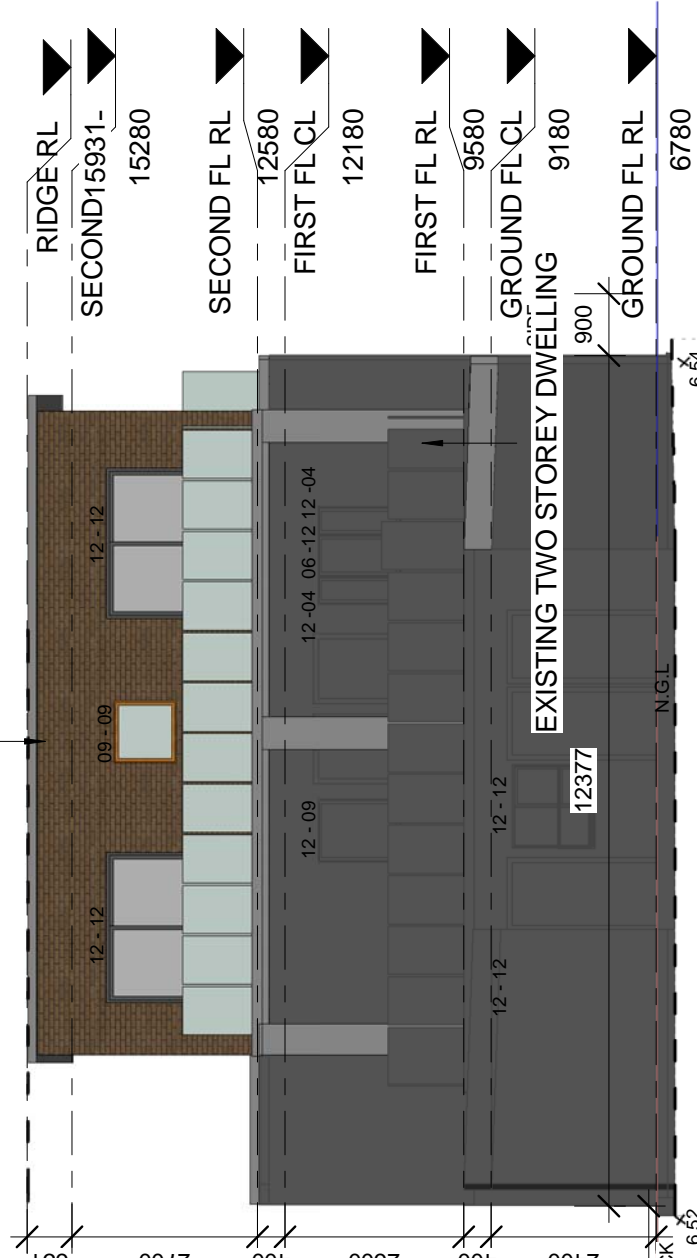
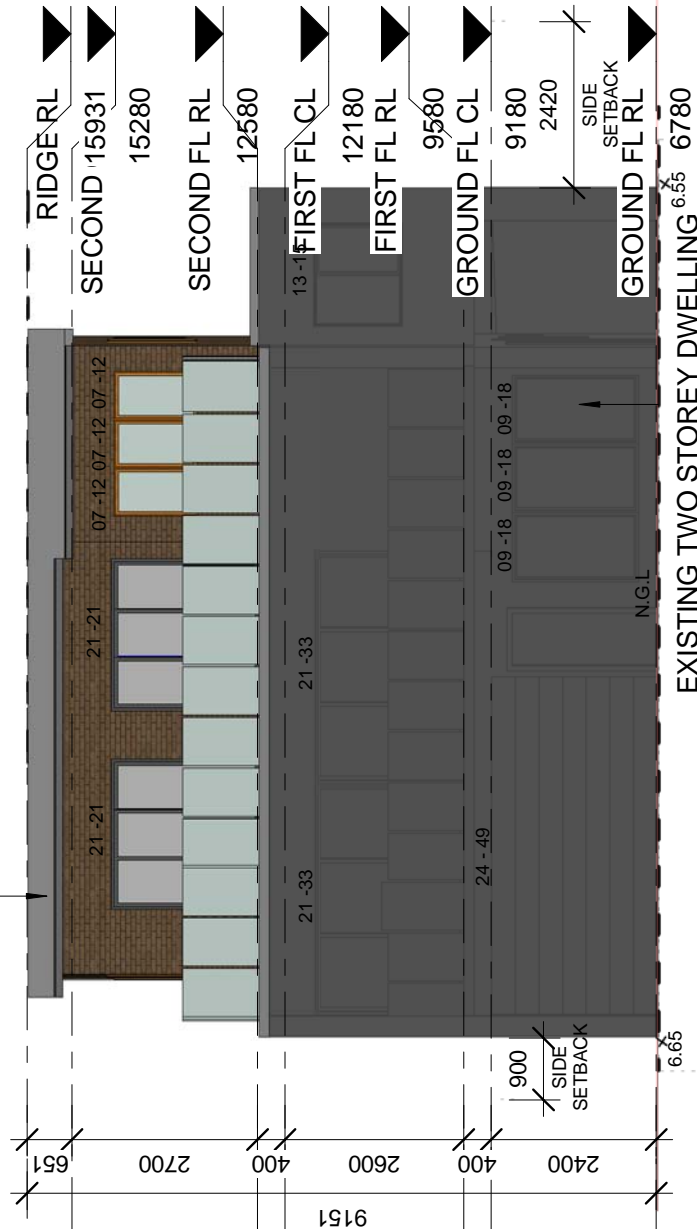
JOHNNY SPILLI / Architectural Services  
M 0450 444 544 / ABN 15 872 719 203

MAX HEIGHT 14.5M

MAX HEIGHT 14.5M

PROPOSED SECOND FLOOR

PROPOSED SECOND FLOOR



NORTHERN ELEVATION

SOUTHERN ELEVATION

PROPOSED NORTHERN FRONT AND SOUTHERN REAR ELEVATION

MR. & MRS.  
FRAGASSI  
1 DUKE STREET,  
BRIGHTON-LE-SANDS

PROPOSED SECOND STOREY  
ADDITION

JOHNNY SPILT / Architectural Services

M 0450 444 544 / ABN 15 872 719 203



TRIDENT  
DESIGN & CONSTRUCTION

Sheet : 7 OF 12  
Project number 1325  
Date 29/10/15

JOHNNY SPILI

Scale

1 : 100

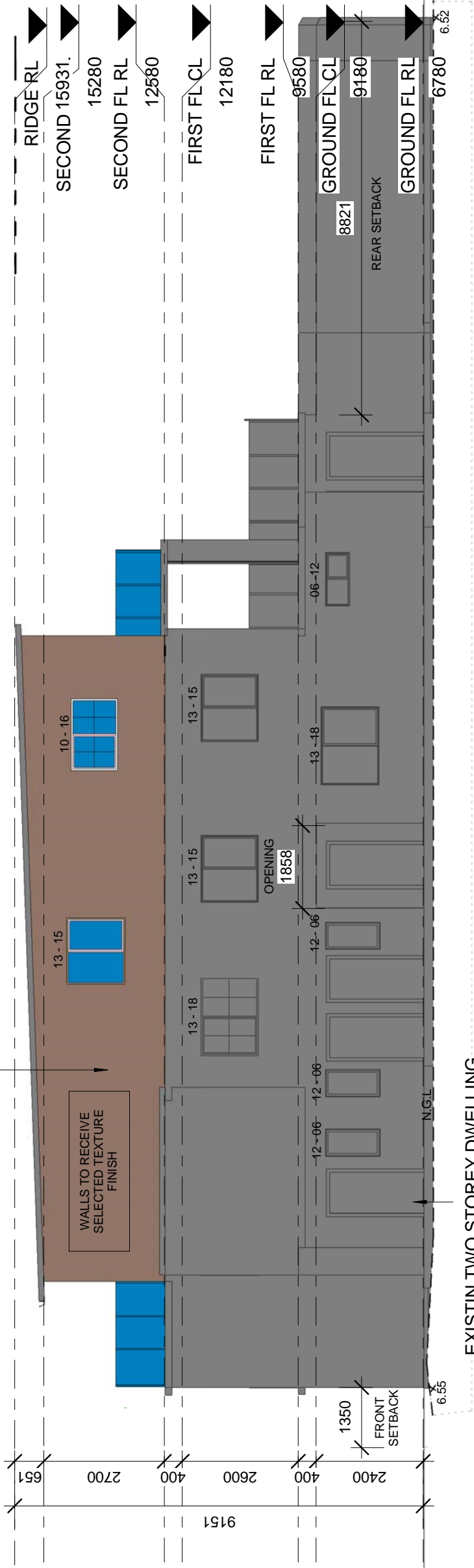


MR. & MRS. FRAGASSI	PROPOSED SECOND STOREY ADDITION
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Sheet :	9 OF 12	JOHNNY SPILLI
Project number	1325	
Date	29/10/15	Scale 1 : 100

MAX HEIGHT 14.5M

PROPOSED SECOND FLOOR



WESTERN ELEVATION

PROPOSED WESTERN SIDE ELEVATION

MR. & MRS.  
FRAGASSI  
1 DUKE STREET,  
BRIGHTON-LE-SANDS

PROPOSED SECOND STOREY  
ADDITION

Sheet :	8 OF 12	JOHNNY SPILI
Project number	1325	
Date	29/10/15	Scale
		1 : 100



JOHNNY SPILI / Architectural Services  
M 0450 444 544 / ABN 15 872 719 203

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**Council Meeting**

**9/11/2016**

Item No	9.8
Property	<b>4 Warialda Street, Kogarah</b>
Proposal	Construction of a four (4) storey residential flat building comprising of seven (7) residential units and basement level car parking, and demolition of existing structures.
Cost of Development	\$1,540,000.00
Report by	Creative Planning Solutions Pty Limited
Application No	(R) DA-2015/427

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**Officer Recommendation**

- 1 That Council support the variation to the floor space ratio (FSR) development standard as contained in Clause 4.4 - FSR of Rockdale Local Environmental Plan (LEP) 2011, in accordance with the request under clause 4.6 of Rockdale LEP 2011 submitted by the applicant.
- 2 That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent shall not operate until the applicant submits the following detailed documentation and receives approval from Council for the following:

- a) Detailed plans and sections illustrating that a 2.9m floor to floor height is capable of incorporating a minimum 2.7m floor to ceiling height, including bulkheads, acoustic treatments and the like to be incorporated into the development. The overall height of the building shall not exceed 14.5m.
- 3 That the NSW Department of Planning and Environment be advised of Council's decision.
  - 4 That the objectors be advised of Council's decision.
- 

**Attachments**

- 1 Planning Assessment Report
- 2 Draft Notice of Determination
- 3 East West Elevations
- 4 Amended Site Plan
- 5 Amended North South Elevations

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## Location Plan





# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2015/427
<b>Date of Receipt:</b>	03 June 2015
<b>Property:</b>	4 Warialda Street, Kogarah NSW 2217
<b>Owner:</b>	Mr. Mitre Rostankovski
<b>Applicant:</b>	CMT Architects
<b>Proposal:</b>	Construction of a four (4) storey residential flat building comprising of seven (7) residential units and basement level car parking, and demolition of existing structures.
<b>Recommendation:</b>	Deferred Commencement
<b>No. of Submissions:</b>	Seven (7) in response to first notification, and three (3) in response to second notification.
<b>Author:</b>	Creative Planning Solutions Pty Limited
<b>Date of Report:</b>	18 October 2016

### Key Issues

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- **Site isolation:** The key issue of the proposed development is the fact that the subject site is isolated. The subject site is limited to a site area of 369.5m<sup>2</sup> and is enclosed by adjoining multi-dwelling strata subdivided development, thus constraining development on the subject site. The development being on an isolated site, therefore inherently results in numerous non-compliances with the Rockdale Development Control Plan (RDCP) 2011 and Residential Flat Design Code (development application was lodged prior to the Apartment Design Guideline taking effect). The most notable result of these constraints are reduced setbacks and building separation.

In accordance with the RDCP 2011 development controls pertaining to development on existing isolated sites includes:

*'The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants. Development of existing isolated sites may not achieve the maximum potential, particularly height and floor space ratio and will be assessed on merit.'*

The proposed development, subject to conditions of consent, is considered to contribute positively to the streetscape and achieves a satisfactory level of residential amenity for its future occupants. Refer to discussion on height and FSR below.

- **Floor space ratio exceedance:** The proposed development seeks to vary clause 4.4 (floor space ratio). A 109% variation is proposed against subclause (2A) which restricts the floor space ratio for a building on land that is in the R2, R3, and R4 zone that has an area of less than 460m<sup>2</sup> to 0.55:1. The applicant submitted a written request under clause 4.6 to vary clause 4.4.

The principle planning ground to vary the floor space ratio development standard is considered to be that the subject site is isolated and as such constrained by a limited site area.

The constraints imposed by the site isolation and compounded by what is considered to be an inefficient floor space ratio for an R4 site essentially precludes the subject site from satisfying the R4 zone objectives and its strategic intent to provide for housing needs of the community within a high density residential environment.

With consideration of the clause 4.6, it is considered that it is within the public interest to ensure the ordinary economic redevelopment of land where this is possible. The public benefit is often referred to development which provides a direct benefit to the public beyond the inhabitants of the proposed development.

The proposed development will result in five (5) demonstrable public benefits, those being:

1. Continuity in streetscape,
  2. Consistency of urban morphology for high density zone,
  3. Achievement of the R4 high density residential zone objectives,
  4. Location of high density development in well serviced area close to town centres and public transport services,
  5. Increase supply of housing and positively contributing to affordability and housing choice.
- **2.9m Floor to Floor Height Ground and Level 1:** Plans indicate the provision of 2.9m floor to floor levels to ground and first floors. Concerns were raised with the applicant in regards to the reduced floor to floor heights during the assessment. The applicant noted that the proposed *“2.9m floor-to-floor includes 190mm slab which will have light fittings inside and carpeted floors”* in order to achieve a 2.7m floor to ceiling height.

Concerns are raised in regards to the practicality of the above, in particular in relation to the provision of bulkheads for air conditioning services within dwellings.

Given the above, the proposal is subject to a Deferred Commencement Condition, requiring the applicant to submit to Council detailed plans and sections which confirm that the proposed 2.9m floor to floor height is able to be achieved with appropriate provision made for bulkheads and a 2.7m minimum floor to ceiling height, with the overall building height remaining compliant with the 14.5m height limit.

- **Privacy:** The proposed development (as amended) results in adverse overlooking. The opportunities for overlooking are addressed via conditions of consent ensuring that:
  - o Any habitable windows contained in the proposed development will be required to provide window sill heights of 1.7m or obscuring of the window to a height of 1.7m measured from fixed floor level,
  - o The south facing balconies of units 2.01 and unit 3.01 on the second and third floor of the building to be non-trafficable areas. The doors leading to these balconies and full height louvers are to be deleted with balcony spaces converted to non-trafficable roof space.

- The rear facing balconies which are afforded a direct outlook to the rear of adjoining sites will be required to be fixed with privacy screens,
- Rooftop terrace will be required to provide for a non-trafficable area of 1.5m deep from the edge of the building. The non-trafficable area is further to be which improved with landscaping
- Raised landscape planters are to be provided along the boundary of the ground floor terrace associated to unit G.03. The planters are to have a minimum width of one (1) metre and a minimum depth of 900mm and maximum depth of 1200mm to enable to provision of appropriate screen planting and one (1) medium sized deciduous tree.

## Recommendation

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1. That Council support the variation to the FSR development standard as contained in Clause 4.4 - FSR of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.
2. That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent shall not to operate until the applicant submits the following detailed documentation and receives approval from Council for the following:

- a) Detailed plans and sections illustrating that a 2.9m floor to floor height is capable of incorporating a minimum 2.7m floor to ceiling height, including bulkheads, acoustic treatments and the like to be incorporated into the development. The overall height of the building shall not exceed 14.5m.
3. That the NSW Department of Planning and Environment be advised of Council's decision.
4. That the objectors be advised of Council's decision.

## Background

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### History

The subject development application was lodged on 3 June 2015. The proposal was publicly notified from 19 June – 9 July 2015, six (6) submissions were received in response to the notification of the proposal.

The proposal was referred to the St George Design Review Panel (DRP) on 9 July 2015.

A meeting was held on 27 October 2015 between Council's Senior Development Planner, Coordinator of Major Assessments, and the applicant from CMT Architects. The meeting discussed the items raised in the DRP minutes. The applicant stated that amended plans are being prepared in response to the DRP minutes.

Amended plans were received by Council on 18 November 2015 responding to the DRP comments.

In response to the receipt of amended plans, the development application was re-notified from 25 November – 11 December 2015. Three (3) submissions were received, of which two (2) were re-submitting (i.e. the exact same submissions) and one (1) was a new submitter.

An additional information request was sent on 6 June 2016 to the applicant requesting that an amended BASIX, Landscaped Plan, and Access Report reflecting the changes made to the proposal in response to the DRP comments be provided in order to continue the assessment of the proposal.

A reminder regarding the outstanding information was sent to the applicant on 24 June 2016. In addition to the reminder, the applicant was given the opportunity to raise any objections to the proposed imposition of traffic and parking related conditions to satisfy Council's Development Engineer's concerns raised in their referral. (Regarding the required car wash bay, and restricted use of car stacking system due to limited head clearance).

In response to the additional information request, an amended Landscape Plan, BCA Report, Access Report, BASIX, and BASIX stamped architectural plans were provided to Council on 27 September 2016. The BASIX stamped architectural plans further included amendments to address Council's traffic and parking concerns.

Note. The BASIX stamped architectural plans have been used in the assessment of the development.

## Proposal

The proposal seeks consent for the demolition of existing structures, and construction of a four (4) storey residential flat building comprising seven (7) units with basement car parking.

*Note. At time of lodgement, the proposal sought approval for 'Construction of five (5) storey residential flat building comprising of eight (8) residential units and ground level car parking and demolition of existing structures', however the proposal has been amended during the assessment process.*

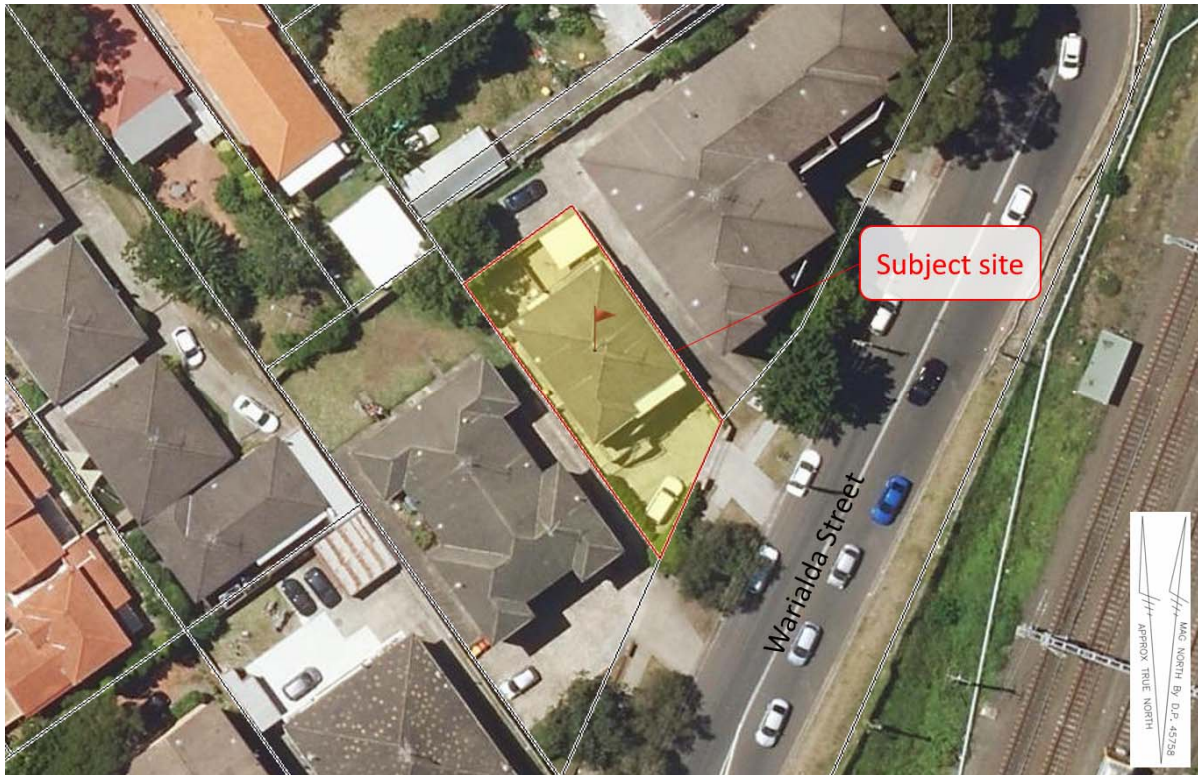
In detail the amended development application seeks consent for:

- Demolition of existing structures:  
Demolition of existing 2 storey brick walled and tiled roof dwelling with semi-basement garage, and associated detached shed.
- Construction of a four (4) storey residential flat building
  - o Basement: The basement level includes 6 car spaces of which 4 car spaces are to be fitted with car stacking system WOHR ParkLift 440-200/195. The four (4) car spaces fitted with the car stacking system will provide space for parking of seven (7) cars, including one (1) disabled car parking space. Car spaces 5 and 6, identified as V1 and V2 on the basement plan, are for use of visitor car parking. Car space V2 has dimensions of 3.5m x 5.5m to concurrently provide utility as a carwash and loading/unloading bay. Space to hang one (1) bicycle is provided on the wall adjacent to the fire stairwell. The garbage room is located adjacent to car space V2 and has space to hold 7-8 x 240L garbage bins.
  - o Ground floor: Pedestrian access is provided via the centre of the building with access to two (2) dwellings (G.02, G.03), the lift and fire stairs being provided from the corridor. The building is designed as containing a single central core. A two (2) storey 2-

- bedroom unit (G.01) is further located on the ground floor, however access to this unit is provided from level 1. Each ground floor unit (G.01, G.02, and G.03) has access to a private courtyard of which are excavated up to 1.1m into the site. Minor landscaping is provided in the front setback.
- First floor: The first floor corridor provides access to two (2) units (G.01 and 1.03), the lift, and fire stairs. The second floor component of unit G.02 is further located on the first floor.
  - Second floor: The second floor corridor provides access to two (2) units (2.01, and 2.02), the lift, and fire stairs.
  - Third floor: The third floor corridor provides access to one (1) unit (3.01), the communal rooftop terrace, the lift, and fire stairs.
- Dwelling typology  
The residential flat building comprises of seven (7) residential units, including:
- one (1) x studio at 44.75m<sup>2</sup>,
  - five (5) x 1-bedroom units, three (3) of which are at 50m<sup>2</sup>, and two (2) at 58m<sup>2</sup>,
  - one (1) x 2-bedroom unit at 80m<sup>2</sup>, and
  - Unit G.03 (ground floor 1-bedroom unit) is identified as being capable of being configured for use as adaptable housing as defined in AS 4299.
- Waste management  
A designated garbage room with an area of about 6.3m<sup>2</sup> is provided in the basement and is located approximately 7.7m from the lift. In accordance with the submitted statement of environmental effects (SEE) the garbage will be collected and placed out on the street kerb for Council collection by the strata caretaker on the days of garbage collection.
- Pedestrian and vehicular access  
Pedestrian access to the proposed building is via the northern end of the frontage to Warialda Street. The pedestrian footpath is encumbered by a flight of stairs before entering the ground floor corridor. The flight of stairs shall be fitted with a chair lift as recommended by the submitted Disability Access Report, prepared by Cheung Access.  
Vehicular access to the building is via 5.15m driveway entering the basement on the southern end of the frontage to Warialda Street.
- Landscaping  
Deep soil Landscaping is provided in between the pedestrian footpath and driveway. Landscaped strips are provided on the southern site boundary between the driveway and boundary, and on the southern portion of the rear boundary. Perimeter landscaping towards the edge of the building is lastly provide on the communal rooftop terrace.

## Site location and context

The subject site is formally described as Lot 1 in Deposited Plan 1117810 and is located at 4 Warialda Street, Kogarah NSW 2217. The site is located on the western side of Warialda Street and has a northeast to southwest orientation. See **Figure 1**.



**Figure 1:** Aerial image of 4 Warialda Street, Kogarah, illustrating lot alignment and orientation in respect to Warialda Street (source: maps.six.gov.au, as adapted by CPS)

The subject site generally falls towards the street with a slight cross slope from the northern side boundary to the southern side boundary, however the majority of the site has been levelled to accommodate the existing development. Warialda Street exhibits an accruing south descending slope in-line with the cross-slope exhibited in the subject site. See **Figure 2**.



**Figure 2:** Site inspection image of 4 Warialda Street, Kogarah, illustrating lot alignment and orientation in respect to Warialda Street (source: Council site inspection, as adapted by CPS)

The subject site is rectangular in shape with a skewed front boundary to Warialda Street. The site has dimensions of 25.40m to the northern side boundary, 32.78m to the southern side



boundary, with a frontage of 14.96m, and a total resulting site area of 369.50m<sup>2</sup> (Survey prepared by A.B. Stephens 7 Associates).

The existing site contains a 2-storey brick walled and tiled roof dwelling with semi-basement garage, and associated detached shed in the rear setback. See **Figure 3**.



**Figure 3:** Site inspection image of 4 Warialda Street, Kogarah (source: Council site inspection)

Adjoining the subject site to the north at 123 Harrow Road, Bexley is a four (4) storey residential flat building comprising 15 residential unit (maps.six.gov.au) with ground level parking (see **Figure 4-6**). The allotment at 123 Harrow Road further extends along the rear setback of the subject site (see **Figure 1**).

Adjoining the subject site to the south at 6 Warialda Street. Kogarah is a 3-storey multi-dwelling development comprising 12 residential units (maps.six.gov.au) with ground level parking (see **Figure 7-9**).

The multi-dwelling developments on the adjoining side boundaries of the subject site, being of red brick construction with tiled hipped roofs, are reflective of the 1960s and 1970s conventional red brick constructed apartments.

Adjoining the subject site to the east, beyond the prolongation of 123 Harrow Road, are allotments containing single detached dwellings (see **Figure 1**).

To the east is the Illawarra and Eastern Suburbs Railway line, and adjoining to the west is a mixture of two-and-three storey residential flat buildings and low density residential housing.

The local area is residential neighbourhood characterised by varied residential typologies. Lower density forms of residential developments in the form of detached dwellings and single storey townhouses are located to the west of the subject site and increasingly denser forms located closer to Rockdale train station and town centre to the north. The subject site is located approximately 500m from of the train station and town centre along local road network.

The subdivision block in which the subject site is located contains single detached housing and townhouses fronting Washington Street to the rear of the subject site, and residential flat buildings fronting Warialda Street.

The site contains a small tree and shrubs along the eastern front boundary. Figure 1 below shows an aerial photo of the site and nearby surrounds.



**Figure 4:** Site inspection image of 123 Harrow Road, Bexley from Warialda Street, located to the north of the subject site (source: Council site inspection)



**Figure 5:** Site inspection image of the south face of the building 123 Harrow Road, Bexley as addressing the subject site (source: Council site inspection)





**Figure 6:** Site inspection image of the south face of the building 123 Harrow Road, Bexley as addressing the subject site (source: Council site inspection)



**Figure 7:** Site inspection image of the front of 6 Warialda Street, Kogarah located to the south of the subject site (source: Council site inspection)



**Figure 8:** Site inspection image of the north wall of 6 Warialda Street, Kogarah as addressing the subject site (source: Council site inspection)



**Figure 9:** Site inspection image of the side wall of 6 Warialda Street, Kogarah as addressing the subject site (source: Council site inspection)

## Referrals

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### External Referrals

### *Sydney Trains (correspondence of 9 July 2015)*

The subject site is located directly opposite to the T4 railway line, and accordingly was referred to Sydney Trains (previously Railcorp) for comment.

Sydney Trains has reviewed the proposal and has requested that the following conditions of consent are imposed in any approval:

1. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".
2. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

The abovementioned conditions are included in the attached recommended conditions of consent.

## **Internal Referrals**

The development application was referred to the following internal departments:

### *Development Engineering*

Council's Development Engineer has reviewed the proposed development in terms of compliance with Council's stormwater, traffic, parking and access requirements. The Development Engineer does not object to the proposed development subject to Council's standard conditions of consent.

### *Tree Management Officer*

The proposed development seeks to remove all existing trees on site and the Callistemon street tree located on the verge. Council's Tree Management Officer has reviewed the proposal and provides no objection subject to the imposition of standard conditions of consent.

### *Landscape Officer*

Council's Landscape Officer raised concerns regarding the lack of deep soil planting upon the subject site. An amended Landscape Plan prepared by RFA Landscape Architects (dated: 23 August 2016) was received by Council on 27 September 2016. Subject to recommended conditions of consent the development is considered to provide suitable landscaping.

The matter of open space and landscape design has been addressed further within this report in part 4.31 - *Open Space and Landscape Design*.

## **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:

#### **Greater Metropolitan REP No. 2 – Georges River Catchment**

The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 –Georges River Catchment. The proposal is considered to be consistent with Council's requirements for the disposal of storm water in the catchment.

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

The applicant submitted amended BASIX Certificate 629382M\_02 reflective of the amended architectural plans provided to Council on 27 September 2016, which satisfies the provisions of the BASIX SEPP.

The commitments required of the proposed development by the BASIX certificate include:

- Water saving fixtures, including minimum 2.5 star refrigerator, 3 star shower heads, 4 star flushing toilets and kitchen taps, 4.5 star dishwasher, and 5 star bathroom taps,
- A gas instantaneous 5.5 star hot water system, and
- 1-phase air conditioning with energy efficiency ratings of 3.0-3.5.

The attached recommended conditions of consent include a condition requiring compliance with BASIX Certificate 629382M\_02.

#### **State Environmental Planning Policy (Infrastructure) 2007**

The proposed development is located across the road from the Eastern Suburb (T4) railway corridor. As such clause 85, clause 86 and clause 87 of the Infrastructure SEPP must be considered in relation to the proposed development.

Clause 85 requires that any development on land that is in or immediately adjacent to a rail corridor that (b) involves the placing of a metal finish on a structure and the rail corridor concentrated is used by electric trains, to be referred to the rail authority and consideration be given to any response received.

Clause 86 requires that any works that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land (b) within 25m (measures horizontally) of a rail corridor must be referred to the rail authority (Sydney Trains).

Accordingly, the development was referred to Sydney Trains for comment. Sydney Trains raised no objection to the development subject to recommended conditions be imposed. See the *Referrals* section of this report for discussion of the requested conditions of Sydney Train.

Clause 87 requires Council to take the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines" into consideration for any residential development that is on land in or adjacent to a rail corridor, and must be satisfied that that appropriate measures will be taken to ensure that the detailed internal noise levels (LAeq) are not exceeded.

The application was submitted with an Acoustic Assessment prepared by Koikas Acoustic (23 April 2015). The acoustic assessment provides recommendations to ensure the development is capable of complying with clause 87 of the ISEPP. Accordingly, a condition of consent will be included to ensure the recommendations of the acoustic assessment are adopted in the building design.

## **State Environmental Planning Policy No 55—Remediation of Land**

Clause 7 of SEPP 55 requires the consent authority to consider whether the land that is subject to the proposed development is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable for the development in its current state or can be made suitable via land remediation measures.

In accordance with the Planning Guidelines SEPP 55 – Remediation of Land, prepared by Department of Urban Affairs and Planning in 1998, the history of land use needs to be considered as an indicator of potential contamination. Where there is no reason to suspect contamination after acting substantially in accordance with these guidelines, the proposal may be processed in the usual way. Table 1 on page 12 of the guidelines lists activities that may cause contamination.

In this regard, the suggested checklist for evaluation contained in the guidelines are addressed as follows:

- Council is not aware of any previous investigations of contamination applying to the subject land,
- No existing records available to Council show that an activity listed in Table 1 that has been approved on the subject land, nor is the subject site known to have been used for an activity listed in Table 1,
- The subject land is zoned R4 – High Density Residential under the current planning instrument, the Rockdale Local Environmental Plan 2011. Under the previous planning instrument, the Rockdale Local Environmental Plan 2000, the subject land was zoned 2(c) for Residential Flat Building Residential. In this regard, the subject land has not been zoned for industrial, agricultural or defence purposes within the known past.
- No known notices issued by the EPA apply to the site,
- The site inspection photos do not suggest that the site may have been associated with any activities listed in Table 1,
- There is no indication that there are any contamination impacts applicable to adjoining land.

Accordingly, the subject site is considered to have satisfied the provisions of SEPP 55 and is considered to be suitable for residential purposes as proposed.

## State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

SEPP 65 requires Council to consider the design quality of residential flat buildings comprising of three or more storeys and including four or more dwellings. In accordance with SEPP 65, the determination of any such residential development Council must consider the following:

- The advice (if any) obtained from the design review panel,
- The design quality of the development when evaluated in accordance with the design quality principles, and
- The Residential Flat Design Code.

*Note. The development application was lodged prior to the ADG having taken effect (19 June 2015) and prior to the SEPP 55 amendment of 17 July 2015. As such, the former design guidelines, the Residential Flat Design Code, and the previous design quality principles apply to the development.*

A design review meeting to discuss the subject proposal with the St George Design Review Panel (DRP) was held on 9 July 2015. The DRP recommended a number of changes be made to the proposal in order to satisfy the Design Quality Principles of SEPP 65.

In response to the recommendation made by the DRP, the applicant requested a meeting with Council's assessment officer. A meeting was held on 27 October 2015 between Council's Senior Development Planner, Coordinator of Major Assessments, and the applicant (CMT Architects). The minutes of the meeting with the consultant assessing planner's comments are provided as follows:

*Meeting Room 1 start 10.10-10.40am, 27 October 2015*

*(CT – applicant, MG - Coordinator, and SM – Senior Development Planner)*

- *CT mentioned he is working on further amended plans in response to DRP minutes*  
**Comment:** amended plans received 18 November 2015, and 27 September 2016.
- *CT went through changes which included lowering the building, providing a car stacker, deletion of side-facing balconies, increasing the size of the bedrooms to address the ADG & amending the entry and streetscape presentation.*  
**Comment:** The amended plans illustrate that the building has been lowered, car stackers are proposed within the basement, side facing balconies to the north have been deleted, the dwelling mix and sizes have been amended, and entry has been relocated to the centre of the site. These changes respond to the recommendations made by the DRP, however in amending the dwellings mix and sizes, the south facing study of unit 2.01, and 3.01 has been changed into an additional 11m<sup>2</sup> balcony. This balcony faces the southern side boundary with direct sightlines to the existing balconies of the adjoining development to the south. These balconies are not supported.
- *SM mentioned the issue of the front setback.*  
**Comment:** The north-east corner of the building has been stepped in and the vacant area to be landscaped to provide for a more complying front setback and improve the streetscape appearance.

- *CT said he will remove one unit (down from 8 units to 7 units) which will reduce the overall FSR – SM mentioned that the GFA is exceeded.*  
**Comment:** Pursuant to clause 4.4(2A) of RLEP 2011, the applicable FSR is 0.55:1, meaning that the proposal's GFA is exceeded by 301.3sqm. The applicant submitted a written request under clause 4.6 to vary the floor space ratio. This is discussed further when assessing the proposal against the provisions of RLEP2011.
- *MG checked the tree response – ok to be replaced rather than preserved.*  
**Comment:** Appropriate tree replacement will be required.
- *CT will look at reorientation the driveway to a more straighter path*  
**Comment:** Council's development engineer has raised no issues regarding driveway alignment.
- *MG mentioned the lift and fire stairs had to be clearer.*  
**Comment:** Amended plans have provided for clearly located lift and fire stairs.
- *CT said he will provide up to 4 additional sections through the front and side boundaries.*  
**Comment:** No additional sections have been submitted. Additional sections are not considered necessary to perform an assessment of the modified proposal.
- *Floor-to-floor of 2.9m includes 190mm slab which will have light fittings inside and carpeted floors. CT mentioned to condition min. 2.7m floor-to-ceiling.*  
**Comment:** Plans indicate the provision of 2.9m floor to floor levels to ground and first floors. Concerns were raised with the applicant in regards to the reduced floor to floor heights during the assessment. The applicant noted that the proposed "2.9m floor-to-floor includes 190mm slab which will have light fittings inside and carpeted floors" in order to achieve a 2.7m floor to ceiling height.

Concerns are raised in regards to the practicality of the above, in particular in relation to the provision of bulkheads for air conditioning services within dwellings.

Given the above, the proposal is subject to a Deferred Commencement Condition, requiring the applicant to submit to Council detailed plans and sections which confirm that the proposed 2.9m floor to floor height is able to be achieved with appropriate provision made for bulkheads and a 2.7m minimum floor to ceiling height, with the overall building height remaining compliant with the 14.5m height limit.

- *SM to note he will look into sending formal correspondence / 21DL for the plans dated 2 September 2015.*  
**Comment:** No formal correspondence has been sent.

In assessing the advice obtained from the DRP the amended plans received by Council in November 2015 illustrate that the following changes have been made to the proposal with regard to the recommendations of the DRP:

- Lowered the semi-basement car park by 1.53m to reduce scale and support achieving a compliant height with the Rockdale Local Environmental Plan 2011,
- The north facing side boundary portion of the initially proposed wrap around balconies have been removed for the reason that side boundary facing balconies were not supported by DRP,

- South facing balconies have been introduced in response to the removal of the study rooms, but are fixed with adjustable horizontal louvres,
- North east corner of the building is stepped in and includes landscaping to provide for a more coherent street setback,
- Building entry is now via front of the building to improve the entry amenity,
- Total of residential units has been reduced to seven (7) units from eight (8) originally proposed to reduce density, and
- Proposed 1-bedroom with study has been adapted to become either a 2-bedroom unit or 1-bedroom unit with additional balcony. The 2-bedroom units have been increased to 80sqm in size to provide for Residential Flat Design Code complying apartment sizes.

The DRP recommendations that were not adequately considered by the amended plans include the following:

- Side boundary facing balconies are proposed on second and third floor addressing the southern boundary. The apartment units that include the south facing balconies are also afforded a street addressing balcony 10m<sup>2</sup> in size. As such, it is considered that these units would maintain satisfactory private open space areas and amenity should the south facing balconies be deleted.
- Floor to ceiling heights are to be a minimum of 2.7m. The amended plans have provided floor to floor heights of 2.9m and 3.1m. As previously discussed the proposal is subject to a deferred commencement condition to ensure the 2.9m floor to floor is realistic and practical.
- Landscaping to be provided to the side boundaries to improve privacy to adjoining residents.

It is recommended that the following conditions of consent are imposed to satisfy the recommendations of the DRP and subsequently satisfy the provisions of SEPP 65:

1. The south facing balconies of units 2.01 and unit 3.01 on the second and third floor of the architectural plans prepared by CMT Architects, Revision: F and dated 2 August 2016 are to be non-trafficable areas. The doors leading to these balconies and full height louvers are to be deleted with balcony spaces converted to non-trafficable roof space.

Given the above changes to be conditioned which will provide a void space at levels 2 and 3 along the southern elevation, the proposal will be further conditioned to require the deletion of the louvers to the southern wall of the kitchen to unit G.01 and that this wall be provided as masonry brickwork to match the proposed building, with an operable highlight window being provided within this southern wall. The incorporation of brickwork in lieu of louvers will provide a uniform building appearance to the southern elevation and the highlight window will provide privacy between neighbours and diffused sunlight to the kitchen.

Reason: To ensure satisfactory visual amenity and privacy is provided to the north facing private open space areas of the adjoining residential development located to the south of the subject site.



2. Prior to OC, a compliance report prepared by a building surveyor must be provided to the PCA demonstrating that a minimum floor to ceiling height of 2.7 metres are provided to each habitable room of the building.

Reason: To ensure that adequate internal amenity is provided to the apartment units.

3. Landscaping

- Raised landscape planters are to be provided along the subject site boundary of the ground floor terrace associated to unit G.03. The planters are to have a minimum width of one (1) metre, a minimum depth of 900mm, and a maximum depth of 1200mm to enable to provision of appropriate screen planting and one (1) medium sized deciduous tree.

It is noted that the DRP recommended that the changes be made and the amended development be referred to the Panel for further consideration. However, Council as represented by the Coordinator of Major Projects and a Senior Planner met with the applicant (CMT Architects) to discuss the recommendations conducted on the 27 October 2015. Subject to satisfying the items discussed in the meeting Council, as confirmed with CPS (author), considered that a second DRP referral is not necessary.

In the advice received from the DRP, the panel evaluated and measured the proposed development against the 10 design quality principles of SEPP 65. Accordingly, subject to the satisfaction of the recommended conditions of consent relating to the recommendations of the DRP, the development will have had adequate consideration of the design quality principles.

The proposed development has been evaluated against the Residential Flat Design Code (RFDC). The purpose the design code is to *'give(s) direction for defining local development controls, which support and facilitate good residential flat design. It provides design guidelines, which assist in establishing consistent minimum standards across local government areas. It will also assist planners in assessing the design merit of proposed development.'*

As indicated previously within this report, the proposed development results in non-compliances with the building separation, side and rear setbacks, deep soil, open space, and apartment size design controls of the RFDC. These variations are considered to be warranted by the fact that the subject site is isolated. Despite the variations to the Code, the proposed development subject to conditions of consent ensures that adequate privacy is afforded to adjoining developments, and the future residents are afforded with adequate internal amenity.

The assessment of the application against the principles of SEPP 65 and the guidelines of the RFDC, together with advice from Council's independent DRP has concluded that the proposal is satisfactory with respect to the objectives of SEPP 65 and the guidelines of the RFDC, despite some variations to the guidelines.

## Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone – R4 High Density Residential	Yes	Yes - see discussion

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.3 Height of buildings – 14.5m	Yes	Yes – see discussion
4.4 Floor space ratio – 0.55:1	Yes	<b>No</b> – clause 4.6 submitted, see discussion
4.6 – Exception to development standards	Yes	Yes – see discussion
5.9 Preservation of trees or vegetation	Yes	Yes – see discussion
5.10 Heritage conservation	Yes	Yes – see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes – see discussion
6.2 Earthworks	Yes	Yes – see discussion
6.3 Development in areas subject to aircraft noise	Yes	Yes – see discussion
6.4 Airspace operation	Yes	Yes – see discussion
6.6 Flood Planning	Yes	Yes – see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential Services	Yes	Yes - see discussion

### **2.3 Zone – R4 High Density Residential**

The subject site is located within a R4 High Density Residential land use zone. The R4 zone permits development for the purpose of 'residential flat buildings' with Council consent. The proposed development is a residential flat building and is permissible upon the subject site.

The proposed development seeks to provide high density housing opportunities in a high density residential environment as permitted by the land uses of the R4 zone. The apartment units in the development are varied in size and internal layout. As such, the development is considered to satisfy the objectives of the R4 zone.

### **2.7 Demolition requires consent**

The proposal includes demolition of the existing dwelling and structures on the site, and this is satisfactory subject to imposition of a condition requiring compliance with the relevant standards.

### **4.3 Height of buildings**

The subject site is restricted to a maximum building height of 14.5m. The proposed development seeks consent for a complying maximum building height of 14.29m (RL 10.81m – RL 25.10m), as measured from the submitted survey prepared by A.B. Stephens & Associates (14 August 2014) and submitted Roof Plan (2 August 2016) prepared by CMT Architects. Accordingly, the proposed development complies with this development standard.

Compliance with the building height development control supports the objectives of the development standard to ensure satisfactory sky exposure and daylight to buildings and public domain are maintained, and to provide for an appropriate transiting in built form and land use intensity.

#### **4.4 Floor space ratio**

The subject site is restricted to a maximum floor space ratio (FSR) of 0.55:1 as per sub clause (2A) which restricts the floor space ratio for a building on land that is in the R2, R3, and R4 zone that has an area of less than 460m<sup>2</sup> to 0.55:1.

The proposed development provides for a total gross floor area (GFA) of 428.79m<sup>2</sup> (Basix stamped architectural plans prepared by CMT Architects). With a total site of 369.5m<sup>2</sup>, the proposed GFA equates to an FSR of 1.16:1, or a 16% exceedance to the floor space ratio development standard. This means that the proposed development exceeds subclause (2A) by 109%.

The applicant has submitted a written request seeking a variation to the FSR standard for the site, pursuant to clause 4.6 (Exceptions to development standards) seeking to justify the contravention of the floor space ratio development standard.

The written request is considered against the provisions of clause 4.6 below.

#### **4.6 Exceptions to development standards**

Clause 4.6 provides Council with the ability to grant consent to a development that would contravene a development standard imposed by the RLEP 2011 or other applicable environmental planning instrument. In order for Council to grant consent to a development that would contravene a development standard, the development must first satisfy the objectives and provisions of clause 4.6.

In order to satisfy clause 4.6, the proposed development must demonstrate that:

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

In considering the applicants submission Council must be satisfied that:

- 4(a)(i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
- 4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*

The consent authority must also consider:

- 5(a) whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*

5(b) *the public benefit of maintaining the development standard.*

However, clause 4.6 does not allow development consent to be granted for development that would contravene:

*8(ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,*

Clause 4.4(2A) applies the subject site.

#### Applicants FSR Justification

Pursuant to clause 4.6(3) the applicant has provided the following to justify that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case:

- *The proposed development incorporates several exemplary design methods to accommodate the proposed floor space in a manner which minimizes perceptible impacts of bulk and scale on adjoining properties.*
- *Foremost of these is the provision of a basement carpark. The definition of gross floor area (and hence the calculation of floor space ratio) excludes car parking provided to meet the requirements of Council. Absent the proposed basement, such car parking would be provided at grade in the form of garages and/or carports. These structures add considerably to the visual mass of development.*
- *The proposed basement carpark frees up that part of the site area which would have otherwise been dedicated to at grade parking and vehicle manoeuvring. In so doing, there is greater flexibility to accommodate calculable floor space within envelopes described by setback, separation and height controls.*
- *Through the provision of the basement carpark, the proposed development delivers less built form volume than would be present for a development which complied with the FSR control, but which also proposed ground level garages and carports.*
- *The internal floor planning of the proposed development has ensured that the principal outlook from ground level of each dwelling is directed to internal areas of the site and not to adjoining properties. To the extent that there is arguably a loose association between building density and privacy impacts, the proposed development mitigates any adverse privacy impacts through careful internal unit planning.*
- *Bulk and scale – whilst closely related to FSR, is more particularly the consequence of a three dimensional building envelope. In the case of the proposed development, the flat roof design significantly reduces the envelope and hence apparent visual mass of the development when viewed from both the public domain as well as adjoining properties. The flat roof design has itself been designed in a sensitive manner, inspired by striking architectural presentation.*
- *Accordingly, compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.*

Applicants environmental planning grounds to justify contravening the development standard:

- *The provision of the basement ensures that the proposed development achieves a better response to the objectives of the standard than would occur for a development which complied with the standard, but which did not provide a basement.*

- *The proposed basement carpark, whilst not being a mandatory feature under either DCP or LEP, delivers such significant amenity and design quality improvements, to both future residents and surrounding landowners, that its provision is meritorious of support.*
- *A very modest increase in achievable site FSR may deliver some assistance in the funding of the basement and thereby ensuring that the quality design outcomes it delivers, will in fact be capable of being achieved.*

### Consideration of request

The applicant's written request is satisfactory in regard to Clause 4.6(3). Following a review of the application it is considered that there are other more sufficient environmental planning grounds to warrant the proposed variation to the applicable FSR standard.

The principle planning ground is considered to be that the subject site is isolated and as such constrained by a limited site area. There is no opportunity for site amalgamation with adjoining land i.e. 6 Warialda Street and 123 Harrow Road, given the nature of housing tenure of these surrounding properties. In this regard it is noted that the adjoining development comprises two (2) residential flat buildings which have been strata subdivided thus precluding opportunities to amalgamate the site and satisfy the development standard. This is discussed in detail under the RDCP 2011 assessment of *4.1.9 Site size and context* of this report, but nonetheless it is important when considering the justification for variation of the development standard under clause 4.4(2A).

The constraints imposed by the site isolation are compounded by what is considered to be an inefficient floor space ratio for an R4 site, which essentially precludes the subject site from satisfying the R4 zone objectives and its strategic intent to provide for housing needs of the community within a high density residential environment. The proposed development, incorporating the exceedance of the floor space ratio has been demonstrated to satisfy the objectives of the R4 High Density Residential zone as discussed under *2.3 Zone – R4 High Density Residential* earlier within this report.

Despite the non-compliance, the proposed development is demonstrated to be consistent with the objectives of the clause sought to be varied (clause 4.4), as demonstrated by the following assessment:

Objectives of clause 4.4 (floor space ratio):

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*

The maximum development density as controlled by the applicable maximum floor space ratio is not considered to account fully for the infrastructure available to the subject site and the site's appropriate location in terms access to public transport, with Rockdale Train Station and Town Centre being located within 500 metres. If the proposal was to achieve the maximum development density based on clause 4.4(2A) it is considered that this would not sufficiently account for the circumstances of the case, being a site with adequate availability of infrastructure, and proximity to transport facilities. The proposed development density and intensity of land use however, is considered to take into account and meet the available infrastructure based on the sites proximity to service and facilities.

The subject site has appropriate access to electricity, telecommunications, and water and sewer connections. In reference to vehicular traffic generation the proposed development provides for complying RDCP 2011 on-site parking requirements, and the submitted Traffic and Parking Assessment Report prepared by Terraffix Pty Ltd (Ref: 15006, 26 May 2015) identifies that the additional traffic generated by the proposed development is relatively minor and will not have any noticeable or unacceptable effect on the road network serving the site.

In this regard, it is considered that the subject site is afforded with sufficient available infrastructure to accommodate the proposed development.

*(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*

As considered in this report, subject to the recommended conditions of consent regarding high window sills, privacy screens and satisfaction of the submitted acoustic report, the environmental effects resulting from the proposed development are considered to be sufficiently reduced to ensure for the reasonably accepted amenity adjoining properties commensurate of a high density residential environment.

*(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation*

The proposed development, incorporating the exceedance of the FSR will provide for a coherent height plane and visual relationship with regards to the adjoining development.

The proposed development is of contemporary design incorporating larger balconies with glazed balustrades, and a flat roof in contrast to the adjoining tiled pitched roofs. However, these contemporary design features provide future occupants with greater internal amenity, through improved solar access, opportunities to maximise external open space in the form of private balconies and a communal roof top open space area.

It is further considered that future development in the local area will follow more contemporary design consistent with the proposed development, as the result of currently available materials, modern building techniques and arguably, market demand for such residential products. As such, it can be considered that the proposed development is reflective of the future character of the area. It is difficult, however to determine when and at what rate the existing character of the area will undergo a substantial transformation. In this regard, the advice of the St George Design Review Panel (DRP) is reviewed to determine the suitability of the visual relationship between the new development and the existing character. The DRP advice did not request any modifications to the aesthetics, and therefore the visual relationship is considered to be acceptable.

In reference to objective (a) of clause 4.6 *'to achieve better outcomes for and from development by allowing flexibility in particular circumstances'*, the development has been shown to achieve better outcomes for the development itself, however the development as proposed does provide for overlooking opportunities into adjoining private open space areas.

However, these overlooking opportunities can be ameliorated through the provision the following mitigating measures:

- Any habitable windows contained in the proposed development will be required to provide window sill heights of 1.7m or obscuring of the window to a height of 1.7m measured from fixed floor level.
- The south facing balconies of units 2.01 and unit 3.01 on the second and third floor are to be a non-trafficable areas. The doors leading to these balconies and full height louvered screens are to be deleted.
- Rear facing balconies which are afforded a direct outlook to the rear of side adjoining sites will be required to be fixed with privacy screens,
- Rooftop terrace will be required to provide for a non-trafficable area of 1.5m deep from the edge of the building. The non-trafficable area is further to be improved with landscaping.
- Raised landscape planters are to be provided along the subject site boundary of the ground floor terrace associated to unit G.03. The planters are to have a minimum width of one (1) metre, a minimum depth of 900mm, and a maximum depth of 1200mm to enable to provision of appropriate screen planting and one (1) medium sized deciduous tree.

Subject to the aforementioned mitigating measures, the development is not considered to have any undue impacts on the adjoining developments.

In reference to clause 4.6(8)(ca), it is considered that it is within the public interest to ensure the ordinary economic redevelopment of land where this is possible. It is also considered in the public interest that the outcomes of such development do not impede on adjoining property, the streetscape or the broader local area. The public benefit is often referred to development which provides a direct benefit to the public beyond the inhabitants of the proposed development.

The proposed development will result in five (5) demonstrable public benefits:

1. Continuity to streetscape,
2. Consistency of urban morphology of high density zone,
3. Achievement of the R4 zone objectives,
4. Location of high density development in well serviced area close to town centres and public transport services,
5. Increase supply of housing and positively contributing to affordability and housing choice.

These points are discussed as follows:

#### 1. Streetscape:

Presently the subject site is occupied by a dwelling house representing what may be argued as a discordant building within the streetscape, particularly given that the surrounding development has been built to high density residential flat buildings. Accordingly, it may be argued redevelopment of the subject site to a building that is consistent with the streetscapes built form would derive some public benefit.

#### 2. Urban Morphology

When considering the appropriateness of the floor space ratio (FSR) for the subject site, consideration must be given to the context of surrounding development in the circumstances of the subject site.

It is noted that surrounding development is built to high densities comprising of residential flat buildings. Strict application of clause 4.4 (2A) would result in a discordant element within the urban morphology by virtue of the land comprising a single dwelling.

It is considered that one of the intentions of clause 4.4(2A) is to encourage site amalgamation and to ensure isolated allotments are not created via redevelopment of high density development areas. However, based on the circumstances of the case, given the subject site is an isolated allotment surrounded by buildings that have already been developed for higher densities, it is the opinion of the assessing officer that it is appropriate to allow a variation of the floor space ratio standard to permit the redevelopment of the land to a comparable built form.

### 3. Achievement of the R4 zone objectives

As discussed earlier under 2.3 Zone – *R4 High Density Residential* in this report, the proposed development with the FSR variation satisfies the R4 High Density Residential zone objectives as demonstrated by the following:

- The development provides for additional housing needs of the community within a high density residential environment through the provision of seven (7) apartment units replacing an aged single dwelling house,
- The development provides for a range of apartment typology's contributing a greater variety to the local high density residential environment that is dominated by 2-bedroom older style apartment units (see development at 123 Harrow Road and 6 Warialda Street).

Rockdale Local Environmental Plan 2011 is the applicable planning instrument of the local area and having been subject to public consultation, the achievement of appropriate development in accordance with the associated zone objectives is considered to be in the public's benefit.

### 4. Location of high density development in well serviced area close to town centres and public transport services.

The subject site is located within 500m walking to Rockdale Train Station and Rockdale Town Centre. It is acknowledged that high density residential zones are traditionally located in areas of high amenity with access to shops, transport, public open space, and employment opportunities. As such, the economic development of R4 zoned land for higher density residential buildings will provide for more additional housing opportunities in an appropriate location that is well serviced for the everyday needs of the individual and the community. The development being located in a well serviced area would further contribute to the vitality to the Rockdale Town centre with opportunities for additional patronage for local businesses, and supporting a better return on for publically funded services such as public transport, public offices, libraries, and open space.

### 5. Contribution to affordability and housing choice.

The proposed development provides for additional housing opportunities in a desirable location during a period of strong housing demand. The proposed development will increase the supply of housing and as such can be seen to improve the level of housing affordability



and housing choice in the local area. It is in the public interest that new high density housing be well located in close proximity to town centres and public transport.

If it is argued that the public benefit deliver a positive outcome to persons beyond those inhabiting the building of the proposed development, it follows that the development must not impede on those persons inhabiting adjoining developments. This report demonstrates that with mitigating measures the proposed development can achieve those bullet points above. As such it is satisfactory to vary the development standard when having regard the all the provisions of clause 4.6.

Furthermore, to refuse consent of the development application on the basis of it failing to achieve compliance with clause 4.4(2A) of RLEP 2011 is effectively a direction from Council that the subject site is already developed to its highest and best use. This is not considered to be the case based on the arguments provided below:

- It would contravene the objectives of the Act which are to promote and co-ordinate the orderly and economic use and development of land – refer clause 5(a)(ii)
- It would be inconsistent with the aims of LEP2011 which are to encourage residential and employment densities around transport nodes in order to provide sustainable transport options – refer clause 1.2
- It would be inconsistent with the objectives of the zone which are to provide for the housing needs of the community within a high density residential environment – refer Part 2 Land Use Table for Zone R4 High Density Residential;
- the maximum development density established by clause 4.4(2A) would be inconsistent with the availability of infrastructure and generation of vehicular and pedestrian traffic based on the site's location and circumstances;
- satisfactory compliance with the balance of development standards contained within LEP2011, development controls contained in DCP2011, provisions of SEPP65 and the Residential Flat Code Design;
- The proposal is compatible with the local area, and will not unacceptably impeded on the amenity of adjoining development.

On the basis of these environmental planning grounds, it is unreasonable and unnecessary to enforce strict compliance with the development standard in the circumstances of the case.

### **5.9 Preservation of trees or vegetation**

The proposed development seeks to remove all existing vegetation on the site, and the Callistemon (bottlebrush) tree on the street reserve of Warialda Street in the proposed location of the driveway.

Council's Tree Management Officer has reviewed the application and does not object to the removal of all existing site vegetation as the Landscape Plan prepared by RFA landscape architects provides for satisfactory replacement planting, and subject to appropriate street tree replacement.

Accordingly, the provision of clause 5.9 have been taken into consideration and subject to recommended conditions of consent are satisfied.

### **5.10 Heritage Conservation**

In accordance with the RLEP 2011 the subject site is located within the vicinity of a heritage item known as 'Frys Reserve' (item I200) which is located 80 metres south of the subject site.

Due to the physical distance of the proposed development from Frys Reserve, the development is not considered to have any adverse impacts on the heritage listed reserve.

### **6.1 Acid Sulfate Soil - Class 5**

The subject site is affected by class 5 acid sulfate soils. Clause 6.1 requires an Acid Sulfate Soils Management Plan be prepared for the carrying out of works for which the watertable is likely to be lowered below 1m AHD on adjacent class 1, 2, 3 or 4 land.

The proposed development seeks consent for excavation works on site in order to construct the proposed basement level. The nearest adjoining land identified as containing class 1, 2, 3 or 4 land is located 460m east of the subject site towards Botany Bay. The proposed basement works are not considered to lower the watertable of land located 460m to the east.

Accordingly, the provisions of clause 6.1 has been taken into consideration and works associated to the proposed development is not considered to disturb, expose or drain acid sulfate soils.

### **6.2 Earthworks**

Clause 6.2 requires that any proposed earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of surrounding land.

A storm water management plan was submitted with the development application ensuring that existing drainage patterns are maintained and that adjoining developments are not negatively impacted by any water displacement.

The basement garage will be built up to the side and rear boundaries to accommodate vehicular manoeuvrability. In this regard, a geotechnical report will need to be prepared prior to the issue of a construction certificate to ensure that adjoining land will not be impacted by the proposed basement works.

A further condition will be imposed on the consent to ensure that appropriate measures are taken should any relics be disturbed.

### **6.4 Airspace operation**

The purpose of clause 6.4 is to ensure that the relevant Commonwealth body is advised should the Limitation or Operation Surface of Sydney's Kingsford-Smith Airport be penetrated.

The Sydney Airport Limitation Surfaces Map (dated 20 march 2015) identifies that the subject site is located within the Inner Horizontal Surface restricted to 51m AHD. The proposed development seeks consent for a ridge height of 25.10m AHD. In this regard, the proposed development will not exceed the Limitation or Operations Surface of Kingsford-Smith airport and therefore satisfies the provisions of this clause.

### **6.6 Flooding**

The subject site is not identified as being flood affected, however, the adjoining development at (6 Warialda Street) is identified as being flood affected.

Subject to suitable stormwater management including on-site stormwater detention, the proposed development is not considered to have any adverse flooding impacts on adjoining development at 6 Warialda Street, Kogarah.

The proposal is satisfactory with regards to this clause.

## **6.7 Stormwater**

The proposed stormwater system does not comply with Council's requirements, however Council's Development Engineer has included recommended conditions of consent which are required to be satisfied prior to issue of the Construction Certificate to ensure that the system will comply with RDCP 2011 and the Technical Specifications. Therefore, subject to recommended conditions the proposal is satisfactory with regards to this clause.

## **6.12 Essential Services**

Services will generally be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No relevant draft 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 proposed development generally complies with the Rockdale Development Control Plan (RDCP) 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
4.1.2 Heritage Conservation	Yes	Yes
4.1.3 Water Management	Yes	Yes – see discussion
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.6 Development on Sloping Sites	Yes	Yes – see discussion
4.1.9 Lot size and Site Consolidation – Minimum frontage	Yes	<b>No</b> – see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	<b>No</b> – see discussion
4.2 Streetscape and Site Context - General	Yes	Yes – see discussion
4.2 Streetscape and Site Context - Sandstone Walling, Rock Outcrops and Kerbing	Yes	Yes

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.3.1 Open Space and Landscape Design	Yes	<b>No</b> – see discussion
4.3.2 Private Open Space	Yes	<b>No</b> – see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes – see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes	<b>No</b> – see discussion
4.4.5 Acoustic privacy	Yes	Yes – see discussion
4.4.6 Noise Impact - Non-residential	Yes	Yes
4.4.7 Wind Impact	Yes	Yes
4.5.2 Social Equity - Equitable Access	Yes	Yes – see discussion
4.6 Car parking, access and movement	<b>No</b>	Yes – see discussion
4.7 Air Conditioning and Communication Structures, and Letter boxes	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes – see discussion
5.2 – RFB Site coverage	<b>No</b>	<b>No</b> – see discussion
5.2 – RFB Setbacks	<b>No</b>	<b>No</b> – see discussion
5.2 – RFB Apartment size	<b>No</b>	<b>No</b> – see discussion
5.2 – RFB Building design	<b>No</b>	Yes

#### 4.1.1 Views and Vista

The subject site is located over 2km west of Botany Bay and 80m north of the nearest Heritage listed item, being Frys Reserve. The site is further framed by a 3-storey residential development to the south and a 4-storey residential development to the north. In this regard, the subject site is not considered to be located in a particularly visible location and does not have access to or from any significant views.

#### 4.1.3 Water Management

Council's Development Engineer has reviewed the proposal's concept stormwater management and has identified that the stormwater generated from the roof area of the building is proposed to be collected within an in ground OSD system. The controlled flow from the system has been shown to be gravity fed to Council's kerb and gutter fronting Warialda Street, and will include an emergency overflow via a grated pit within the pedestrian access.

Council's Development Engineer has requested that amended stormwater design and plans including the requirement to provide an internal depth of at least 1m for the OSD tank and that the basement pump will be designed in accordance with section 4.2.4 of Council's specification – Stormwater Management.

Subject to confirmation of Council's Development Engineer, a condition has been imposed on the attached draft conditions of consent, requiring amended plans that satisfy the 1m internal OSD tank depth and compliance with section 4.2.4 of Council's specification – Stormwater Management.

#### 4.1.6 Development on Sloping Sites

The subject site provides for a minor slope towards the street with a slight cross fall from the northern side boundary to the southern side boundary. The cross fall is reflective of the general landform of the local area with Warialda Street sloping from north-south. It is predominantly for this reason that an elevation difference of about 600mm - 800mm exists between the subject site and adjoining land to the north at 123 Harrow Road (survey).

The most recently submitted architectural plans, received by Council on 27 September 2016, include inconsistencies with the finished floor levels. These inconsistencies appear to have come about via the multiple amendments to the plans and RLs not having been correctly updated on the elevations as part of the subsequent revisions. It is considered appropriate that this issue be dealt with via condition to ensure consistent RL's are approved across the development. As such, the finished floor levels (FFL) identified on the following architectural plans prepared by CMT architects will be conditioned:

- Basement plan, revision: G, dated: 2 August 2016, FFL of 8.50m
- Ground Floor Plan, revision: G, dated: 2 August 2016, FFL of 12.70m for ground floor corridor, and FFL of 12.60m for ground floor terraces
- First Floor Plan, revision: F, dated: 2 August 2016, FFL of 15.60m
- Second Floor Plan, revision: F, dated: 2 August 2016, FFL of 18.50m
- Third Floor Plan, revision: F, dated: 2 August 2016, FFL of 21.60m
- Roof Plan, revision: f, dated: 2 August 2016 FFL of 24.70m for the roof, and FFL of 25.10m for the lift and street facing louvre system overrun.

Minor site levelling, involving a reduction of existing ground level from RL 12.79m to RL 12.60m (190mm) is proposed to the rear of the development. This provides for a level courtyard associated with unit G.03. This change in natural ground level is satisfactory when having regard to provisions of the RDCP 2011 and the RFDC.

Subject to the courtyard levelling, an elevation difference of about 870mm will exist between the courtyard of unit G.03 and the adjoining land to the north at 123 Harrow Road. With the addition of a 1.8m high boundary fence, the courtyard will be presented with an effective wall height of 2.63m. Although such an effective wall height is undesirable it should be noted that it is not the result of significant excavation from the proposed development. Furthermore, the courtyard of G.03 is benefited by its wide dimensions; having a maximum width of 3m to the north, and a width of 5m on the east. These widths provide the courtyard with improved solar access opportunities. The internal amenity of these courtyards will further be improved through the recommended consent condition ensuring landscape strips are provided to the full perimeter of the courtyard, thus softening the presentation of the effective 2.63m wall. Accordingly, the elevation change between the aforementioned properties is not considered to result in unacceptable impacts, and the proposed FFL levels are supported in the circumstances of the case.

#### 4.1.9 Lot Size and Site Consolidation

Section 4.1.9 of the RDCP 2011 states that a minimum lot width of 24m at the street frontage is required for residential flat buildings. The subject site provides for a street frontage of 14.69m (survey). Section 4.1.9 further identifies that site isolation is to be avoided, meaning that development on one site should not result in any adjoining sites being incapable of being economically developed. This, however is what has occurred to the subject site.

To develop the subject site in the economic and strategic intended fashion, means that the site would need to be developed for multi-dwelling residential development. The immediately adjoining developments at 6 Warialda Street and 123 Harrow Road currently contain a 3-storey multi-dwelling development (comprising 12 units), and a 4-storey multi-dwelling development (comprising of 15 units), respectively. In this regard, the subject site is isolated between adjoining development that has been economically developed, resulting in a limited site area that is non-compliant with the lot size and lot width requirement of the RDCP 2011.

In concluding whether a site is isolated, regard must be had to the potential of amalgamation with adjoining sites. In the circumstances of the subject site, amalgamation with adjoining development is considered to be impractical, as demonstrated by the following reasons:

- Subject site is bound to the rear and northern side setback by adjoining development at 123 Harrow Road, and bound by 6 Warialda Street to the south,
- Adjoining sites are economically developed as both sites contain multi-dwelling residential developments

Accordingly, the potential for amalgamation with an adjoining site is not considered to be possible, due to the numerous and divided ownership of adjoining sites, and due to the fact adjoining buildings appear to be in adequate condition. For these reasons the subject site is identified as being an isolated allotment.

It should be noted that to refuse the subject development application on the basis of it not achieving compliance with the aforementioned development standard effectively restricts any opportunity for the land to be development in accordance with the permitted uses and zone objectives. This is not considered to be the case as the RDCP 2011 provides guidance for the development of isolated sites. Development control 3 of this section of the RDCP 2011 identifies the following:

*'The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants. Development of existing isolated sites may not achieve the maximum potential, particularly height and floor space ratio and will be assessed on merit.'*

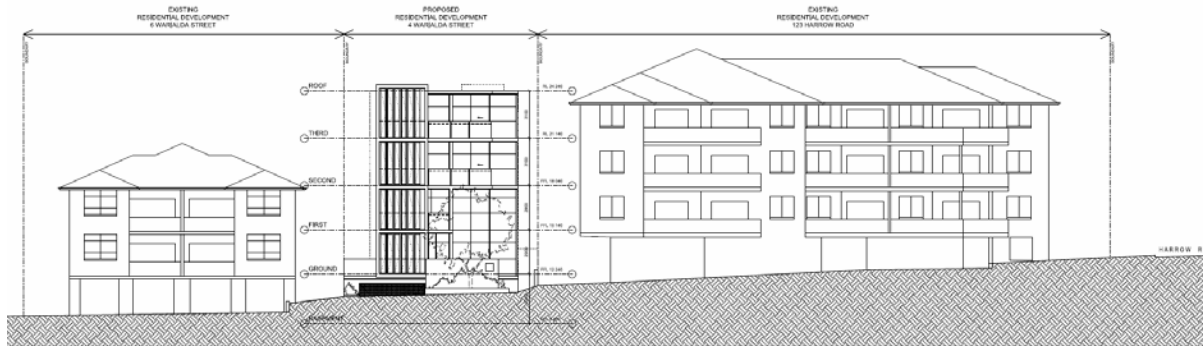
Accordingly, the proposed development being located on an isolated site has been assessed in accordance with development control 3 of Section 4.1.9 of the RDCP 2011. The character of the streetscape has been reviewed and is discussed in the assessment of the RDCP 2011 under chapter 4.2 *Streetscape and Site Context* and residential amenity is reviewed and is discussed under part 4.4-5.2 further below in this report. Refer to discussion on height and FSR above.

The development, subject to conditions of consent, and as assessed in this report has been found not to negatively detract from the character of the streetscape and will achieve a satisfactory level of residential amenity for its occupants.

#### 4.2 Streetscape and Site Context

The development is considered to respond appropriately to the broader urban context comprising of: topography, block patterns and subdivision, street alignments, landscaping, view, and the pattern of development within the area.

The subject site exhibits a general fall towards to Warialda Street and a slight cross fall in-line with the regional south land fall of the local area. In this regard the proposed development provides for the coherent continuation of the existing height plane with the building at 123 Harrow Road being at the highest point of Warialda Street followed by the proposed development and then followed by the building at 6 Warialda Street (Figure 10).



**Figure 10:** Extract of submitted amended Streetscape plan (source: Streetscape plan prepared by CMT architects, dated 13 November 2015)

The proposed development seeks to develop an isolated narrow lot within the existing block pattern of Kogarah. Subject to an amendment to the proposed design of the building to step in the north eastern corner of the dwelling and to substitute this area with landscape plantings, a more coherent street alignment has been provided. The front setback area is further appropriately landscaped in a commensurate style to adjoining developments thus supporting the creation of a sympathetic streetscape.

The proposed development, being development for a residential flat building, follows the existing pattern of development for high density residential development and in this aspects provides for a consistent development pattern within the streetscape.

The building design of the proposed development is of contemporary design incorporating basement parking, larger balconies with glazed balustrades, and a flat roof. The contemporary design is acknowledged to contrast adjoining 1960s/1970s red brick walk-ups with tiled pitched roofs and ground level parking. The contrast does not necessarily mean that the development is incompatible within the streetscape. As directed in the Land and Environment Court planning principle for 'compatibility with context' established in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, compatibility is to be understood as 'capable of existing in harmony and not sameness'.

The planning principle further identifies visual compatibility with surrounding context is dependent on the essential elements that make up the character of surrounding urban

environment. The most important contributors to the urban environment, as determined by the planning principle is the relationship of building height, street setback and front setback landscaping. The proposed development's building height, street setback and front setback landscaping have been found to be consistent with adjoining developments.

Furthermore, the contemporary design features provides the future occupants with a superior internal amenity through:

- improved solar access using larger glazed windows and glazing sliding doors,
- larger external open space in the form of private balconies,
- better address to the street with the absence of at-grade parking,
- enhanced communal area in the form of roof top open space providing future occupants with an area of direct solar access and some horizon and sky style views.

Future development in the local area will likely, follow the contemporary design in-line with the proposed development, as reflective of currently available materials, and modern building techniques and market demand for such residential products. As such, it is considered to better reflect the future character of the area.

It is noted that the location of hydrants, boosters and other services are not detailed on the submitted plans (as amended). The submitted BCA report prepared by Matt Shutter + Associates (dated 1 June 2015) has advised the applicant of the following:

*'As the floor area of the building is considered over 500m<sup>2</sup>, the building must be provided with Fire Hydrant coverage in accordance with BCA E1.3 and AS2419.1-2005.'*

*'Particular attention should be paid to the location of the booster and/or pump rooms (which are not currently shown on plan) It is recommended that early advice from a fire services consultant be obtained in relation to a suitable location for the booster (and pump room).'*

Accordingly, it can be considered that the applicant is aware of the requirement to provide for hydrants, boosters and other services, and is confident that the proposed development and subject site is capable of accommodating such services.

To ensure that the required fire hydrant and any boosters do not detract from the streetscape, the proposal has been conditioned to require that services are integrated into the building footprint.

Accordingly, the proposed development, although of contrasting modern design, is considered to result in a high quality development and satisfies the objectives of the streetscape and site context development controls and is supported.

#### 4.3.1 Open Space and Landscape Design

The existing site currently contains a two and three storey dwelling with limited landscaping. The proposed development seeks to remove the limited existing landscaping that is on the subject site and replace it with suitable replacement landscaping detailed in the submitted Landscape Plan prepared by RFA Landscape Architects.



The proposal provides for deficient landscaping with 7% of the subject site being landscaped, where 15% is required by the RDCP 2011. The deficiency is largely the result of the site isolation constraint, whereby accommodating the building footprint with basement car parking on the subject site with a limited area reduces opportunities for complying landscaping. The landscaping deficiency is not considered to be the result of poor design but the product of the limited site area constraint, and therefore requesting strict compliance with this control is considered to be unreasonable.

The most recent amended plans have been considered against the objectives of the Open Space and Landscape Design development control, and earlier concerns raised by Council's Landscape Architect. The proposed landscaping is considered to be suitable for the following reasons:

- The subject site is not located adjacent to any areas of bushland or connecting vegetation corridors,
- The submitted Landscape plan identifies that replacement plantings are of indigenous vegetation species,
- The proposal includes landscape strips between the vehicular driveway and southern lot boundary and along the southern half of the rear boundary. A condition of consent will be imposed requiring that raised landscape planters be provided along the full length of the rear boundary and along the northern and the southern boundaries of the private open space of ground floor terrace of unit G.03. The additional landscape strips are to include one medium sized deciduous tree and planting to maintain visual privacy. The addition of the landscape strips will not result in non-complying private open space areas required under the RFDC, and will not reduce the width of any walkways or corridors,
- Stormwater management is appropriately incorporated into the front setback deep soil landscaping area,
- The proposed development's front landscaping is an improvement when compared to the existing development which included a hardstand area dominating the front setback. As such the proposal better contributes to the streetscape of Warialda Street,
- The amended landscape plan prepared by RFA Landscape Architects (dated 23 August 2016) illustrates that additional landscaping is provided at front of the building,
- The amended proposal has modified levels to support an improved streetscape presentation.
- The front setback landscaping is commensurate to adjoining developments and is sympathetic to the streetscape.
- No objection was raised by Council's Tree Management Officer to the proposed development subject to replacement street tree planting.

Accordingly, the proposed landscaping has been demonstrated to satisfy the Council's objectives for landscaping and has appropriate regard of Council's Landscape Architects comments and therefore is supported in the circumstances of the case.

#### 4.3.2 Private Open Space

Section 4.3.2 of the RDCP 2011 requires development to provide private open space in accordance with the NSW Residential Flat Design Code (RFDC). These guidelines recommend that apartments are provided with the following private open space areas in the form of terraces, balconies:

- for studios apartments = 4m<sup>2</sup>,
- 1-bedroom apartments = 8m<sup>2</sup>,

- 2-bedroom apartments = 10m<sup>2</sup>, and
- Any ground floor apartments = 25m<sup>2</sup>.

The Ground Floor plan of the proposed development suggest that the ground floor mezzanine apartment (unit G.02) is a studio apartment and would therefore be required to provide 4m<sup>2</sup> in private open space. However, firstly the internal layout of unit G.02 is more alike to a two level 1-bedroom apartment, and secondly the unit has access to ground floor and as such should provide for a 25m<sup>2</sup> terrace. In addition to the variation of unit G.02, unit G.01 is afforded a ground floor terrace of 20m<sup>2</sup>.

As identified earlier, the subject site is constrained by a limited site area and as such seeks to provide for reduced ground floor apartment terrace areas. A redesign of the development is not considered to be able to alleviate the ground floor terrace area variation.

Despite the non-compliance to private open space areas, the development is considered to have merit as the future residents are benefited by a rooftop terrace with high amenity, and are located in close proximity to Frys reserve located 80m south of the subject site which provides the residence with good recreational opportunities. In this regard, the provisions of Section 4.3.2 are considered to be satisfied.

#### 4.4.2 Solar Access

The proposed building is sited in accordance with the subdivision pattern and complies with the height of building development standard of the RLEP 2011. Subject to the limited site area constraint imposed on the development and the strata developed adjoining developments it is considered that the development incorporating subsequent amendments has been designed to minimise the extent of shadows cast by the building.

The submitted Shadow diagrams prepared by CMT architect (dated; 26 may 2015) for original design illustrates that adjoining development to the south at 6 Warialda Street will be overshadowed at 9am and 12noon in the middle of winter, however at 3pm the shadow will be cast over Warialda Street. While it is acknowledged that the north-east apartment unit of 6 Warialda Street would be affected by overshadowing from 9am to about 1pm, the existing development at 6 Warialda Street is considered to maintain an acceptable level of solar access as the existing development would continue to satisfy of the RFDC 'rule of thumb' for daylight access:

*Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.*

As such, the overshadowing impacts of the proposed development are considered to be acceptable.

Although no solar access diagrams (demonstrating the intrinsic solar access to the proposed apartment units) were submitted with the development application, the provision of solar access to proposed units are benefited by the following:

- each unit has two or three aspects,
- subject site has a north-west to south-east orientation,

- the internal layout promotes the siting of living areas to maximise the northern aspect.

Unit G.01 is the only unit of the seven (7) proposed in the building which is predominantly south facing, and may not receive three hours of sunlight between 9 am and 3 pm in mid-winter.

In accordance with the site survey, the courtyard for unit G.03 will only be excavated 190mm, and as such is considered to be close the existing ground level. It is acknowledged there is a level difference between the subject site and adjoining properties which is not entirely conducive to solar access penetration to the courtyard, however despite this it is the opinion of the assessing officer a satisfactory level of amenity can still be afforded to this courtyard.

In any event, even if the courtyard for G.03 weren't to achieve a compliant level of solar access, under the provisions of the RFDC, this would not affect the ability of the building to maintain compliance as 71% of the units would still meet the solar access provisions.

Accordingly, the proposed development is considered to satisfy Council's solar access development controls and the RFDC.

#### 4.4.2 Natural lighting and Ventilation

The proposed building provides for floor-floor heights of 2.9m for ground and first floor, and 3.1m floor-floor heights for the second and third floors. The basement garage provides for ceiling heights of at least 3m. As previously discussed the proposal is subject to a deferred commencement condition to ensure the 2.9m floor to floor is realistic and practical. Further a condition of consent will be imposed to ensure that a minimum floor to ceiling height of 2.7m is provided to each completed apartment.

Although no cross-flow ventilation diagrams were submitted with the development application, the proposed units in the development is benefitted by the following:

- each apartment unit is a corner or building end apartment, which means that apartments are provided with two or more aspects, and
- proposed windows and doors are operable.

In this regard, it is considered that the proposed development provides for satisfactory access to natural light and natural ventilation.

#### 4.4.5 Visual and Acoustic Privacy

The objective of the RDCP 2011 visual and acoustic privacy development controls is reproduced as follows:

*'To site and design buildings to ensure acoustic and visual privacy for occupants and neighbours'*

A merit based assessment is being performed on the proposed development as it is located on an isolated site. The direct physical consequence of developing an isolated site is that boundary setbacks and building separation are often varied, which can increase any potential for overlooking. Accordingly, a thorough review of the potential visual and acoustic impacts

have been performed, and where the proposal provides for opportunities of overlooking or undue noise impacts appropriate mitigating measures are conditioned.

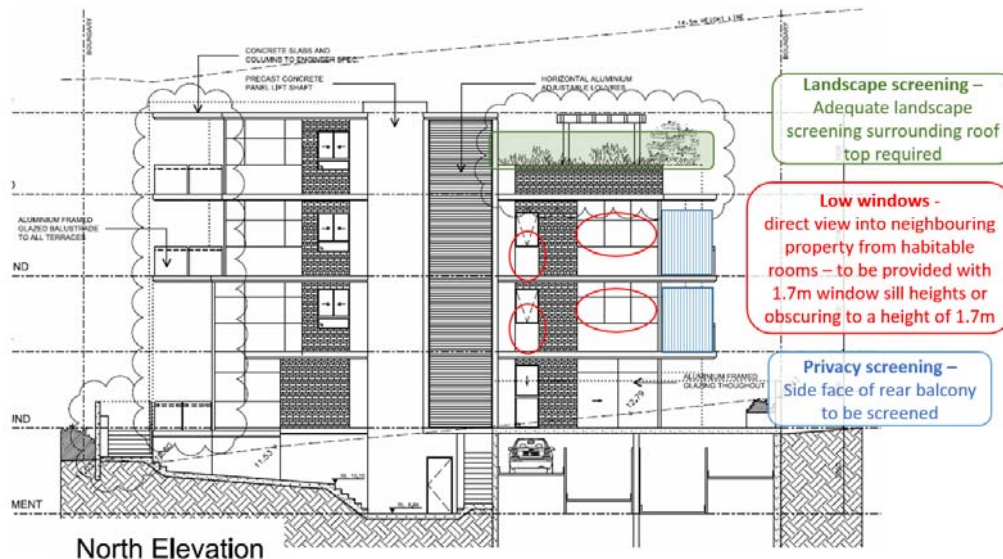
Any habitable windows contained in the proposed development will be required to provide window sill heights of 1.7m or obscuring of the window to a height of 1.7m measured from fixed floor level.

The south facing balconies of units 2.01 and unit 3.01 on the second and third floor are to be non-trafficable areas. The doors leading to these balconies and full height louvers are to be deleted.

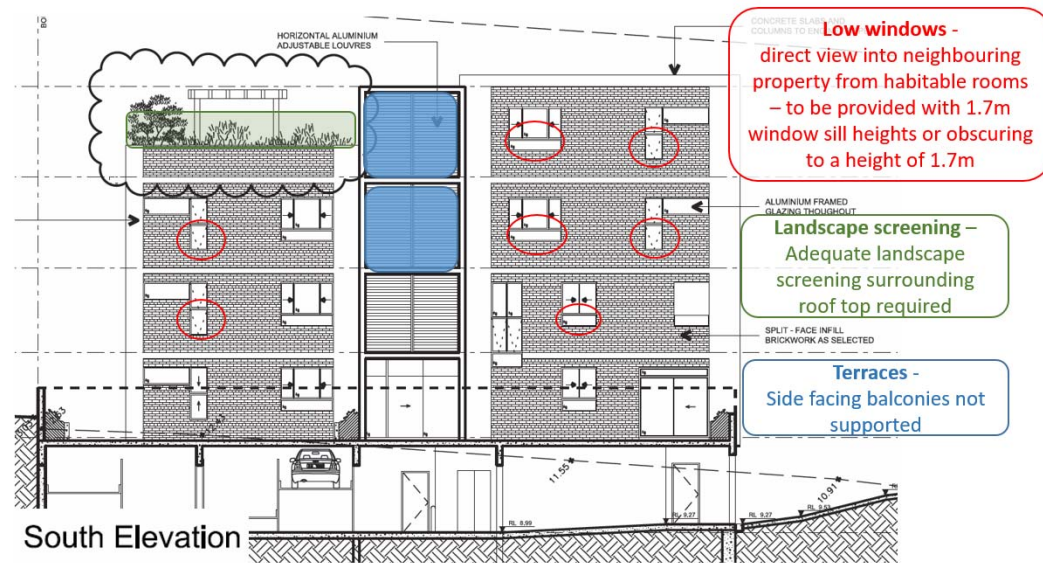
The DRP accepted the provision of rear facing balconies. The rear facing balconies are able to take advantage of the northern aspect. The rear facing balconies which are afforded a direct outlook to the rear of adjoining developments to the north and south will be required to be fixed with privacy screens.

The rooftop terrace will be required to provide for a non-trafficable area of 1.5m deep from the edge of the building. The non-trafficable area is further to be which improved with landscaping.

Refer to **Figure 11** and **12** for diagrammatic representation.



**Figure 11:** Extract of North Elevation illustrating overlooking mitigating measures (source: North Elevation plan prepared by CMT architects, dated 13 November 2015, adapted by CPS)



**Figure 12:** Extract of South Elevation illustrating overlooking mitigating measures (source: North Elevation plan prepared by CMT architects, dated 13 November 2015, adapted by CPS)

In terms of acoustic privacy, the following comments are offered;

- driveway and communal open space are appropriately located to minimise acoustic impacts.
- Bedrooms do not share walls with adjoining neighbouring units.
- the acoustic assessment, prepared by Koikas Acoustic, provides for recommendations to ensure compliance for a 5 Star rating AAAC Acoustical rating. The development would have to comply with this report.
- Internal layout of the proposed development provides for non-habitable uses, such as internal stairwells, kitchens, bathrooms and common hallways, to be adjoining the lift shaft.

Accordingly, subject to recommended conditions of consent it is considered that the proposed development will provide for satisfactory level of acoustic and visual privacy for occupants and neighbours.

#### 4.4.5 Social Equity

The proposed development, subject to amendments, is comprised of seven (7) apartments units, including:

- 1 x studio unit,
- 5 x 1 bedroom units,
- 1 x 2 bedroom unit.

Development control 3 of Section 4.4.5 of the RCP 2011 states that:

*Developments containing less than 10 dwellings may vary the required dwelling mix, providing a range of dwelling sizes are represented.*

(Dwelling mix for development over 10 dwellings are as follows: 3 bedroom unit – 10-20%, 2 bedroom units – 50-75%, 1 bed/studio units – 10-30%).

The subject site is located about 500m from Rockdale train station and shopping area, and based on Council's profile.id (demographics), the suburb of Kogarah has experienced a slight downward trend in household size. The development provides for a range of apartment typology's contributing a greater variety to the local high density residential environment that is dominated by 2-bedroom older style apartment units (see development at 123 Harrow Road and 6 Warialda Street). The proposed dwelling mix and apartment typology further supports the provision for housing opportunities of Rockdale and Kogarah's essential workers (teachers, hospital workers, public workers) to be located closer to their places of employment.

Additionally, the submitted architectural plans identify that units G.03 and 1.03 (representing 28.5% of the total units) can be adapted in accordance with AS4299.

Accordingly, the proposal having close proximity to the train station and providing for range of residential products that supports general household population trends is considered to be appropriate and satisfies the development control for social equity.

#### 4.6 Parking, Access and Movement

In accordance with the RDCP 2011, the proposed development is required to provide seven parking spaces for the proposed apartments and two spaces for visitors. The proposal provides for a basement garage with nine (9) car spaces, seven (7) being in stackers i.e. three in one stacker and four in another. One (1) disabled parking space is provided as part of the three car stacker system. The proposal further provides for two visitor parking space, of which one has been increased in size to 3.5m x 5.5m, to concurrently provide as a car wash bay and loading bay. As such, the proposal provides for complying amount of vehicular parking spaces.

A bicycle parking space is further provided in the basement but no motorcycle parking spaces are provided. In accordance with the RDCP 2011 one motorcycle space is required to be provided per 15 dwellings. As the development contains mostly 1-bedroom apartments for which one parking space is allocated to each it is considered onerous to require an additional space be provided for a motorcycle.

The development application was submitted with a Traffic and Parking Assessment Report, prepared by Terracffic Pty Ltd (Ref: 15006, dated 25 May 2015). The report identified that the additional traffic generated by the development is relatively minor and will not have any noticeable or unacceptable effects on the road network serving the site.

The proposed development has been reviewed by Council's Development engineer who provides no objection subject to conditions of consent. Accordingly, the proposed development is considered to satisfy the provisions of Councils parking access and movement.

#### 4.7 Site Facilities – Waste Management

The proposed development includes a designated garbage room with an area of 6.3m<sup>2</sup> within the basement. The garbage room provides for room enough to accommodate 7 x 240L bins. On-going waste management will utilise 6 x 240L bins for general waste and recycling.

As the proposed development is limited to seven units it is considered suitable that waste transport between storeys and garbage room will be through the use of the lift by the residents of the building. The garbage room is located 6m from the lift.

The submitted Waste Management Plan, prepared for CMT Architects, identifies that strata management will be responsible for all bins and their removal to Warialda St where they will be emptied by Council's waste collection.

Accordingly, the development is considered to satisfy Council's waste management development controls.

## 5.2 Residential Flat Buildings – Site Coverage

The RDCP 2011 seeks to limit site coverage for the development of residential flat buildings to 35% of the site area. The proposed seeks to provide for a non-compliant building footprint that is close to 48%. However, as the subject site is isolated a merit based assessment is performed in accordance with Council's site isolation section of the RDCP 2011. In this regard, the development has been considered to provide for appropriate landscaping, suitable stormwater management, and solar access to the apartment units, and privacy to adjoining developments. Accordingly, despite the site coverage non-compliance the development is considered to have merit and is supported in this instance,

## 5.2 Residential Flat Buildings – Setbacks

The subject sites exhibits an angled front setback in reference to the general lot alignment. This results in a front setback ranging from 3.4m to 6.9m, which is consistent with adjoining neighbours.

As discussed earlier within this report, due to the site size and width constraints resulting from the site's isolation a variation to Council's side and rear setback controls are requested. Council's side setback control seeks to provide side setbacks of 3m for up to 3-storeys and 4.5m for all levels above 3-storeys and rear setback of 12m. The proposed development provides for side setbacks of 1.3m – 2m and a rear setback of 3m. Despite the large variation to the side setback controls, the development is considered to satisfy the objectives of the RDCP 2011 setback development controls, as demonstrated below:

- The development responds to the spatial characteristics of the local urban environment, with the establishment of a coherent visual and urban relationship with adjoining residential flat buildings that are similarly located on sites with angled front setbacks on a local street with a north-south slope adjacent to the a railway line,
- The development further support the legibility of the urban environment through the contribution of a uniform urban morphology and scale commensurate of the high density residential zone,
- Development responds to streetscape qualities as assessed in *4.2 Streetscape and site context* section of this report,
- Safety of the urban environment will be supported with the provision of additional passive surveillance opportunities,
- Private transport services associated to development has been appropriately integrated into the streetscape using basement car parking.

Furthermore, it is understood that the development is to be assessed in accordance with Council's development control for existing isolated sites, which identifies that development of isolated site is not to detract from the character of the streetscape and is to achieve a

satisfactory level of residential amenity for its occupants. Accordingly, despite the large variations of the setback controls the proposed development has been assessed and is determined not to result in an adverse detracting in the character of the streetscape of Warialda Street and will achieve a satisfactory level amenity of residential amenity for its occupants and adjoining developments subject to recommended conditions of consent.

In this regard, the development is considered to satisfy the objectives of the side setback controls and

## 5.2 Residential Flat Buildings – Apartment size

In accordance with the submitted floor plans the proposed development will provide:

- Unit G.01 (2bed corner) = 80m<sup>2</sup>
- Unit G.02 (Studio) = 44.75m<sup>2</sup>
- Unit G.03 (1bed) = 50m<sup>2</sup>
- Unit 1.03 (1bed cross through) = 50m<sup>2</sup>
- Unit 2.01 (1bed cross though) = 58m<sup>2</sup>
- Unit 2.02 (1bed cross through) = 50m<sup>2</sup>
- Unit 3.01 (1bed cross through) = 58m<sup>2</sup>

The proposed 1-bedroom and 2-bedroom units comply with objectives of Council's apartment size controls and the RFDC. The proposed studio apartment, as discussed earlier within this report, may better be described as a 1-bedroom maisonette/loft apartment as the unit is provided with two levels each with complying floor to ceiling heights, instead of mezzanine with a lower ceiling height. Should this description be used, the development would result in a minor variation to the one bedroom apartment size.

However, as discussed under the open space development controls, to compensate for the smaller apartment size the development provides for a rooftop terrace with good amenity, and the development is further benefitted by being in close proximity to public open space areas in the form of Frys Reserve. Furthermore, the practical use of the apartment will be like a studio mezzanine apartment which are permitted to be a minimum of 38.5m<sup>2</sup>, as such the variation can be argued to be descriptive only and result in a practical variation. For these reasons, should the studio apartment be considered a one-bedroom apartment, the minor size variation for this one-bedroom development (10.5%) is supported in this instance.

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

Clause 92 of the Environmental Planning and Assessment 2000 has been considered, and the requirements for demolition have been considered and compliance with Australian Standard AS 2601—1991: The Demolition of Structures is a recommended condition of consent.

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

Potential impacts related to the proposal have been previously considered within this report.



### Safety & Security

The proposed development is considered to result in improved passive surveillance over Warialda Street with additional opportunities for overlooking onto the street being provided by the development. The submitted Statement of Environmental Effects states that access to the residential levels of the building will be controlled via a security intercom system, and that an automatic door will be installed at the driveway entrance to restrict access to authorised vehicles only.

The development is considered to satisfactorily minimise unusable and dead-spaces, and provide a well-defined delineation between the public and private domain.

In this regard, it is considered that the development has incorporated the principles of Crime Prevention Through Environmental Design and will provide future residents with an appropriate level of safety and security.

### Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

## **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 proposal was notified in accordance with the provisions of DCP 2011, from 19 June – 9 July 2015. A total of six (6) submissions were received. In response to the receipt of amended plans, the application was re-notified from 25 November – 11 December 2015. Three (3) submissions were received, of which two (2) were re-submitting (i.e. the exact same submissions) and one (1) was a new submitter.

The submissions raised the following concerns:

*Narrow lot – the subject site is too narrow.*

**Comment:** The matter of site width has previously been addressed within Part 4.1.9 *Lot Size and Site Consolidation* of this report.

*Height - 5-storey development is not 'synthetic' with surrounding environment and would result in view loss.*

**Comment:** The proposal has been reduced to 4-storeys and now complies with the height of building standard of the Rockdale Local Environmental Plan 2011. In this regard the development is considered to be of an appropriate height.

*Loss of green area as a result of the proposed development*

**Comment:** it is acknowledged that the proposed development provides for non-compliant landscaped area in accordance with the Rockdale Development Control Plan 2011. However, the existing development already provides for non-compliant landscaping, and therefore a net loss of landscaped (green) area is not considered to occur. Council's Tree Management Officer has reviewed the proposed development and does not object to the removal of the existing vegetation as the submitted Landscape Plan prepared by RFA landscape architects provides for appropriate landscape replacement.

*Increased Traffic – Numerous submissions raised objections against the proposed development on the grounds of traffic and parking impacts.*

**Comment:** The parking arrangements of the proposed development, since being amended, have been assessed as compliant with Council's parking provisions under RDCP 2011. The proposal provides complying parking spaces. The development application was submitted with a Traffic and Parking Assessment Report, prepared by Terraffix Pty Ltd (Ref: 15006, dated 25 May 2015). The report identified that the additional traffic generated by the development is relatively minor and will not have any noticeable or unacceptable effects on the road network serving the site. In this regard, the traffic and parking impacts resulting from the development are considered to be acceptable.

*Loss of privacy as a result of the proposed development.*

**Comment:** The matter of visual privacy has been addressed previously within Part 4.4.5 Visual Privacy of this report.

*Construction impacts i.e. noise and dust*

**Comment:** The proposed development shall be conditioned to comply with Council's permitted hours of construction, and shall minimise the excessive noise in accordance with the *Protection of the Environment Operations Act 1997*. Dust minimisation measures shall be done in accordance with a Soil and Water Management Plan to be prepared prior to the commencement of works and to the satisfaction of the principal certifying authority.

*Dwelling mix – Submissions raised concerns that the development comprised solely of single bedroom residences that encourages vagrant occupancy.*

**Comment:** The amendments to the proposed development have resulted in improved dwelling mix, with the provision of a studio and 2-bedroom apartment unit, in addition to the 1-bedroom units. The proposed unit mix is considered suitable as it supports for additional housing located in an accessible area with proximity to Rockdale train station and shopping area. See section 4.5.3 *Social Equity* in this report for detailed discussion on dwelling mix.

*Subsidence – Concerns of excavation impacts to adjoining development*

**Comment:** It is acknowledged that the proposal will to extend the basement garage to the rear and side boundaries of the site. For this reason appropriate conditions of consent will be imposed to ensure that adjoining sites are not impacted by the excavation and basement works.

*Overshadowing. A number of objections raised concerns regarding overshadowing.*

**Comment:** The matter of overshadowing has been previously addressed within Part 4.4.2 *Solar Access* of this report.

Devaluation of property - *A number of submissions have raised concerns regarding the impact the proposed development will have on the value of adjoining developments.*

**Comment:** Property values are not a valid planning consideration. Council cannot refuse a development application based on speculative impacts of property value.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

Our Ref: DA-2015/427  
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KOGARAH NSW 2217

## NOTICE OF DETERMINATION

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

<b>Application Number:</b>	DA-2015/427
<b>Property:</b>	4 Warialda Street, KOGARAH NSW 2217 Lot 1 DP 1117810
<b>Proposal:</b>	Construction of four (4) storey residential flat building comprising of seven (7) residential units and basement level car parking and demolition of existing structures
<b>Authority:</b>	Council
<b>Determination:</b>	Deferred commencement
<b>Date of determination:</b>	
<b>Date consent commences:</b>	
<b>Date consent lapses:</b>	

Your Development Application has been approved under Section 80(3) of the Environmental Planning and Assessment Act, 1979 as a **Deferred Commencement** consent.

The consent shall not operate until you satisfy Council about the following matters:

a) Detailed plans and sections illustrating that a 2.9m floor to floor height is capable of incorporating a minimum 2.7m floor to ceiling height, including bulkheads, acoustic treatments and the like to be incorporated into the development. The overall height of the building shall not exceed 14.5m.

The period of the Deferred Commencement is **six** months from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

Upon receiving written notification from Council that the above requirements have been satisfied, your consent will become operable and will be 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	Date
Basement Plan, drawing no. DA 1.99 Issue G	CMT Architects	2 August 2016
Ground Floor Plan, drawing no. DA 2.00, Issue G	CMT Architects	2 August 2016
Ground Floor Adaptable Plan, drawing DA 2.0-1, Issue B	CMT Architects	13 November 2015
First Floor Plan, drawing no. DA 2.01, Issue F	CMT Architects	2 August 2016
Second Floor Plan, drawing no. DA 2.02, Issue G	CMT Architects	2 August 2016
Third Floor Plan, drawing no. DA 2.03, Issue F	CMT Architects	2 August 2016
Roof Plan, drawing no. DA 2.04, Issue F	CMT Architects	14 July 2016
North Elevation/South Elevation, drawing no. DA 4.00, Issue E	CMT Architects	13 November 2015
East Elevation/West Elevation, drawing no. DA 4.01, Issue F	CMT Architects	2 August 2016
Section AA, drawing no. DA 4.02, Issue E	CMT Architects	2 August 2016

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 629382M\_02 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. The balconies incorporated into the development shall not be enclosed at any future time, without consent from Council.
7. 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.
8. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
9. Excavation, filling of the site or construction of retaining walls are not permitted unless approved by a separate Development Consent and authorised by a subsequent construction certificate.
10. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
11. 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.
12. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

#### **Allocated Spaces**

1 space per apartment (including 1 adaptable space)

#### **Non-Allocated Spaces**

2 visitor spaces (1 dual carwash / visitor and 1 dual visitor / van loading unloading space)

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

**Note:** This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

13. An amended Schedule of Colours and Materials, which correctly reflects the approved Elevations/ Section AA plan (revision A), shall be submitted to the satisfaction of the PCA.
14. The approved architectural plans include inconsistencies with the finished floor levels. The proposed building shall be constructed in accordance with the following finished floors (FFL):

Basement plan, revision: G, dated: 2 August 2016,	FFL of 8.50m
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Ground Floor Plan, revision: G, dated: 2 August 2016,	FFL of 12.70m for ground floor corridor, and FFL of 12.60m for ground floor terraces
First Floor Plan, revision: F, dated: 2 August 2016,	FFL of 15.60m
Second Floor Plan, revision: F, dated: 2 August 2016,	FFL of 18.50m
Third Floor Plan, revision: F, dated: 2 August 2016,	FFL of 21.60m
Roof Plan, revision: f, dated: 2 August 2016	FFL of 24.70m for the roof, and FFL of 25.10m for the lift and street facing louvre system overrun.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

15. Prior to the issue of the Construction Certificate the sum of \$1001.50 is payable to Council for removal and replacement of the street tree, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.
16. Provide permanently illuminated exit signs to the existing building on or near exit doors in accordance with Part E4.5 of the Building Code of Australia and AS/NZS 2293.1:2005.
17. All carwash, engine degreasing and steam cleaning shall be conducted in a washbay which is graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
18. All condensation from the air conditioning unit shall be discharged into the sewerage system.
19. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and 2.4m for non habitable areas as measured vertically from finished floor level to the underside of the ceiling.
20. All services required for the site, including hydrants, boosters and the like shall be integrated into the building envelope so as not to visually detract from the streetscape.
21. Vehicle access within the car stacker shall be restricted to B85 vehicles not exceeding the size description from AS2890.1. Vehicles greater in size than the B85 are not permitted to enter car stacker. A sign shall be installed adjacent to the car stacker with the maximum height of the vehicle allowed in the car stacker.
22. Parking spaces shall not be enclosed without further approval of Council.
23. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained 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.

24. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained and pumped 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 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 requirement 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.

25. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.

26. 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.

27. Temporary dewatering of the site to construct the subsurface structure is not permitted.

28. 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.

29. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.



30. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
31. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
32. A 1.8 metre high privacy screen measured from fixed floor level shall be installed on the north-west face of the balconies of unit 1.03, and unit 2.02.
33. All 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.
34. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
35. The development shall comply with the rail / road noise and vibration criteria as detailed within the Acoustic Report prepared by Koikas Acoustics dated 23 April 2015.

With regards to acoustic amelioration between intertenancy floors and walls within the development the following minimum equivalent AAAC Star Rating within the below specified areas of the development shall be implemented on site.

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.
- BCA standard for walls dividing occupancies.

A report shall be submitted to the Principal Certifying authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

36. a) In order to ensure the design quality excellence of the development is retained:
  - i. CMT Architects is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
 b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
37. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details

demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

38. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
39. Balustrades shall be constructed from a solid/opaque material.
40. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
41. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the car stacker system. The registered proprietor will:

Registered Proprietor will

- a. Keep the system clean and free of rubbish and debris;
  - b. Maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient matter;
  - c. Carry out the matters referred to in paragraphs (b) and (c) at the proprietor's expense;
  - d. Not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - e. Permit the Council of its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the system for compliance with the requirements of this clause;
  - f. Comply with the terms on any written notice issued by the Council in respect to the requirements of this clause within the time stated on the notice.
42. One (1) visitor space shall be signposted for shared use as loading and unloading area (van space).
  43. All car stackers shall be parklift 440-200/195-2600kg or similar to accommodate B85 vehicles in both levels.
  44. The horizontal aluminium adjustable louvres on the southern facade of the building (refer to approved south elevation plan prepared by CMT Architects provides) to unit G.01 at level 1 shall be fixed. The louvres shall be fixed in a way to prevent direct sight lines and overlooking into adjoining the development to the south.
  45. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
  46. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1:2004.
  47. The following habitable windows contained in the proposed development shall have window sill heights of 1.7m measured from fixed floor level, or shall be obscured to a height of 1.7m measured from fixed floor level.
    - a) Unit G.01 – south facing dining room window
    - b) Unit 1.03 – south facing bedroom window, and north facing living room window
    - c) Unit 2.01 – south facing kitchen window and living room window
    - d) Unit 2.02 - south facing bedroom window, and north facing living room window
    - e) Unit 3.01 – south facing kitchen window and living room window
  48. The third floor rooftop terrace shall include a non-trafficable area of 1.5 metres in

width measured from the building edge surrounded the terrace. The non-trafficable area shall include landscape planter beds and a tree as depicted on the approved third floor plan prepared by CMT architects.

49. Provide permanently illuminated exit signs to the existing building on or near exit doors in accordance with Part E4.5 of the Building Code of Australia and AS/NZS 2293.1:2005.

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

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

50. 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 \$5949.50. 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.
51. The following detail is to be illustrated upon Construction Certificate drawings and approved by the PCA Prior to the issue of the Construction Certificate:
- a) Deletion of the louvers to the southern wall of the kitchen to unit G.01. This wall shall be provided as masonry brickwork to match the proposed building, with an operable highlight window provided along the southern wall with a minimum sill height of 1.7.
52. 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.
53. 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.
54. A Section 94 contribution of \$57 038.07 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:

Kogarah Regional Open Space Fund Amend 5 \$5458.60  
Kogarah City Wide Open Space Fund Amend 5 \$8633.70  
Kogarah Local Open Space Fund Amend 5 \$32715.18  
Kogarah Local TC & Streetscape Fund Amend 5 \$566.69  
Kogarah City Wide TC & Streetscape Fund Amend 5 \$970.29  
Kogarah Pollution Control Management Amend 5 \$4994.07  
Kogarah Administration & Management Amend 5 \$332.01  
Child Care Services Amend 5 \$203.47  
Community Services Amend 5 \$217.97  
Library Services Amend 5 \$2946.09

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

55. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
56. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within one residential unit, and between this unit and its allocated car parking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit is to be unit G.03. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

57. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
58. The applicant shall confer with Energy Australia to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
59. 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.

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

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

- - building plan approvals
- - connection and disconnection approvals
- - diagrams
- - trade waste approvals
- - pressure information

- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, eg relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate.

60. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile 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.
61. Prior to issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
62. A Waste Management Plan shall be prepared and implemented in accordance with Development Control Plan No. 53.
63. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".
64. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. Car wash bay shall be 3.5m wide and 5.5m in length. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
65. Prior to the issue of the Construction Certificate, detailed amended drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.  
Amended stormwater design and plans shall be submitted to Certifying Authority for assessment. The amended design shall address the following issues:

(a) The internal depth of the OSD tank shall be kept to a minimum depth of 1m.

(b) The basement pump storage shall be designed in accordance with section 4.2.4 of Council's Technical Specification - Stormwater Management.

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.

66. Prior to the issue of the Construction Certificate, detailed drainage design plans for

the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. 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.

67. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

COPIES OF THE CMP AND TMP SHALL BE SUBMITTED TO COUNCIL.

68. As the basement floor proposed is closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and provide a geotechnical report. The report must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:

- Location and level of nearby foundations/footings (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Potential settlements affecting footings/foundations
- Ground-water levels (if any)
- Batter slopes
- Potential vibration caused by method of excavation
- Tanking and waterproofing the basement structures including the absorption pit.
- De-watering including seepage and off site disposal rate (if any)

(b) Confirm construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction

Certificate for the relevant stage of works.

(c) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(d) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

69. A further assessment of accessible building features in section 5 of the Access Report prepared by Cheung Access dated 21 May 2015 shall be undertaken prior to issue of a Construction Certificate, to ensure intended compliance with Part D3 BCA (2013) and AS4299 (1995).

70. Landscaping

The following shall be detailed upon the Landscape Plan and approved by the PCA prior to the issue of the Construction Certificate:

a) Raised landscape planters are to be provided along the boundary of the ground floor terrace associated to unit G.03. The planters are to have a minimum width of one (1) metre and a minimum depth of 900mm and maximum depth of 1200mm to enable to provision of appropriate screen planting and one (1) medium sized deciduous tree.

b) Paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.

c) The front setback area shall incorporate tree planting which does not conflict with the on site detention system.

71. The kitchen door to south facing balconies of units 2.01 and unit 3.01 on the second and third floor of the building are to be deleted. The 'balcony' spaces are to be converted to non trafficable areas incorporating stones, pebbles or the like. Full height louvres to the edges of the building in these locations are to be deleted. Details are to be illustrated upon Construction Certificate drawings and approved by the PCA prior to the issue of the Construction Certificate.

## **Prior to commencement of works**

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

72. 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.
73. 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.

74. 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.
75. 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.
76. 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.
77. 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.
78. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
79. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
80. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

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

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



81. 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.
82. 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.
83. 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, and
  - ii. prior to pouring any in-situ reinforced concrete building element, and
  - iii. prior to covering the framework for any floor, wall, roof or other building element, 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.

84. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
85. 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.

86. 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.
87. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
88. 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.

89. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

90. 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.
91. 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.
92. 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.

93. 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.

94. 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.
- 95. 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.
  - 96. Removal of the Callistemon street tree to enable construction of the new vehicle crossing is approved, subject to a replacement tree being planted by Council in a suitable location.  
As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.
  - 97. All existing trees located within the site may be removed.
  - 98. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
    - Work Health and Safety Act 2011
    - Work Health and Safety Regulation 2011

- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

### **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.

99. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
100. 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.
101. 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.
102. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
103. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
104. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all

times.

105. 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.
106. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
107. On completion of the building works the applicant shall contact Council's Customer Service Centre on 9562 1666 to arrange planting of the replacement street tree.
108. 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".
109. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
110. The width of the single driveway shall be a maximum of 5.0 metres at the boundary.
111. 1 bollard shall be installed in dedicated shared space for the disable parking space as per AS2890.6:2009.
112. 9 off-street car spaces (including 2 visitor spaces) shall be provided in accordance with the submitted plan. Visitor spaces shall be sealed and linemarked to the satisfaction of Certifying Authority. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
113. 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 occupation of the development.
114. 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.
115. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE

Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

Acoustic recommendations in relation to traffic and plant emissions contained in the Acoustic Report referred to in this consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

116. Prior to issue of an Occupation Certificate, a measurement report from a qualified acoustic consultant shall be submitted, demonstrating compliance with the noise criteria. As a minimum, this report shall provide the L<sub>Amax</sub> and L<sub>Aeq</sub> noise levels of at least ten consecutive trains, measured in the habitable room potentially most affected by train noise. The report shall include the calculated maximum L<sub>Aeq</sub> (1 hour) noise levels for day and night-time periods, taking into account the maximum number of trains per hour and the types of trains in each period.
117. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
118. 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.
119. The air conditioning system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate.
120. 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.
121. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
122. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
123. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.  
Drainage grates shall be provided in front of the basement entry. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.  
A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater

Management shall be provided prior to discharge of stormwater from the site.

124. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
125. 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.
126. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
127. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the mechanical parking system (car stacker system) facility to provide for the maintenance of the parking facility.

## **Roads Act**

128. 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.

129. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a new fully constructed concrete vehicular entrance/s;
  - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iii) removal of redundant paving;
  - iv) smooth transition with new driveways and footpath areas.
130. 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.

131. 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.
132. 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.
133. 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. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. 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.

- e. If Council is the Principal Certifying Authority for the development, a drainage inspection fee shall be paid prior to the issue of the 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.

NB: This fee does not include a confined space entry into the on-site detention tank. Where a confined space entry is required, an additional fee is payable. A confined space entry will be required where:

- a) Information provided in the works-as-executed drawing and engineering certification is inconclusive as to the compliance of the system with the approved plans; and/or
- b) Visual inspection from outside the tank is inconclusive as to the compliance of the system with the approved plans.
- f. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
- i) all of the above conditions of consent must be complied with;
- ii) a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into 2 lots;
- iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
- iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- g. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the 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.
- h. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- i. 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.
- j. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. 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.
-

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

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

Drawings in this set are not for construction. Do not scale from drawings. All dimensions to be checked on site prior to construction. All discrepancies to be brought to the attention of the author. Larger scale drawings and written dimensions to be used for construction. This drawing is copyright and remains the property of the author. Australia Pty Ltd. and must not be retained, copied, reproduced or used in any way without the prior written authority of the author.

Building Elements	Material	Detail
External walls	Concrete + Furring Channel	RL-5 Bulk Insulation
Internal walls within units	Insulation + Gypsum	-
Internal walls within units	Concrete + Gypsum on studs	-
Common wall between units	Concrete	-
Internal walls within units	Insulation + Furring channel + Insulation + Gypsum	RL-5 Bulk Insulation
Units and Fire stairs / lift shafts	Insulation + Gypsum	-
Roof	Plasterboard	RL-5 Bulk Insulation to external suspended floor of unit 1.03
Roof	Concrete	RL-5 Bulk Insulation to external suspended floor of unit 1.03
Windows	Aluminium framed, single glazed door to units except for unit 1.03	U value 1.67 and less and SHGC 0.24 + / - 10%
Windows	Aluminium framed, single glazed door to unit 1.03	U value 1.67 and less and SHGC 0.24 + / - 10%
Windows	Aluminium framed, single glazed door to unit 4.03 (containing lift)	U value 4.70 or less and SHGC 0.09 + / - 10%

*Note: For the above table, the U value and SHGC values are based on the following assumptions: There is no loss of insulation required to be calculated as the U value is insulated (for the ceiling) on the top floor.*



**CMT ARCHITECTS**  
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**ACN:** 161 719 715

Scale	Date	Drawn	Checked
1:100 @ A1	23.09.2014	AH	CT
1:200 @ A3			
Job No.	Drawing No.	Issue	
	<b>DA 4.01</b>	<b>F</b>	
Design File Ref: Arch/Archiv4/Varianta St. Kogorah/DA			
Design Architect: Chrits Tsioulos - Reg. No. 5143			
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Drawings in this set are not for construction.

[illegible]

Site area =	369.50 sqm
Exist. floor area =	250.00 sqm
Exist. FSR =	0.68:1
Prop. floor area =	464.75 sqm
Prop. FSR =	1.25:1



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**ACN:** 161 791 715

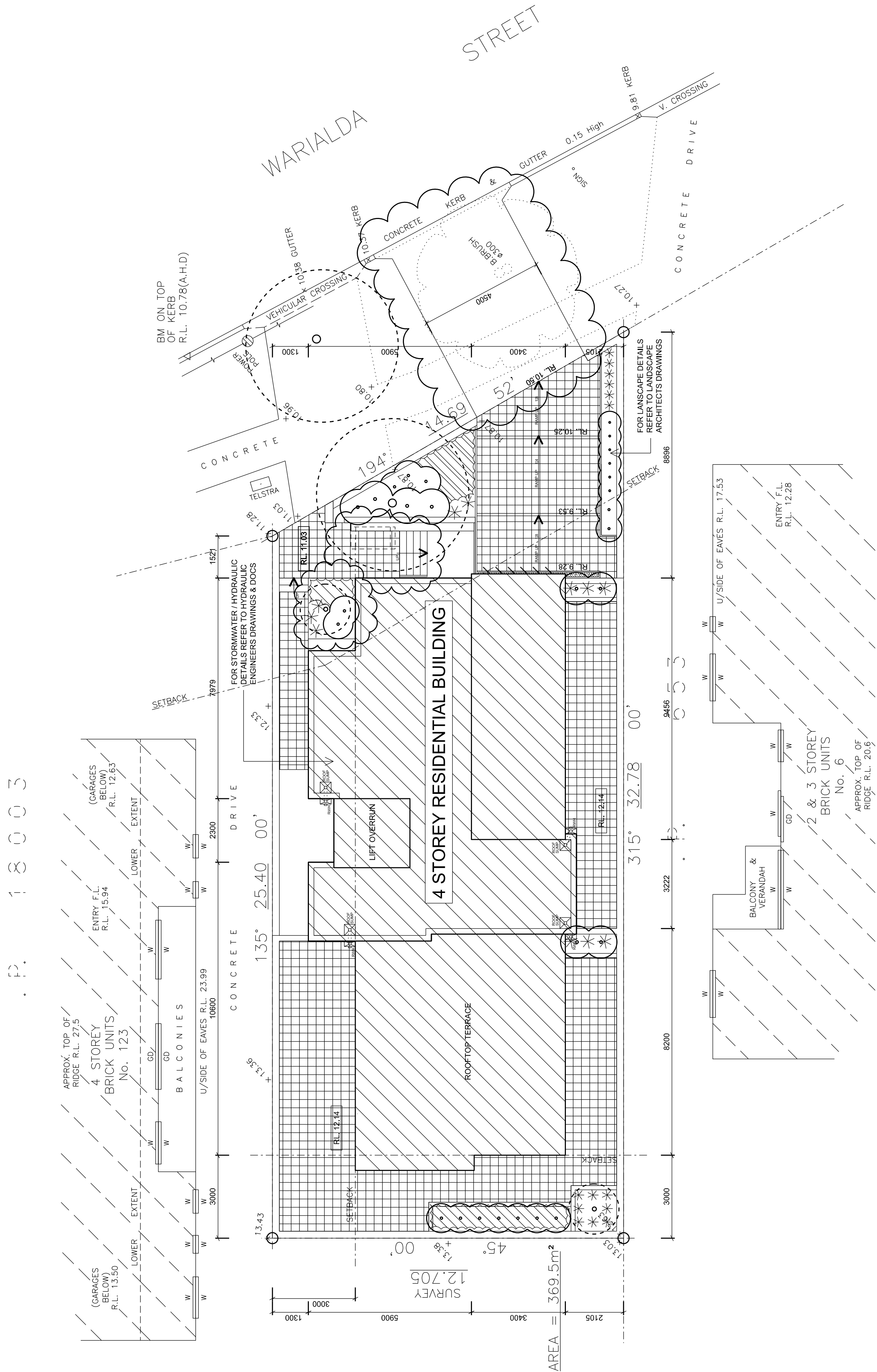
# DA SUBMISSION

Project  
Residential Development  
No. 4 Warialda St,  
Kogarah NSW 2217

Scale: 1:100 @ A1 1:200 @ A3	Date 23.09.2014	Drawn AH	Checked CT
Job No.	Drawing No.  DA 2.00		
Issue E			

Design File Ref: Arch/Active/4 Wariatala St, Kogarah/DA

Design Architect: Chris Tsioulos - Reg. No. 5143  
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Larger scale drawings and written dimensions are available on request from the author.

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Issue	Date	Description	By
E	13.11.15	Amendments to Council & DRP Comments	SS
D	22.05.15	Finals for DA Submission	SS
C	28.01.15	Revised	KG
B	14.10.14	Revised	AH
A	23.09.14	Preliminary	AH

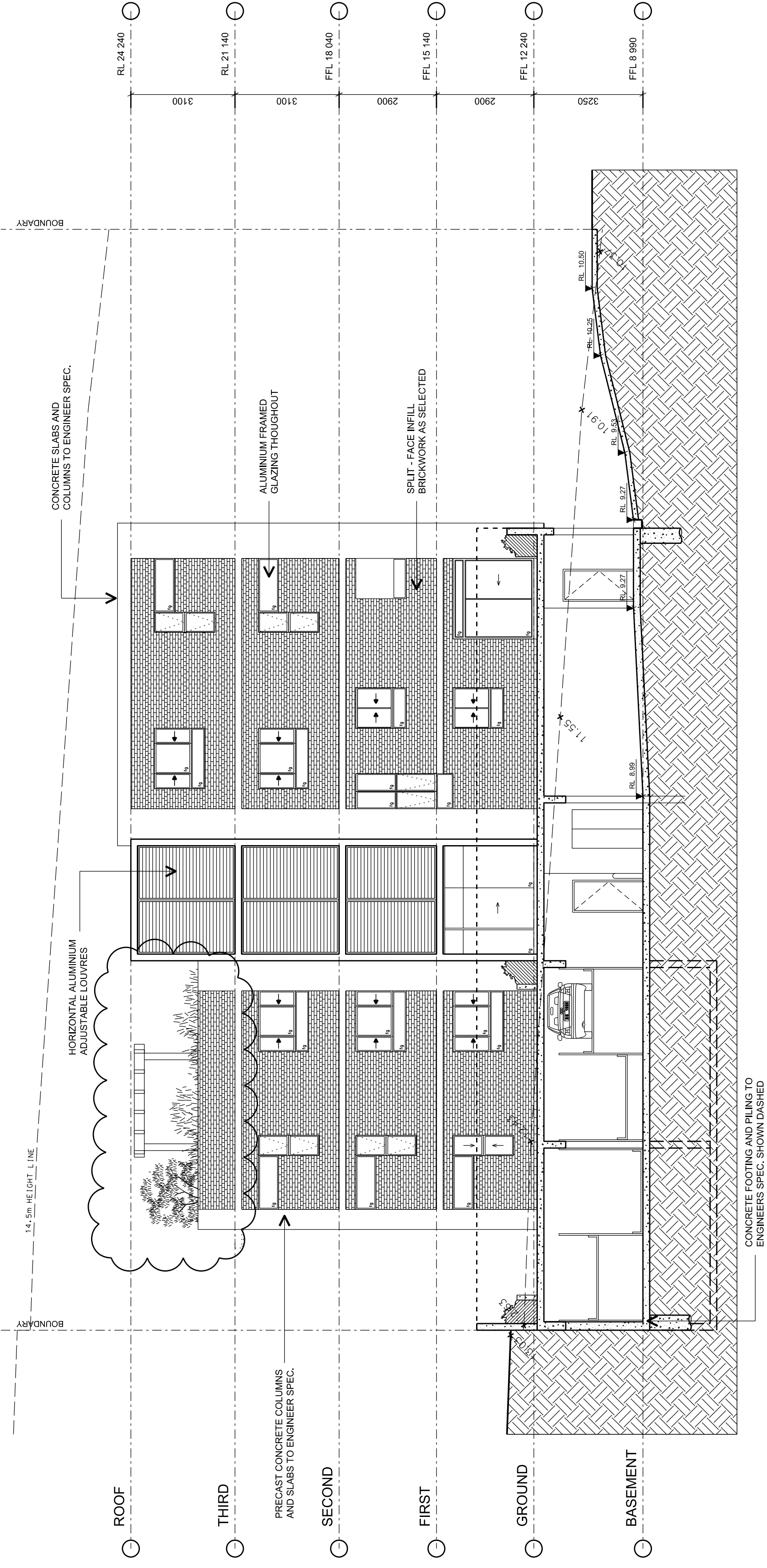


Project  
Residential Development  
No. 4 Warialda St,  
Kogarah NSW 2217

Scale 1:100 @ A1 1:200 @ A3	Date 23.09.2014	Drawn AH	Checked CT
Job No.	Drawing No.	DA 4.00	
Design File Ref: Arch/Active/4 Warialda St, Kogarah/DA			

## South Elevation

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## Council Meeting

9/11/2016

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Item No	9.9
Property	<b>1/20-22 Princes Highway Wolli Creek</b>
Proposal	Initial use of Shop 1 as a gymnasium operating 24 hours seven days a week including internal fitout and associated signage
Cost of Development	\$200,000.00
Report by	CPS Planning Consultancy
Application No	(R) DA-2016/119

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## Officer Recommendation

- 1 That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent shall not to operate until the applicant submits the following detailed documentation and receives approval from Council for the following:

- a) Land Owners Consent. The submission of documentary evidence from the Owners Corporation SP83578 that vehicular and lift/pedestrian access to all car parking areas depicted on the revised Site Plan and Upper Basement Plan to be submitted to Council is permitted 24 hours a day, 7 days per week for both staff and members of the Anytime Fitness gymnasium.
- b) A revised Acoustic Report prepared by a suitably qualified person is to be submitted to Council addressing the following matters:
  - i. Detailing that the noise and vibration will be inaudible in all the above residential apartments for all Day, Evening and Night periods.
  - ii. Testing is to be carried out within all units positioned directly above the gymnasium.
  - iii. Data is to be provided of a similar gym scenario which has been in operation 24/7 (with residential apartments directly above gym).
  - iv. Details of any stereo/background music and any group classes are to be provided.
  - v. A Plan of Management, incorporating misuse of equipment e.g. such as slapping of weights or quick release weights by customers.
  - vi. Testing is to be undertaken of gym equipment associated with the use.eg – leg press, cable cross, pin loaded chest press, and shoulder press.
  - vii. Detail is to be provided of any pin loaded equipment or gym equipment with extra mechanisms to allow a slow release of weights. Or the provision of any further protective rubber/plastic coated weights coverings for all weight equipment.

- 2 That the objectors be advised of Council's decision.



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## Attachments

- 1 Planning Report
  - 2 Draft Notice of Determination
  - 3 South Elevation
  - 4 West Elevation
- 

## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/119
<b>Date of Receipt:</b>	2 October 2015
<b>Property:</b>	1 / 20-22 Princes Highway, Wolli Creek NSW 2205 Shop 1 in Strata Plan 82578
<b>Owner:</b>	Mr Kim Kai Fong
<b>Applicant:</b>	Anytime Fitness
<b>Proposal:</b>	Initial use of Shop 1 as a gymnasium operating 24 hours seven days a week including internal fit out and associated signage.
<b>Recommendation:</b>	Deferred Commencement
<b>No. of Submissions:</b>	Three (3), two (2) of which comprised petitions with eight (8) and fourteen (14) signatures respectively.
<b>Author:</b>	Ben Tesoriero – Creative Planning Solutions Pty Limited
<b>Date of Report:</b>	17 October 2016

### Key Issues

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This report considers a Development Application (DA) for works involving the initial use of an existing premises as an 'Anytime Fitness' gymnasium operating 24 hours, seven (7) days a week, including internal fit out and associated signage.

Having regard to the relevant planning requirements and the heads of consideration in Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act), the following has been determined:

- The applicant has failed to provide the appropriate owner's consent for the DA, as the owner's consent submitted by the body corporate for Strata Plan 83578 is conditional on access to the basement car park being restricted for certain times of the day which is inconsistent with the gymnasium's proposed 24-hour, 7 days per week operating hours. Accordingly, pursuant to the provisions of Schedule 1, Part 1 of the Regulation, a deferred commencement condition has been included to ensure appropriate owners consent is presented to Council.
- When assessed against the relevant environmental planning instruments pertaining to the subject site, including *Rockdale Local Environmental Plan 2011*, the proposal satisfactorily complies with the applicable objectives and development standards;

- When assessed against the relevant provisions of the *Rockdale Development Control Plan 2011*, the proposal fails to comply with the objectives and controls relating to traffic and parking, in particular the objective to “*provide sufficient, convenient and safe on-site car parking*”. The proposal also fails to meet the objectives and controls relating to Noise Impacts contained in Part 4.4.6 of RDCP 2011, in particular Control 3 which requires that “*non-residential development is not to adversely affect the amenity of adjacent residential development as a result of noise, hours of operation and/or service deliveries*”.

The issues with the traffic and parking arrangements which have resulted in the proposal being unable to achieve compliance with the objectives of RDCP 2011 relates to the following:

- Restricted access to the basement car parking area by the body corporate means that a reliance upon on-street parking is currently required until which time the applicant is successful in their legal proceedings against the body corporate to permit unrestricted basement access for car parking purposes.
- A bollard has not been provided in the shared zone adjacent to Parking Space No. 4 at Upper Level Basement Plan and the site inspection revealed that vehicles are parking in the shared zone area preventing its use by disabled persons.
- The applicant's submitted traffic and parking report addendum by their consultant engineer claims all eight (8) parking spaces proposed within the building comply with the Australian Standard AS2890.1 and are acceptable, however evidence collected from the site inspection and as shown on the strata subdivision plan would appear to indicate this is not correct. Specifically, this includes the two (2) parking spaces at ground floor level which fail to meet the minimum length requirements of the Australian Standard. The resultant impact of this is that cars in these spaces can overhang the driveway and entry into basement parking area. This overhang is considered to result in potential vehicle conflicts.

Based on the above, and following a meeting with Council and the applicant, it was Council's recommendation that the access issue to the basement car parking area be dealt with via a deferred commencement condition. For this reason, the proposal is recommended for a Deferred Commencement consent.

The remaining two traffic and parking issues identified above can be adequately resolved by way of conditions of consent once the consent becomes operable. Furthermore, the issue associated with the length of the two car parking spaces located at ground floor level has been referred to Council's Compliance Team as this non-compliance arose through modifications approved by a Principal Certifying Authority at Construction Certificate stage of the development.

The issues associated with potential noise impacts to residents located within the building, and particularly the units located directly above the facility, can be adequately resolved by way of a deferred commencement condition.

It is noted that unless the requested additional information outlined within the deferred commencement conditions can be supplied to Council, the proposal is considered to result in an unacceptable impact on the built environment by virtue of its reliance upon on-street parking, inability to use the accessible parking bay, and potential acoustic impacts to neighbouring residents in the units located above the facility.

Again, unless the applicant can furnish Council with the requested additional information, it is the opinion of the assessing officer that the proposal is considered unsuitable for the subject site.

Based on the above, the proposal is capable of being within the public interest once the requested additional information is provided to Council as outlined within the deferred commencement conditions, as well as information being provided by way of condition of consent prior to issue of the Construction Certificate and/or Occupation Certificate.

## Recommendation

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1. That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent shall not to operate until the applicant submits the following detailed documentation and receives approval from Council for the following:

- a. *Land Owners Consent. The submission of documentary evidence from the Owners Corporation SP83578 that vehicular and lift/pedestrian access to all car parking areas on the revised Site Plan and Upper Basement Plan to be submitted to Council is permitted 24 hours a day, 7 days per week for both staff and members of the Anytime Fitness gymnasium.*
- b. *A revised Acoustic Report prepared by a suitably qualified person is to be submitted to Council addressing the following matters:*
  - i. *Detailing that the noise and vibration will be inaudible in all the above residential apartments for all Day, Evening and Night periods.*
  - ii. *Testing is to be carried out within all units positioned directly above the gymnasium.*
  - iii. *Data is to be provided of a similar gym scenario which has been in operation 24/7 (with residential apartments directly above gym).*
  - iv. *Details of any stereo/background music and any group classes are to be provided.*
  - v. *A Plan of Management, incorporating misuse of equipment e.g. such as slapping of weights or quick release weights by customers.*
  - vi. *Testing is to be undertaken of gym equipment associated with the use.eg – leg press, cable cross, pin loaded chest press, and shoulder press.*
  - vii. *Detail is to be provided of any pin loaded equipment or gym equipment with extra mechanisms to allow a slow release of weights. Or the provision of any further protective rubber/plastic coated weights coverings for all weight equipment.*

2. That the objectors be advised of Council's decision.

## Background

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### History

The subject DA was lodged with Council on 2 October 2015. Notification of the DA was undertaken in accordance with the provisions of the *Rockdale Development Control Plan 2011* (DCP2011) from 9 - 29 October 2015. Three (3) submissions, including two petitions with eight (8) and fourteen (14) signatures respectively were received.

A preliminary assessment of the proposal identified that inadequate floor plans had been submitted. Accordingly, an email request for a floor plan (in scale) showing the location of the machines, rooms and facilities for the gymnasium was issued to the applicant on 16 October 2016. The applicant was also queried on whether the proposal included outside seating, given this appeared to be shown on the plans. Further, the applicant was also made aware of potential car parking issues with the proposal.

During the initial stages of Council's assessment, concern was also raised that the DA did not have appropriate owners consent from the building's Body Corporate.

The applicant submitted a letter dated 16 November 2015 to Council from the building's strata managing agent for SP83578. This letter had terms and conditions which strictly prohibits access from Anytime Fitness members and staff *'to any part of the residential section of the complex'*.

An additional information letter was sent to the applicant on 8 January 2016 requesting further clarification on matters relating to signage, car parking conflicts, lack of bicycle parking, access, acoustics, floor plans and site facilities.

In Council's letter dated 8 January 2016, it was noted the DA requires Anytime Members and staff to enter the basement car park which is considered part of the residential section of the complex. As such, Council requested that the applicant obtain an amended letter from the strata managing agent for the required access and further requested that detail be provided on how Anytime Fitness members and staff will be able to access the basement parking area. Further it was outlined that owner's consent must be provided stating the owners are aware that the proposal seeks the use of the upper and/or lower level of the basement car parking during and after office hours.

A letter from the strata managing agent dated 18 January 2016 was subsequently provided to Council. This letter indicated that approval for the Anytime Fitness fit out was granted by the executive committee at its meeting held on 14 November 2015, subject to a number of terms and conditions. In relation the access, the condition was amended to the following:

*The staffs, customers and guests of Anytime Fitness are strictly prohibited from access to any part of the residential section of the complex, with exception that the staffs of the gym can access only to the basement where their parking spots are allocated.*

In an email to the applicant on 6 June 2016, Council advised that issues relating to access had not been satisfactorily resolved, as although staff were now identified as being permitted within the basement parking area, gymnasium members were not. Again, this was inconsistent with the DA proposal which relies upon such parking spaces for use by its members.

In relation to the other matters outlined above, issues relating to equitable access, architectural plans, signage, car parking conflicts, access and movement, bicycle parking and site facilities remained outstanding. This was advised to the applicant in the email of 6 June 2016.

It was further conveyed to the applicant, that if the outstanding strata matters were unable to be resolved, they may need to seek an alternative parking proposal. The applicant was also advised they may need to engage the services of a traffic and parking engineer to justify their development.

On 13 July 2016 the applicant submitted amended architectural plans. The following issues remained outstanding:



- a. The site plan indicates signage is to be located on the Innesdale Road (southern) frontage. No southern elevation drawings have been provided to determine compliance with *State Environmental Planning Policy No 64— Advertising and Signage*;
- b. The drawings still nominate the two car parking spaces on the ground floor adjacent to the dentist as being allocated to the proposed gymnasium. No information has been provided by the applicant in relation to the identified conflict Council raised in their additional information letter dated 8 January 2016;
- c. Details of site facilities including hot water tanks, air-conditioning units, and other utilities/services are not shown on the plans as was requested on 8 January 2016 by Council;
- d. Staff only are permitted to use the lift and stairs accessing the basement car park. This is inconsistent with the permissions outlined within the body corporate letter, and also presents issues relating to compliance with Council's DCP2011 parking controls – refer to further details under DCP2011 assessment later in this report.
- e. A formal response to the submissions received by Council was not provided by the applicant.

On 26 July 2016 a third letter was received from the strata managing agent dated 22 July 2016. This letter further amended the condition relating to parking access by including the following terms and conditions:

- *The staff and/or members of Anytime Fitness are prohibited from occupying any resident's parking space, and also any of the 'visitor' parking spaces at all times.*
- *The staff and/or members of Anytime Fitness are prohibited from accessing the basement after hours. This includes the hours before 9am and after 7:30pm on any day.*
- *No more than 5 staff and/or members are allowed access into the basement at any one time. As the allocation is only 5 car spaces, this is to be honoured and exercised without exceptions.*
- *The Owners Corporation demand to have fines resulted from the breach of this protocol by Anytime Fitness staff and/or members, transferred into the accounts of the Owners Corporation.*

The above approval from the Strata body stipulates that Anytime Fitness staff and members are prohibited from accessing basement parking before 9am and after 7:30pm on any day.

The Statement of Environmental Effects submitted with the DA stated:

*“Demand for the Anytime Fitness premises is expected to have two notable peaks. The first in the morning between the hours of 5:30am and 8:30am and the second is an afternoon peak between 5:30pm and 8:30pm.”*

In this regard, the parking restrictions imposed by the Strata body were identified as not satisfactorily addressing the traffic impact of the proposal during peak periods. This is because the members will be locked out of the basement parking during the morning peak period, and also part of the evening peak period.

It is also noted that the Strata body stipulates that a maximum of five (5) parking spaces in the basement are to be allowed for, and that no more than five (5) staff and/or members are allowed access to the basement at any one time. While the applicant has proclaimed parking availability in the basement to be for seven (7) vehicles (as shown on the security plans), given two of these spaces are in a tandem parking arrangement, these spaces cannot be counted. This is because tandem car parking spaces are not a viable parking option given the impracticalities of how these may function in a commercial arrangement. For example, how would one manage

to get their vehicle out of a tandem space if they are parked in by another vehicle?

These comments were relayed to the applicant on 28 July 2016, and it was suggested the applicant consider preparation of a detailed plan of management on how a tandem parking arrangement would work in practice. It was also suggested the applicant seek to have basement access extended by the Strata body to cover peak periods at a minimum, and also include a traffic and parking report prepared by a suitably qualified traffic engineer demonstrating the adequacy of parking for staff and members of the gym throughout all times of the day/week.

On 29 August 2016, the applicant submitted a traffic and parking report prepared by TTM Consulting. This report and the proposal's parking arrangements are assessed and covered in detail under the DCP2011 section of this report.

On 6 September 2016 a previous version of this assessment report was issued to Council recommending refusal based on insufficient information, inadequate car parking provision, non-compliance with car parking requirements, unacceptable impact on the built environment, the proposal not being in the public interest and considered to be unsuitable for the subject site.

Following receivership of this report, Council subsequently advised the applicant of the report's recommendation, and agreed to hold a meeting with the applicant to hear how new evidence from the applicant may assist in overturning the recommendation. This meeting was held with the applicant on 15 September 2016. In this meeting Council heard the following from the applicant:

- The applicant had subsequently sought independent legal advice regarding access to the basement parking level 24 hours a day, 7 days per week, in line the proposed gymnasiums opening hours. Council was advised that the applicant had a legal right to utilise these spaces without the restrictions that had been imposed by the strata body. The applicant advised it was their intention to commence proceedings with the owner's corporation regarding the access restriction, and hence requested a deferred commencement condition for the DA pending the successful outcome of the proceedings against the owner's corporation. Council officer's advised upon receipt of such a letter, a deferred commencement condition would be considered;
- The applicant would undertake amendments to the submitted plans to ensure access was available through the building lobby and the lift/stairs to the basement car parking area for not only staff, but gymnasium members also;
- An addendum to the traffic and parking report would be prepared by the applicant's consultant, TTM, addressing the concerns Council held in relation to the originally submitted report. This would include a truer reflection of the existing parking supply and demand within the local area, the likely future parking supply and demand given the area is in transition, along with details surrounding the 24-hour, 7 days per week access to the basement car park, and how this may better accommodate the envisaged parking demand generated by the gymnasium.
- The applicant would provide to Council drawings depicting the southern elevation of the building and the proposed signage on this elevation.

On 20 September 2016 the applicant submitted the following for Council's consideration in determining the subject DA:

- Letter from Ray Wehbe & Co Solicitors dated 16 September 2016 indicating it "*appears that Owners Corporation SP83578 have attempted to unlawfully restrict use and access to the parking facility located at the abovementioned property.*" The letter also outlines the applicant's solicitor has instructions to commence proceedings to have the

restriction removed.

- Revised Floor Plan of the gymnasium indicating both staff and members have permission to access the lobby, lift and stair area of the building to enable access to the basement car park;
- An addendum to the traffic and parking report, prepared by TTM, commenting on a revised car park layout, existing parking supply and demand, long term parking supply and demand,
- Revised Site Plan indicating new car parking configurations; and
- South Elevation drawing of the proposal demonstrating the intended location of signage associated with the gymnasium;

The assessment report contained herein is based on the above information submitted to date.

## Proposal

Council is in receipt of Development Application DA-2016/119 at Shop 1, 20-22 Princes Highway, Wolli Creek which seeks consent for the initial use of an existing premises as a gymnasium operating 24 hours, seven (7) days a week, including internal fit out and associated signage.

Details of the proposed initial use of Shop 1 for the Anytime Fitness gymnasium are as follows:

- Open 24 hours a day, 7 days a week, including all bank holidays.
- Maximum three (3) staff on site at any one time (one manager and two trainer/assistants). Staffed hours are from 10am to 7pm Monday to Friday and 10am to 2pm Saturday, unstaffed Sunday.
- Expected usage of approx. 12-18 persons during peak hours, based on usage statistics for other Anytime Fitness gymnasiums in Local Government Areas with similar profiles.
- Anytime Fitness signage is proposed on the western elevation fronting Princes Highway and southern elevation fronting Innesdale Road.

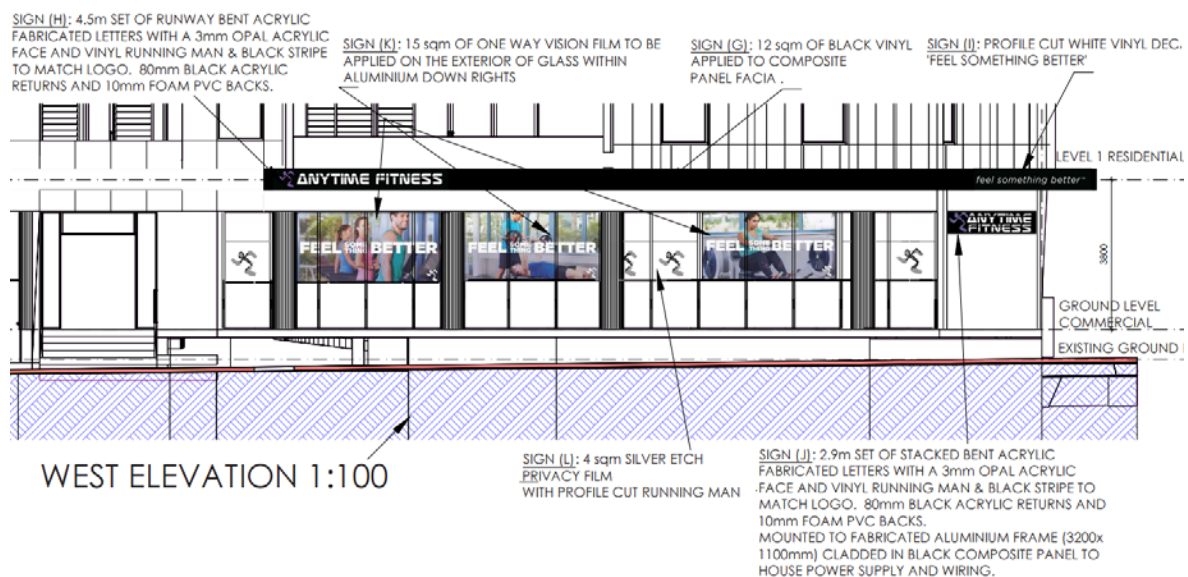


Figure 1 – Western elevation of Shop 1 fronting Princes Highway. Proposed shop front and awning signage.



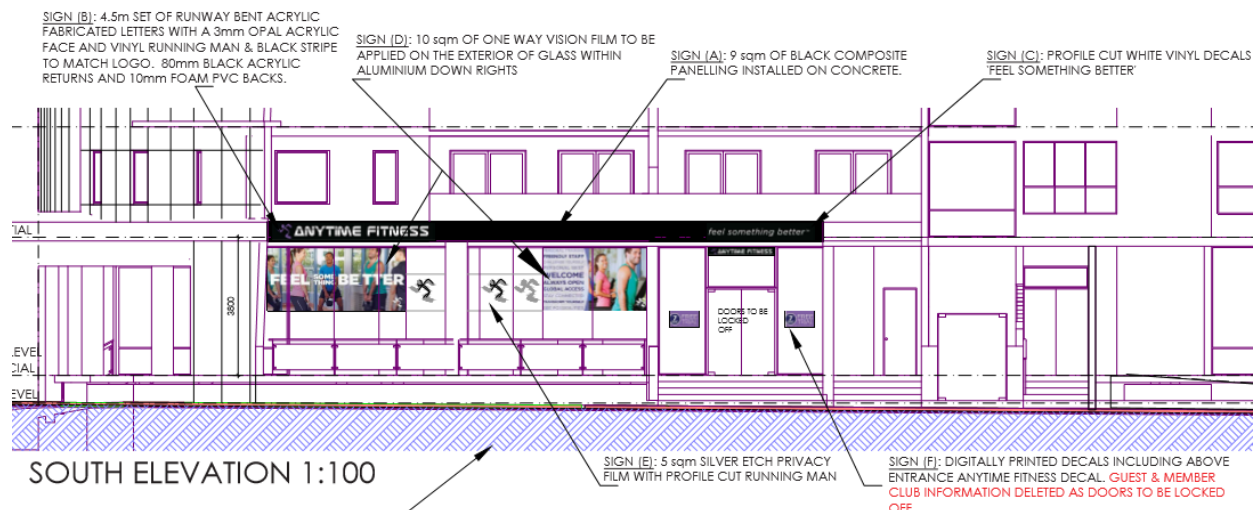


Figure 2 – Southern elevation of Shop 1 fronting Innesdale Road. Proposed shop front and awning signage.

Aside from the proposed use of the premises as an Anytime Fitness gymnasium, the proposal is also to include a number of minor internal building works to facilitate the new use of the premises as a gymnasium. These minor works include the following:

- An internal fit out including the installation of unisex amenity suites, including one being suitable for disability access,
- The construction of various stud walls to improve the layout of the premises for the proposed use as a gymnasium,
- Designated free weights area, cardio area, stretching areas, two offices, members and guest lobby.
- Installation of security system; and
- Modification of the entry door into Shop 1 to avoid conflicts with the existing entry arrangements of the building from the Princes Highway frontage.

## Site location and context

The subject site is located at 20-22 Princes Highway, Wolli Creek, and legally known as Shop 1 in Strata Plan 83578. The development site is located on the north-eastern corner of the Princes Highway, West Botany Street and Innesdale Road, however it is noted that Innesdale Road is blocked for through traffic. Being on the north-eastern corner, the site predominantly exhibits a south-west orientation, with the long axis of Shop 1 presenting to the Princes Highway.

The subject site includes a recently constructed multi-storey building that has been approved as a mixed use premises with ground floor commercial premises and residential accommodation above. An image of the recently constructed building is contained in *Figure 3* below. Shop 1 on the ground floor of the building comprises a total gross floor area of 400m<sup>2</sup>.

Adjoining Shop 1 is another premises used as a dental clinic. Above Shop 1 is residential accommodation in the form of flats.

Adjoining to the north of the subject site is another mixed use building currently under construction at the corner of the Princes Highway and Gertrude Street. This building is of a comparable size to the building in which Shop 1 is located. Opposite the subject site on the western side of the Princes Highway is a large motor vehicle dealership. Opposite the subject site on the southern side of Innesdale Road is a two-storey stop top housing development and a row of single dwelling houses.



*Figure 4 – Subject site on the corner of the Princes Highway and Innesdale Road. On the ground floor of the building is Shop 1.*

To the east of the subject site on the opposite side of the rear land between Gertrude Street and Innesdale Road is a development site currently under construction for a residential flat building.



*Figure 5 – Subject site on the corner of the Princes Highway and Innesdale Road. On the ground floor of the building is Shop 1.*

## Referrals

The subject DA was reviewed by Councils Development Engineer and Environmental Health Officer and the following comments are provided.

*Environmental Health Officer*

The application was accompanied by a Noise and Vibration Impact Assessment prepared by SLR Global Environmental Solutions dated 22/02/2016. The report details noise and vibration measurements undertaken on Wednesday 20 January 2016 within both the proposed gymnasium and unit 4 which is centrally positioned above the cardio / weights area of the proposed use.

The report concludes that mitigation measures are required and should be implemented prior to the operation of the gymnasium in order to minimise the risk of adversely affecting adjacent tenants and subsequently minimise the potential for complaints.

Council's EHO considered the submitted Noise and Vibration Impact Assessment and was of the view that the use should not be approved as a 24 hour operation for the following reasons:

- a. The acoustic report makes no reference that the noise and vibration will be inaudible in all the above residential apartments for all Day, Evening and Night periods.*
- b. There was no testing carried out in the free weights area and no testing was carried out in all apartments directly above the gym (all areas).*
- c. No data has been provided of previous scenario of a similar gym which has been in operation 24/7 (with residential apartments directly above gym).*
- d. Stereo/background music and any group classes are also potential sources of noise and vibration impacts to residential units above the proposed 24/7 gym.*
- e. There is no mention of equipment being used in an inappropriately manner or slapping of weights or quick release weights by customers.*
- f. No testing of gym equipment (examples – leg press, cable cross, pin loaded chest press, shoulder press) any other gym equipment associated with the proposed gym area.*
- g. There is no mention of pin loaded equipment or gym equipment provided with extra mechanism to allow a slow release of weights. Or further protective rubber/plastic coated weights coverings for all weight equipment.*

Given the above concerns raised by Council's EHO, a deferred commencement condition has been imposed requiring the submission of a revised acoustic report addressing the above issues to Council's satisfaction prior to the activation of any consent.

Furthermore the proposed 24 hour operation is recommended for a trial period of 12 months, in order to ascertain whether the proposed hours have any negative acoustic or amenity impacts upon residential neighbours.

Prior to the expiry date of this trial period a S96 application is required to be submitted to and approved by Council in order to enable the applicant to continue 24 hour operation. In the event that a S96 is not submitted to and approved by Council within 12 months of the date of determination the hours of operation of the use shall be restricted to 6am – 10pm Monday to Saturday and 7am – 9pm on Sundays, with the use to close on public holidays.

Such an application shall include details of any incidents and/or complaints received during the trial period. Council's consideration of the proposed continuation of the use permitted by the trial period will be based on, amongst other things, the performance of the operator in relation to compliance with development consent conditions and any substantiated complaints received.

### *Development Engineer*

Councils Engineer reviewed the proposal and concurs with the consulting planner's assessment as detailed further within this report. Accordingly, certain conditions of consent are imposed in addition to the deferred commencement conditions, which ensure that car spaces proposed for the use comply with relevant Australian Standards, that ground level car spaces are reserved for small cars given their dimensions and that a positive covenant to this effect be registered on title, that vehicles enter and exit the site in a forward direction and that a plan of management for the use of the on-site car spaces is provided to Council prior to the occupation of the premises.

### *Building Surveyor*

Council's Building Surveyor has assessed the proposal and provided recommended conditions to ensure that the proposal is satisfactory with regards to fire safety, access and related BCA matters.

## **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:

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

The following are the relevant matters from Council's LEP2011 that need to be taken into consideration.

CLAUSE	REQUIREMENT	PROPOSED	COMPLIES
CI 4.3 – Height of Buildings	Max height = 17.5m	No change to previously approved building height.	Yes
CI 4.4 – Floor Space Ratio	Max FSR = 2.2:1	No change to previously approved building FSR.	Yes
CI 6.1 Acid Sulfate Soils	Class 3 Acid Sulfate Soils Management Plan required if excavation is sought	No excavation is proposed.	Yes
CI 6.4 Airspace Operations	Site impacted upon by airspace operations.	No change to previously approved building height.	Yes
CI 6.7 Stormwater	Council must not grant consent until considerations have been made for OSD, mains water supply etc.	No change to the existing stormwater system on site.	Yes

CLAUSE	REQUIREMENT	PROPOSED	COMPLIES
CI 6.6 Flood Planning	Land shown as 'Flood Planning Area' must demonstrate that the development is compatible with (a)-(e) of subclause (3).	Site is within a Flood Planning Area. Existing ground floor level and associated parking areas are constructed above the minimum floor levels set by Council.	Yes
CI 6.12 Essential Services	Access to services such as: <ul style="list-style-type: none"> <li>- Water</li> <li>- Electricity</li> <li>- Sewerage disposal</li> <li>- Stormwater drainage</li> <li>- Road access</li> </ul>	The subject site includes development that currently has access to all the essential services identified in clause 6.12.	Yes

### CI 2.1 Land Use Zone and Permissibility

The subject site is zoned B4 – Mixed Use. The proposal seeks to consent for the internal fit-out and use of an existing premises for the purposes of a gymnasium, otherwise defined under LEP2011 as 'recreation facilities (indoor)'.

Within the B4 zoning, 'recreational facilities (indoor)' are permitted with consent. The proposed development is further considered to satisfy the objectives of the B4 zone as it will provide a mixture of compatible land uses in a suitable location.

*Note: While the specific land use being proposed is considered compatible, the proposal's inability to comply the relevant parking controls and objectives under DCP2011 has determined the development is unsuitable for the site unless the additional information outlined with the recommended deferred commencement conditions can be furnished to Council's satisfaction. Otherwise, it is the opinion of the consultant assessing officer the proposal will result in unacceptable impacts on the built environment due to its reliance on on-street parking, potential for impacts on disabled parking and potential noise impacts to residents – refer to the DCP2011 assessment below.*

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

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP64) aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

A full assessment against the aims and objectives of SEPP 64, along with the assessment criteria under Schedule 1 of SEPP 64 is contained in the attached compliance checklist. However for the purposes of this report it is noted the proposal has been assessed as satisfactory when having regard to the provisions of SEPP 64.

This is generally because the signage associated with the development is modest, particularly given the context of the Princes Highway road corridor and the proliferation of business signs that already exist. Furthermore, the signage for the proposal is compatible with the existing building, and is confined to the awnings and window glazing of the building where signage would have been anticipated when Council approved the building.



A small illuminated sign is proposed, however this is located under the building awning and on the window of the premises. This will effectively limit light spill. In any event, it is noted the building is located in relatively light surrounds, with adjacent street lighting from Princes Highway and West Botany Street considered to be greater than that which may emanate from the small business identification sign proposed.

As part of the additional information submitted by the applicant on 20 September 2016, details of the proposed signage on the southern elevation of the building is now provided. On this elevation, signage is essentially limited to one-way film on select glass window panels, digitally printed decals on windows, and composite panelling around the building awning. This is consistent with the presentation of the business to Princes Highway, and compliant with the relevant provisions of SEPP64. Again, reference is made to the compliance checklist against SEPP 64 which is attached to this assessment report for further details.

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

No draft environmental planning instruments have been identified as being applicable to the proposed modification.

### **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**

As covered by Section 79C(3A)(b) of the *Environmental Planning and Assessment Act 1979* (the Act), if a development control plan contains provisions that relate to the development that is the subject of a DA, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

With the above in mind, the following outlines those aspects of the proposal which have been assessed as non-compliant with the applicable development controls under DCP2011, and been determined unacceptable as they are unable to achieve the objects of those standards.

#### ***Car Parking***

For recreational facilities (indoor), such as the Anytime Fitness gymnasium, the provisions of DCP2011 prescribe a vehicular a parking rate of:

- 1 car space per 40m<sup>2</sup> of gross floor area (GFA).
- 1 bicycle space per 200m<sup>2</sup> of GFA with 15% to be accessible by visitors; and
- 1 motorcycle space per 20 car spaces.

The proposed gymnasium is to include a GFA of 400m<sup>2</sup>. On this basis, the parking requirements are as follows:

- 10 car parking spaces;
- 2 bicycle parking spaces;
- 1 motorcycle parking space (rounded up from 0.5 spaces as per DCP2011 provisions)

The applicant's latest plans submitted on 20 September 2016 claim to provide a total of eight (8) car parking spaces. Six (6) of these spaces are located within the building's upper basement level, and two (2) of these spaces are located at ground level adjacent to the building's vehicular entrance off Robert Lane.

Importantly, the Strata body for the building has conditioned land owners consent for the DA on the premise that the basement car parking only be made available between the hours of 9am and 7.30pm for members and staff. For all other times of the day, members and staff are to be prohibited from using the basement parking spaces.

Given the above, it is evident the proposal fails to comply with the parking provisions of DCP2011 for the following reasons:

- The proposed development includes only eight (8) car spaces, being a deficiency of two (2) spaces on site. Further the proposed car spaces are only available between 9am and 7.30pm, despite the proposal being for a 24 hour, 7 days per week gymnasium;
- The proposal includes no motorcycle parking provision.

Concerns relating to the parking arrangements on site were first raised with the applicant on 16 October 2015, and then subsequently in various requests for additional information throughout 2016.

On 29 August 2016, the applicant submitted to Council a Traffic and Parking Assessment report prepared by TTM Consulting. An assessment of this report revealed the following issues:

- The on-site survey undertaken by TTM on 11 August 2016 to identify the existing state of traffic and parking in the road network within the vicinity of the subject site could not be relied upon. The area surrounding the subject site is considered to be in transition from a low to high density and mixed use area. This is evidenced by land to the north of the site being zoned B4 Mixed Use with permissible building heights up to 48m, and land to the east being zoned R4 High Density Residential with permissible building heights up to 29.5m.

Evidence of this transition is apparent from the multitude of construction sites surrounding the property, and recent development approvals from Council on land yet to be developed.

Accordingly, any on-site survey undertaken at present would be unreflective of the likely future traffic and parking environment. This is because once the multitude of dwelling and business premises become occupied in the near future, demand for on-street parking in the area will significantly increase, and also transform in terms of the times of day when demand is greatest.

Confirmation that the TTM on-site survey was unrealistic is provided within the Parking Demand vs. Supply table held in Figure 4-1 of the TTM report. In this figure, we are advised by TTM that the least number of available parking spaces is around 7am in the morning, with available parking spaces peaking from 3pm onwards and into the evening. This means the greatest parking demand is early in the morning, and the least demand for parking is after business hours.

Given the significant number of construction sites within the vicinity of the subject site, this demand correlates with the times of day when construction workers and tradesmen are arriving on the work-sites (i.e. 7am) and then when they are leaving the work-sites (i.e. from 3pm onwards).

Once the multitude of residential dwellings are occupied, it is expected that available on-street parking from 3pm onwards will significantly reduce as residents return home from work. This would therefore coincide with the afternoon peak period for the Anytime Fitness gymnasium and raise concerns over the proposal's adequacy to cater for the anticipated parking demand.

- The TTM report was also inconsistent with the SEE prepared by Anytime Fitness when detailing the peak periods for which the gymnasium is in use. The SEE stipulates that the peak morning period is between 5:30am and 8:30am, and the evening peak between 5:30pm and 8:30pm. The TTM report however indicates that the peak morning period is 7:00am to 9:00am, and the evening peak between 5:30pm and 7:30pm.

Despite this discrepancy, it is noted that the parking restrictions imposed by the Strata body will not satisfactorily address the traffic impact of the proposal during the morning peak period – whether adopting the SEE or TTM morning peak times. Members will effectively be locked out of the basement during these times.

If the TTM evening peak period was to be relied upon, then access to basement parking would be available within the permitted hours by the Strata body, however if the evening peak period outlined by Anytime Fitness is to be relied upon, then access to basement parking for part of this time would not be possible either.

- The TMM report stipulated that the morning peak occurs between 7:00am and 9:00am, however the parking demand versus supply analysis in Section 4.4 of the report indicated the morning peak period would commence at around 5:00am, thus coinciding with that period which members are prohibited from utilising basement parking.
- The parking demand versus supply analysis contained within the TTM report outlines that more than two (2) car parking spaces are available on-site between 8:15am and 9:00am, and then again after 7:30pm. However as per the Strata body owners consent letter, no access to basement parking is permitted during these times.
- The TTM report made reference to the subject site's proximity to public transport. However it is noted the site is located 700m walking distance from Wolli Creek train station, which is separated by the large divide of the Princes Highway. While 700m is generally regarded in planning terms as a suitable walking distance to a station, it is noted that between the subject site and Wolli Creek train station is already a similar gymnasium. The distance, Princes Highway divide, and existing gymnasium closer to the station are considered to present satisfactory discouragement for a number of potential gym users to utilise public transport to access the site. As such, the importance of satisfactory parking provisions on-site becomes an important factor.

In addition to the above, inconsistencies between the applicant's plans previous to those revised on 20 September 2016 and body corporate letter were identified. In particular, the previously submitted plans detail that access to the basement parking area is restricted to staff only, meaning that members would have been unable to access the basement. This placed further uncertainty over the proposal's ability to cater for any of the car parking demand generated by members of the gymnasium.

Based on the proposal's failure to comply with the parking provisions prescribed by DCP2011, and inadequacy of the applicant's submitted traffic and parking report, the consultant assessing officer was not confident that the proposal could achieve consistency with the objectives of the parking controls under DCP2011 – i.e. *“to provide sufficient, convenient and safe on-site car parking”*.



For this reason, the proposal could not be supported when having regard to the provisions of Section 79C(3A)(b) of the Act.

As outlined earlier within the Background section of this report, Council advised the applicant of this assessment outcome, and agreed to hold a meeting with the applicant on 15 September 2016. In this meeting Council heard the following from the applicant:

- The applicant had subsequently sought independent legal advice regarding access to the basement parking level 24 hours a day, 7 days per week, in line the proposed gymnasiums opening hours. Council was advised that the applicant had a legal right to utilise these spaces without the restrictions that had been imposed by the strata body. The applicant advised it was their intention to commence proceedings with the owner's corporation regarding the access restriction, and hence requested a deferred commencement condition for the DA pending the successful outcome of the proceedings against the owner's corporation. Council officer's advised upon receipt of such a letter, a deferred commencement condition would be considered;
- The applicant would undertake amendments to the submitted plans to ensure access was available through the building lobby and the lift/stairs to the basement car parking area for not only staff, but gymnasium members also;
- An addendum to the traffic and parking report would be prepared by the applicant's consultant, TTM, addressing the concerns Council held in relation to the originally submitted report. This would include a truer reflection of the existing parking supply and demand within the local area, the likely future parking supply and demand given the area is in transition, along with details surrounding the 24-hour, 7 days per week access to the basement car park, and how this may better accommodate the envisaged parking demand generated by the gymnasium.

On 20 September 2016 the applicant submitted the following additionally information in relation to car parking for Council's consideration in determining the subject DA:

- Letter from Ray Wehbe & Co Solicitors dated 16 September 2016 indicating it "appears that Owners Corporation SP83578 have attempted to unlawfully restrict use and access to the parking facility located at the abovementioned property.' The letter also outlines the applicant's solicitor has instructions to commence proceedings to have the restriction removed.
- Revised Floor Plan of the gymnasium indicating both staff and members have permission to access the lobby, lift and stair area of the building to enable access to the basement car park;
- An addendum to the traffic and parking report, prepared by TTM, commenting on a revised car park layout, existing parking supply and demand, long term parking supply and demand, and
- Revised Site Plan indicating a new car parking configurations.

A detailed assessment of the proponent's car parking scheme submitted on 20 September 2016 has been undertaken. The results of this assessment are as follows:

- The aforementioned letter from Ray Wehbe and Co Solicitors is considered to provide sufficient evidence the applicant will pursue unrestricted access to the basement car park from the body corporate which will allow full usage of the car parking spaces relied upon by gymnasium members and staff.

In the meeting with the applicant on 15 September 2016, Council officers agreed that consideration would be given to a deferred commencement condition allowing the consent to become operable once a letter had been received from the body corporate

granting unrestricted access. On this basis, a deferred commencement condition has been drafted to this effect.

- Given the applicant has undertaken amendments to the submitted plans to demonstrate both staff and gymnasium members can access the lobby, lift and stair area of the building, no further concerns are raised in relation to the basement car park pedestrian access;
- The addendum submitted by the consultant's traffic engineer, TTM, has included a revised car parking layout which is now based on eight (8) car parking spaces, rather than the previous seven (7) spaces. The revised report is now also based on access to all eight (8) parking spaces being available 24 hours per day, 7 days per week.

The report relies on full access to the parking spaces being available pending the successful outcome of legal proceedings which have been commenced by the applicant's solicitor. i.e. to obtain consent from the body corporate on unrestricted basement access.

As outlined above, given this report relies on full access to the parking spaces, a deferred commencement condition is proposed.

- The consultant's addendum to the traffic and parking report now appropriately considers both existing parking supply and demand, and also the long term parking supply and demand once construction of the residential flat buildings in the surrounding area is completed, and these dwellings become fully occupied. The addendum outlines that by attracting a larger number of members from the immediate walking catchment, lower demand for parking will result. The outcome from the addendum report is that eight (8) parking spaces will be enough to accommodate the anticipated parking demand from the gymnasium, for all but a small period of the day at 5pm when one extra parking space will need to be accommodated within the street.
- The absence of a bollard in the 'shared area' adjacent to the accessible parking space identified as No. 4 on the submitted plans may prevent the use of this space for disabled persons. This was evident during the site inspection where it was found that a vehicle was parking in the shared area. This can be resolved by way of a condition requiring that a bollard be installed in the shared area prior to issue of the Occupation Certificate.
- The car parking spaces '7' and '8' do not comply with the relevant Australian Standards for the length of the spaces which may result in an overhang into the vehicular access area to the basement garage which may give rise to potential vehicular conflicts. There is a concern that should Council approve the use of such vehicular parking spaces by consenting to the subject DA, then liability concerns may arise should vehicle damage occur in this part of the building. Council Officers have, however, indicated that they are satisfied that potential impacts from the use of these spaces can be satisfactorily mitigated through imposition of relevant conditions requiring that these spaces be line-marked and signposted for use by 'small vehicles' only, that a covenant be placed on the title advising that these spaces are for small vehicles only, and that the site operations be undertaken in accordance with a Car Parking Management Plan to be approved by Council prior to occupation. Furthermore, it is Council Officer's position that it would be unreasonable to prevent the use of the commercial tenancy due to this issue given that the non-compliance was the direct result of amended plans approved with the Construction Certificate, and they have advised that they will take further action against the Principal Certifying Authority.

## **Car Parking Conclusion**

The applicant has demonstrated that with eight (8) vehicular parking spaces, the development will be able to accommodate the anticipated parking demand from the gymnasium.

As discussed, the applicant has not yet provided Council with information to demonstrate that all spaces can be accessed during the required hours of operation, and a deferred commencement condition requires that Council be provided with documentary evidence of the body corporate granting unrestricted access to the basement.

Furthermore, as recommended by Council Officers, conditions of consent require that the car parking spaces 7 & 8 be clearly line marked and sign-posted as small car parking spaces, that a covenant be placed on the title of the land identifying this restriction for all future owners, and that a Parking Management Plan be prepared to manage the car parking at the site. When these issues are satisfied, it is the assessing officer's opinion that the traffic and parking arrangements for the proposed gymnasium will be satisfactorily compliant with the objectives of DCP2011 which seek to ensure the provision of "sufficient, convenient and safe on-site car parking".

## **Noise**

Part 4.4.6 of RDCP 2011 contains objectives and controls relating to potential noise impacts to and from development. Specifically, Control 3 of Part 4.4.6 of RDCP 2011 requires that "*non-residential development is not to adversely affect the amenity of adjacent residential development as a result of noise, hours of operation and/or service deliveries*".

Council's Environmental Health Officer has raised concerns with the potential noise impact associated with the use of the gym, specifically during the night time hours.

As discussed in the "Referrals" section above, it is considered that these issues can be resolved by way of a deferred commencement condition of consent. Therefore, subject to satisfactory resolution of the deferred commencement condition, combined with recommended operational conditions, the proposal is satisfactory with regards to the relevant objectives and controls of RDCP 2011.

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

### ***Environmental Planning and Assessment Regulation 2000***

#### **Schedule 1**

Schedule 1 of the *Environmental Planning and Assessment Regulation 2000* prescribes the necessary information to be included in a DA. In particular, subsection (1)(i) prescribes the following:

*evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person other than the owner and the owner's consent is required by this Regulation.*

The subject DA has been made by Anytime Fitness, which is not the owner of the premises in which the DA relates, and owner's consent is required by the Regulation.

Council advised the applicant in October 2015 that appropriate owner's consent was required to enable assessment of the DA. A number of letters from the strata managing

agent on behalf of Strata Plan 83578 have been submitted to Council proclaiming owners consent for the proposal, these are detailed in the Background section of this report.

The most recent owners consent letter received from the strata managing agent prohibits access to the basement parking area before 9am and after 7:30pm on any day. This remains inconsistent with the applicant's proposal which relies on access to this parking area 24 hours a day.

Accordingly following discussions with the applicant, it is reiterated that it is the applicant's intention to commence legal proceedings to have the restriction removed as it is alleged that restricting access to the basement parking area by the body corporate was unlawful.

Accordingly, a deferred commencement condition is imposed, pending the successful outcome of the applicant's proceedings against the owner's corporation.

#### Clause 92 – Additional matters that consent authority must consider

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* has been considered, and there are no applicable provisions.

#### Clause 93 - Fire safety and other considerations

Clause 93 of the *Environmental Planning and Assessment Regulation 2000* has been considered. Conditions recommended by Council's Building Surveyor have been imposed in the draft Notice of Determination to ensure that the required fire safety measures will be incorporated into the development. Therefore, the consent authority is satisfied that the proposed gym will, when completed, comply with the relevant Category 1 fire safety provisions applicable to the proposed use.

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

### ***Access for Persons with a Disability / Mobility Impairment***

As existing the development incorporates a chair lift at the Princes Highway frontage of the site and as such access for persons with a disability / mobility impairment is available to the proposed use. Lift access will also be required from the basement car parking level for use by patrons with a disability, and this requirement forms part of the deferred commencement condition.

### ***Density and Scale***

The proposal relates only to the fit-out, use and signage of an existing premises within a mixed use development for the purposes of a gymnasium. Given no change to the building envelope is proposed as part of the development, the density and scale of the building will remain unaffected.

### ***Visual Privacy***

The proposal is not considered to impact on visual privacy as it is limited to the internal fit-out, use and signage of an existing premises for the purposes of a gymnasium. Additionally the proposed gymnasium is located on the ground floor of an existing building that is located on the corner of Princes Highway, West Botany Street, and Innesdale Road. As such, overlooking will be confined to the public domain, and not of adjoining private property.

### ***Overshadowing***

The proposal relates to the internal fit-out, use and signage of an existing premises for the purposes of a gymnasium. Given not external building additions are proposed, there is considered to be no change to the existing shadow cast by the building on adjoining property.

### ***Traffic and Parking***

Reference is made to the assessment of the proposal against the provisions of DCP2011 contained earlier in this report for details on the proposal's traffic and parking impacts.

### ***Character / Streetscape***

The proposal is considered to have an unacceptable impact on the surrounding streetscape by virtue of its reliance upon on-street parking to service the parking demand generated from the gymnasium.

Again, reference is made to the assessment of the proposal against the DCP2011 traffic and parking provisions contained earlier in this report for further details.

### ***Natural Hazards***

The Flood Planning Map contained within LEP2011 identifies that the subject site is identified as being affected by flooding. However, given the proposal relates only to the fit-out of an existing approved premises, no impacts on flooding are anticipated.

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

This report has undertaken a thorough assessment of the proposal's impacts on the natural and built environment, whilst also assessing compliance against the relevant environmental planning instruments and development control plans.

On most grounds the proposal has been assessed as satisfactorily compliant, however in relation to parking and noise, it has been determined that the proposal will result in reliance on on-street parking that is unacceptable when having regard to the existing and future environment surrounding the site, as well as potentially have adverse noise impacts to residents in the units located above.

Until which time the applicant can furnish Council with the requested information which forms part of the deferred commencement conditions, it remains the opinion of the consultant assessing officer the subject site is not suitable for the proposed development.

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

The development has been notified in accordance with the provisions of DCP2011. Three (3) submissions were received, of which two (2) were petitions with eight (8) and fourteen (14) signatures respectively. The following issues were raised.

*Land Owners Consent: concerns were raised that consent had not been sought from the Body Corporate for the building to lodge the DA.*

Comment: The matter of owners consent has been previously discussed within this report. The proposal is subject to a deferred commencement condition requiring the applicant to obtain the appropriate owners consent prior to the activation of the consent.

*Acoustic Impacts. Concerns were raised by objectors that unacceptable acoustic impacts would arise from the proposed use of the gymnasium, in particular its 24 hour, 7 day operation.*

Comment: The matter of acoustics has been previously addressed within this report. It is reiterated that a deferred commencement condition has been imposed requiring the submission of a revised acoustic report to Councils satisfaction prior to the activation of any consent.

Furthermore the proposed 24 hour usage is recommended for a trial period of 12 months, in order to ascertain whether the proposed hours have any negative acoustic or amenity impacts upon residential neighbours.

Prior to the expiry date of the trial period for the 24 hour operation a S96 application is required to be submitted to and approved by Council in order to enable the applicant to continue 24 hour operation. In the event that a S96 is not submitted to and approved by Council within 12 months of the date of determination the hours of operation of the use shall be restricted to 6am – 10pm Monday to Saturday and 7am – 9pm on Sundays, with the use to close on public holidays.

*Parking - Concerns were raised by objectors that the proposal includes insufficient parking to accommodate the proposed development.*

Comment: As previously discussed within this report, the proposal fails to comply with the parking provisions prescribed by DCP2011. Furthermore, the traffic and parking report addendum submitted by the applicant in support of the parking deficiency relies upon an outcome whereby unrestricted access to the basement parking areas of the building is granted by the body corporate.

In this regard, until the applicant is able to furnish Council with the requested additional information as part of the deferred commencement condition and operational conditions of consent, the consultant assessing officer concurs with objectors that the proposal cannot be support on the basis of traffic and parking.

*Amenity Impacts - The potential amenity impacts that will arise from the development on surrounding development by virtue of the gymnasium's 24 hour, 7 days per week operation.*

Comment: When taking into consideration the amenity impacts of a proposal, it is first import to take into consideration the existing urban environment in which the development is to take place.

The proposed gymnasium is to be located on the ground floor of a high-rise mixed use building which is immediately adjacent to the intersection of Princes Highway, West Botany Street and Innesdale Road. Accordingly, the existing urban environment surrounding the site is considered to have a lower level of amenity when considered in comparison to low density residential areas.

As existing, heavy street lighting exists along the adjoining busy road corridors. Accordingly, any light spill emanating from the proposed Anytime Fitness signage is considered to be relative to the existing light spill from street lighting.

Having regard to the site's zoning, residents of a mixed use development must concede that within their building there will be a number of non-residential land uses that may have the propensity to impact on residential amenity to a greater level than a wholly residential building. While all efforts are made by Council to ensure uses within a mixed use building do not impede on the amenity of each other, there is an inherent impact to be expected.

The amenity impact of the proposal has been considered, and is deemed to be within acceptable limits. The exception being the impact of the proposal in relation to acoustics and

car parking of which have been previously discussed within this report which are considered to be satisfactorily resolved by way of deferred commencement conditions and operational conditions of consent.

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

Until which time the applicant is able to furnish Council with the requested additional information outlined within the deferred commencement conditions, it is the opinion of the assessing officer that the proposed development is not considered to be in the public interest because of the proposal's inability to satisfactory comply with the objectives and controls of DCP2011 in relation to acoustics, traffic and parking.

Our Ref: DA-2016/119  
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216  
PO Box 21 Rockdale NSW 2216  
T 1300 581 299 F 9562 1777  
rcc@rockdale.nsw.gov.au  
[www.bayside.nsw.gov.au](http://www.bayside.nsw.gov.au)

Anytime Fitness Australia Pty Ltd  
71 Longueville Rd  
LANE COVE NSW 2066

## NOTICE OF DETERMINATION

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

<b>Application Number:</b>	DA-2016/119
<b>Property:</b>	1 / 20 - 22 Princes Highway, WOLLI CREEK NSW 2205 Lot 51 SP 89507
<b>Proposal:</b>	Initial use of Shop 1 as a gymnasium operating 24 hours seven days a week including internal fitout and associated signage
<b>Authority:</b>	Council
<b>Determination:</b>	Deferred commencement
<b>Date of determination:</b>	
<b>Date consent commences:</b>	
<b>Date consent lapses:</b>	

Your Development Application has been approved under Section 80(3) of the Environmental Planning and Assessment Act, 1979 as a **Deferred Commencement** consent.

This consent shall not to operate until the applicant submits the following detailed documentation and receives approval from Council for the following:

- a. Land Owners Consent. The submission of documentary evidence from the Owners Corporation SP83578 that vehicular and lift/pedestrian access to all car parking areas depicted on the revised Site Plan and Upper Basement Plan to be submitted to Council is permitted 24 hours a day, 7 days per week for both staff and members of the Anytime Fitness gymnasium.
- b. A revised Acoustic Report prepared by a suitably qualified person is to be submitted to Council addressing the following matters:
  - i. Detailing that the noise and vibration will be inaudible in all the above residential apartments for all Day, Evening and Night periods.
  - ii. Testing is to be carried out within all units positioned directly above the gymnasium.
  - iii. Data is to be provided of a similar gym scenario which has been in operation 24/7 (with



residential apartments directly above gym).

- iv. Details of any stereo/background music and any group classes are to be provided.
- v. A Plan of Management, incorporating misuse of equipment e.g. such as slapping of weights or quick release weights by customers.
- vi. Testing is to be undertaken of gym equipment associated with the use.eg – leg press, cable cross, pin loaded chest press, and shoulder press.
- vii. Detail is to be provided of any pin loaded equipment or gym equipment with extra mechanisms to allow a slow release of weights. Or the provision of any further protective rubber/plastic coated weights coverings for all weight equipment.

The period of the Deferred Commencement is **six** months from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

Upon receiving written notification from Council that the above requirements have been satisfied, your consent will become operable and will be 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
External Elevations A_SP_A20_02	Studio_P Architecture & Interiors	11/07/2016	13/07/2016
External Elevations A_SP_A21_02	Studio_P Architecture & Interiors	20/09/2016	20/09/2016
Floor Plan A_SPA01_07	Studio_P Architecture & Interiors	20/09/2016	20/09/2016
Site Plan A_SP_A00_05	Studio_P Architecture & Interiors	26/10/2016	26/10/2016

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. New building work shall not commence without the prior Development Consent of Council.
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.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

7. The gymnasium is approved for 24-hour, seven (7) days per week operation for a trial period of 12 months. Prior to the expiry date of this consent a S96 application is required to be submitted to and approved by Council in order to enable the continued 24 hour operation. In the event that a S96 is not submitted to and approved by Council within 12 months of the date of determination the hours of operation of the use shall revert to 6am – 10pm Monday to Saturday and 7am – 9pm on Sundays, with the use to be closed on public holidays.
8. The maximum number of persons working on the premises shall be limited to three (3).
9. All work shall be carried out inside the building and not in adjacent yards or car parking areas.
10. 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.
11. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
12. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
13. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
14. 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.
15. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
16. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
17. All 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.
18. 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
19. The existing exit door(s) (and where applicable, doors in the path of travel to exits) shall be altered to be readily openable without a key from the side that faces a person seeking egress by a single-hand downward action or pushing action on a single device which is located between 900mm and 1200mm from the floor.
20. Provide permanently illuminated exit signs on or near existing exit doors and

directional signs in corridors, stairways and the like indicating exits in accordance with Part E4.5 and E4.6 of the Building Code of Australia and AS/NZS 2293.1:2005.

21. A system of emergency lighting shall be provided in the existing building within the stairway, corridors and other necessary areas and be installed in accordance with the requirements of Part E4.2 and E4.4 of the Building Code of Australia and AS/NZS 2293.1:2005.
22. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building.
23. Provide portable extinguishers to the existing building(s) containing an extinguishing agent suitable for the risk being protected. They shall be being installed in accordance with Part E1.6 of the Building Code of Australia and AS 2444:2001.
24. The south facing terrace at the junction of Princes Highway and Innesdale Road is not permitted to be utilised at any point in time. Bi fold doors to this terrace shall at all times remain locked.
25. Plans of Management
  - (a) The Plan of Management for use of the gym equipment submitted to and approved by Council to satisfy the Deferred Commencement condition of this consent shall be implemented on site at all times.
  - (b) The Car Parking Plan of Management required to be approved by Council prior to issue of the Occupation Certificate shall be implemented on site at all times.
  - (c) A copy of the approved Plans of Management must be provided to each staff member and new patron of the gym prior to their commencement of employment and/or use of the facility.
  - (d) A copy of the approved Plans of Management shall be clearly displayed inside the office and/or main entrance of the facility at all times.
  - (e) The Plans of Management must be consistent with the conditions of consent.
  - (f) The Plans of Management must be reviewed annually and any changes made to address issues raised by neighbours / community members, where relevant. If any changes to a plan conflicts with the conditions of consent, then a Section 96 Application must be submitted to Council for assessment prior to the amendment taking place.

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

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

26. 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 \$2435.00. 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.

27. 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.

28. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:

- i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
- ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.

2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

**Note:** This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

29. A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.
30. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
31. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

32. Acoustic mitigation measures specified within the Acoustic Report submitted to and approved by Council to satisfy the Deferred Commencement condition of this consent shall be implemented on site. Recommendations of the report shall be illustrated upon Construction Certificate drawings and submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

## **Prior to commencement of works**

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

33. 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.
34. 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.
35. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one

additional toilet for every 20 persons employed at the site.

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

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

36. 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.
37. 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.
38. 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.

### **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.

39. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
40. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
41. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
42. Where Council's 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.
43. 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.
44. The following information shall be submitted to, and approved by, the Director of City Planning and Development at Bayside Council prior to the issue of any Occupation

Certificate:

(i) A Positive Covenant/ strata by law must be registered on the title of the lot restricting the current and all future owners regarding the car spaces allocated to PT 43 at the ground floor level are small car parking spaces only. (Note: these spaces are identified as 7 & 8 on the approved plans).

(ii) Vehicles must 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 time".

(iii) A Car Parking Plan of Management must be prepared by a suitably qualified Traffic Consultant. The Plan must include information detailing the management of the parking spaces allocated to PT 43 including, at minimum, the following:

- (a) A Plan showing the allocated car parking spaces.
- (b) Access to the basement car parking spaces.
- (c) Use of the two small car parking spaces at ground floor level.
- (d) Use of the accessible parking space
- (e) Use of the stacked parking spaces marked No. 1 & 2 on the approved plans. In this regard, the rear space No. 2 must be allocated for use by staff of the facility only, unless otherwise agreed by Council.

(iv) Signs shall be displayed adjacent to proposed car spaces 7 & 8 located in the ground floor, clearly indicating "Small car parking space only". Both spaces shall be line marked to clearly show the extent of the car space. The sign shall have minimum dimensions 900mm x 500mm, unless otherwise agreed by Council.

(v) A bollard must be installed in the shared space adjacent to the proposed car space marked No. 4 on the approved plans located at the upper basement to satisfy the requirements of the relevant Australian Standards.

(vi) All car parking spaces allocated to PT 43 must be clearly marked and signposted as being for use by "Anytime Fitness Customers Only". The signs shall have minimum dimensions 1,000mm x 1,000mm, unless otherwise agreed by Council.

- 45. Eight (8) off-street car spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.
- 46. Acoustic mitigation measures specified within the Acoustic Report submitted to and approved by Council in order to satisfy the Deferred Commencement condition of this consent, shall be validated by a Certificate of Compliance prepared by the acoustic consultant. The certificate of compliance is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- 47. All off-street car spaces associated with the gymnasium shall be provided in accordance with the submitted plan and shall be sealed, line marked and signposted for Anytime Fitness staff/members only. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

## Roads Act

48. 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.

## Development consent advice

- a. A shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- 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. 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.



- d. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- 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 Marta M Gonzalez-Valdes on 9562 1666

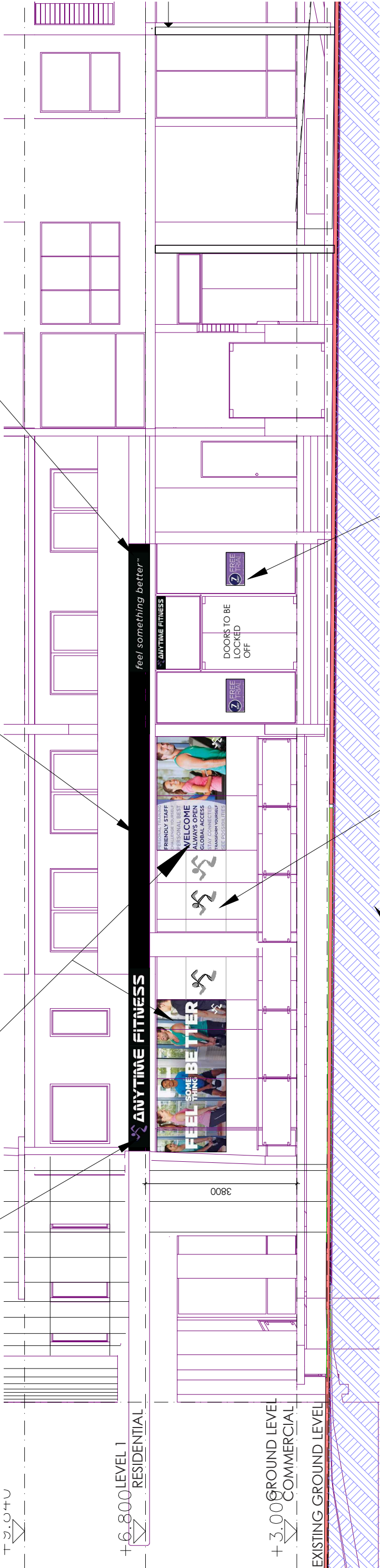
**Luis Melim**  
**Manager Development Services**

SIGN (B): 4.5m SET OF RUNWAY BENT ACRYLIC FABRICATED LETTERS WITH A 3mm OPAL ACRYLIC FACE AND VINYL RUNNING MAN & BLACK STRIPE TO MATCH LOGO. 80mm BLACK ACRYLIC RETURNS AND 10mm FOAM PVC BACKS.

SIGN (D): 10 sqm OF ONE WAY VISION FILM TO BE APPLIED ON THE EXTERIOR OF GLASS WITHIN ALUMINIUM DOWN RIGHTS

SIGN (A): 9 sqm OF BLACK COMPOSITE PANELLING INSTALLED ON CONCRETE.

SIGN (C): PROFILE CUT WHITE VINYL DECALS 'FEEL SOMETHING BETTER'



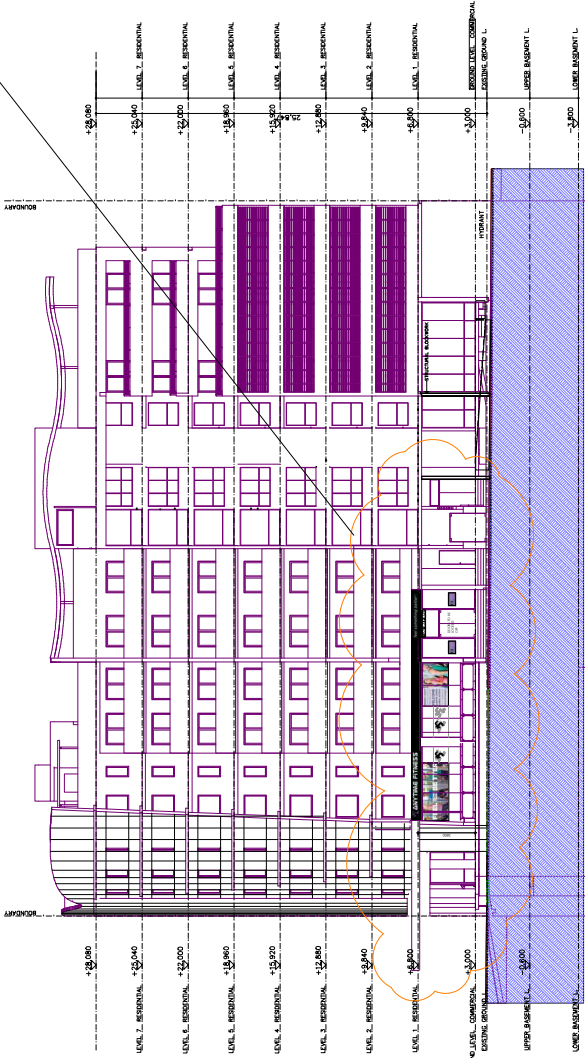
SOUTH ELEVATION 1:100

SIGN (E): 5 sqm SILVER ETCH PRIVACY FILM WITH PROFILE CUT RUNNING MAN

SIGN (F): DIGITALLY PRINTED DECALS INCLUDING ABOVE ENTRANCE ANYTIME FITNESS DECAL. **GUEST & MEMBER CLUB INFORMATION DELETED AS DOORS TO BE LOCKED OFF.**

ALL SIGNAGE TO BE INSTALLED TO SIGNAGE CONTRACTORS INSTALLATION SPECS.

BASE BUILDING INFORMATION RECIEVED FOR THESE DRAWINGS MAY BE INACCURATE. CHECK ON SITE.



SOUTH ELEVATION

SOUTH ELEVATION 1:500

<b>STUDIO_P</b> architecture & interiors		CLIENT: Anytime Fitness	REVISION_AMENDMENTS_DATE		NOTE: Designs contained in these drawings and specifications are the property of Studio P and are subject to copy right laws. They must not be reproduced in whole or part, or used in any other way without written consent from Studio P. Do not scale dimensions. All dimensions should be verified on site before commencement of any works. In the case of discrepancies, it should be verified with Studio P prior to continuing further works.	DRAWN BY: EM
Studio 1 /35 Bareena Ave Wahroonga, NSW, 2076 02 9487 3377 studiop.com.au ABN: 24 968 801 044 ARN: 8959		PROJECT: PROPOSED FITNESS CLUB FITOUT TENANCY 43 20-22 PRINCES HIGHWAY WOLLI CREEK NSW 2205	01 DEVELOPMENT APPLICATION	11.08.15		
DRAWING TITLE_NUMBER: A_SP_A21_02		SCALE: 1:100 (A3)		02 DEVELOPMENT APPLICATION	20.09.16	CHECKED BY: PP

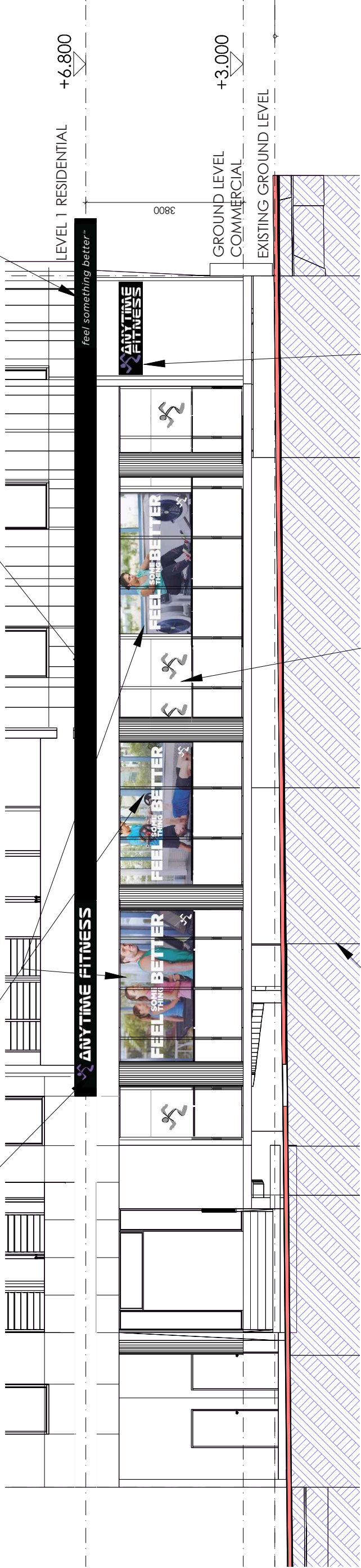
P

SIGN (H): 4.5m SET OF RUNWAY BENT ACRYLIC FABRICATED LETTERS WITH A 3mm OPAL ACRYLIC FACE AND VINYL RUNNING MAN & BLACK STRIPE TO MATCH LOGO. 80mm BLACK ACRYLIC RETURNS AND 10mm FOAM PVC BACKS.

SIGN (K): 15 sqm OF ONE WAY VISION FILM TO BE APPLIED ON THE EXTERIOR OF GLASS WITHIN ALUMINIUM DOWN RIGHTS

SIGN (G): 12 sqm OF BLACK VINYL APPLIED TO COMPOSITE PANEL FACIA .

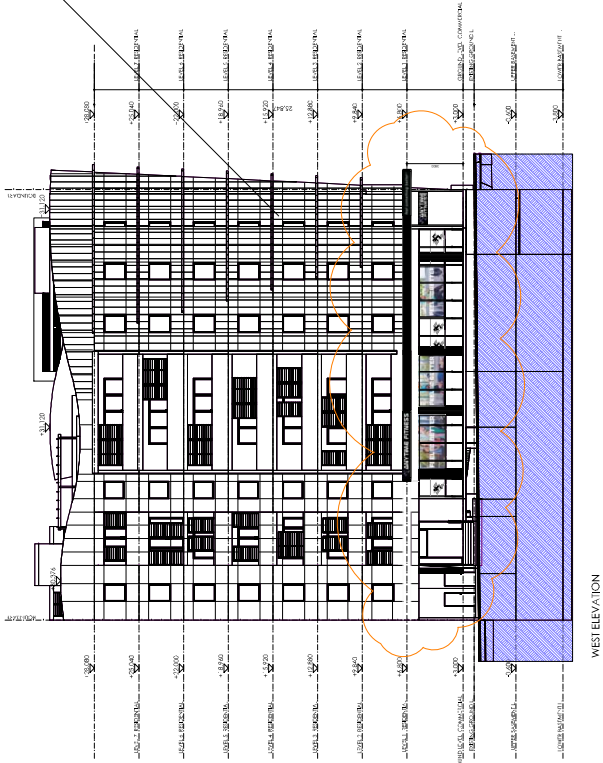
SIGN (I): PROFILE CUT WHITE VINYL DECALS 'FEEL SOMETHING BETTER'



WEST ELEVATION 1:100

SIGN (J): 2.9m SET OF STACKED BENT ACRYLIC FABRICATED LETTERS WITH A 3mm OPAL ACRYLIC FACE AND VINYL RUNNING MAN & BLACK STRIPE TO MATCH LOGO. 80mm BLACK ACRYLIC RETURNS AND 10mm FOAM PVC BACKS. MOUNTED TO FABRICATED ALUMINIUM FRAME (3200x 1100mm) CLADDED IN BLACK COMPOSITE PANEL TO HOUSE POWER SUPPLY AND WIRING. LED ILLUMINATED SIGN.

SIGN (L): 4 sqm SILVER ETCH PRIVACY FILM WITH PROFILE CUT RUNNING MAN



WEST ELEVATION 1:500

ALL SIGNAGE TO BE INSTALLED TO SIGNAGE CONTRACTORS INSTALLATION SPECS.

BASE BUILDING INFORMATION RECIEVED FOR THESE DRAWINGS MAY BE INACCURRATE. CHECK ON SITE.

<b>STUDIO_P</b> architecture & interiors  Studio 1/35 Bareena Ave Wahroonga, NSW, 2076 studio.p.com.au ABN: 24 968 801 044 ARN: 8959	CLIENT: Anytime Fitness	REVISION_AMENDMENTS_DATE	NOTE: Designs contained in these drawings and specifications are the property of Studio P and are subject to copy right laws. They must not be reproduced in whole or part, or used in any other way without written consent from Studio P. Do not scale dimensions. All dimensions should be verified on site before commencement of any works. In the case of discrepancies, it should be verified with Studio P prior to continuing further works.	DRAWN BY: EM CHECKED BY: PP
PROJECT: PROPOSED FITNESS CLUB FITOUT TENANCY 43 20-22 PRINCES HIGHWAY WOLLI CREEK NSW 2205	01 DEVELOPMENT APPLICATION 02 NOTES ADDED TO SIGN J	11.08.15 11.07.16		
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## Council Meeting

9/11/2016

Item No	9.10
Subject	<b>Request for Development Application Fees for DA-2017/156 to be waived</b>
Report by	Luis Melim, Manager – Development Services
File	DA-2017/156

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## Summary

The purpose of this report is to respond to an Applicant request to waive Development Application fees included in Council's Fees and Charges 2016-2017.

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## Officer Recommendation

That Council approve the request to waive \$1,636.80 in Development Application fees associated with DA-2017/156 for the installation of seven (7) x 15 metre high light poles at Gardiner Park, 15A Wolli Creek Road, Banksia.

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## Background

Council is in receipt of a Development Application (DA) from Banksia Tigers Football Club (Banksia Tigers) for the installation of seven (7) x 15 metre high light poles at Gardiner Park, 15A Wolli Creek Road, Banksia.

Gardiner Park is a locally listed heritage item (I79) in accordance with Schedule 5 of the Rockdale Local Environmental Plan, 2011 (RLEP 2011).

This DA is to facilitate an application for grant funding to be submitted by Banksia Tigers, a local sporting club, with the additional lighting to allow the Club to train off the main fields and preserve the pitch. Gardiner Park is a Council owned asset and once installed, the infrastructure will also become a Council owned asset.

As outlined in Council's Fees and Charges Schedule 2016-2017, the total fees payable for the DA is \$1,636.80 and comprised of the following:

Development Application Assessment Fee	\$530.00
Plan First Fee	\$71.80
Plan First Admin Fee	\$5.00
Footpath Inspection Fee	\$294.00
Tree Inspection Application Fee	\$197.00
Notification to Adjoining Owners	\$162.00
Newspaper Advertising Fee	\$377.00
<b>Total Application Fees</b>	<b>\$1,636.80</b>

The waiving of associated DA fees does not include fees for Part 4A Certificates nor fees applicable to other statutory charges, including payment of the Long Service Levy (LSL).

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### **Financial Implications**

Loss of \$1,636.80 in DA fees, should the fee waiver request be granted

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### **Community Engagement**

Not required.

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### **Attachments**

Nil



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## Council Meeting

9/11/2016

Item No	10.1
Subject	<b>Minutes of Bayside Traffic Committee – 2 November 2016</b>
Report by	Jeremy Morgan, Manager City Infrastructure
File	(R) F16/928

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## Officer Recommendation

That the Minutes of the Bayside Traffic Committee held on 2 November 2016 be received and the recommendations therein be adopted.

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## Present

Jeremy Morgan, Manager City Infrastructure, Bayside Council (Convenor)  
Sergeant Frank Gaal, St George Local Area Command  
Senior Constable Alexander Weissel, Botany Bay Police  
George Perivolarellis, representing State Member for Rockdale  
Christina Curry, representing State Member for Maroubra & State Member for Heffron

## Also present

Steve Poulton, Manager City Infrastructure, Bayside Council  
Eric Graham, State Transit Authority- East  
Lyn Moore, NSW Pedestrian Council  
Joe Scarpignato, St George Cabs  
Pintara Lay, Coordinator Traffic and Road Safety, Bayside Council  
Glen McKeachie, Coordinator Regulations, Bayside Council  
Michael Lee, Traffic Engineer, Bayside Council  
Agasteena Patel, Traffic Engineer, Bayside Council  
Contessa Hijinikitas, Project Officer Transport, Bayside Council  
Pat Hill, Traffic Committee Administrative Officer, Bayside Council

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The Convenor opened the meeting in the Mascot Coronation Hall at 9:15am.

## 1 Apologies

The following apologies were received:

Ron Hoenig, State Member for Heffron  
Stuart Dutton, Director of City Infrastructure, Bayside Council  
Lisa Williams, representing State Member for Maroubra  
Rabih Bekdache, State Transit Authority, Kingsgrove  
Paul Gage, St George Bicycle Users Group  
Les Crompton, representing State Member for Kogarah  
James Suprain, Roads and Maritime Services – East

## **2 Minutes of Previous Meetings**

### **BTC16.26A Bayside Traffic Committee Meeting – 28 September 2016**

#### Committee Recommendation

- 1 That the Minutes of the meeting of the Bayside Traffic Committee held on 28 September 2016 be confirmed as true and correct
- 2 That it be noted that the Committee recommendations included in the Minutes of the meeting of the Bayside Traffic Committee held on 28 September 2016 were adopted by the Council at its meeting held on 12 October 2016.

## **3 Disclosures of Interest**

There were no disclosures of interest.

## **4 Reports**

### **A *Electronic Recommendations***

That the electronic recommendations agreed to by a majority of members since the last meeting of the Bayside Traffic Committee be confirmed.

### **BTC16.27 Bourke Street, Mascot – Food Festival – road closure**

#### Committee recommendation

- 1 Bourke Street be closed on Sunday, 23 October 2016 between 6am – 10pm for the Mascot Food Festival.
- 2 Affected residents be notified of the parking restrictions and closure of Bourke Street two weeks prior to the event.
- 3 Variable Message signs (VMS0 boards be installed one week prior to the event.
- 4 A Traffic Management Plan be prepared for Roads and Maritime Service (RMS) approval.

### **BTC16.28 Coward Street at Nos. 200, Mascot – proposed Works Zone**

#### Committee recommendation

That a 40m long 'Works Zone, for a period of 52 weeks, between 10am-3pm, Mon-Fri' adjacent to the construction site at 200 Coward Street, Mascot, be approved subject to the standard Works Zone conditions, and the following site specific conditions:

- 1 That a review of the operation of the Works Zone be undertaken by Council during a trial period of two months to determine if the Works Zone should continue for the remaining period of 10 months.

- 2 The 40m Works Zone will be restricted to the hours between 1000 and 1500 Monday to Friday.
- 3 All vehicles must enter and exit the construction site in a forward direction.
- 4 Traffic on Coward Street is not to be stopped by traffic controllers in either direction for vehicles exiting the construction site i.e. drivers exiting the site must wait for suitable safe gaps in traffic flow to exit the site.
- 5 All construction vehicles over 3-ton must turn right to exit the Construction site on Coward Street.
- 6 The footpath adjacent to the Works Zone is to be closed during the operating hours of the Works Zone, with traffic control established to diverted pedestrians to the southern footpath using existing pedestrian crossing facilities
- 7 All conflicts of vehicles and pedestrians on the footpath must be safely and properly managed along the frontage of the construction site at Coward Street.
- 8 Council reserves the right to revoke the Works Zone consent at any time and for any reason without compensation to the applicant. Occupancy fees paid for months in advance, and not utilised, will be refundable to the applicant by Council if consent is revoked. All other fees are non-refundable.
- 9 Failure to comply with the conditions may result in the Works Zone being revoked, and/or the issue of a penalty notice in accordance with relevant legislative provisions.
- 10 The applicant must pay all fees associated with the Works Zone, in accordance with Council's Fees and Charges applicable at the time. Note fees and charges are typically reviewed and adjusted from 1 July each year.
- 11 The applicant must maintain public liability insurance for at least \$20 million during the period of use of the Works Zone. Evidence of this insurance must be provided to Council upon request.
- 12 The Works Zone must not be used to store materials or waste containers unless agreed by Council.
- 13 Where the Works Zone is adjacent to any street tree, trunk or major limb, protection must be installed prior to and during the period of the Works Zone. Such protection must be installed by a qualified arborist (AQF3 or higher). The tree protection must include wrapping of the tree trunk and any major branches with hessian or similar material to limit damage then space planks (50mm x 100mm or similar) at 100mm intervals, fixed against the trunk with tie wire or strapping. The trunk protection must not be fixed to the tree in any way (i.e. no nails or screws are to be used).
- 14 The applicant must not prune any street trees, including trees located outside adjoining properties, without Council's written consent. Only minor pruning works will be considered.
- 15 It is an offence under section 629 of the Local Government Act to wilfully or negligently damage or remove a tree in a public place. The applicant must



immediately notify Council if any street trees are damaged due to loading / unloading of vehicles

- 16 Council may suspend or restrict the operation of Works Zone for major events. The applicant will not be entitled to any compensation.
- 17 On removal of the Works Zone, the applicant must restore the footpath to the satisfaction of Council.
- 18 The applicant uses the Works Zone at their own risk. Council is not responsible for any loss, damage, injury or death relating to the use of the Works Zone. The applicant releases Council from, indemnifies and keeps Council indemnified against all liability, claims, action or demand associated with the Works Zone.

## ***B Major Traffic Issues***

### **BTC16.29 Coward Street and Harris Street intersection, Mascot – Improved traffic conditions**

Committee recommendation

That the proposed traffic and parking management improvement initiatives for Coward and Harris Street be retained.

### **BTC16.30 Baxter Road, Mascot – proposed disabled parking zone**

Committee recommendation

That the existing disability parking bay outside 25 Baxter Road be extended to accommodate 2 vehicles.

### **BTC16.31 Bay Street, Botany proposed works zone**

Committee recommendation

That one 20 metre and one 25 metre long 'Works Zone, 7am-5pm, Mon-Fri; 8am-1pm, Sat' adjacent to the construction site at Nos. 72-86 Bay Street, Botany for a period of 52 weeks be approved subject to relevant conditions.

### **BTC16.32 Sutherland Street and King Street intersection, Mascot – Proposed installation of Right Turn Arrow**

Committee recommendation

That an exclusive right turn lane with a right turn phase for the northbound traffic in Sutherland Street at the King Street signalised intersection be approved for detailed design and a funding strategy be prepared for implementation of the proposal.

### **BTC16.33 Rear Lanes in the Mascot Resident Parking Scheme area – proposed 'No Stopping' restriction**

Committee recommendation

- 1 That Community Consultation be undertaken for the proposal.
- 2 That the results of the Community Consultation be reported back to the Bayside Traffic Committee.

**BTC16.34 Cranbrook Street, Rochester Street, Tenterden Road and Fabry Street, Tenterden Road and Woodstock Street – Proposed ‘No Parking’ restriction**

Committee recommendation

- 1 That statutory ‘No Stopping’ signs be installed at the intersection of Cranbrook Street and Rochester Street, Botany.
- 2 That statutory ‘No Stopping’ signs be installed at the intersection of Tenterden Road and Fabry Street, Botany.
- 3 That statutory ‘No Stopping’ signs be installed at the intersection of Tenterden Road and Woodstock Street, Botany.
- 4 That ‘No Parking’ signs for the cul-de-sac at Kurnell Street, Botany be installed after notification to residents.

Note: Council to liaise with RMS and STA regarding the potential relocation of affected bus stop in Botany Road near Cranbrook Street.

**BTC16.35 Alfred Street Ramsgate Beach – proposed reduction of 4P parking limit zone**

Committee recommendation

- 1 That approval be given to the removal of 4 hour parking limit restriction from thirty eight (38) indented parking spaces near Nos.104 Alfred Street and be converted to unrestricted time parking.
- 2 That ‘4P’ parking restriction be applied to the remaining thirty two (32) indented parking bays in front

**BTC16.36 Bardwell Park Shopping Centre, Slade Road, Hartill Law Avenue and Peck Lane – proposed change to parking restrictions**

Committee recommendation

- 1 That approval be given to convert the existing ‘1/2P, 8:30am - 6pm, Mon – Fri’ to the proposed ‘1/4P, 8:30am - 6pm, Mon – Fri and 8:30am – 12.30pm Sat ’ restriction on both sides of Hartill-Law Avenue.
- 2 That approval be given to the installation of ‘2P, 8:30am- 6pm, Mon – Sat’ restriction in Peck Lane except across driveways.
- 3 That approval be given to convert the existing ‘1/2P, 8:30am- 6pm, Mon – Fri’ to the proposed ‘1/2P, 8:30am- 6pm, Mon – Sat’ restriction along the northern kerb line of Slade Road east of Hartill-Law Avenue.

### **BTC16.37 John Street, Bardwell Valley – proposed bus zone**

Committee recommendation

- 1 That approval be given to the installation of a 24m 'bus zone 6:30am- 9:30pm, Mon- Fri and 7:30am- 7:30pm, Sat- Sun' at the existing bus stop in front of Nos. 15 to 19 John Street, Bardwell Valley.
- 2 That approval be given to the installation of a 27m 'bus zone 6:30am- 9:30pm, Mon- Fri and 7:30am- 7:30pm, Sat- Sun' at the existing bus stop in front of Nos.12A-14 to 16 John Street, Bardwell Valley.

### **BTC16.38 Laycock Street, Bexley North – proposed bus zone**

Committee recommendation

- 1 That approval be given to the installation of following parking restrictions on both sides of Laycock Street, north of Stoney Creek Road, Bexley North, as follows:
  - a. from 0m to a point 10m - proposed 'No Stopping' restriction on both sides
  - b. from 10m to 30m - proposed "Bus Zone, 6:30am-9:30pm Mon-Fri and 6:30am-6:30pm Sat"
  - c. from 30m northwards - retain existing parking
- 2 That the existing bus stop J-stem sign along the western kerbline of Laycock Street be removed by Punchbowl Bus Company.

### **BTC16.39 Lynwen Crescent, Banksia – proposed temporary one way street**

Committee recommendation

That endorsement be given to the conversion of Lynwen Crescent, Banksia, west of West Botany Street, to a temporary one-way street (anticlockwise direction) to control the traffic flow during the Christmas and New Year period, 7 December 2016 and 4 January 2017 and that a Traffic Management Plan be submitted to the Roads and Maritime Services for approval.

### **BTC16.40 Madrers Avenue, Kogarah – proposed temporary one way street**

Committee recommendation

That endorsement be given to the conversion of Madrers Avenue, Kogarah, east of Rocky Point Road, to a temporary one-way street (anticlockwise direction) to control the traffic flow during the Christmas and New Year period, 7 December 2016 and 4 January 2017 and that a Traffic Management Plan be submitted to the Roads and Maritime Services for approval.

### **BTC16.41 Moate Avenue, Brighton Le Sands – proposed bus zone**

Committee recommendation

That approval be given to extend the bus zone time to include the morning school hours to the existing bus zone along the eastern kerb lane of Moate Avenue south of Princess Street, Brighton Le Sands, as follows:

- 1 From 0m to a point 15m – retain existing ‘No Stopping’ restriction.
- 2 From 15m to 35m – replace ‘Bus zone, 2:30pm – 4pm, School Days’ with ‘Bus zone, 8am-9:30am and 2:30pm- 4pm, School Days’ restrictions.
- 3 From 15m to 35m – retain ‘1/2P at other times’ restriction.
- 4 From 35m to 43m – retain existing ‘No Stopping’ restriction.

**BTC16.42 Percival Street in front of Carlton Public School, Carlton – detailed plan for the refuge island**

Committee recommendation

That the pedestrian refuge be endorsed in Percival Street, Bexley.

**BTC16.43 Queen Victoria Street and Wolseley Street intersection, Kogarah – detailed plan for the roundabout**

Committee recommendation

That the proposed roundabout at the intersection of Queen Victoria Street and Wolseley, Bexley be endorsed subject to compliance with STA turning swept path requirements for a 12.5m bus.

**BTC16.44 Rickard Street, Bardwell Valley – proposed bus zone**

Committee recommendation

- 1 That approval be given to the installation of a 24m ‘bus zone 6:30am- 9:30pm, Mon- Fri and 7:30am- 7:30pm, Sat- Sun’ at the existing bus stop in front of Nos. 4 and 6 Rickard Street, Bardwell Valley.
- 2 That approval be given to the installation of a 28m ‘bus zone 6:30am- 9:30pm, Mon- Fri and 7:30am- 7:30pm, Sat- Sun’ at the existing bus stop in front of Nos.5, 7 and 9 Rickard Street, Bardwell Valley.

**BTC16.45 Riverside Drive, Sans Souci – proposed pedestrian refuge island**

Committee recommendation

- 1 That approval be given in principle for the installation of a pedestrian refuge island in Riverside Drive, Sans Souci east of Napoleon Street in front of the amenity block, subject to availability of funding.
- 2 That detailed plan of the above pedestrian refuge island be submitted to the Traffic Committee for further consideration.

**BTC16.46 Sanoni Avenue in front of the Club, Dolls Point – proposed ‘No Stopping’**

Committee recommendation

That approval be given for the installation of ‘No Stopping’ restrictions in Sanoni Avenue and the adjoining road related area in the car park west of the boat ramp in front of the Georges River 16ft Sailing Club, Sandringham.

**BTC16.47 Subway Road, Banksia – detailed plan for the traffic calming scheme**

Committee recommendation

That proposed traffic calming scheme in Subway Road as shown in the attached drawing be endorsed.

**BTC16.48 Wolseley Street, Kogarah – proposed bus zone**

Committee recommendation

That approval be given to the extend bus zone operating time to include the morning school hours to the existing bus zone along the eastern kerb lane of Wolseley Street opposite Kogarah Marist College, Kogarah, as follows:

- 1 From 0m to a point 22m north of the marked foot crossing – retain existing ‘No Stopping’ restriction
- 2 From 22m to 40.5m – replace ‘Bus zone, 3pm – 4pm, Mon- Fri, and 11am-4pm, Thursday, School Days’ with ‘Bus zone, 8am-9.30am and 2.30pm-4pm, Mon – Fri and 11am – 4pm, Thursday, School Days’ restrictions
- 3 From 40.5m to 64.5m – retain existing ‘Bus Zone, 11am-4pm, Thursday, School Days’ restriction
- 4 From 64.5m northward – retain parking

**C Minor Traffic Issues**

**BTC16.49 Kent Street and Bryant Street intersection, Rockdale – proposed ‘No Stopping’**

Committee recommendation

That approval be given for the installation of ‘No Stopping’ signage at the intersection of Kent Street and Bryant Street, Rockdale as follows:

- 1 10m ‘No Stopping’ restriction on northern kerb line of Bryant Street on either side of Kent Street
- 2 10m ‘No Stopping’ restriction on both sides of Kent Street, north of Bryant Street.

**BTC16.50 Russell Avenue and Jameson Lane, Sans Souci – proposed ‘No Stopping’ zone**

Committee recommendation

That approval be given for the installation of ‘No Stopping’ signage at the intersection of Russell Avenue and Jameson Lane, Sans Souci as follows:

- 1 10m ‘No Stopping’ restriction on northern kerb line of Russell Avenue east of Jameson Lane.
- 2 10m ‘No Stopping’ restriction on north western corner of the intersection.

**BTC16.51 Seaforth Street and Caledonian Street intersection, Bexley – proposed ‘No Stopping’ and painted lines**

Committee recommendation

That approval be given to the installation of ‘No Stopping’ zone and painting lines at the intersection of Seaforth Street and Caledonian Street, Bexley, as follows:

- 1 That a 15m ‘No Stopping’ zone be installed on the southern side of Seaforth Street east of Caledonian Street
- 2 That a 10m ‘No Stopping’ zone be installed on the eastern side of Caledonian Street south of Seaforth Street
- 3 That a 30m of combined chevron/double centre line be painted on Seaforth Street east of Caledonian Street on the approach to the existing concrete median island.

**BTC16.52 Shaw Street, Bexley North Shopping Centre – proposed ‘Mail Zone’**

Committee recommendation

That approval be given to extend the operating hours of the Mail Zone to commence from 1pm and to change the time limited parking along the southern kerb line Shaw Street, west of Bexley Road in front of No. 11 Shaw Street as follows:

- Replace the existing 9m of a combined "Mail Zone, 3:30pm-7pm" and "1P, 8:30am-3:30pm, Mon-Fri and 8:30am-12:30pm, Sat" parking restrictions with the proposed combined Mail Zone, 1pm-7pm" and "1P, 8:30am-1pm, Mon-Sat" parking restrictions.

**BTC16.53 Willis Street, Guess Avenue and Arncliffe Street – proposed ‘No Stopping’ and ‘No Parking’**

Committee recommendation

- 1 That approval be given to the installation of following parking restrictions along Arncliffe Street, south of Guess Avenue, as follows:

- a. from 0m to a point 10m - proposed 'No Stopping' restriction
  - b. from 10m to 40m - proposed 'No Parking' restriction
  - c. from 40m-50m- proposed 'No Stopping' restriction
- 2 That approval be given to the installation of following parking restrictions along Willis Street, west of Arncliffe Street, as follows:
  - a. from 0m to a point 10m - proposed 'No Stopping' restriction
  - b. from 10m to 16m – unrestricted parking
  - c. from 16m-32m- proposed 'No Parking' restriction
- 3 That approval be given to the installation of following parking restrictions along Guess Avenue, west of Arncliffe Street, as follows:
  - a. 32m 'No Stopping' restriction

## 5 General Business

### **BTC16.54 Additional Items**

Committee recommendation

That the matters raised be received and investigated as necessary.

- BTC16.55 General Business – Raised by Christina Curry  
Botany Road at Pemberton Street intersection, Pagewood –  
Traffic lights and pedestrian safety issues
- BTC16.56 General Business – Raised by Christina Curry  
Botany Road, along west side of Banksia Street to Lord Street, Botany  
– morning clearway restriction along west side
- BTC16.57 General Business – Raised by Christina Curry  
Wentworth Avenue and Page Street, Pagewood – Not enough green  
lights for Page Street traffic to exit
- BTC16.58 General Business – Raised by Christina Curry  
Jasmine Street and Myrtle Street intersection, Botany  
Lack of defined line markings and reduce garden bed
- BTC16.59 General Business – Paul Gage – St George Bicycle User Group  
Resignation from Bayside Traffic Committee Membership

The Convenor closed the meeting at 11:25am.

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## **Council Meeting**

**9/11/2016**

Item No	10.2
Subject	<b>Minutes of Local Representation Committee - 2 November 2016</b>
Report by	Liz Rog, Acting Manager Governance
File	(R) F16/903

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## **Officer Recommendation**

That the Minutes of the Local Representation Committee of 2 November 2016 be received.

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## **Present**

Greg Wright, Administrator  
Joe Awada  
Liz Barlow  
Ron Bezic  
Mark Castle  
Christina Curry  
George Glinatsis  
Mark Hanna  
Tarek Ibrahim  
Petros Kalligas  
Ben Keneally  
James Macdonald  
Nicholas Mickovski  
Greg Mitchell  
Michael Nagi  
Peter Poulos  
Bill Saravinovski  
Paul Sedrak  
Brian Troy  
Andrew Tsounis

## **Also Present**

Meredith Wallace, General Manager  
Fausto Sut, Acting Director Corporate and Community  
Liz Rog, Acting Manager Governance  
Martyn Perry, Manager Governance  
Luis Melim, Manager of Development Services  
Lauren Thomas, Governance Officer  
Peter Brennan, member of Waverley and North Sydney Independent Hearing and Assessment Panels

The Administrator opened the meeting in the upstairs meeting room of Coronation Hall, 1007 Botany Road, Mascot at 7:05 p.m.



## **1 Acknowledgement of Traditional Owners**

The Administrator read the acknowledgement of traditional owners.

## **2 Apologies**

Shane O'Brien

## **3 Minutes of Previous Meeting**

The Minutes of the Local Representation Committee Meeting held on 5 October 2016 be confirmed.

## **4 Disclosures of Interest**

There were no disclosures of interest.

## **5 Administrator Minute**

### **5.1 Representational Duties**

The Administrator advised members that it was not possible or practical for him to attend all events that he is invited to as the representative of Council. As we move towards the end of the calendar year there will, no doubt, be multiple events that cannot possibly be covered by a single Administrator. A couple of examples are school presentations and in April there will be a number of Anzac Day commemorations being held simultaneously across the Council area. This presents opportunities for Local Representative Committee (LRC) members to become more closely involved in representing the Council at local events and activities.

He proposed that any member of the LRC who might be interested in these roles could complete the form provided to them and hand it to Council staff at the end of the meeting. Alternatively, members could notify Council of their interest in attending a particular event, provided they gave Council staff as much notice as possible. He also proposed that members might nominate which of the new Council wards they would like to be available for and if any "blackout" periods might apply. He emphasised that participation is by no means compulsory and is at the discretion of the individual.

The Administrator asked member if they had a general view regarding this proposal and the consensus was that members were happy with it.

## **6 Presentation – Independent Hearing and Assessment Panel**

Mr Peter Brennan (community member of the Waverley Independent Hearing and Assessment Panel (IHAP); expert member of the North Sydney IHAP; former Director of Planning and Environmental Services, Waverley Council) provided an overview to members. Peter tabled a briefing paper on the pros and cons of establishing an IHAP.

Members raised questions throughout the briefing, with the general focus and consensus on the following points:

1. Concerns about committing a newly elected Council to an IHAP. If an IHAP is established, there was a clear preference by members that the term of the IHAP lapses upon the election of a new Council in September 2017 rather than continue for a two-year period from time of establishment.
2. Concerns about the true independence of panel members; loss of local democracy and advocacy.
3. Panel membership – number of members (5 preferred for meetings) and make up of expertise of members including Chair (appropriate skills rather than by profession).
4. Community representation to ensure broad coverage of the local area – one per ward has merit.
5. Public speaking at the IHAP – to ensure due consideration to providing resident - friendly timeframes and access, similar to the current process for Council meetings.

The Administrator indicated that he appreciated the frank discussion and the matters raised. He will utilise all of the commentary in his consideration of the matter.

## **7 Presentation – Capital Works Update**

A Project Status Report for 2016/2017 was provided to Members. The Administrator asked Members to review this report for the December meeting and advised them that if they have any questions now about a specific project, the General Manager would answer their questions.

AT: Can we have estimated starting and completion dates?

MW: The schedule might be released at a later date.

BK: The merger is an opportunity to inform a more strategic approach to the capital works program.

MW: Yes, we are going to review and develop a comprehensive capital works program for the region.

TI: Referring to page 4 of the handout – have recent incentives around priority precincts at Arncliffe and Banksia been included?

MW: Yes

Q: Why aren't the synthetic fields at Arncliffe Park mentioned in the report?

MW: I'm not sure.

Q: Can we have the completed cost; not just an estimate?

MW: We can certainly look at that.

- Q: Can we have more detail in relation to the Cook Park cycle way and identify all the elements on the map?
- MW: The report is quite abbreviated and meant to be a reference tool. It is the starting point for future discussion. It is more likely to be a two-three year program rather than the 12-months we first envisaged.
- AT: Referring to page 7 of the handout – Feedback to the officers on Caroline Street – the community is pleased with the result. On Page 43 – Ramsgate Beach – taking the fence away, shopkeepers and the community are very happy.
- MW: The Ramsgate Beach program will be continuing with a focus on minimising the impact to shopkeepers and residents, particularly over the Christmas period.
- BS: Page 42 of the handout – \$446K on concept designs? Not actual funding to do the work. What is the commencement date? What is the likely budget to completion? We used to have a mayoral taskforce to ensure there is movement from concept to actual build.
- MW: The State Government will be putting out a planning document – expected to be available December 16. As it is about to be released, we don't want to fund design when the State document may change our progress.

## **8 Update – Council-Run Events**

The Administrator advised members that he had identified a number of events that he was unable to attend such as the Book Launch – “Postings From the Front”, the Georges River Combined Councils Committee Annual General Meeting and the RSL 100 Years Commemorative Function. He asked that if any members were interested in attending these events on his behalf they could fill in the forms provided to them at the meeting.

## **9 Nominations for the Citizen of the Year and Nominations for Membership of the Citizen of the Year Judging Panel**

Members were referred to the handouts for the 2017 Citizen of the Year and the Young Citizen of the Year.

The Administrator sought their nominations for one or more categories based on their knowledge of deserving members of the Bayside Community. He asked members to give some thought to who they would nominate as a worthy candidate.

## **10 Advice From Members on Local Issues**

BS: Shops in Wollongong Road.

AT: Yes, the Arncliffe Town Centre station upgrade, particularly the state government parking – can this be reinstated as public parking?

MW: We have made representations and as yet, there has been no formal response.

CC: The new Park Grove development and new street (Mahoot Street) in Botany have caused a marked increase of traffic turning onto Botany Road. There are

traffic lights due to be installed however, in the meantime, it is representing a danger to residents with traffic issues and challenges. Also, the budget for a concept plan for Botany Aquatic Centre should be considered as there is a federal grant that is dollar for dollar as a joint submission.

GW: Matt Thistlethwaite has already brought this to my attention and staff are looking into that.

MH: The Botany Bay Aquatic Centre is a lost opportunity as a seasonal facility. We need to get it to operating as a year-round facility with a focus on learn to swim. Des Renford Aquatic Centre is down the road and overflowing with 5,000 learn-to-swim students. Botany Bay Aquatic Centre can feed off that and draw on those 5,000.

GW: The concept is certainly addressing some of those issues.

GMI: Frogmore and Hardy Street bus stops need to be extended to assist the entry and exiting of the buses. The other outstanding traffic matter is in Haig Avenue, Daceyville, with the 'kiss and ride' at the school in that street being used from the wrong gate. There is opportunity to address this with the school before the end of the year in readiness for the 2017 school term. It seems traffic committee issues are falling through the gaps.

PS: Can I ask for an update on the Airport fees status? Are we closer to unified fees for council?

GW: We are meeting with the Airport through John Patterson from Bayside East. He is setting up a meeting with the CEO of the Airport. I hope to have further information for you at the next meeting. There are some harmonisation issues around that.

AS: Ramsgate beach sand is almost gone at the swimming enclosure. It is dangerous.

GW: I will pass this on to the relevant Council officer. I would also like to remind all members that this is not the only avenue to raise these matters. You can report these issues through the council service request system, particularly those issues that you are identifying as dangerous. As residents and now a member of the LRC, you are in a unique position to access senior staff and the systems in place to raise these issues.

## **11 Action Items Review**

There were two outstanding items from the October Local Representative Committee meeting:

The first being an update on Capital Works Projects which has been provided to the committee tonight.

The second being the Recognition Dinner for former Councillors which is scheduled for 7 December 2016 after the December Local Representation Committee meeting. Invitations to this dinner are being distributed to you tonight.

The Administrator closed the meeting at 8:35 p.m.

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## Council Meeting

9/11/2016

Item No	11.1
Subject	<b>Closed Council Meeting</b>
Report by	Liz Rog, Acting Manager Governance Evan Hutchings, Acting Manager Governance
File	(R) SF16/1003

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## Summary

This report recommends that the Council Meeting be closed to the press and public in order to consider the items below.

Council's Code of Meeting Practice allows members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

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## Officer Recommendation

- 1 That, in accordance with section 10A (1) of the Local Government Act 1993, the Council considers the following items in closed Council Meeting, from which the press and public are excluded, for the reasons indicated:

### **11.2 CONFIDENTIAL – Court of Appeal Proceedings - Council and V-Corp (Builder), Council and Aramini (Private Certifier)**

In accordance with Section 10A (2) (g) of the Local Government Act 1993, by reasons of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

On balance, the public interest in preserving the confidentiality of the information, on the grounds of legal professional privilege, outweighs the public interest in considering this matter in open session of Council.

### **11.3 CONFIDENTIAL – Proceedings Brought Against the Council by Savvas**

In accordance with Section 10A (2) (g) of the Local Government Act 1993, by reasons of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

On balance, the public interest in preserving the confidentiality of the information, on the grounds of legal professional privilege, outweighs the public interest in considering this matter in open session of Council.

#### **11.4 CONFIDENTIAL – Supply and Delivery of Industrial Footwear**

In accordance with Section 10A (2) (d) of the Local Government Act 1993, by reasons of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the fact that tenderers provide information about their pricing arrangements and operations in the confidence that they will not be made public.

- 2 That, in accordance with section 11 (2) and (3) of the Local Government Act 1993, the reports, correspondence and other documentation relating to these items be withheld from the press and public.

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**Council Meeting**

**9/11/2016**

Item No	11.2
Subject	<b>PUBLIC CONFIDENTIAL – Court of Appeal Proceedings - Council and V-Corp (Builder), Council and Aramini (Private Certifier)</b>
Report by	Rodger Dowsett, Manager Executive Projects
File	(B) DA 04/286 (R) SF16/1003

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**Confidential**

In accordance with Section 10A (2) (g) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

On balance, the public interest in preserving the confidentiality of the information, on the grounds of legal professional privilege, outweighs the public interest in considering this matter in open session of Council.

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**Council Meeting**

**9/11/2016**

Item No	11.3
Subject	<b>CONFIDENTIAL – Proceedings Brought Against the Council by Savvas</b>
Report by	Rodger Dowsett, Manager Executive Projects
File	Road-134.02 & PPTY/166-276, (R) SF16/1003

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**Confidential**

In accordance with Section 10A (2) (g) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

On balance, the public interest in preserving the confidentiality of the information, on the grounds of legal professional privilege, outweighs the public interest in considering this matter in open session of Council.

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**Council Meeting**

**9/11/2016**

Item No	11.4
Subject	<b>PUBLIC CONFIDENTIAL – Supply and Delivery of Industrial Footwear</b>
Report by	Glenn Bentley, Coordinator Procurement and Fleet Management
File	(R) F16/949

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**Confidential**

In accordance with Section 10A (2) (d) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the fact that tenderers provide information about their pricing arrangements and operations in the confidence that they will not be made public.

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## **Council Meeting**

**9/11/2016**

Item No	11.5
Subject	<b>Resumption of Open Council Meeting</b>
Report by	Liz Rog, Acting Manager Governance Evan Hutchings, Acting Manager Governance
File	(R) SF16/1003

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## **Summary**

This report recommends that the closed part of the Council Meeting concludes and that the meeting be opened to the press and public.

Council's Code of Meeting Practice requires that, if Council passes a resolution during a meeting, or part of a meeting, that is closed to the public, the Chairperson will make the resolution public as soon as practicable after the closed part of the meeting has ended.

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## **Officer Recommendation**

That, the closed part of the meeting having concluded, the open Council Meeting resume and it be open to the press and public.