
Bayside Planning Panel

28/11/2017

Item No	6.7
Application Type	Development Application – Mixed Use Development (Commercial and Residential Building)
Application Number	DA-16/237
Lodgement Date	16 December 2016
Property	23 Swinbourne Street, Botany Lot 1 in DP 85872
Owner	Bartul and Maria Barbic
Applicant	Lurline Constructions P/L C/- Technik Haus P/L
Proposal	Integrated development for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking.
No. of Submissions	Three objections (First round) Nil (Second round)
Cost of Development	\$3,000,000.00
Report by	Angela Lazaridis, Senior Development Assessment Officer

Officer Recommendation

- 1 That the Bayside Planning Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of *Botany Bay Local Environmental Plan 2013* and that the proposed development is in the public interest as it is consistent with the objective of the Height Standard and the objectives for the B1 Neighbourhood Centre zone.
 - 2 That Development Application No. 16/237 for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking at 23 Swinbourne Street, Botany be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That any objectors be notified of the determination made by the Bayside Planning Panel.
-

Attachments

- 1 Supplementary Planning Assessment Report
- 2 Site Plan
- 3 Roof Plan
- 4 East and West Elevations
- 5 North and South Elevations
- 6 View Study Elevation and Plan
- 7 Balcony View Study
- 8 Materials/Window Schedule

Location Plan

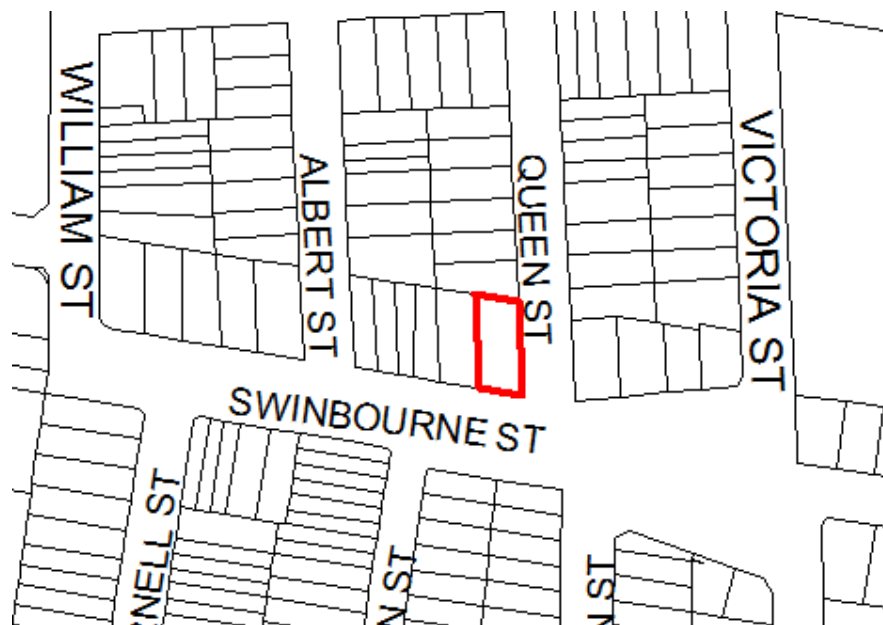


Figure 1: Locality Plan

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	16/237
Date of Receipt:	16 December 2016
Property:	23 Swinbourne Street, Botany Lot 1 in DP 85872
Owners:	Bartul and Maria Barbic
Applicant:	Lurline Constructions P/L C/- Technik Haus P/L
Proposal:	Integrated development for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking.
Recommendation:	Approve the development, subject to conditions.
Value:	\$3,000,000.00
No. of submissions:	Three objections (First round) Nil (Second round)
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	6 November 2017

Key Issues

On 26 September 2017, the subject Development Application was referred to the Bayside Planning Panel (BPP) for determination. The BPP deferred the development application to allow the applicant the opportunity to gain Council consent for the development that is not wholly contained within the site boundaries. Furthermore, comments were offered by the Panel with respect to the façade resolution and articulation, in particular, addressing the corner.

This Supplementary report provides a response to the amended information provided by the applicant to address the outstanding matters raised by the Panel.

On 27 October 2017, the applicant provided Council with amended plans demonstrating the balconies of Units 1.03 and 1.04, which were located on top of the awning over Councils footpath at its southern elevation, have now been designed within the boundaries of the site. This results in a decrease in the size of Unit 1.04 to accommodate a larger balcony. Secondly, the plans have been amended to demonstrate that the balconies along the eastern elevation of Level 2 are now setback away from the boundary. Originally, the balconies had extended to the eastern boundary whereas now they have been setback 1.8 metres. Finally, in regards to façade resolution and articulation of the ground floor corner retail tenancies, the applicant has altered the materials within the proposal. A masonry corner has been introduced to create a more prominent element as opposed to originally comprising of floor to ceiling glass panels. The use of both masonry and glass continues to allow for appropriate surveillance as well as frames the corner making it distinguishable.

The additional information to raise the Panel's concerns has been reviewed and the application is recommended for approval subject to the conditions attached in this Supplementary Report.

Recommendation

It is RECOMMENDED that Council, resolve:

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 as it is consistent with the objective of the Height Standard and the objectives for the B1 Neighbourhood Centre zone.
2. To approve the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking at 23 Swinbourne Street, Botany.
3. That any objectors be notified of the determination made by the Planning Panel.

Assessment of the Panel's deferment

1. Council consent is to be granted for the construction of balconies over the awning on Council land

The Panel raised issue with the balconies that form part of the private open space area of U1.03 and U1.04 which were originally located over the awning along the southern elevation of the site. The balconies were originally over Council land and owners consent had not been given by Council. Following the meeting, Council agreed not to provide owners consent for the construction of the two balconies and requested that the applicant redesign the first floor along the southern elevation to encompass the private open space to these two units within its own boundaries. The applicant provided amended plans providing the balconies within the site. U1.04 has reduced the size of the unit from 91sqm to 81sqm to accommodate a 10sqm balcony whereas U1.03 has two balconies which have an area of 9sqm and 7.8sqm respectively (Figure 1). It is noted that this now forms a non-compliance with Control 5.2.2.5 of the BBDCP whereby the development is required to be in accordance with the desired future character for the Swinbourne Street Neighbourhood Centre. It is noted that the change in the policy direction will now provide an inconsistent streetscape given existing approvals in the neighbourhood Centre as shown in Figure 3. As the entire building is now located within the boundaries of the site, this issue has been resolved.

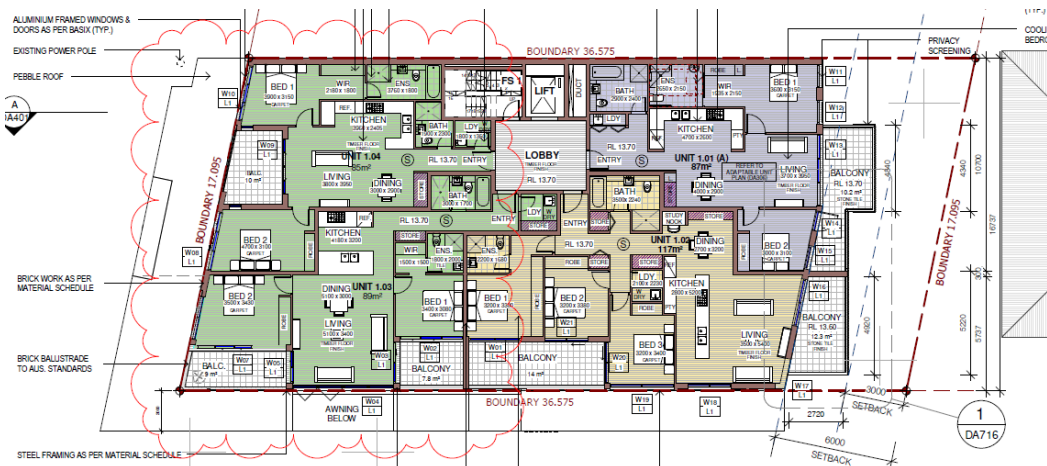


Figure 1. Amended plans demonstrating the balconies within the site

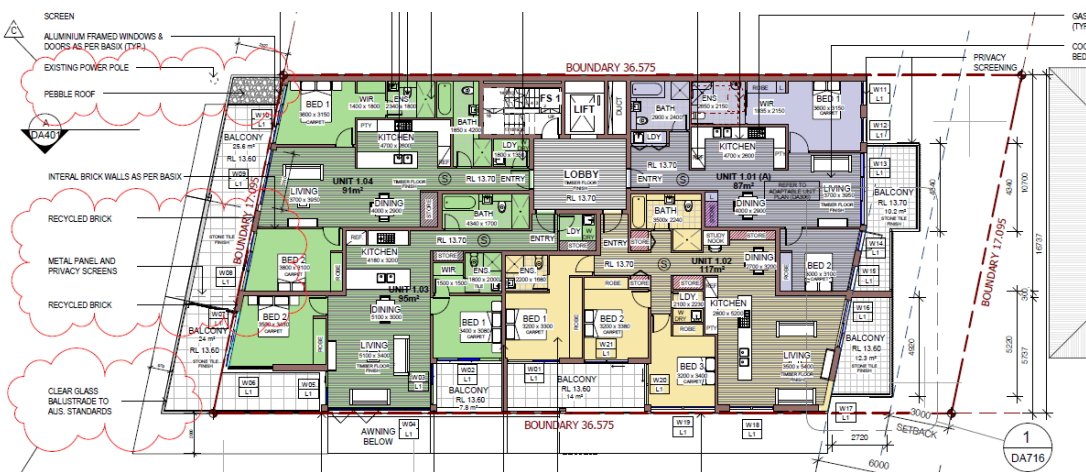


Figure 2. Original plans demonstrating south-facing balconies over boundary

Figure 20 - Swinbourne Street Neighbourhood Centre

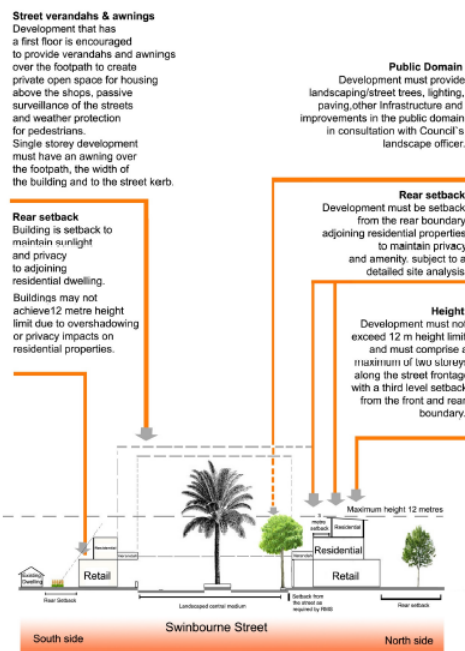


Figure 3. Swinbourne Street Desired Future Character

2. *Façade resolution of the ground floor corner of the building*

The applicant had originally proposed floor to ceiling glass on the south-eastern corner of the site within the retail tenancies (Figure 4). The Panel had issue with the material proposed as it suppressed the corner and suggested alternate material choice which would frame the corner and make it more prominent from the surrounding sites. Amended plans were submitted demonstrating a change in the materials and façade treatment along the ground, first and second floors on the southern and eastern elevations. The use of facebrick in particular along the south eastern corner provides a visually interesting corner while continuing to maintain casual surveillance from the retail areas. The first floor balconies also incorporate a mix of facebrick and rendered brick which is demonstrated in Figure 5 below.



Figure 4. Original photomontage of the development demonstrating the south-eastern corner retail tenancies



Figure 5. Proposed modification to the materiality of the building/facade

3. *Articulation of the second level eastern elevation is required*

The original plans had the balconies on Level 2 along the eastern and southern elevations extend to the boundary with glass balustrading extending to the edge of the building therefore did not provide setback and no articulation. The applicant has provided amended plans demonstrating that the eastern balconies have been setback from the boundary 1.8 metres with the balconies along the southern side 600mm. The minor change in the setbacks has reduced the private open space of U2.01 and U2.02 to 62.5sqm and 53sqm. The size of the private open space continues to comply with the minimum 12sqm requirement within the ADG. The proposal has not returned for assessment to the design review panel who supported the original design proposed therefore these changes are inconsistent with the advice that has been provided by the DRP.

4. *Amendment to the car parking layout at the ground floor level*

Concern was raised by the Panel relating to the car parking arrangement and the location of the ramp down to the basement level, in particular queuing off Queen Street. The applicant considered a re-orientation of the ramp to the gain access down from within the western side of the site however the reconfiguration would lose a total of six car parking spaces. Council does not wish to reduce the number of car parking spaces on the site as there is already a deficiency in car parking for the retail and residential units. Consideration of the traffic consultant's report and the feedback received by Council's Development Engineer in regards to the traffic light system, access to the basement level is acceptable.

Conclusion

Amended plans requested by the Panel for Development Application No. 16/237 at 23 Swinbourne Street, Botany, have been considered and have addressed the Panels key concerns that were raised at the Panel meeting of 26 September 2017. Therefore, the development proposal is recommended for approval.

Attachment

Schedule 1 – Conditions of Consent

Premises: 23 Swinbourne Street, Botany

Da No.: DA-16/237

GENERAL CONDITIONS

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

Drawing No.	Author	Date Received
DA-201- Site Analysis- Rev A		Dated 28 November 2016; Received 16 December 2016

DA-202- Site Plan- Rev C	Technik Haus	Dated 12 October 2017; Received 27 October 2017
DA-301- Basement Floor Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-302- Ground Floor Plan- Rev C		Dated 12 October 2017; Received 27 October 2017
DA-303- Level 1 Floor Plan- Rev D		Dated 12 October 2017; Received 27 October 2017
DA-304- Level 2 Floor Plan- Rev C		Dated 12 October 2017; Received 27 October 2017
DA-305- Roof Plan- Rev B		Dated 17 March 2017; Received 23 March 2017
DA-306- Adaptable Unit Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-401- Sections 1- Rev D		Dated 12 October 2017; Received 27 October 2017
DA-402- Sections 2- Rev C		Dated 12 October 2017; Received 27 October 2017
DA-501- East and West Elevation- Rev D		Dated 12 October 2017; Received 27 October 2017
DA-502- North and South Elevation- Rev C		Dated 12 October 2017; Received 27 October 2017
DA-602- Perspectives- Rev B		Dated 12 October 2017; Received 27 October 2017
DA-701- Calculations- Rev C		Dated 12 October 2017; Received 27 October 2017
DA-702- Calculations- Rev B		Dated 12 October 2017; Received 27 October 2017
DA-703- Construction Management Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-704- Shadow Diagrams- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-705- Shadow Diagrams 2- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-706- Sunlight Analysis- 19 Swinbourne Street- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-708- Sunlight Access- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-711- Services Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-715- View Study Elevation and Plan- Rev A		Dated 17 March 2017; Received 23 March 2017
DA-716- Balcony View Study- Rev A		Dated 17 March 2017; Received 23 March 2017
DA-801- Materials/Window Schedules- Rev C		Dated 17 March 2017; Received 23 March 2017
1458-C01- Concept Stormwater Layout- Basement Plan		Dated 3 November 2016; Received 16 December 2016
1458-C02- Concept Stormwater Layout - Ground Floor Plan		Dated 3 November 2016; Received 16 December 2016

1458-C03- Concept Stormwater Layout- First Floor Plan	R. Balas Consulting P/L	Dated 3 November 2016; Received 16 December 2016
1458-C04- Concept Stormwater Layout- Roof Plan		Dated 3 November 2016; Received 16 December 2016
B85% Turning Paths	Development Engineering Solutions	Dated 20 November 2016; Received 16 December 2016
Driveway Access Plan		Dated 20 November 2016; Received 16 December 2016
Landscape Plans	Conzept	Dated September 2016; Received 16 December 2016

Reference Document(s)	Author	Date Received
Access Report	Visionary Access	Dated November 2016; Received 16 December 2016
Acid Sulfate Soil Assessment	STS GeoEnvironmental	Dated December 2016; Received 16 December 2016
Aboriginal Impact Assessment	Advanced Treescape Consulting	Dated 15 December 2016; Received 16 December 2016
BASIX Certificate No. 766489M	Prepared by The house energy rating company of Aust. Pty Ltd	Dated 26 November 2016; Received 16 December 2016
BCA Compliance report	Environet Consultancy Pty Ltd	Dated 23 November 2016; Received 16 December 2016
Preliminary Geotechnical Investigation	STS GeoEnvironmental	Dated July 2017; Received July 2017
Architects Statement in response to SEPP 65 Design Quality Principles	Graham Bakewell Architect	Dated December 2016; Received 16 December 2016
Statement of Environmental Effects	Planning Ingenuity	Dated 15 December 2016; Received 16 December 2016
Waste Management Plan	Elephants Foot	Dated 7 December 2016; Received 16 December 2016
Traffic Access and Parking Assessment- Rev A	Development Engineering Solutions P/L	Dated 27 January 2017; Received January 2017
Amended Clause 4.6 variation statement- Maximum Height	Planning Ingenuity	Received 23 March 2017

2.

- a) This Consent relates to land in Lot 1 in DP 85872, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
- b) Separate development applications must be lodged with Council for the use of the individual retail tenancy and associated signage.

3.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
 - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2. If they are located on balconies or in public, they are to be appropriately screened;
 - d) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans; and
4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
 5. Emergency egress from the site must be provided from all internal areas to the Swinbourne Street frontage immediately adjoining 19 Swinbourne Street (Lot 34 DP600407). This egress point is to maintained at all times.
 6. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent (Condition No. 1) that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.
 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
 7. The consent given does not imply that works can commence until such time that: -
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent: -
 - i) Has appointed a principal certifying authority; and,

- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
- iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES

8. The following conditions imposed by Water NSW are as follows:

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 belowground 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 offsite 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.

9. The following conditions imposed by **NSW Police** are as follows:

- a)
 - i. As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
 - ii. The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance); and
 - iii. Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data.
- b) Any proposed landscaping and vegetation to the street frontage should adhere to the following principles:
 - i) Shrubs bushes, plants should remain under 900mm in height;
 - ii) Branches or large trees should start at a height of two (2) metres and higher;

- c)
 - i) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
 - ii) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.
- d) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.

10. The following conditions imposed by **SACL** are as follows:

Height Restrictions

- a) The property development at 23 Swinbourne Street, Botany, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority;
- b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 22.7 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc;
- c) Should you wish to exceed 22.7 metres above Australian Height Datum (AHD), a new application must be submitted;
- d) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the *Civil Aviation (Buildings Control) Regulations Statutory Rules 1988*, No.161;
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations;
- f) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- g) Information required by Sydney Airport prior to any approval is to include:
 - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
 - ii) the swing circle of any temporary structure/equipment used during construction;

- iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
- iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Planning for Aircraft Noise and Public Safety Zones

- h) Current planning provisions (s. 117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning and for Sydney Airport was endorsed by Air services Australia on 13 March 2009 (Sydney Airport 2029 ANEF).
- i) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

11. The following conditions imposed by **Ausgrid** are as follows:

- a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
 - i) Changes in electrical load requirements
 - ii) Changes to Ausgrids infrastructure (ie. asset relocations, decommissioning substations etc.)
 - iii) Works affecting Ausgrids easements, leases and/ or right of ways
 - iv) Changing the gradients of any roads or paths
 - v) Changing the level of roads or foot paths
 - vi) Widening or narrowing of roads
 - vii) Closing roads or laneways to vehicles
 - viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) Any work undertaken near overhead power lines needs to be done in accordance with:
 - i) Workcover Document ISSC 23 "Working Near Overhead Power Lines"
 - ii) Ausgrids Network Standard
 - iii) Ausgrids Electrical Safety Rules

- d) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.
12. The following conditions imposed by **Sydney Water** are as follows:
- a) The approved plans must be submitted to the 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.
 - b) *The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.*
 - c) The [Tap in™](#) service provides 24/7 access to a range of services, including:
 - i) building plan approvals
 - ii) connection and disconnection approvals
 - iii) diagrams
 - iv) trade waste approvals
 - v) pressure information
 - vi) water meter installations
 - vii) pressure boosting and pump approvals
 - viii) changes to an existing service or asset, e.g. relocating or moving an asset.
 - d) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

- 13. Prior to commencement of any works on-site, a dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. 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 demolition. The extent of the Dilapidation Survey is to be prepared by a practising Structural Engineer having regard to foundations/structures of the locality
- 14. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;

- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
15. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare 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 Environment 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.
16. 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 Council's road reserve must also have prior approval of Council.
17. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
18. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
19. 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.

20. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
21. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
22.
 - a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
 - b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".
23. 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 and Climate Change and Water and with the provisions of:
 - 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); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
24. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
 - a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - b) Prior to placement of concrete (kerb and gutter and footpath);
 - c) Prior to construction and placement of road pavement materials; and

- d) Final inspection.

Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

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

25. 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.
26. The applicant must prior to the release of the Construction Certificate, pay the following fees:
- | | |
|---------------------------------|--------------------------|
| a) Development Control Fee | \$3,000.00 |
| b) Footpath Crossing Deposit | \$165,035.25 (see below) |
| c) Landscape Maintenance Bond | \$3,150 (see below) |
| d) Street Tree Maintenance Bond | \$4,550 (see below) |
| e) Section 94 Contributions | \$79,937.68 (see below) |

*The insurance is to be extended to include the RMS/STA being indemnified against any action that could result in litigation following any accident involving an errant motor vehicle colliding with the proposed building.

27. Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the *City of Botany Bay Section 94 Contributions Plan 2016*, a contribution of **\$79,937.68** (as indexed in November 2017) is to be paid to Council prior to the issue of the first Construction Certificate.

Community Facilities – Citywide	\$13,717.07
Recreation Facilities- Citywide	\$59,584.17
Transport Management- Citywide	\$5,614.17
Administration	\$1,022.26

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

28. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$165,035.25** (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.

29. Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council for approval, showing the following:
- a) Storage areas are to comply with the minimum ADG requirement of 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments;
 - b) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
 - c) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
 - d) Plans are to show loading and unloading for the commercial tenancies either on the site or from Queen Street in the form of a loading bay. Loading and unloading is restricted along Swinbourne Street;
 - e) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
 - f) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
 - g) The privacy screens along the northern elevation of Level 1 is to be fixed at a 45 degree angle and the height of the privacy screens along the balconies is to have a height of 1.8 metres to allow for sunlight access to the unit.
30. Prior to the issue of a Construction Certificate, a public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
31. Landscaping shall be installed in accordance with the landscape plan (*DA Issue D*), by Conzept, dated 15.12.2016, prior to the issue of an Occupation Certificate. This plan is to be amended to include: an additional tree added to provide three (3) evergreen native trees to be installed in the northern setback with mature height at least as tall as the proposed development, two (2) small evergreen native trees of 5-6 metres high to be installed on the podium communal open space, and all planter boxes are to have a minimum width of 750mm. The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times. A revised Landscape Plan shall

be submitted for Council's approval with the Public Domain Plan prior to issue of Construction Certificate.

32. The applicant is to submit payment of a Street Tree Maintenance Bond of \$4,550.00. The duration of the Bond shall be limited to a period of 12 months after the issue of the Final Occupation Certificate, and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
33. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$3,150, for a period of 12 months after issue of the Final Occupation Certificate and upon inspection and sign off by Council's Landscape Architect, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

34. 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 and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
35. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
 - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,

- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

36. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Swinbourne Street during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

37. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
 - b) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure,
 - c) The applicant shall provide 11 resident carparking spaces that must be clearly linemarked and signposted,
 - d) The applicant shall provide 5 retail/visitor carparking spaces that must be clearly linemarked and signposted.
38. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - b) All service vehicles shall enter the property front in front out,
 - c) Demonstrate safe headroom clearance of 3.5m is achieved in the driveway entrance and along the travel path, parking and manoeuvring areas of a Small Rigid Vehicle (SRV), including Council's Garbage Truck,
 - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
39. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) A minimum 1 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
40. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16. As part of this development, a new concrete driveway shall be constructed. A new six (6) 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. The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

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

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

42. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.
 - c) As part of this development, the Ausgrid power pole on Bunnerong Road at the front of the development site will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
 - d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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. 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 and Council for approval.

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,**
 - b) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Council’s DCP SMTG. The volume of the rainwater tank that can be used to offset from the OSD requirements is equivalent to 50% of the size of the rainwater tank,
 - c) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
 - d) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - e) The pump out system from the basement carpark proposed shall discharge to the OSD system,
 - f) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
 - g) If an OSD system is proposed, discharge to Kerb and Gutter on Swinbourne St and/or Queen St shall be limited to 10L/s, one outlet only. Alternatively, the discharge pipe shall be connected to Council’s stormwater pit and pipe system,
 - h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - i) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - j) The submission of detailed calculations including computer modelling where required to support the proposal.
44. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council’s Landscape Architect prior to their installation.
45. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) ‘NSW Road Noise Policy’*, and shall also meet the criteria recommended as “Satisfactory” in Table 1 of

Australian Standard AS 2107-2000. Details shall be submitted to Principal certifying authority prior to the release of the Construction Certificate.

46. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:

- a) identify each item of plant and equipment;
- b) the following additional criteria adopted by City of Botany Bay Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) 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 L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} 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.

Note “sensitive” positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

47. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the Construction certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
48. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
49. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
50. Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.

51. All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.
52. Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
53. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council or PCA approval.
54. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
55. Plans and specifications for the storage room and for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
 - a) Waste and recycling for commercial users shall be in a separate room for the storage of waste and recycling for residential users
 - b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed,
 - c) Adequately ventilated,
 - d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor,
 - e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basked in accordance with the requirements of Sydney Water Corporation, and
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage areas
 - g) Waste collection is to be carried out from the kerb with the building manager wheeling the bins from the bin presentation area on collection day; and
 - h) Any loading bay to be from Queen Street is to be assessed and determined by Council's Traffic Committee.

CONDITIONS TO BE SATISFIED DURING WORKS

56. If the work involved in the construction of a building:

- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
57. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
58. 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.
59. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
60. The Applicant shall conduct all demolition, 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.
61. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
62. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
63. As the development involves an excavation that extends below the level of the base of the footings of a building or road 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.

- iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
- 64. 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.
- 65. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 66. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 67. The Applicant has permission to remove *one (1)* Liquidamber on the property and the seven (7) street trees. The trees may only be removed after a Construction Certificate has been issued and removal shall be undertaken by the Applicant at their own expense.
 - 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.
- 68.
 - a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved

landscape plan. The Certificate is to be submitted to Council prior to the Issue of an Occupation Certificate.

69. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
70. 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.
71. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 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.
72. Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
73. 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*.

a) Level Restrictions

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 20 dB(A).

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).

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

All possible steps should be taken to silence construction site equipment.

74. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) must be standard flushing toilet; and,

ii) must be connected:

1 to a public sewer; or

2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

75. 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.

76. 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.

77. Concrete trucks and trucks 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 be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

78. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
79. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 80.
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (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.
81. 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 demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
82. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

If the soil conditions required it:

- a) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - b) Adequate provision must be made for drainage.
83. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
84. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
85. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
86. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Erosion and Sediment Control Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

87. 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.
88. Prior to the issue of the Occupation Certificate, the privacy louvres along the balconies at Units 1.01 and 1.02 and Unit 2.02 are to be fixed at a 45 degree angle.
89. Prior to the issue of the Occupation Certificate, the western boundary wall is to be suitably painted as per the Schedule of Colours and Finishes and is not to be left blank.
90. Prior to the issue of the Occupation Certificate, the existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.
- 91.
- a) A notice of requirement shall be obtained from the Water Board;

- b) A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

- 92. 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.
- 93. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 94. 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.
- 95. Prior to the issue of the 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 all relevant standards.
- 96. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
 - a) On Swinbourne St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - b) On Swinbourne St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - c) On Queen St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications, and
 - d) On Queen St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications.
- 97. Prior to the issue of the 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.

98. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
 - b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

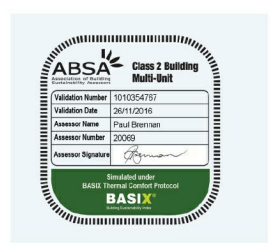
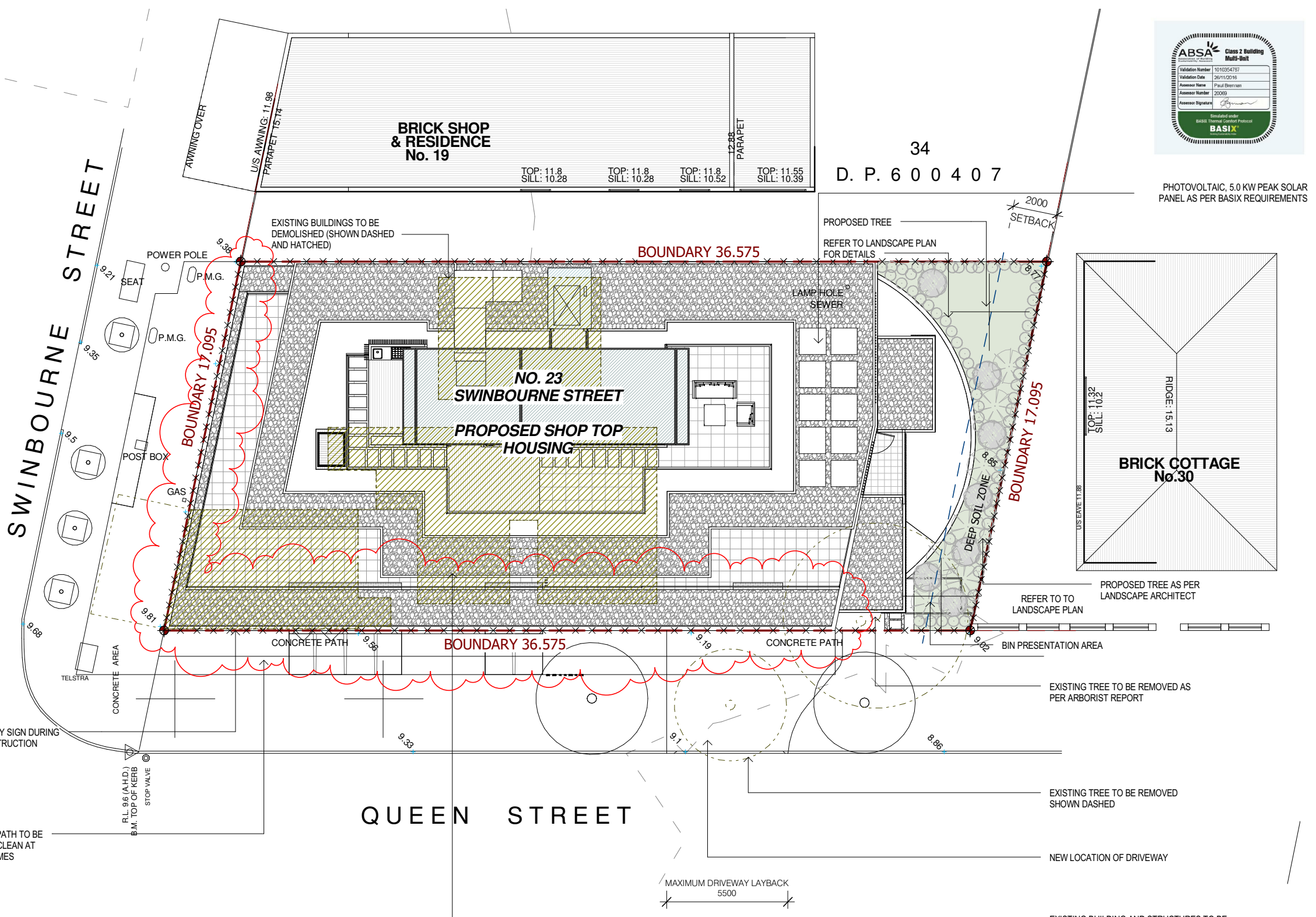
99. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
100. 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. Details of street numbering shall be submitted to Council for approval.
101. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
102. The 16 car parking spaces shall be made available to permanent occupants, visitors and retail parking at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate. One of the visitor car parking can be utilised as a loading bay for the commercial tenancies for SRV's.
103. Prior to the issue of the Occupation Certificate, should a loading bay be required along Queen Street associated with the commercial uses, approval is to be provided by Council's Traffic Committee.
104. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

105. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

106. Ongoing maintenance of the road verges and footpaths in Queen Street and Swinbourne Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
107. Council may terminate a license for airspace use. In the event that Council terminates a license, then it may be terminated by notice in writing by the Council to the licensee at any time. On receipt of which the licensee shall remove all material (by the date/time specified in the letter from Council) from the footway (including airspace) and shall have no other rights under the license.
108. 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.
109. No roller shutters are to be installed to any of the commercial shopfronts that front Swinbourne Street and Queen Street.
110. Waste collection is to be carried out from the kerb with the building manager wheeling the bins from the bin presentation area or waste holding rooms on collection day. Garbage collection is not to be carried out from the site unless there is a dedicated loading area within the car parking levels.
111. Prior to commencing trading each tenant must register the business premises with Council if trading as a food premise, skin penetration, hairdresser or beauty therapist.
112. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
113.
 - a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The adaptable apartment approved under this development consent is to remain unaltered at all times; and
 - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times.
114. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

115. 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*.
116. 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.
117. 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.



PHOTOVOLTAIC, 5.0 KW PEAK SOLAR PANEL AS PER BASIX REQUIREMENTS

LEGEND

XXXX SILT FENCE

WSC WASTE STORAGE CONTAINER

WOA WASH OUT AREA

STOCKPILE AREA

WR WASTE/RECYCLE BINS

MSA MATERIALS STORAGE AREA

EXISTING TREE TO BE RETAINED

EXISTING TREE TO BE REMOVED

STRUCTURES TO BE DEMOLISHED

SEDIMENT CONTROL NOTES

1. ALL SEDIMENT DAMS AND TRAPS SHALL BE CLEANED WHEN THE STRUCTURES ARE A MAXIMUM OF 60 % FULL OF SOIL & DEBRIS

2. SAND BAGS SHALL BE WELL PACKED AGAINST ADJOINING BAGS

3. FILTER SHALL BE CONSTRUCTED BY REMOVING & WRAPPING GRATE IN FILTER FABRIC (PROPEX OR APPROVED EQUIVALENT) WITH MINIMUM 75mm FREE FABRIC OUTSIDE ALL EDGES OF GRATE WHEN IT IS REINSTALLED.

4. ALL EROSION AND SEDIMENTATION CONTROL MEASURES, INCLUDING REVEGETATION AND STORAGE OF SOIL AND TOPSOIL, SHALL BE

5. ALL EROSION AND SEDIMENTATION CONTROL MEASURES, INCLUDING REVEGETATION AND STORAGE OF SOIL AND TOPSOIL, SHALL BE

6. ALL EROSION AND SEDIMENTATION CONTROL MEASURES, INCLUDING REVEGETATION AND STORAGE OF SOIL AND TOPSOIL, SHALL BE

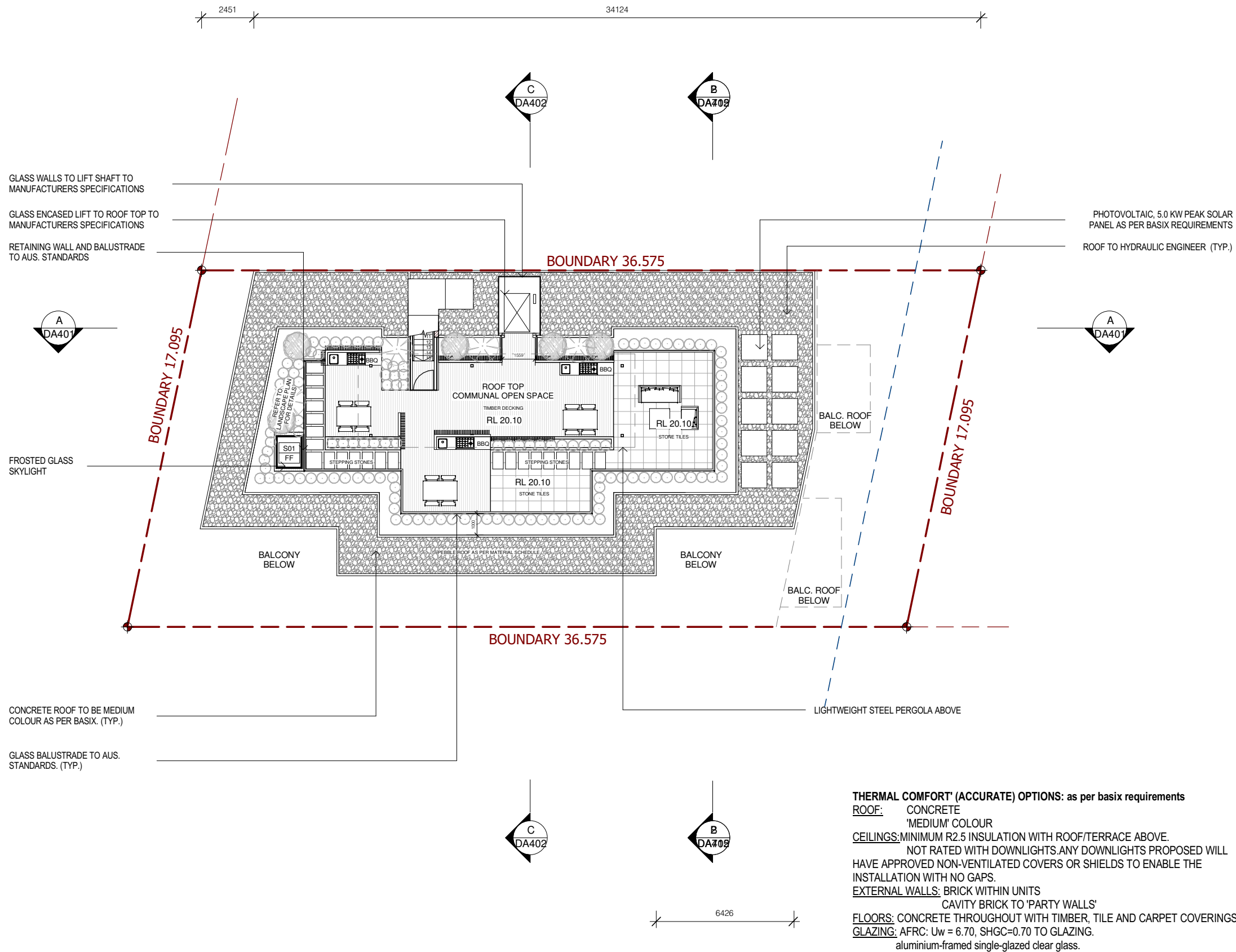
7. FILTER SHALL BE CONSTRUCTED BY STRETCHING A FILTER FABRIC (PROPEX OR APPROVED EQUIVALENT) BETWEEN POST AT 2.0m CENTRES. FABRIC SHALL BE BURIED 150mm ALONG ITS LOWER

SEDIMENT DAM

SEDIMENT FENCE

1 SITE PLAN
1 : 200

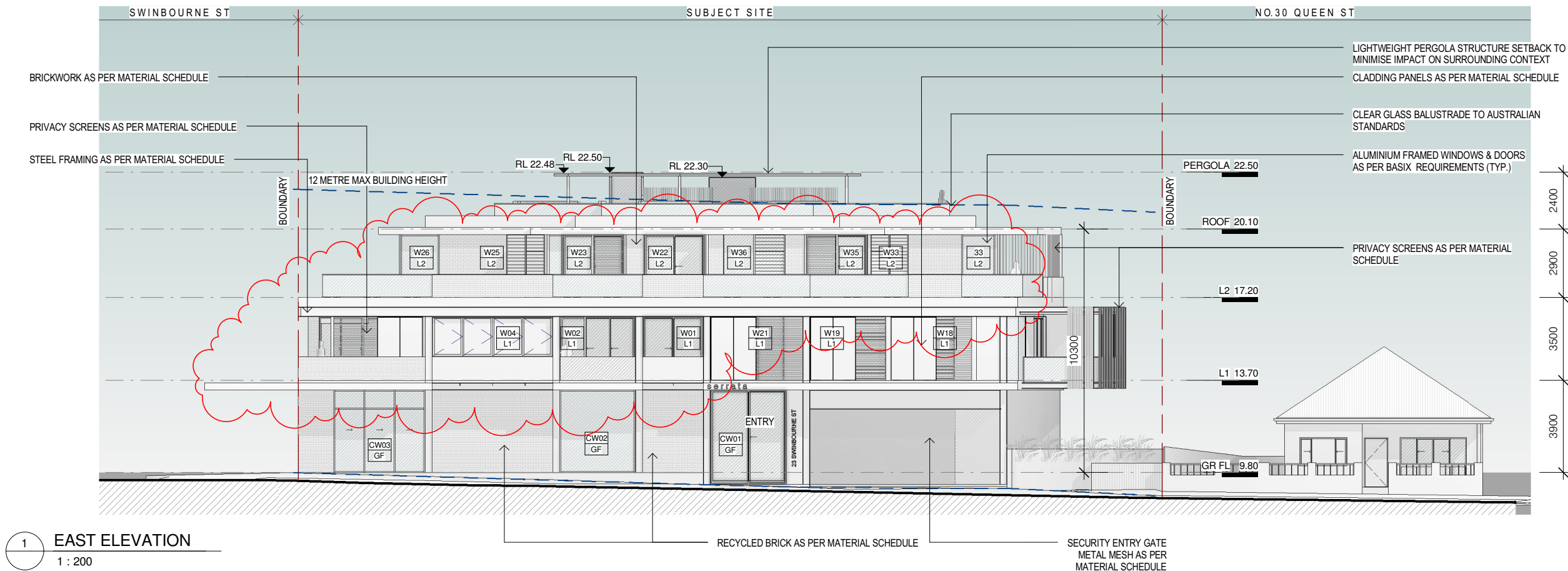
FOR DEVELOPMENT APPLICATION



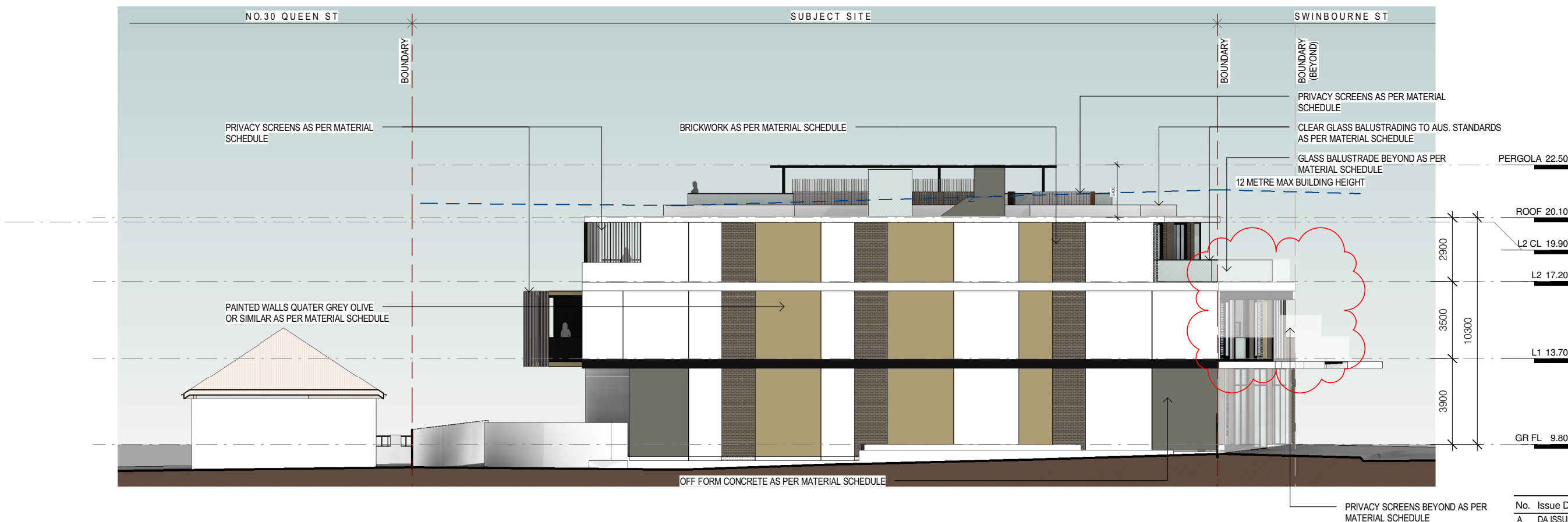
1 ROOF PLAN
1 : 200

FOR DEVELOPMENT APPLICATION

No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION 2 - ADDITIONAL INFO	2017.03.17

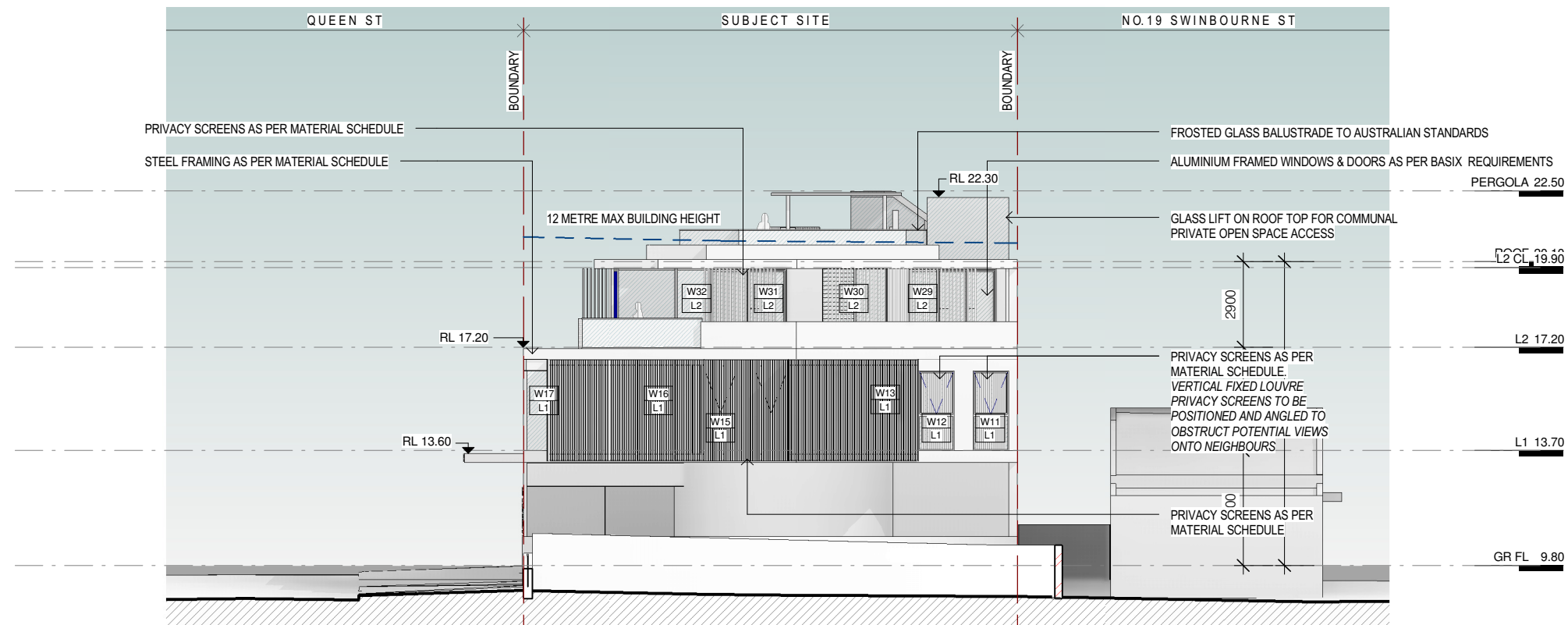


1 EAST ELEVATION
1 : 200

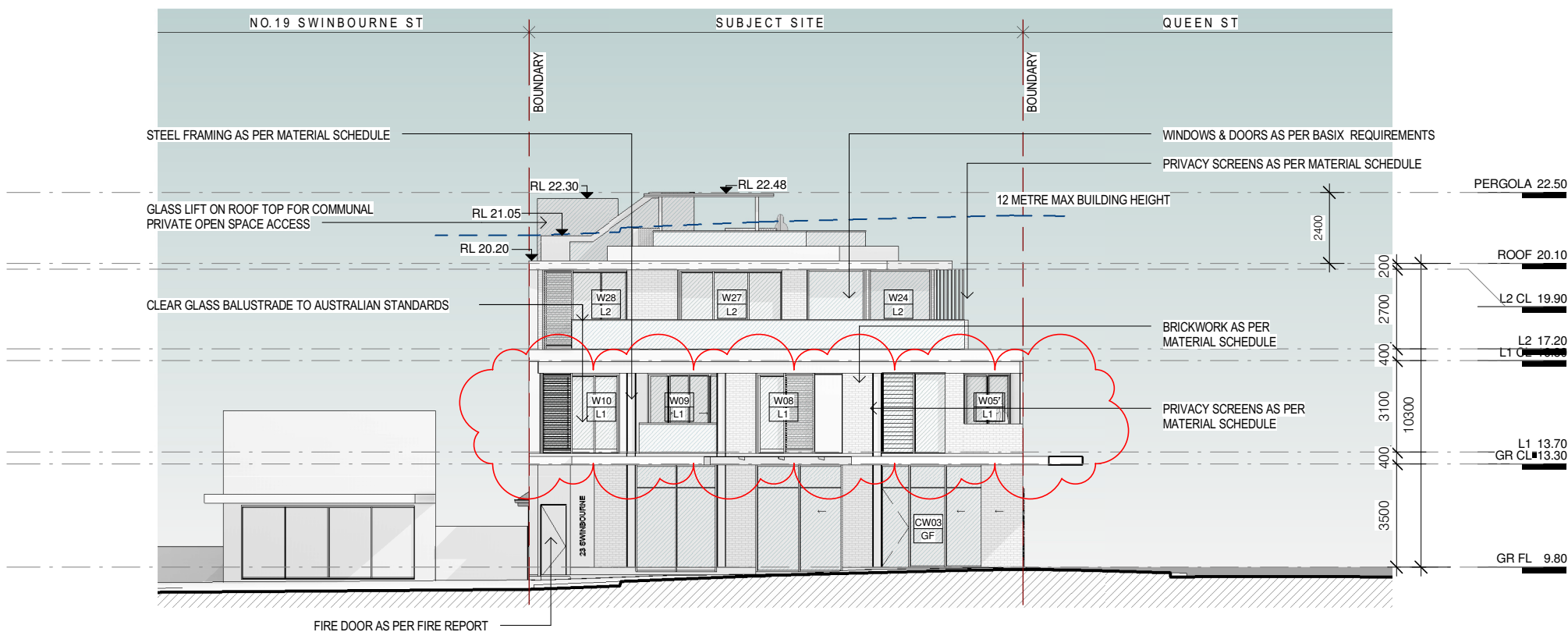


2 WEST ELEVATION
1 : 200

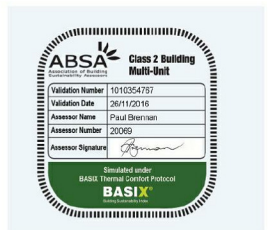
FOR DEVELOPMENT APPLICATION



1 NORTH ELEVATION
1 : 200



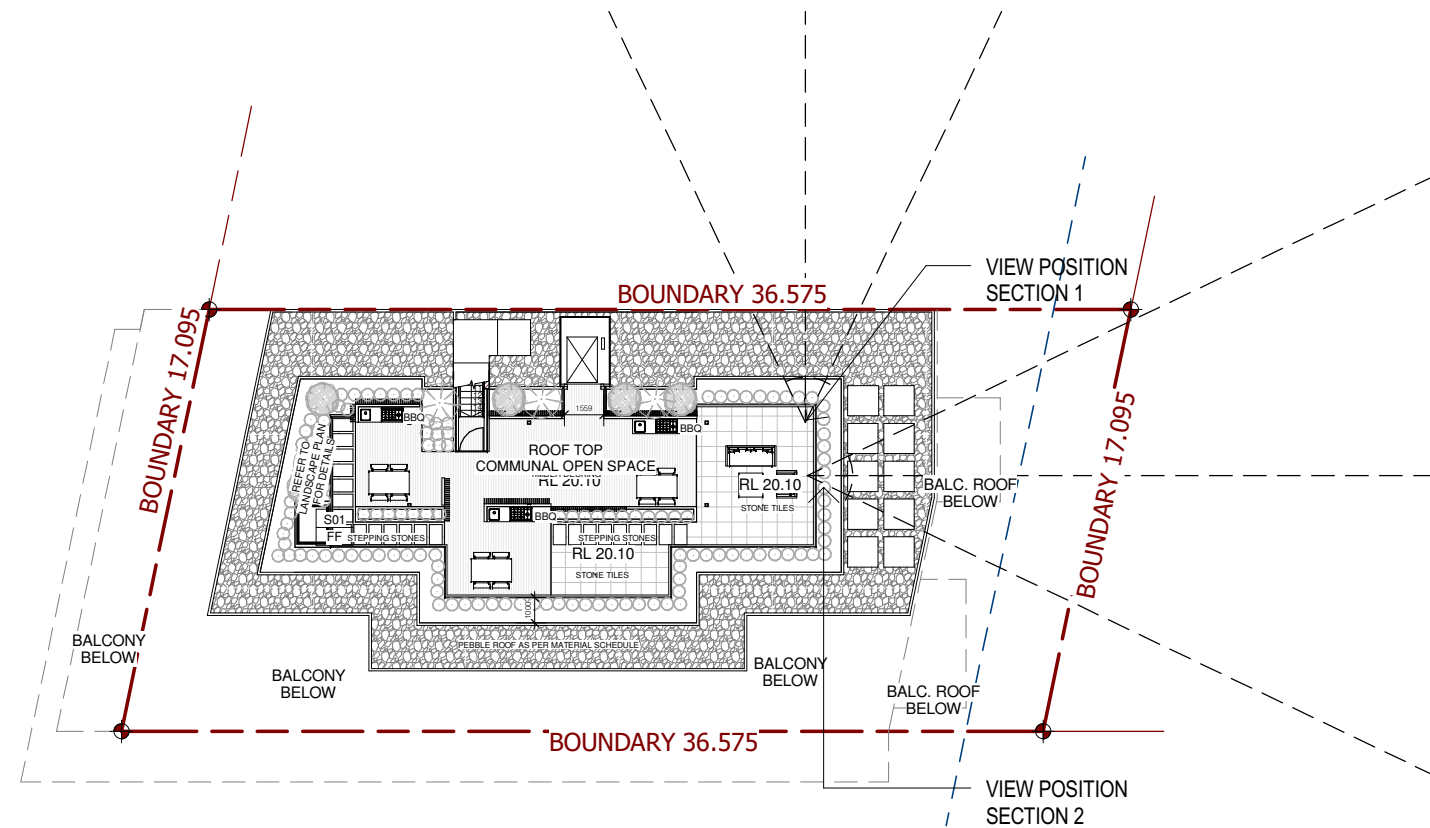
2 SOUTH ELEVATION
1 : 200



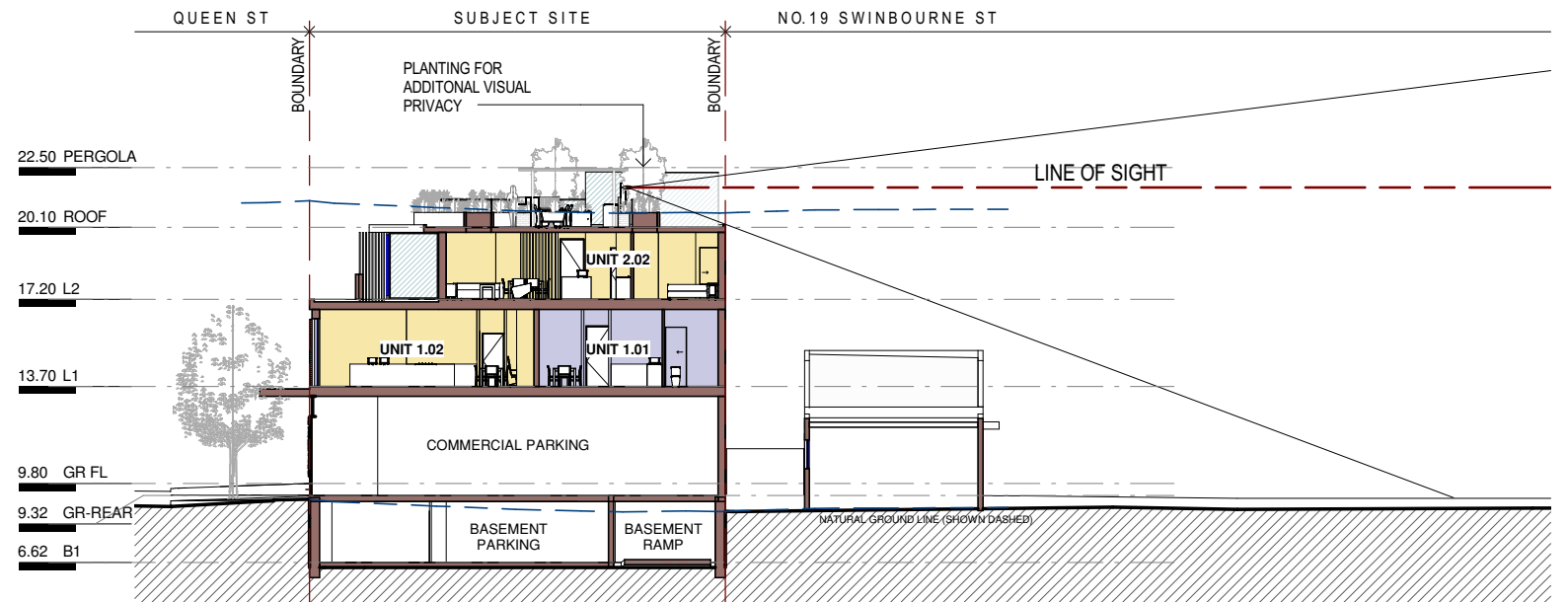
No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24
C	REVISION 4 - ADDITIONAL INFO	2017.10.12

Sheet Number: DA502
Issue: C

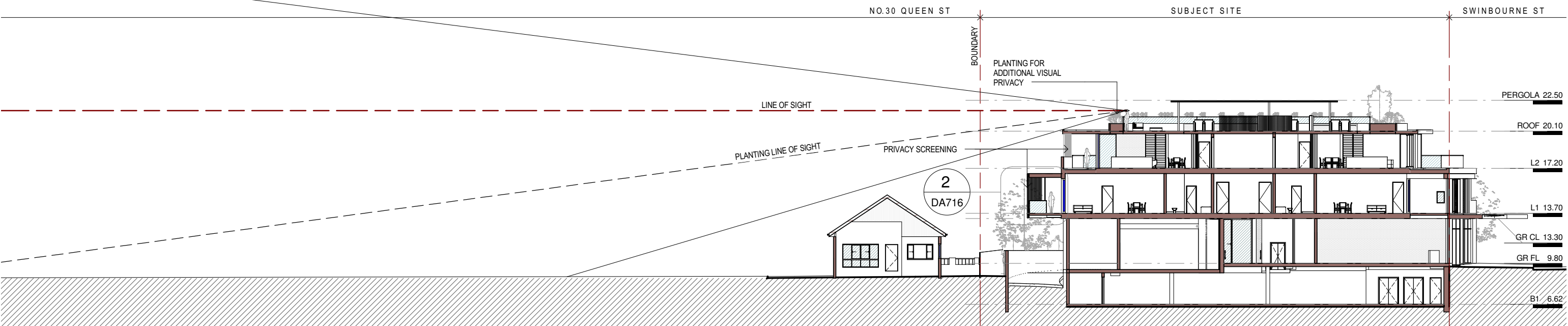
FOR DEVELOPMENT APPLICATION



1 ROOF PLAN VIEW STUDY
1 : 300



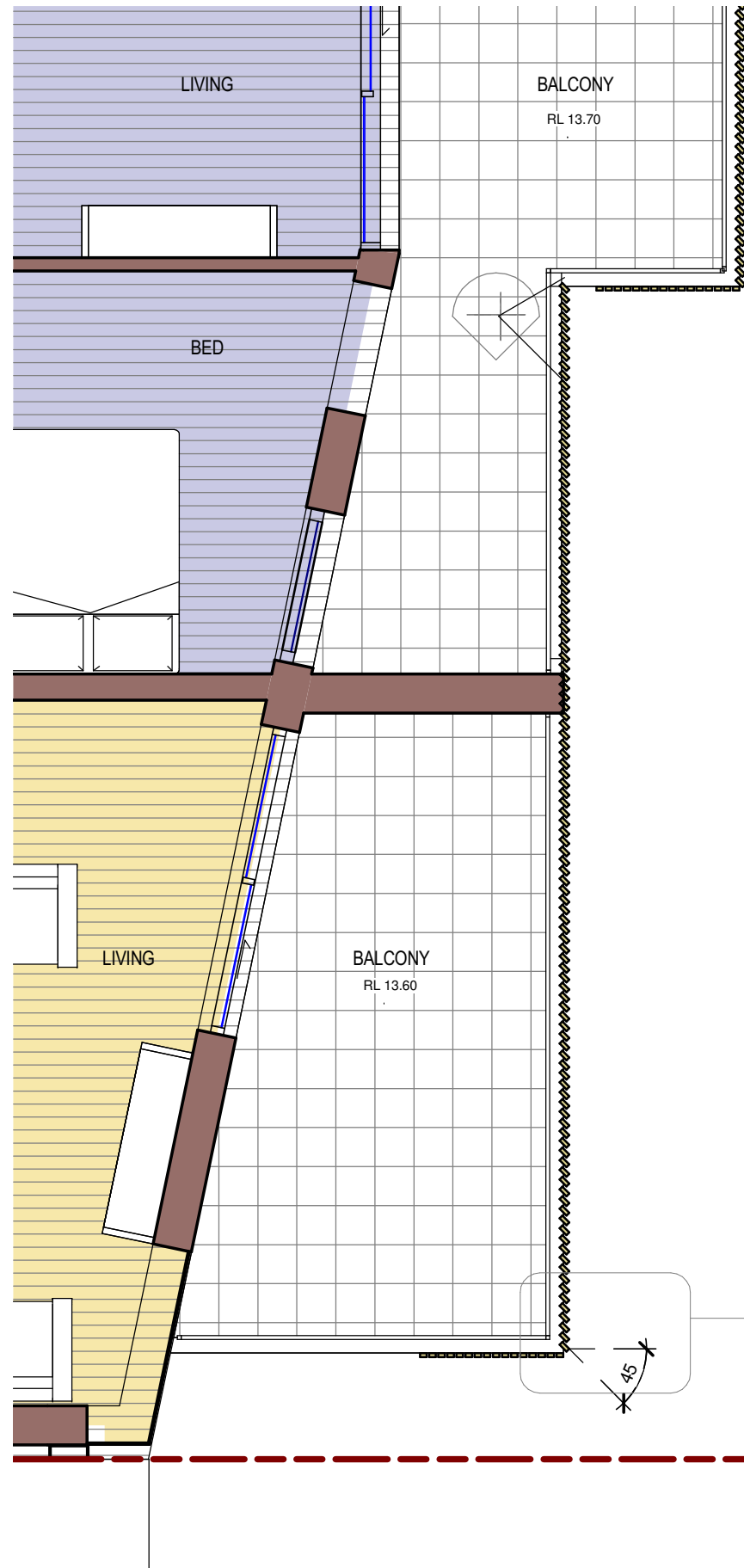
2 VIEW STUDY SECTION 1
1 : 300



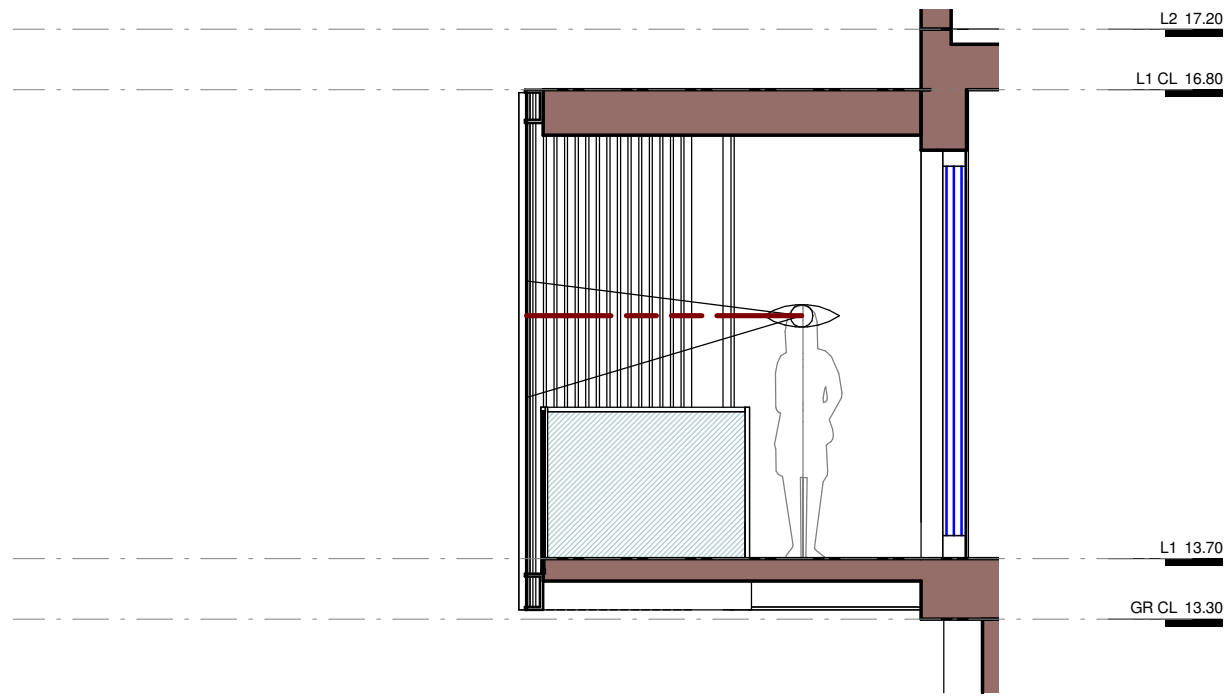
3 VIEW STUDY SECTION 2
1 : 300

No.	Issue Description	YYYY-MM-DD
A	REVISION 2 - ADDITIONAL INFO	2017.03.17

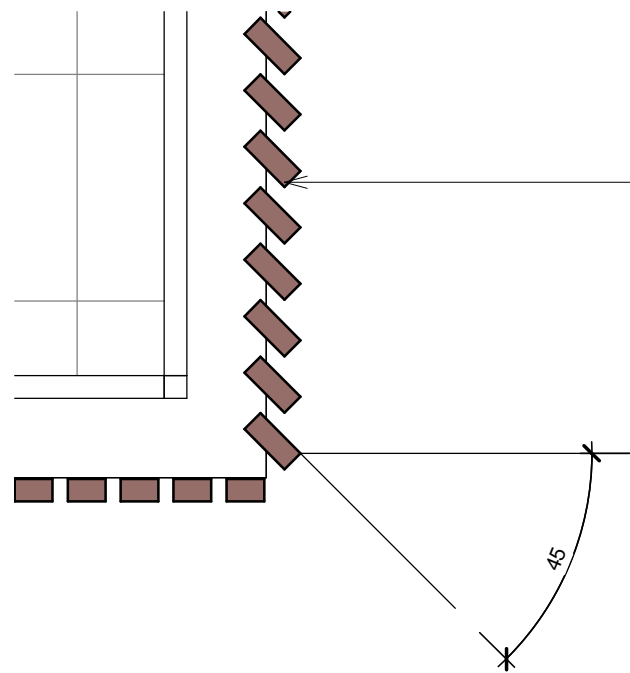
FOR DEVELOPMENT APPLICATION



1 BALCONY VIEW STUDY
1 : 50



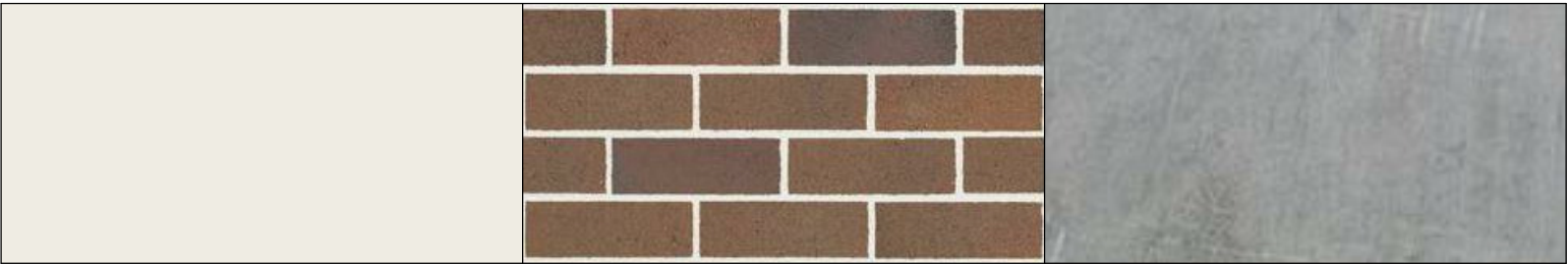
2 VIEW STUDY SECTION 2 - Callout 1
1 : 50



VERTICAL LOUVRE BLADES TO
BE ANGLED 45 DEGREES TO
PREVENT VIEWS TO
NEIGHBOUR AND PROMOTE
TOTAL VISUAL PRIVACY

3 BALCONY VIEW STUDY - Callout 1
1 : 10

FOR DEVELOPMENT APPLICATION



01. RENDERED WALLS
EXTERIOR PAINT FINISH
NATURAL WHITE

02. BRICKWORK
FACEBRICK
GERTRUDIS BROWN

03. CONCRETE
CONCRETE SLAB



04. DECOWOOD PRIVACY SCREENS
WESTERN RED CEDAR
VERTICAL FIXED LOUVRE PRIVACY
SCREENS TO BE POSITIONED AND
ANGLED TO OBSTRUCT POTENTIAL
VIEWS ONTO NEIGHBOURS

05. GLASS
GLASS WINDOWS & DOORS
CLEAR GLASS

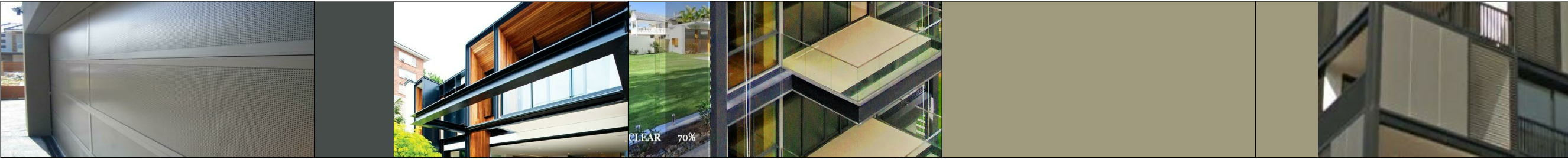
06. WINDOW FRAMES
ALUMINIUM WINDOWS AND DOORS
MONUMENT



07. OUTDOOR TILES
STONE TILES
TRAVERTINE OR SANDSTONE

08. PEBBLE ROOF
20-40MM PEBBLES
WHITE

09. METAL SCREENING
HORIZONTAL SLATS
MONUMENT OR SIMILAR



10. GARAGE DOOR
PERFORATED ALUMINIUM
POWDER COATED ASTRO

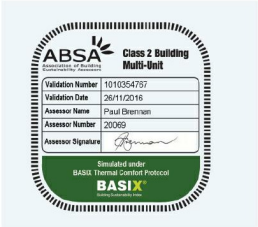
11. ARCHITECTURALLY EXPOSED STEEL
STEEL FRAME
MONUMENT OR SIMILAR

12. FRAMELESS GLASS BALUSTRADE
FRAMELESS SLIGHT TINTED GLASS (70%)

14. PAINTED PRECAST PANEL
QUATER GREY OLIVE
OR SIMILAR

14. CLADDING PANELS
QUATER GREY OLIVE
OR SIMILAR

WINDOW SCHEDULE					
NO.	LEVEL	WIDTH	HEIGHT	AREA	ORIENTATION
W01	L1	2600	2700	7.0 m²	E
W02	L1	3200	2700	8.6 m²	E
W03	L1	2045	2700	5.5 m²	N
W04	L1	5100	2700	13.8 m²	E
W05	L1	1700	2700	4.6 m²	S
W07	L1	2550	2700	6.9 m²	S
W08	L1	2980	2700	8.0 m²	S
W09	L1	3860	2700	10.4 m²	S
W10	L1	2980	2700	8.0 m²	S
W11	L1	1200	2700	3.2 m²	N
W12	L1	1200	2700	3.2 m²	N
W13	L1	3600	2700	9.7 m²	N
W14	L1	1000	2700	2.7 m²	N
W15	L1	1200	2700	3.2 m²	E
W16	L1	2400	2700	6.5 m²	E
W17	L1	1990	2700	5.4 m²	NE
W18	L1	2200	2700	5.9 m²	E
W19	L1	2200	2700	5.9 m²	E
W20	L1	2045	2700	5.5 m²	S
W21	L1	2200	2700	5.9 m²	E
W22	L2	2600	2700	7.0 m²	E
W23	L2	2600	2700	7.0 m²	E
W24	L2	2755	2700	7.4 m²	S
W25	L2	1600	2700	4.3 m²	E
W26	L2	3615	2700	9.8 m²	SE
W27	L2	3600	2700	9.7 m²	S
W28	L2	2980	2700	8.0 m²	S
W29	L2	2980	2700	8.0 m²	N
W30	L2	2200	2700	5.9 m²	N
W31	L2	2600	2700	7.0 m²	N
W32	L2	2540	2700	6.9 m²	NE
W33	L2	1600	2700	4.3 m²	E
W34	L2	2000	2700	5.4 m²	N
W35	L2	2600	2700	7.0 m²	E
W36	L2	2600	2700	7.0 m²	E
S01	ROOF	1200	1500	1.8 m²	N/A



No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24
C	REVISION 2 - ADDITIONAL INFO	2017.03.17

FOR DEVELOPMENT APPLICATION

Bayside Planning Panel

26/09/2017

Item No	5.5
Application Type	Development Application – Mixed Use Development (Commercial and Residential Building)
Application Number	DA-16/237
Lodgement Date	16 December 2016
Property	23 Swinbourne Street, Botany Lot 1 in DP 85872
Owner	Bartul and Maria Barbic
Applicant	Lurline Constructions P/L C/- Technik Haus P/L
Proposal	Integrated development for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking.
No. of Submissions	Three objections (First round) Nil (Second round)
Cost of Development	\$3,000,000.00
Report by	Angela Lazaridis- Senior Development Assessment Officer

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 as it is consistent with the objective of the Height Standard and the objectives for the B1 Neighbourhood Centre zone.
 - 2 That Development Application No. 16/237 for the demolition of the existing structures, tree removal and construction of a mixed use development comprising of a commercial tenancy and residential apartments (4 x 1 bed and 6 x 2 bed units) and two levels of basement car parking at 23 Swinbourne Street, Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That any objectors be notified of the determination made by the Planning Panel.
-

Attachments

- 1 Planning Assessment Report
- 2 Clause 4.6 Variation to Height
- 3 Site Analysis Plan
- 4 Site Plan
- 5 Roof Plan

- 6 East and West Elevations
 - 7 North and South Elevations
 - 8 Sections 1
 - 9 Sections 2
 - 10 View Study Elevation and Plan
 - 11 Balcony View Study
 - 12 Materials/Window Schedule
 - 13 Shadow Diagram 1
 - 14 Shadow Diagram 2
-

Location Plan

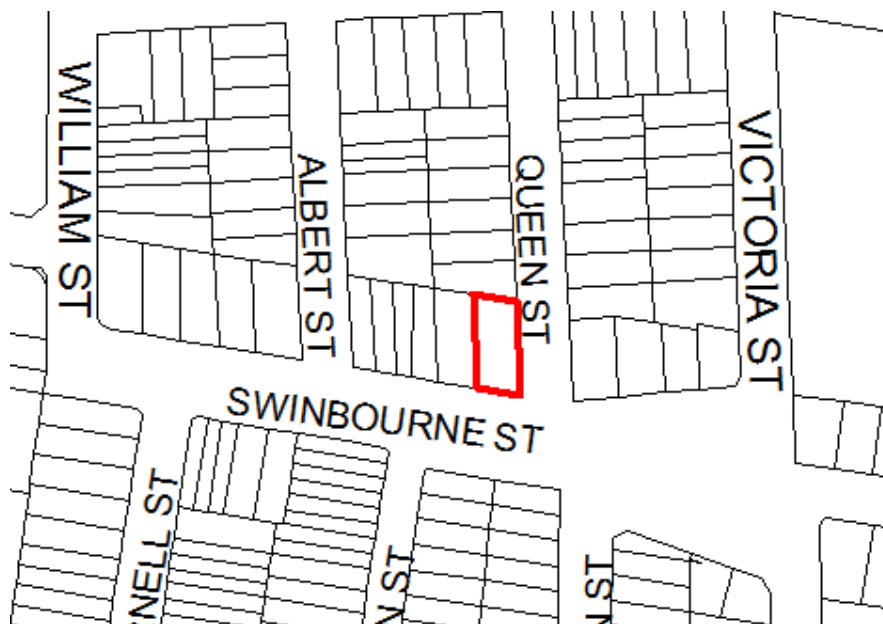


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	16/237
Date of Receipt:	16 December 2016
Property:	23 Swinbourne Street, Botany Lot 1 in DP 85872
Owners:	Bartul and Maria Barbic
Applicant:	Lurline Constructions P/L C/- Technik Haus P/L
Proposal:	Integrated development for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking.
Recommendation:	Approve the development, subject to conditions.
Value:	\$3,000,000.00
No. of submissions:	Three objections (First round) Nil (Second round)
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	4 August 2017

Key Issues

Bayside Council received Development Application No. 16/237 on 16 December 2016 seeking consent for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking at 23 Swinbourne Street, Botany.

The application is classified as Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity. As such the application was referred to Water NSW and general terms of approval have been received and imposed in the conditions of consent.

The application was placed on public exhibition for a thirty (30) day period from 27 January to 27 February 2017. Three objections were received. Amended plans were received and were re-notified to the objectors for a period of nine days between 27 March and 5 April 2017. No submissions were received.

Key issues in the assessment of the development application include ceiling height of the first floor, car parking departure and loading bay, building separation, height non-compliance and non-compliance with the family friendly controls.

The reduction of retail car parking by two spaces is reasonable as the subject site is well serviced by public transport (i.e. bus stop located directly in front of the premise) and the smaller scale retail use is unlikely to generate a significant demand for car parking or onsite

servicing. Condition has been imposed that the residential units is to comply with the car parking while the commercial tenancies have a shortfall of three spaces. Loading and unloading can be carried out on a side street for residential purposes however loading for the commercial use is to be carried out by a SRV from within the premises.

In regards to the height of the development, the proposal protrudes 1.55 metres above the maximum height of 12 metres with a total height to the top of the lift overrun and pergolas at 13.55m. This is a variance of 12.9%. The applicant has submitted a Clause 4.6 variation to the standard which is discussed below in the report. The remaining issues have also been discussed in greater detail below.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

Recommendation

It is RECOMMENDED that Council, resolve:

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 as it is consistent with the objective of the Height Standard and the objectives for the B1 Neighbourhood Centre zone.
2. To approve the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking at 23 Swinbourne Street, Botany.
3. That any objectors be notified of the determination made by the Planning Panel.

Background

History

Development Application was approved on 14 December 2005 for the removal of the existing shop awning and replacement with a new awning.

Development Application History

Prior to the application being lodged with Council, the proposal was presented at a Pre- DA meeting with Council staff.

On 23 February 2017, the proposal was presented to a Design Review Panel for comment. The Panel were generally in support of the proposal subject to minor amendments to the plans which are outlined in the report below.

Amended plans were submitted at numerous times throughout the application process with the latest plans submitted in March 2017.

Proposal

The development application, in its amended form, seeks consent for the demolition of the existing structures on site and construction of a three storey shop top housing development and basement parking. The site contains six units and 16 car parking spaces.

The proposed 6 units comprise of the following:

- 3 x 2 bedroom apartments (1 adaptable)
- 3 x 3 bedroom apartments

The proposed development is described in detail below:

Car Parking and Parking Allocation

The car parking proposed is over two levels and contains 16 spaces. There is one level of basement and one level at grade. The plans allocate five commercial spaces on the at grade level and comprises of 9 spaces for residential and 2 spaces for visitor parking. One of the residential car parking spaces has been dedicated as a disabled parking space.

Additionally, the car parking levels contain the following items:

- Driveway ramp access;
- 1 lift;
- 1 fire-rated staircase;
- 10 separate storage areas within the basement level;
- 1 motorcycle spaces;
- 5 bicycle spaces;
- On-site detention tank;
- Plant room and building services;
- Residential and commercial waste holding rooms at grade car parking level (commercial) and basement (residential).

Residential Flat and Commercial Component

The following table provides a summary of the residential component of the development:

Level	Unit	Type	Internal Area (sqm)	Private Open Space	Storage Area (m ³)	Solar Access
Level 1	1.01 (A)	2 Bed	87	10.2	9.47	2 hours
	1.02	3 Bed	117	26.3	15.9	2 hours
	1.03	2 Bed	95	21.4	8.46	2 hours
	1.04	2 Bed	91	13.6	8.01	Nil
Level 2	2.01	3 Bed	123	99.2	16.23	2 hours
	2.02	3 Bed	124	80.3	16.90	2 hours

Each two bedroom apartment consists of two bedrooms (one with ensuite), one bathroom, laundry space, kitchen, dining room and living room and has access to one balcony.

Each three bedroom apartment consists of three bedrooms (one with ensuite), one bathroom, laundry, open plan kitchen, living and dining room. All areas are accessible to a balcony.

The ground floor contains two commercial tenancies fronting Swinbourne Street. Unit 1 has a total GFA of 98sqm and Unit 2 has a total GFA of 63sqm. The tenancies contain an accessible toilet from the lobby area.



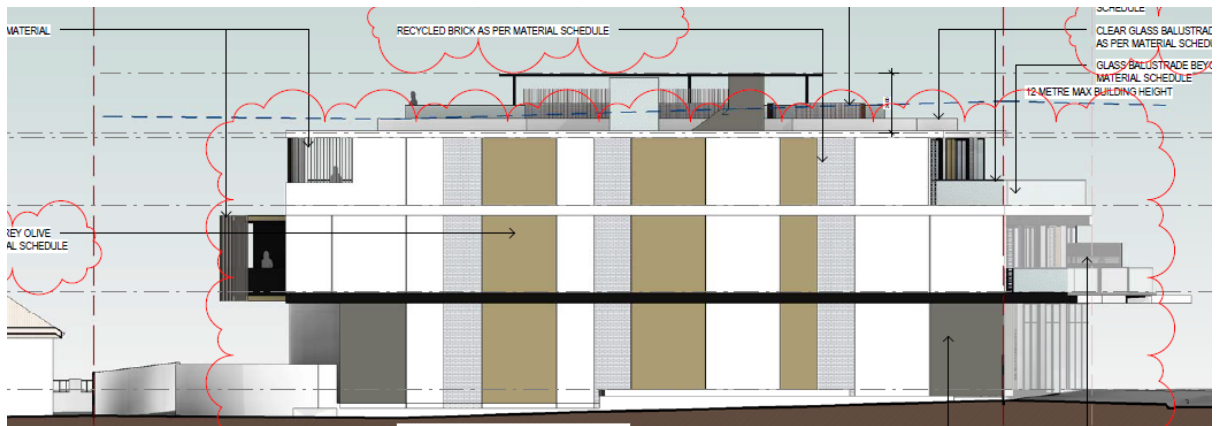


Figure 3: Proposed Western Elevation

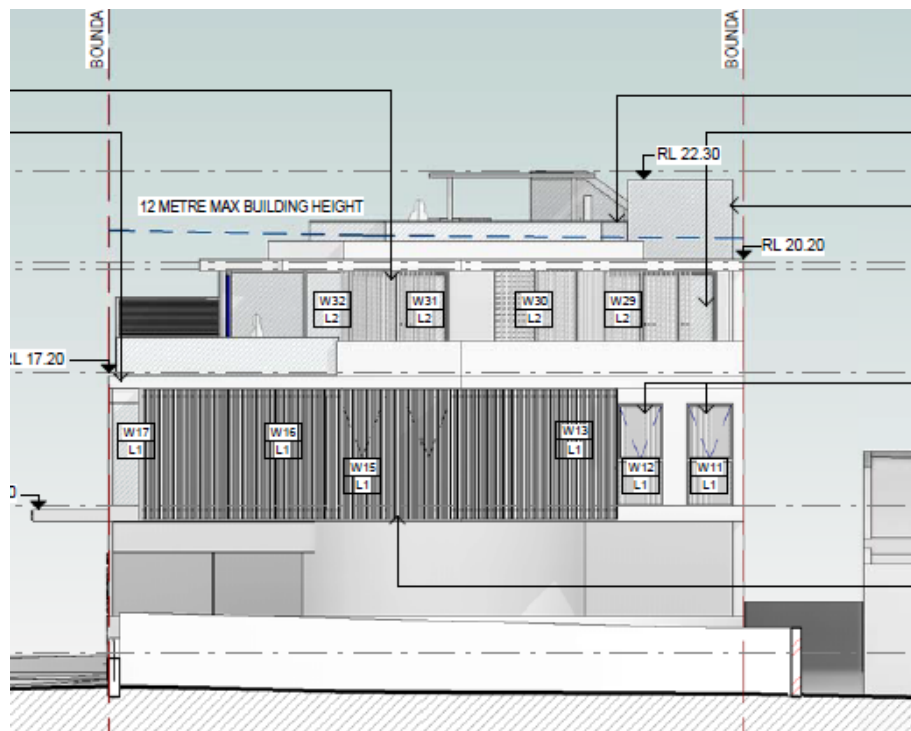


Figure 4: Proposed Northern Elevation

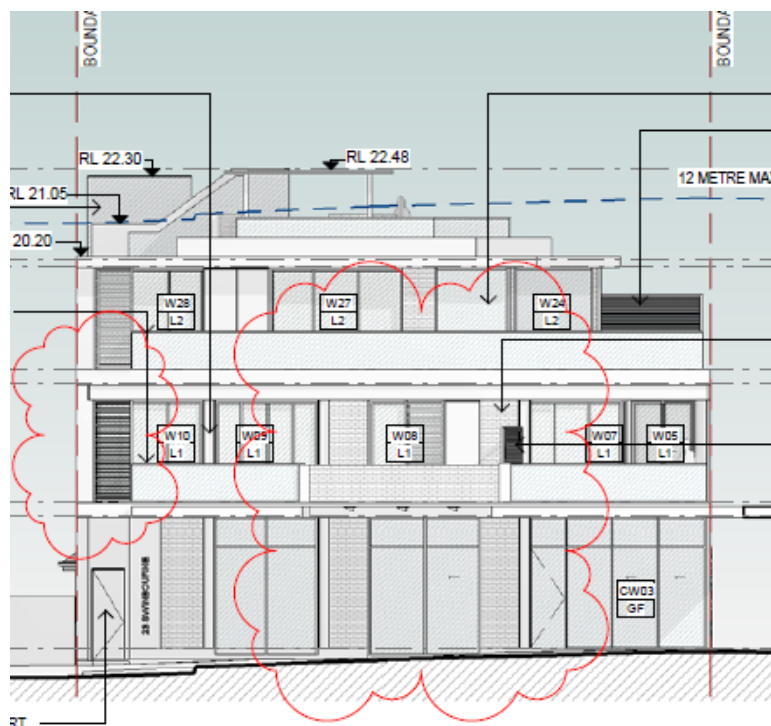


Figure 5: Proposed Southern Elevation

Key Controls

The key controls relevant to the proposal are provided below:

Control	Required	Proposal	Complies (Yes/No)
Site Area	-	Site Area: 612.1sqm	N/A
SEPP 65 – ADG			
Dwelling Size	Minimum internal areas as follows: Studio: 35sqm 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	2 bed units: 87 – 95sqm 3 bed units: 117 – 124sqm	Yes Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.7m-3.1m Non-habitable rooms: 2.7m Mixed Use (GF): 3.9m First floor does not comply	Yes Yes No, first floor does not comply Refer to Note 1
Deep Soil	Objective 3E-1 requires 7% of the site (for sites between	50.2sqm (8%)	Yes

Control	Required	Proposal	Complies (Yes/No)
	650sqm and 1,500sqm) as deep soil area with min. dimensions of 3m		
Communal Open Space	25% of site (252sqm)	165.04sqm (26%)	Yes
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	More than 50% of COS receives greater than 2 hours of sun due to its location of the rooftop terrace.	Yes
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	83.3% (5/6) of apartments will receive at least two hours of sunlight during June 21 st The property to the west at 19 Swinbourne Street will be overshadowed between 9am to 11am however will continue to receive minimum 2 hours sunlight	Yes
Building Depth	Use a range of appropriate maximum apartment depths of 12-18 metres	The building has a maximum 16.7 metre depth.	Yes
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	Eastern Boundary: <u>Ground Level:</u> Nil (street frontage) <u>Level 1:</u> Nil <u>Level 2:</u> Nil (balconies) to 3m (units) Western Boundary: <u>Ground Level:</u> Nil <u>Level 1:</u> Nil <u>Level 2:</u> Nil Southern Boundary: <u>Ground:</u> Nil <u>Level 1:</u> Nil <u>Level 2:</u> Nil (balconies) to 3m (units) Northern Boundary: <u>Ground:</u> 1.5m to 8.7m <u>Level 1:</u> 3m (balconies) to 6m (units) <u>Level 2:</u> 6m (balconies) to 8m (units)	No-Refer to Note 2
Balcony Sizes	2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm	2 bed: 10.2sqm- 21.4sqm 3 bed: 26.3sqm- 99.2sqm Ground Floor: No ground floor apartments	Yes Yes N/A

Control	Required	Proposal	Complies (Yes/No)
Cross Ventilation	60%	67% (4 of 6 units)	Yes
Storage	2 bed: 8m ³ 3 bed: 10m ³	2 bed: 8.01m ³ -9.47m ³ (units) 3 bed: 15.9-16.9m ³ (units) The combined unit and basement storage complies Storage within the basement has not been allocated to individual units however the sizes of each comply with the ADG requirements	Yes
BBLEP 2013			
Zone	B2	Mixed Use/Shop top housing (Residential Flat Building and Commercial tenancy)	Yes
FSR	1.5:1 under BBLEP 2013	1.5:1	Yes
GFA	918sqm (maximum) calculated based on permissible FSR under BBLEP 2013	916sqm	Yes
Height	14 metres (maximum)	Lift Overrun and pergola- 13.55m Building- 11.6m (top of parapet); 12m (top of glass balustrade)	No- Refer to Note 3
BBDGP 2013			
Car Parking	<u>Residential</u> 2 space/ 2 + bedrooms = 12 spaces 1 visitor space/ 5 units = 2 spaces Total: 14 car spaces required <u>Commercial (shop)</u> 1 space / 40sqm (5 req.) <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays Total car parking required: 19 car parking spaces	<u>Residential</u> 9 residential car spaces provided 2 visitor spaces Total residential: 11 spaces <u>Commercial</u> 5 car parking spaces <u>Service Bays</u> Service vehicle: Nil Total car parking spaces provided: 16 car spaces	No – Refer to Note 4

Control	Required	Proposal	Complies (Yes/No)
Bicycle Parking	In every new building, where the floor space exceeds 600m ² GFA, bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided. Total required: 1.9 (based on 19 car spaces)	Five (5) bicycle spaces provided	Yes
Landscaped Area	35% minimum landscaped area (214.235sqm req)	122.56sqm (20%)	Acceptable as no landscaping controls within Part 5
Dwelling Layout and Family Friendly Apartment Buildings	Satisfy the Family Friendly controls	Refer to Part 4C.4.2	Refer to Note 6
Unit Mix	25% one bedroom (5 max)	No one bedrooms units proposed	Yes

Site Description

The subject site is legally known as Lot 1 in DP 85872. The site is on a corner lot and is located on the northern side of Swinbourne Street between Queen Street to the east and Albert Street to the west. The site has a north-south orientation with north being the rear of the site and south being the front of the site.

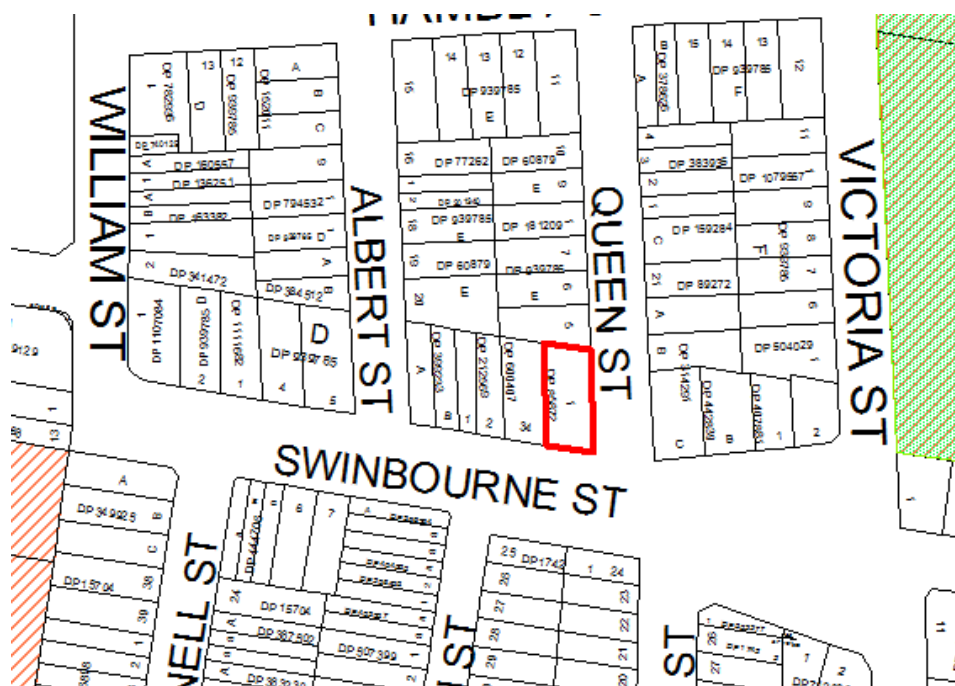


Figure 6: Locality Plan

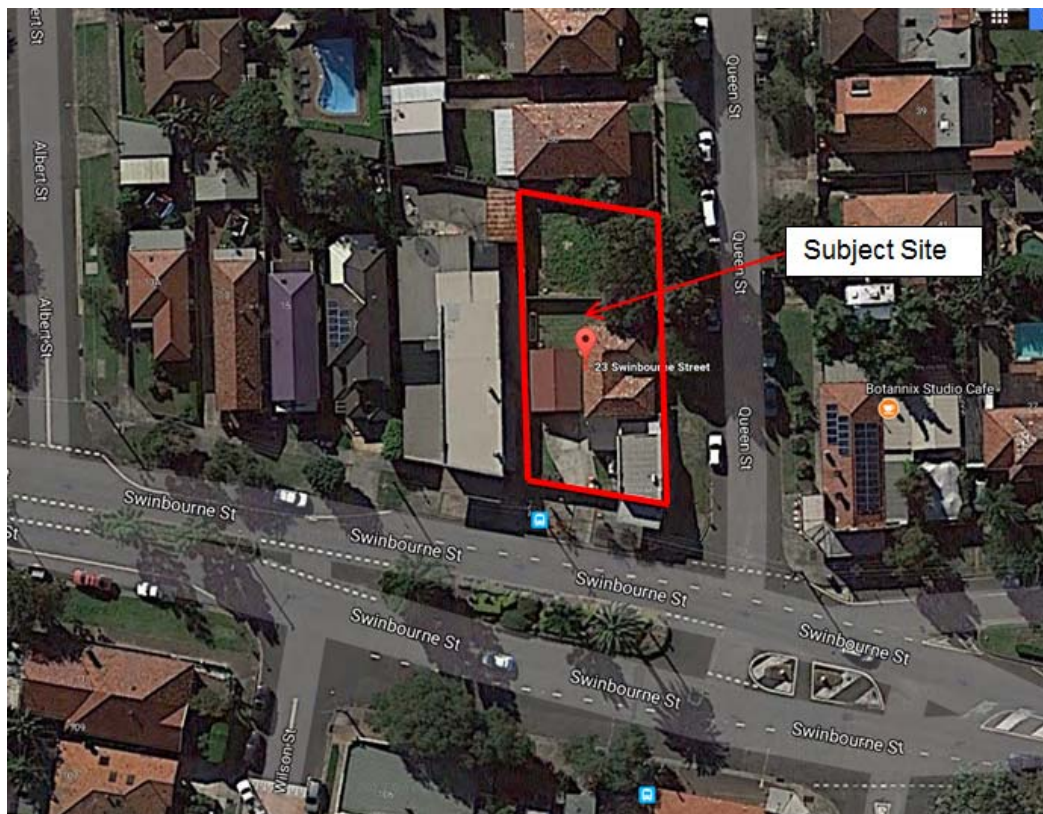


Figure 7: Aerial Map of the subject site

The site is regular in shape and is located within the B1 Neighbourhood Centre zone. The site will have a street frontage and rear boundary width of 17.09 metres and an eastern and western boundary length of 36.57 metres. The site has a total area of 612.1sqm. The site is generally flat with a 1 metre slope in a north westerly direction and a slight cross fall from east to west of 430mm at the front of the site.

The site currently comprises of an existing single storey commercial building which is attached to an existing single storey dwelling. To the west of the structure, there is a detached garage.



Figure 8: Subject site (southern elevation)



Figure 9: Western Elevation of the site with the adjoining property at 19 Swinbourne Street



Figure 10: Eastern Elevation of Subject Site

Description of the Surrounding Development

Development surrounding the site includes single storey detached dwelling houses along Queen Street to the east and north, existing shop top housing developments with a single or two storey height limit (along Swinbourne Street) and verge planting of canary palms in the centre of Swinbourne Street which are a heritage item.

Referrals

Internal

The development application was referred to Council's development engineer, landscape architect, building surveyor, environmental health scientist, waste officer, environmental health officer, heritage planner and traffic engineer. Appropriate comments have been provided relating to the stormwater management, waste collection, noise impacts, landscaping management and construction details.

External

The development application was referred to RMS, Ausgrid, Sydney Water, SACL, APA Group and Water NSW for comments. Appropriate conditions have been recommended in the consent.

Statutory Considerations

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:

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

The development application is Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity.

In this regard, the development application was referred to Water NSW. In a letter dated 20 February 2017, Water NSW provided its General Terms of Approval (GTA) for the proposed development. This development application has been recommended for approval subject to GTAs from Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

The development proposes excavation in or near a gas pipeline corridor therefore Division 9 of the SEPP states that risks associated with development adjacent to the gas pipeline

corridor needs to be assessed and those risks included in considerations prior to the determination of the application.

The application was referred to APA Group as the Moomba- Sydney Ethane Pipeline is located approximately 300m north-east of the subject site. They have provided the following comments in regards to the development:

“The development site is located well clear of the pipeline and easement and hence the development does not pose a risk of physical damage to the pipeline.

APA must also consider the design of the pipeline and its suitability, given the risk posed to the surrounding land use within the Measurement Length. The Measurement Length (ML) and its use in assessing development in the vicinity of high pressure gas transmission pipelines is detailed below. In this case the proposed development is located within the ML, however, the pipeline is designed for a High Density (T2) location class, which is suitable for the current land use and proposed development. While the proposed development is an increase in density for the site it is not a significant increase in density for the general area within the ML and therefore APA has no objection to the proposed development. However, given the proposed development is within the ML emergency egress from the site should be provided at a point away from the pipeline. The proposal plans show fire stairs with egress to the Swinbourne Street frontage at a point furthestmost from the pipeline. Any approval should be conditioned as below to ensure this design outcome is maintained.”

Relevant conditions have been imposed in the consent. Therefore, the development is supported in this regard.

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. 766489M prepared by The House Energy Rating Company of Australia Pty Ltd committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development involves excavation for a basement car park. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant provided a Preliminary Groundwater Investigation report which was dated on July 2017.

The report has concluded that the “concentrations of chemical contaminants measured in the groundwater beneath the site are low and well below criteria that are protective of human-health via a vapour intrusion exposure pathway. Further, the contaminant levels in the groundwater would not present an unacceptable risk to human-health via a direct contact exposure pathway. That is, the proposed redevelopment could proceed without any specific management requirements in relation to the groundwater.”

In regard to dewatering, as provided above, Water NSW has provided conditions which have been recommended in the consent.

The application was referred to Council's Environmental Scientist for review. There was no objection to the proposal subject to appropriate conditions within the consent. Therefore, SEPP 55 has been considered in the assessment of the proposal and is acceptable.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the Development Application.

During the development application process, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 23 February 2017. The Design Review Panel supported the design in principle and requested that the following matters be addressed in the submitted DA:-

- More articulation of the long horizontal balustrade and awning fascias to be more in keeping with the articulation of the façades behind. In particular, this should include:
- Breaking up the long length of balustrade on Swinbourne Street such as in the vicinity of the commercial entrances below;
- Setting back or changing the materials on the balustrade to correspond to relocation of brick panels below;
- Invert the balustrade at the level 2 corner to express the slab edge;
- Even though the western elevation is on the boundary, it may be visible for a significant period, and should be redesigned to include a greater degree of variation in colours, textures and materials such as recycled brick, in keeping with the other elevations.
- The privacy screen at the western end of Swinbourne Street should be removed (there is no current overlooking issue and a future development on the adjacent site could address this at a later date if necessary).
- The balconies on levels 1 and 2 should be setback from the western boundary by not less than 1 metre in order to ensure a future development next door has an appropriate interface.
- The tree in the northwest corner of the deep soil planting area is of a greater mature size in order to provide a greater amenity, and offset the loss of the large Liquid Amber.
- The planter box proposed to the rooftop garden needs to be a minimum 1000mm wide and the opportunity is to increase compliance with the soft landscaping requirements.

The development incorporated a majority of the recommendations listed above.

Design Quality Principles and Apartment Design Guide

Clause 28(2) stipulates that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has demonstrated adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are car parking, internal area of each apartment and ceiling heights.

The key points of non-compliance with the ADG are discussed below:

Note 1 – Ceiling Heights

Part 4C of the ADG requires that 3.3m ceiling heights be provided for the ground and first floor for developments located within mixed use areas. The proposal provides a 3.9m ceiling height to the ground floor commercial unit and a 3.1m ceiling height for the first floor units. Given that compliance with the minimum ceiling height control would increase the height limit of the proposal and the first floor will be used for residential and not commercial use, it is not possible to provide increased ceiling heights to first floor. The area is considered to be a neighbourhood centre and not a local centre. It is anticipated that Swinbourne Street will meet the everyday needs of residents regarding to services offered. Office spaces would not fall within this category and are more suited within the Local Centres and not directly surrounded by low density residential housing. Therefore, based on the assessment, the non-compliance is acceptable.

Note 2 – Building Separation

Objective 3F-1 of the ADG requires separation between windows and balconies to ensure that visual privacy is achieved. This requires the building to have a 6 metre separation distance between habitable rooms and 3 metres for non-habitable rooms up to 12 metres in height. The development proposes the following breakdown of building setback:

Eastern Boundary:

- Ground Level: Nil (street frontage)
- Level 1: Nil
- Level 2: Nil (balconies) to 3m (units)

Western Boundary:

- Ground Level: Nil
- Level 1: Nil
- Level 2: Nil

Southern Boundary:

- Ground: Nil
- Level 1: Nil
- Level 2: Nil (balconies) to 3m (units)

Northern Boundary:

- Ground: 1.5m to 8.7m
- Level 1: 3m (balconies) to 6m (units)
- Level 2: 6m (balconies) to 8m (units)

The proposal has oriented the apartments to have a northern, north-eastern, south-eastern and southern outlook with no windows proposed along the western elevation. The proposal is built to the boundary along the western side so that any future redevelopment of the adjacent site could meet with the development while still achieving appropriate sunlight. Additionally, a majority of the private open space in the form of balconies have been located at the northern, southern and eastern side of the site to allow for greater sunlight and ventilation. Along the eastern and southern elevations, the site is bound by Queen Street and Swinbourne Street

due to the orientation of the site on a corner lot. Therefore, there will be no developments built on either side therefore the non-compliance in building separation distances on these elevations is acceptable in this instance as the majority of the non-compliance relate to balconies and a small portion of the building being on the boundary. This has been compensated by having the top floor units' setback away from the side boundaries.

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 B1 Neighbourhood Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as shop top housing and commercial tenancies 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 following objectives of the B1 Neighbourhood Centre: <ul style="list-style-type: none"> To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.
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?	- No – Refer to Note 3	A maximum height of 12 metres applies to the subject site. Lift overrun and pergola- 13.55m (12.9%) Building- 11.6m (top of parapet); 12m (top of glass balustrade) The maximum height of the development does not comply with Council's

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation was provided with the application and is discussed in Note 3 below.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- Yes	The maximum Floor Space Ratio requirement is 1.5:1 (918sqm). GFA: 916sqm FSR: 1.5:1 The Floor Space Ratio of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m ² min and maximum height of 22 metres and maximum Floor Space Ratio of 1.5:1?	N/A	The site is not located within the R3 Medium Density Residential or R4 High Density Residential zone.
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
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?	Yes	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area. However, Heritage Item I158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site along the south.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– • 6.1 – Acid Sulfate Soils	Yes	The site is located in a Class 4 Acid Sulfate Soils Area. An Acid Sulfate Soils Management Plan has been provided with the application. Appropriate conditions have been recommended in the consent.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.2 – Earthworks 	Yes	The proposal includes excavation of one basement levels. The development will encounter the groundwater table and the application was referred to Water NSW who had no objections to the proposal. Appropriate conditions have been imposed in the consent.
<ul style="list-style-type: none"> 6.3 – Stormwater Management 	Yes	The proposed development has provided an on-site detention tank located within the basement. The proposal has been reviewed by Council's Development Engineer who has no objection subject to conditions in the consent.
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	N/A	The site falls outside the 20 ANEF Contour.
<ul style="list-style-type: none"> 6.15 – Active Street frontage 	Yes	The proposal is in area where active street frontage is required. The development will have two retail spaces on the ground floor fronting Swinbourne Street.

Note 3 – Clause 4.6 variation relating to height variance

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 12 metres pursuant under Clause 4.3 of the BBLEP 2013. The proposal has a maximum building height of 16.55 metres, a breach of 2.55m.

A breakdown of the heights proposed is as follows:

- Lift overrun- 13.55m (12.9%)
- Building- 11.6m (top of parapet); 12m (top of glass balustrade)

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 12 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

The Applicant has provided a Clause 4.6 variation to justify contravening the height standard. Their justification is provided below:

“Figure 1 below provides a Section Plan indicating that the building has been designed to comply with the maximum permitted height, however results in non-compliances that predominantly relate to the lift overrun and pergola that extend to a maximum height of 13.55m (equivalent to 12.9% variation).



Figure 1: Section Plan demonstrating height non-compliance (highlighted in yellow)

As indicated, the height non-compliance is limited to the lift overrun and pergola. The proposed development is however considered to be generally consistent with the scale of development expected at the site.

....

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of Clause 4.3 are addressed in turn below:

Objective (A) to ensure that the built form of the Botany Bay Develops in a coordinated and cohesive manner

The height of building map indicates that the 12m height limit that applies to the subject site also applies to land in the immediate vicinity within Zone B1. Zone B1 extends to the east, west and south of the site, beyond the B1 zone is R2 Low Density Residential zone where building height transitions to 8.5 metres. At present, the built form within the block is characterised by a combination of older housing stock and commercial development

and as such building heights are varied and no development takes up the maximum building height of 12m.

As mentioned, the maximum height to the proposal is 13.55m when measured to the top of the lift overrun and rooftop pergola. The structures are set a minimum of 6m behind the Swinbourne Street and Queen Street elevations and therefore presents as a recessive element that is not readily apparent from street level. The breach in roof height is a product of providing rooftop communal open space. Communal open space on the roof is encouraged by the ADG and provides superior amenity to future occupants of the development. Accessibility to the roof communal area in the form of lift and stairs is required, thereby requesting a variation to the building height control. The roof pergola will provide protection from the elements, which will increase usability and amenity of the development.

It is anticipated that zoning changes and more generous building height and density controls implemented by BBLEP 2013 will be a catalyst for redevelopment of land in the immediate B1 zone. Redevelopment will typically accord the new controls and therefore building heights will become more coordinated and cohesive over time. It is submitted that the proposal, although greater in height than its neighbours, is compatible with the height of development envisaged by the LEP and, over time, will form part of a coordinated and cohesive streetscape in terms of building height.

.....

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of the B1 Neighbourhood Centre zone are as follows:

- To provide a range of small scale retail, business and community uses that service the needs of people who live or work in the surrounding neighbourhood.
- To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.

The proposal will provide a medium density residential development that provides two small scale retail uses that serve the needs of people who live or work in the surrounding area. The proposal is a well-designed and sited shop top housing development that is compatible with the further scale and form of development of the surrounding area. The development also offers high levels of residential amenity and is entirely with the intentions of the zone.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, the assessment of this numerical non-compliance is guided by the recent decision of the NSW LEC *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 whereby Justice Pain ratified the decision of Commissioner Pearson.

Sufficient Environmental Planning Grounds

Having regards to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite marginal non-compliance with the maximum building height standard, there will be no impact on the character of the locality or on the amenity of neighbouring and adjoining properties.

On planning grounds and in order to satisfy the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that:

- The non-compliant lift overrun and pergola elements are a functional aspect of the building, ensuring efficient access to the roof communal open space. The required ADG communal open space provides superior amenity to future occupants with weather protection and communal facilities, such as barbeques, tables and seating.*
- The discussions provided in this variation request have demonstrated that the marginal height breach will have no adverse impact on the character of the locality or the amenity of neighbouring properties. The lift overrun and pergola will not be readily visible, do not cast additional excessive shadows and do not give rise to privacy impacts nor do they result in view loss. In the absence of any adverse impact, it is considered that to require strict compliance with the development standard would, in this instance, be unreasonable and unnecessary, and*
- To achieve compliance with the building height standard, the building would need to be reduced by a relatively insignificant margin of 1.55m. The visual bulk associated with the non-compliance 1.55m is negligible when compared to the visual bulk of a compliant scheme. The reduction in height would however have significant implications for the proposal as it would effectively preclude the rooftop communal open space reducing residential amenity.*

For the reasons listed above, it is considered that there are sufficient environmental planning grounds to support a variation to the maximum building height standard, particularly when one considers that the breach is the direct result of providing rooftop communal open space required by the ADG, and strict compliance would reduce amenity to future occupants of the development.

Insistence on Compliance is Unreasonable and Unnecessary

Returning to Clause 4.6(3)(a), in Wehbe v Pittwater Council (2007) NSWLEC 827, Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It is our opinion that compliance with the maximum height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that maximum building height development standard in this instance is unreasonable and on the basis of the above, the statutory tests set out in Clause 4.6 of the Botany Bay LEP are satisfied.”

Officers Comment:

The Clause 4.6 variation to the building height development standard has been assessed in accordance with the BBLEP 2013.

The majority of the height departure is a result of the lift overrun and pergola due to access to the rooftop communal open space, and not because of the building itself. The building height is predominantly consistent with the maximum building height permissible for the neighbourhood centre. Additionally, the lift overrun and the pergolas are located to the centre of the building therefore will not be predominant from the streetscape and contribute to extra bulk.

The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in maintaining and enforcing the development standard in these cases would be unreasonable and unnecessary and would not allow the orderly and economic development of this site.

The Clause 4.6 request is considered to be well-founded and the departure to the development standards is not contrary to the public interest. On this basis, it is recommended that the development standard relating to the building height for the site be varied in the circumstances as discussed above.

As stated above and throughout the report, the site is impacted by special circumstances which does not allow compliance with the height control. As the top floor is setback so that it does not dominate the streetscape and is largely not visible from both Queen Street and Swinbourne Street and the pergola and lift overrun is located centre to the site, the non-compliance in height is accepted.

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

There are no current Draft EPIs applicable to this development

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

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A –Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<u>Residential</u> 2 space/ 2 + bedrooms = 12 spaces 1 visitor space/ 5 units = 2 spaces Total: 14 car spaces required <u>Commercial (shop)</u> 1 space / 40sqm (5 req.) <u>Service Bays</u> 1/50 units (1 req.) Note: 50% of service bays to be designed for MRV or larger) Note: No requirement for car wash bays Total car parking required: 19 car parking spaces	<u>Residential</u> 9 residential car spaces provided 2 visitor spaces Total residential: 11 spaces <u>Commercial</u> 5 car parking spaces <u>Service Bays</u> Service vehicle: Nil Total car parking spaces provided: 16 car spaces	No – Refer to Note 4

Part	Control	Proposed	Complies
3A.3.1 – Car Park Design	C13 Pedestrian entrances and exits shall be separated from vehicular access paths.	The plans demonstrate that there is separate entry and exists within the car park level for vehicles and pedestrians. Pedestrians can access the basement from the primary lift within the building. Access to the basement car park is via the proposed car park ramp off Queen Street.	Yes
	C15 Vehicle access points of the property should not be located: <ul style="list-style-type: none"> a) In places with high traffic volumes, such as classified or arterial roads; b) Close to intersections as outlined in Section 3.2.3 of AS2890.1; c) Where there is heavy or constant pedestrian movements along the footpath; d) Opposite to other traffic generating developments; e) Where traffic using the driveways interferes with or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings; f) Adjacent to or at the sag point of the street; and g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with. 	<p>The site has two street frontages with one off Swinbourne Street and the other off Queen Street. The development is not a traffic generating development with only 6 apartments proposed. All access will be off Queen Street which is a secondary street.</p> <p>There is a bus stop located directly outside the site therefore the site has excellent access to public transport.</p>	Yes
	C28 The minimum width of the access driveway at the property boundary shall be:- <ul style="list-style-type: none"> • For other residential developments: 5.5 metres (two way); • The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary. 	The development has a minimum driveway width of approximately 5.5 metres and is located on the eastern side of the site.	Yes

Part	Control	Proposed	Complies
	<p>C40 The waste collection point shall be designed to:</p> <ul style="list-style-type: none"> (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like. 	Waste collection and garbage holding rooms are located within the Ground Floor and basement of the development. Collection of bins will be via a garbage holding room on the ground floor for commercial and within the basement for residential. Access for garbage trucks within the site is not required as the development proposes 6 units therefore on-street garbage collection is proposed. Within the deep soil area to the north of the site, there is a location named the bin presentation area where bins will be temporarily placed for collection. However, due to liability, it has been conditioned that bins are to be wheeled to the kerb by the building manager.	Yes, conditioned
3A.3.2 Bicycle Parking	C1-C5 To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 4)	The plans demonstrate that five bicycle spaces are provided as part of the development.	Yes
3A.3.4 On-site Loading and Unloading	C1-C11 1 service bay/50 dwellings	There is no separate area of loading for MRV within the car parking levels or a loading bay. Consideration for an SRV within the premises is to be conditioned. Alternatively, a loading bay on the street directly outside the site could be incorporated. Compliance with the control would increase the height of development. This arrangement has been reviewed by Council's Development Engineer who had no objection subject to conditions.	No – Refer to Note 4

Note 4 – Car parking and loading/unloading

Pursuant to Council's car parking rates the proposed development requires the provision for 14 residential spaces. The application has demonstrated that there is a shortfall of three residential spaces.

Two of the two-bedroom units have been provided with one space while one of the three-bedroom units has been provided with one space. These are units 1.01, 1.03 and 1.04. The shortfall that has been provided is a result of the applicant having calculated the parking rate similar to the rates applicable within the ADG for development within 800m of accessible public transport. While there is a bus stop located directly outside the premises, the development is not located within 800m of a train station, which is the trigger in calculating a reduced car parking rate for developments. Therefore, the car parking rate applicable is as per the DCP parking rate requirements.

Having assessed the surrounding area, it is recommended that three of the commercial car parking spaces be converted to residential spaces to meet the need of the residents. While the commercial tenancies complied in car parking, it is preferred that the spaces be allocated to residential. This means that from five commercial spaces, this will now be reduced to two car parking spaces.

The retail component has a total of 161sqm of GFA combined and it is likely that the spaces be occupied as a café or smaller scale retail shop and therefore would be unlikely to generate a significant requirement for car parking. The subject site is well serviced by public transport with the bus stop directly outside the site. Additionally, the future uses of the shops is likely to serve the immediate neighbourhood thereby not requiring significant number of car parking for retail uses on the site. On this basis, the retail parking provision is acceptable in this circumstance and the proposal is unlikely to result in any significant adverse impacts to the locality by way of car parking.

In regard to loading and unloading on the site, there is no separate area of loading for MRV within the car parking levels. As the development proposes to contain six units, there is no requirement to have off-street garbage collection. It is recommended that a loading bay is provided on the street to allow for garbage collection as well as for loading and unloading of goods for the residential uses. This has been conditioned in the consent that any permanent loading bay along Queen Street is to be considered and approved by Council's Traffic Committee. The at grade car parking level could also use one of the commercial car parking spaces to unload from an SRV otherwise approval from Council's Traffic Committee is to be conditioned should loading and unloading occur from the street. This arrangement has been reviewed by Council's Development Engineer who had no objection subject to conditions

It is considered that the car parking and loading/unloading issues have been justified and Council is satisfied with this arrangement.

Part 3B – Heritage

The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site along the south. The application was referred to Council's Heritage Advisor who has recommended the following:

- New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character.
- Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb.
- The design must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.
- The contemporary style of the proposed development will not provide a negative impact on the streetscape, which already consists of a mixture of different architectural styles.
- Given there is no significant impact to the amenity of heritage item and to the streetscape, HIS is not required for further assessment of the DA.

The development has incorporated the above points within their amended design therefore it is not considered that there is a negative impact on the heritage item. In regard to impact from the development overshadowing these palm trees, the applicant has provided shadow

diagrams which demonstrate that the palms and the street are overshadowed in the morning hours and around midday. By setting back the top floor away from Swinbourne Street, the impact to the palms has been lessened. The overshadowing is accepted as the palms will continue to receive at least 2 hours in the afternoon and full sunlight at equinox.

Part 3C – Access and Mobility

An access report prepared by Visionary Access Consulting has been provided with the development application. One of the units (1.01) is an adaptable unit and has been allocated a disabled car parking space within the basement. All common areas such as the lobby and the rooftop communal area are accessible either through levelled entry or through lift. The commercial tenancies are levelled at grade with easy access to the space. Therefore, the accessibility of the building is supported.

Part 3G – Stormwater Management

The development application was accompanied by Stormwater Management Plans that were prepared by R. Balas Consulting P/L. The plans demonstrate that an on-site detention system will be installed in the basement car parking level. The application was referred to Council's Development Engineer for comment who had no objection to the proposal subject to the recommendation of conditions within the consent.

Part 3K – Contamination

Refer to the discussion above in State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land section of the report addressing contamination.

Part 3L – Landscaping

The proposal provides 122.56sqm (20%) of landscaped area across the site predominantly found on the ground floor along the northern side of the site and on the rooftop. This calculation does not include the pebble roofs on the rooftop. There is approximately 50.2sqm of deep soil on the ground floor which equates to 8% deep soil and complies with the minimum 7% under the ADG. While the proposal does not comply with Part 4C of the BBDCP, Part 5 of the DCP applies to the site and there is no controls regulating the amount of landscaping to be provided within the Swinbourne Street Neighbourhood Centre. The application was referred to Council's Landscape Architect who had no objections to the proposal subject to the inclusion of conditions of consent relating to tree bonds, landscape plan, tree planting and tree protection and public domain works.

Part 3N – Waste Minimisation and Management

The development proposes six units therefore on-site garbage collection is not warranted in this instance. The applicant has provided two separate garbage holding rooms within the site- one for commercial located within the at-grade car park level and one for residential located within the basement car park. The applicant has also provided a bin presentation area on the site to wheel the bins to on collection day which will then be wheeled to the kerb for collection. This to be conditioned in the consent.

The application was referred to Council's Waste Officer. They supported the applicants location of the bin presentation area located along the north-eastern side of the site. This area is to be suitably screened however will continue to be accessible to the residents. A waste management plan was submitted with the development application and conditions have been imposed in the consent relating to the appropriate disposal and ongoing maintenance of waste.

Part 4C.4.2 – Family Friendly Apartments

4C.4.2 Family Friendly Apartment Buildings		
C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the below controls.	Yes
C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child	None of the two or three bedroom apartments contain a study or a study nook.	No – Refer to Note 5
C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Given the size of the apartments, there is considered to be sufficient space in a secondary bedroom for a bed and desk.	Yes
C4 The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	To be conditioned within the consent.	Yes- Conditioned
C5 Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	All two and three bedroom apartments include two bathrooms with one easily accessible off the primary corridor. At least one bathroom in all apartments includes a bathtub.	Yes
C6 The private outdoor space is to be clearly visible from the kitchen	All apartments have POS clearly visible from the kitchen.	Yes
C7 The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	There is considered to be sufficient space in entry areas for storage. Storage requirements comply for the development.	Yes
C8 The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	The amount of storage provided within the apartments is acceptable.	Yes

Note 5 – Family Friendly Apartments

Control C2 requires a study in all family apartments- None of the 2/3 bedroom apartments have a separate study room or nook. 100% are a required to.

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area or in bedrooms to provide a desk so that parents can monitor children while working from home. All 2/3 bedroom apartments exceed the ADG minimum apartment size by 11 to 22sqm. This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

O2 To ensure that apartments are designed with appropriate amenity and space so that apartments can support the separation of conflicting activities within the living spaces.

O3 To encourage applicants to consider the varying needs of families and to design apartments accordingly.

While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2/3 bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area.

Part 5 – Business Centres

The site is located within the Swinbourne Street Neighbourhood Centre. The objectives of the Centre that apply to the site under Part 5.2.2.5 of the BBDCP is as follows:

Objective	Response
O1 To promote a viable and attractive Neighbourhood Centre with an improved and safer public domain	The proposal will replace an older commercial building and single storey dwelling house with a mixed use development. The commercial tenancies have floor to ceiling windows which will allow for adequate surveillance. Additionally, the front residential lobby has been designed to allow for safe surveillance. The architectural style of the building is attractive through the use of different materials and articulation.
O2 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);	The development reflects the streetscape qualities of the surrounding site. The proposal will incorporate an awning at the front of the site and has setback the top level of the development along the northern, eastern and southern elevations to reduce the bulk when viewed from the streetscape.
O3 To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character;	The proposal is generally consistent with the maximum height of 12 metres with exception to the pergola and lift overrun to the rooftop. The development is one of the first that is proposed to be redeveloped therefore the scale and height of the existing built stock does not reflect the proposal however it is anticipated that the surrounding shops will be redeveloped in this manner. The architectural style proposed is visually aesthetic and complements the character of the locality.

O4 To retain existing heritage trees and supplement existing landscaping within the streetscape;	None of the trees on the site are heritage listed. The development will not impact on the trees located on the island strip along Swinbourne Street which are heritage listed.
O5 To allow reasonable redevelopment and to improve the architectural quality of building stock;	As stated above, the proposal will replace older commercial and residential built stock with a new mixed use development. The architectural quality of the building is visually aesthetic and is not out of character with the surrounding locality.
O6 To retain a coherent streetscape with a consistent street wall and parapet line	The ground and first floor of the development is built to the boundary while the western elevation on all levels is to the boundary to allow for neighbouring development to transition well with the subject site should the neighbouring site be redeveloped. The active street frontage is consistent with the surrounding buildings.
O7 To ensure that access driveways do not dominate the streetscape; and	The driveway is not located along Swinbourne Street but along Queen Street which is a secondary street. The driveway meets the minimum requirement of 5.5 metres and is not considered to dominate the streetscape.
O8 To ensure that shop top housing provides passive surveillance, resident interaction and addresses the street. To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets).	The size and location of the units and balconies are large enough to provide for adequate surveillance from the residences. There is an awning proposed along the southern side of the site above the two commercial tenancies. Balconies have been designed to extend over this awning. Conditions have been imposed regarding to public liability as the balconies are over Council land.

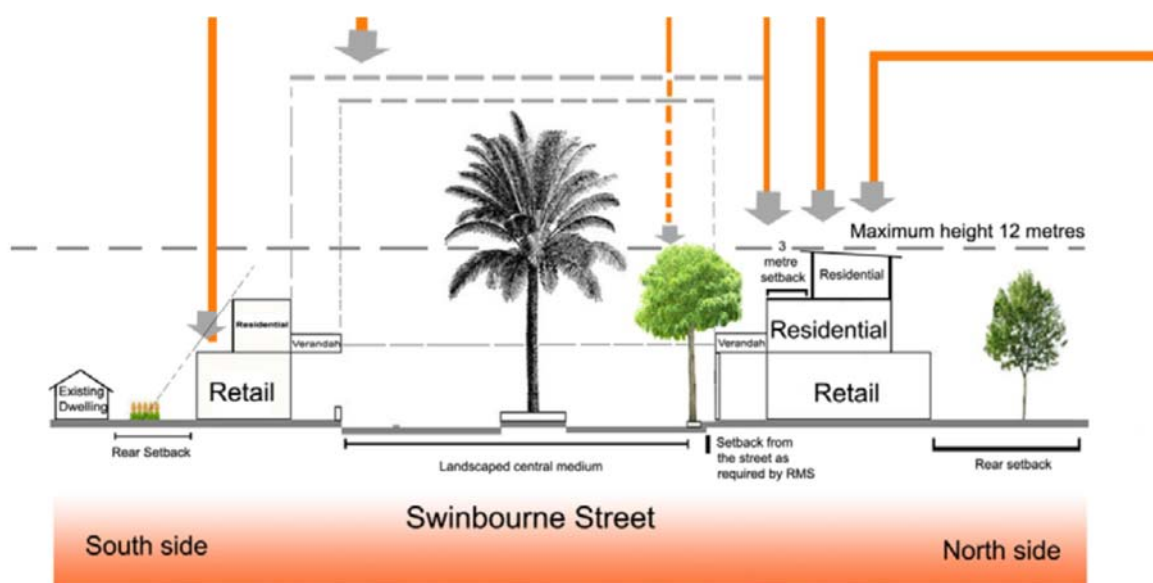


Figure 11: Reproduction of Figure 20 from Part 5 of BBDCP2013

The following controls apply to the Swinbourne Street Neighbourhood Centre and are as follows:

Control	Proposed	Complies
5.2.2.5 Swinbourne Street Neighbourhood Centre		
C1 Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 20 .	The development proposes awnings along Swinbourne Street and Queen Street to provide weather protection for pedestrian and public domain improvements will be implemented such as new footpath treatments, street trees will be preserved and appropriate lighting will be recommended.	Yes
C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development.	The pedestrian amenity has been considered within the proposal and is acceptable.	Yes
C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	The site is considered to be large enough to accommodate a development without leaving any site isolated. There is no proposed lot consolidation for the subject site or surrounding site. The proposal has been designed so that the western elevation has a solid wall on the boundary so that the neighbouring property at 19 Swinbourne Street can transition with the built form.	Yes
C4 The design of development must be generally consistent with the Desired Future Character of the centre identified in Figure 20	The proposal complies and has been designed to reflect Figure 20 within the Desired Future Character section of the DCP.	Yes
C5 A maximum height of 12 metres applies under BBLEP 2013. Notwithstanding the 12 metre height limit, a maximum height of two stories applies along the street frontage with a third level permitted which is setback from the street frontages and the rear. The setback from the rear is to be determined following a detailed site analysis at development application stage and must satisfy Council that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity. Applicants must therefore demonstrate at development application stage that impacts on the residential area are minimised.	The proposal exceeds the height of the development with the lift overrun and the pergola protruding by 1.55m above the height requirement. This has been discussed in Note 3 above. Notwithstanding, the second floor has been setback away from the side boundaries. A visual privacy analysis has been carried out by the applicant from the balconies on the second and first floor to the north of the site to demonstrate whether any negative overlooking onto the neighbouring residential properties will occur. From the plan, the development is acceptable.	No – Refer to Note 3

C6 With redevelopment of the shops, landscape planting must be provided along the rear boundary where a site adjoins a residential property, to provide a visual separation between the shops and the residential area.	There is 50.2sqm (8%) of deep soil located at the rear of the site on its northern end. This will provide appropriate landscape buffer between the subject site and the neighbouring residential site to the north.	Yes
C7 New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character.	The existing buildings along Swinbourne Street is of an older building stock which most likely be redeveloped. However, the development proposed is sympathetic in nature to the surrounding developments relating to bulk, materials and active street frontage.	Yes
C8 Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.	The proposal will be for a new building and not for alterations and additions to the existing building.	N/A
C9 Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb.	The development utilises sleek and sharp edges and a range of materials. The development will incorporate recycled bricks, rendered walls with a pattern presented on the solid, blank western wall, glass balustrades, screening and solid parapets. The development is sympathetic to the character of the area.	Yes
C10 Shop top housing must be provided in any redevelopment of the existing shops.	The proposal is a new development and will incorporate commercial on the ground floor and residential on the top floors.	Yes
C11 The design must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.	All units have direct access to balconies from principal living areas and will provide passive surveillance on the street.	Yes

C12 All development must address the street frontage	The development has dual street frontages along Swinbourne Street and Queen Street. Residential access is off Queen Street and commercial access off Swinbourne Street.	Yes
C13 All designs must provide awnings above the footpath on the Swinbourne Street frontage	The proposal has awnings along the Swinbourne Street frontage.	Yes
C14 Awnings above the footpath are encouraged as trafficable verandahs for the use of residents on the first floor. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges .	The applicant has designed the development to contain an awning along Swinbourne Street with balconies to two of the units above the awning. Appropriate conditions have been imposed in the consent.	Yes Condition
C15 The design must provide good residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.	The development has been designed to provide good amenity to the units in regard to ventilation, solar amenity and passive surveillance.	Yes
C16 The design must encourage active street life while providing a high residential amenity and provide for small scale shops that will serve the local community.	The development provides an active street frontage along Swinbourne Street which is prescribed within the LEP and is consistent with the surrounding development.	Yes
C17 A street number for the property is to be clearly identifiable from the street.	The photomontage demonstrates that the street numbering will be on the eastern elevation of the building fronting Queen Street.	Yes
C18 Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	Awnings have been provided and are consistent in height.	Yes
C19 Air conditioners must not be installed on street awnings or the front façade of buildings.	There are no air conditioners proposed on the development.	N/A
C20 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design .	The application has provided a BASIX certificate which complies.	Yes

C21 Development must comply with Part 3A - Car Parking .	Refer to Part 3A above and Note 4.	Refer above	
C22 Maintain limited advertisements and business signage to minimise visual impact on the surrounding residential area.	There is no signage proposed at this stage.	N/A	
C23 Restrict signage to the awning fascia, under the awning or behind the shop window at street level	There is no signage proposed at this stage.	N/A	
C24 Development must comply with Part 3D - Signage	There is no signage proposed at this stage.	N/A	
C25 A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management .	Stormwater management complies with the requirements under Part 3G of the BBDCP.	Yes	
5.3 General Controls			
5.3.1.1 Floor Space Ratio	C2 In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings or the streetscape in terms of loss of privacy, overshadowing, loss of views, visual amenity and increased traffic generation.	The maximum permissible FSR for the subject site is 1.5 (918sqm). An FSR of 1.5:1 (916sqm) is proposed and complies with the development standard.	Yes
5.3.1.2 Height	C1 The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	A maximum height of 12 metres applies to the subject site. Lift overrun and pergola- 13.55m (12.9%) Building- 11.6m (top of parapet); 12m (top of glass balustrade) The maximum height of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation was provided with the application and is discussed in Note 4 above.	No – Refer to Note 3 above
	C2 & C3 In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the	The proposal complies with the desired future character relating to street setbacks as demonstrated within Figure 28.	Yes

	<p>topography and shape of the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys identified in the relevant character statement for each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height.</p>		
5.3.1.3 Street Setbacks	<p>C1 Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits.</p>	<p>As discussed above, the development complies with the street setbacks prescribed within the Swinbourne Street desired future character.</p>	Yes
5.3.1.4 Side and Rear Setbacks and Building Separation	<p>C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.</p>	<p>Eastern Boundary:</p> <ul style="list-style-type: none"> • <u>Ground Level</u>: Nil (street frontage) • <u>Level 1</u>: Nil • <u>Level 2</u>: Nil (balconies) to 3m (units) <p>Western Boundary:</p> <ul style="list-style-type: none"> • <u>Ground Level</u>: Nil • <u>Level 1</u>: Nil • <u>Level 2</u>: Nil <p>Southern Boundary:</p> <ul style="list-style-type: none"> • <u>Ground</u>: Nil • <u>Level 1</u>: Nil • <u>Level 2</u>: Nil (balconies) to 3m (units) <p>Northern Boundary:</p> <ul style="list-style-type: none"> • <u>Ground</u>: 1.5m to 8.7m • <u>Level 1</u>: 3m (balconies) to 6m (units) 	Yes

		<ul style="list-style-type: none"> • <u>Level 2:</u> 6m (balconies) to 8m (units) <p>The side setbacks that are in line with the boundary (western elevation) will be blank walls to allow for future redevelopment of the adjoining site. Along the northern side, the development has been setback away from the residential properties.</p>	
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	The applicant has provided a SEPP 65 compliance report and ADG checklist with the development application. Building separation is appropriate in this case.	Yes
5.3.1.5 Built Form and Streetscape	C2 Building must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.	The development is one of the first site to be redeveloped in the area therefore there is no existing street wall height however the development complies with the desired future character.	Yes
5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The applicant has provided a SEPP 65 Design Verification Statement with the development application. The document addressed the design excellence of the proposed development.	Yes
5.3.2.2 Building Design	C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.	The applicant has provided a SEPP 65 Design Verification Statement with the development application.	Yes
	C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any privacy impacts on adjoining residential properties.	Balconies along the northern side of the site have been appropriately treated for visual privacy through the installation of vertical louvre blades angled at 45 degrees to avoid overlooking onto residential properties. This is in 1.01 and 1.02 and some parts of the balcony on 2.02. The communal open space is located on the rooftop and will not create any negative overlooking as it has been setback from all boundaries. Visual privacy analysis has been provided and has demonstrated this.	Yes Condition

	C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.	A Schedule of Colours and Finishes has been provided with the development application.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	The development does not incorporate any materials that exceed the solar reflectance value by 20%.	N/A
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	The development proposes an awning on the ground floor along Swinbourne Street and parts of Queen Street.	Yes
5.3.2.5 Public Domain Interface at Ground Level	C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.	This is discussed above in the report.	Acceptable
	C2 Development must be designed so that it has a clearly definable entry and addresses the street.	The building addresses Swinbourne Street and Queen Street with both its front entrance, vehicle entry to the basement and active street frontage available from the street.	Yes
	C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	All apartments are located on Level 1 and above and private open space is via balconies. All units have access to a communal open roof terrace.	Yes
	C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity.	Council's Landscape Architect has conditioned that a Public Domain Plan is required prior to the Construction Certificate. The side of the site proposes adequate landscaped area which integrates with the built form and active street frontage is found at the front of the site.	Yes
5.3.2.6 Active Street Frontages	C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street	The development proposes two commercial tenancies measuring 161sqm. The shops are located at the front of the site.	Yes

	Frontages under BBLEP 2013.		
5.3.2.8 Interface between Business Zones and Adjoining Landuses	C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	Clear boundaries are demonstrated by separate entries to the residential and commercial components as well as to the basement car park.	Yes
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	The site has an north-south orientation therefore a majority of the shadow cast by the proposed development will be to Swinbourne Street. The applicant has provided shadow diagrams demonstrating the proposed development showing that 19 Swinbourne Street will be impacted by the development between 9am to 11am. There is currently four windows on the eastern elevation of 19 Swinbourne Street. At June, between 9am to 10am, three of the four windows will be overshadowed. While at 11am, 1½ of the windows will be overshadowed. In the afternoon, shadow will be cast onto Queen Street. Therefore overshadowing is acceptable.	Yes
5.3.2.9 Landscaped Area	C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement may vary with each block	There is no residential on the ground floor. However there is a landscaped buffer located on the northern side of the site between the residential property and subject site. There is no planting along the street frontage due to active frontages.	Yes
	C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.	The proposal provides for 50.2sqm of deep soil on the ground floor to the north of the building. This equates to 8% which complies.	Yes
5.3.2.10 Private Open Space and Communal Open Space	C1 The primary area of outdoor private open space must not be located at grade on the street frontage.	There is no residential proposed at grade. All private open space is off a balcony.	Yes
	C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or	The communal open space is located on rooftop and will be appropriately landscaped as well as providing for, seating, BBQ area and planter beds.	Yes

	features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.		
	C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees.	As the communal terrace is located on the rooftop, the space will receive full sunlight.	Yes
5.3.2.11 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works	A Schedule of Colours and Finishes has been provided with the development application.	Yes
5.3.2.12 Servicing	C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.	There is currently no loading dock within the premises however one of the visitor car parking spaces could be used as a loading bay for an SRV. Any loading off Queen Street or the location of a loading bay on the street will need approval by Council's Traffic Committee.	Yes, conditional
5.3.2.14 Access and Mobility	<p>C1 Development must comply with Part 3C – Access and Mobility</p> <ul style="list-style-type: none"> ▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing, multi dwelling housing and live/work buildings – Statement of consistency lodged. ▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B. ▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1. ▪ In developments containing 10 or more dwellings, accessible 	<p>An Access Report has been prepared and provided with the development application.</p> <p>The development proposed one adaptable unit.</p> <p>Appropriate access through the front entrance and through the building is provided.</p> <p>The development proposes one (1) adaptable parking spaces</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of spaces complying with AS2890.6.</p>	located within the Basement Level.	
5.3.3.1 Acoustic Privacy	<p>C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.</p>	The site is located outside of the ANEF Contour area and is not in close proximity to a busy road.	Yes
5.3.3.2 Visual Privacy	<p>C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:</p> <ul style="list-style-type: none"> (i) Fixed screens of a reasonable density (min 75% block out); (ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes. 	<p>Balconies along the northern side of the site have been appropriately treated for visual privacy through the installation of vertical louvre blades angled at 45 degrees to avoid overlooking onto residential properties. This is in 1.01 and 1.02 and some parts of the balcony on 2.02. The communal open space is located on the rooftop and will not create any negative overlooking as it has been setback from all boundaries. Visual privacy analysis has been provided and has demonstrated this.</p> <p>There are also no windows located along the western boundary wall between the subject site and 19 Swinbourne Street.</p>	Yes
5.3.3.5 Solar Access & Shadow	<p>C1 Development must demonstrate:</p> <ul style="list-style-type: none"> (i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 	<p>The site has an north-south orientation therefore a majority of the shadow cast by the proposed development will be to Swinbourne Street. The applicant has provided shadow diagrams demonstrating the proposed development showing that 19 Swinbourne Street will be impacted by the development between 9am to 11am. There is currently four windows on the eastern elevation of 19</p>	Yes

	9am and 3pm on 21 June.	<p>Swinbourne Street. At June, between 9am to 10am, three of the four windows will be overshadowed. While at 11am, 1½ of the windows will be overshadowed. In the afternoon, shadow will be cast onto Queen Street. Therefore overshadowing is acceptable.</p> <p>The communal open space on the roof top will receive full sunlight.</p>	
--	-------------------------	---	--

Part 8 – Botany Character Precinct

While Part 8 contains general objectives for the future character of the Botany Area, Part 5 of the BBDCP contained specific controls and objectives for the desired future character of the Swinbourne Street Neighbourhood Centre which has been addressed in detail above.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The site is located in a groundwater management zone and is proposing basement level. The applicant has provided geotechnical reports demonstrating that the development will encounter groundwater. Appropriate conditions imposed by Water NSW has been provided in the consent. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a thirty (30) day period from 27 January to 27 February 2017. Three objections were received. Amended plans were received and were re-notified to the objectors for a period of nine days between 27 March and 5 April 2017. No submissions were received.

The original concerns that were raised by the objectors included overdevelopment, not in character with the streetscape and locality and will set a precedent for the street, traffic congestion and the impact of the driveway located along Queen Street, visual privacy and the height of the blank wall, noise levels during construction, loss of amenity, rear setback has not been met, non-compliance in height, location of communal open space.

In regards to the vehicular access to the site, the location of the driveway is suitable off a side street and not off Swinbourne Street which is predominantly to be used for active street frontage. The applicant has provided a traffic report and swept path diagrams showing ingress and egress from the site and the traffic generation. The proposal will have only six units therefore the traffic generated is not considered to have a significant impact on the existing street network.

In regard to visual privacy, the applicant has addressed this by providing fixed louvres along the balconies on the first and second level facing the northern side of the site. While this has been provided, to ensure privacy, the louvres will be conditioned at a 45-degree angle while the communal open space has been setback from the sides of the building. The location of the communal open space is convenient due to the size of the site and there not being any room on the ground floor.

In regard to overdevelopment and character of the area, the development is consistent with the desired future character of the Swinbourne Street Neighbourhood Centre as required within the BBDCP 2013. It is not considered that the amenity of the neighbouring properties will be significantly impacted by the proposal. The height of the building, with the exception of the pergola and lift overrun is located under the height limit of 12 metres and the blank wall along the western boundary been amended to be painted in different colours so that it is not a blank wall. The rear (northern) setback complies with the requirements in the ADG.

Regarding the noise during construction, a condition of consent has been provided restricting the noise and hours of construction to a certain level.

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 Section 94 Contributions, as calculated within the Section 94 Contributions Plan 2016, for the proposed development are calculated as follows:

The construction of a 3 storey mixed use development containing a total of 6 dwellings and one commercial tenancy at 161sqm:

Residential

PROPOSED	Proposed	Contribution per dwelling	Total payable
2 bed	3	\$13,211.47	\$39,634.41
3 bed	3	\$17,265.80	\$51,797.40
TOTAL	6		\$91,431.81

Commercial

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the *Section 94 Development Contributions Plan 2016*. Contributions for commercial development in this location would be calculated under the *Section 94A Development Contributions Plan 2016* plan. However, only one of the plans can be applied to any given application. The contribution under the Section 94A plans would be significantly less than that available under the Section 94 plan, and it is therefore appropriate to require payment in accordance with the plan requiring the highest contribution.

Credit

The Application is entitled to a Section 94 credit based on historic residential use of the land. Part 2.16 of the *Section 94 Development Contributions Plan 2016* outlines situations in which a credit is available. The credit for the subject proposal is available as follows:

“Where existing dwelling houses or dwellings are to be replaced by new dwellings on the site, the applicant will be entitled to a credit for one existing dwelling and the new dwelling/s will be charged at the applicable occupancy rate under the Plan. The credit will apply to the smaller of the new dwellings. Where subdivision is involved, the credit will apply to the lot, not the dwelling”.

Accounting for the credit for the one existing dwelling, the following Section 94 contributions are payable:

PROPOSED	Proposed	Contribution per dwelling	Total payable
2 bed	3	\$13,211.47	\$39,634.41
3 bed	2	\$17,265.80	\$34,531.6
TOTAL	23		\$74,166.01

Therefore the total contribution payable for the proposal is **\$74,166.01**. A breakdown of the figure is provided in the condition of consent. The applicant is to pay an indexed rate of the contribution based on the timing of the payment.

Conclusion

Development Application No. 16/237 was received on 16 December 2016 for the demolition of the existing structures on site and construction of a three storey shop top housing development with six units, two commercial tenancies and basement parking.

The application is classified as Integrated Development in accordance with the *Water Management Act 2000* as the development involves a temporary construction dewatering activity. As such the application was referred to the Water NSW who had no objections to the proposed development subject to conditions.

The development departs from the height requirement (13.55 metres) which is largely attributed to the lift overrun and pergola. The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded.

Other key issues relating to first floor ceiling height, building separation, car parking/loading and unloading, and family friendly apartments have been addressed in the report above and have been found to be acceptable when considering the aspects of the site.

The development is suitable for the site as apartments will receive the minimum solar amenity requirement, the site will provide active street frontage, and ample private open space and communal area. The area is serviced by ample public transport with a bus stop directly outside the front of the site. The proposed development generally complies with the future character of the Swinbourne Street Neighbourhood Centre and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. For these reasons, the development application is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 23 Swinbourne Street, Botany

Da No.: DA-16/237

GENERAL CONDITIONS

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

Drawing No.	Author	Date Received
DA-201- Site Analysis- Rev A	Technik Haus	Dated 28 November 2016; Received 16 December 2016
DA-202- Site Plan- Rev B		Dated 17 March 2017; Received 23 March 2017
DA-301- Basement Floor Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-302- Ground Floor Plan- Rev B		Dated 17 March 2017; Received 23 March 2017
DA-303- Level 1 Floor Plan- Rev C		Dated 17 March 2017; Received 23 March 2017
DA-304- Level 1 Floor Plan- Rev C		Dated 17 March 2017; Received 23 March 2017
DA-305- Roof Plan- Rev B		Dated 17 March 2017; Received 23 March 2017
DA-306- Adaptable Unit Plan		Dated 28 November 2016; Received 16 December 2016
DA-401- Sections 1- Rev C		Dated 17 March 2017; Received 23 March 2017
DA-402- Sections 2- Rev B		Dated 24 January 2017; Received 25 January 2017
DA-501- East and West Elevation- Rev C		Dated 17 March 2017; Received 23 March 2017
DA-502- North and South Elevation- Rev C		Dated 17 March 2017; Received 23 March 2017
DA-601- Rendered Perspectives- Rev B		Dated 17 March 2017; Received 23 March 2017
DA-602- Perspectives- Rev A		Dated 28 November 2016; Received 16 December 2016

DA-701- Calculations- Rev B		Dated 24 January 2017; Received 25 January 2017
DA-702- Calculations- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-703- Construction Management Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-704- Shadow Diagrams- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-705- Shadow Diagrams 2- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-706- Sunlight Analysis- 19 Swinbourne Street- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-708- Sunlight Access- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-711- Services Plan- Rev A		Dated 28 November 2016; Received 16 December 2016
DA-715- View Study Elevation and Plan- Rev A		Dated 17 March 2017; Received 23 March 2017
DA-716- Balcony View Study- Rev A		Dated 17 March 2017; Received 23 March 2017
DA-801- Materials/Window Schedules- Rev C		Dated 17 March 2017; Received 23 March 2017
1458-C01- Concept Stormwater Layout- Basement Plan	R. Balas Consulting P/L	Dated 3 November 2016; Received 16 December 2016
1458-C02- Concept Stormwater Layout - Ground Floor Plan		Dated 3 November 2016; Received 16 December 2016
1458-C03- Concept Stormwater Layout- First Floor Plan		Dated 3 November 2016; Received 16 December 2016
1458-C04- Concept Stormwater Layout- Roof Plan		Dated 3 November 2016; Received 16 December 2016
B85% Turning Paths	Development Engineering Solutions	Dated 20 November 2016; Received 16 December 2016
Driveway Access Plan		Dated 20 November 2016; Received 16 December 2016
Landscape Plans	Conzept	Dated September 2016; Received 16 December 2016

Reference Document(s)	Author	Date Received
Access Report	Visionary Access	Dated November 2016; Received 16 December 2016
Acid Sulfate Soil Assessment	STS GeoEnvironmental	Dated December 2016; Received 16 December 2016
Aboricultural Impact Assessment	Advanced Treescape Consulting	Dated 15 December 2016; Received 16 December 2016
BASIX Certificate No. 766489M	Prepared by The house energy rating company of Aust. Pty Ltd	Dated 26 November 2016; Received 16 December 2016

BCA Compliance report	Environet Consultancy Pty Ltd	Dated 23 November 2016; Received 16 December 2016
Preliminary Geotechnical Investigation	STS GeoEnvironmental	Dated July 2017; Received July 2017
Architects Statement in response to SEPP 65 Design Quality Principles	Graham Bakewell Architect	Dated December 2016; Received 16 December 2016
Statement of Environmental Effects	Planning Ingenuity	Dated 15 December 2016; Received 16 December 2016
Waste Management Plan	Elephants Foot	Dated 7 December 2016; Received 16 December 2016
Traffic Access and Parking Assessment- Rev A	Development Engineering Solutions P/L	Dated 27 January 2017; Received January 2017
Amended Clause 4.6 variation statement- Maximum Height	Planning Ingenuity	Received 23 March 2017

2.

- a) This Consent relates to land in Lot 1 in DP 85872, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
- b) Separate development applications must be lodged with Council for the use of the individual retail tenancy and associated signage.

3.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
- b) All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
- c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2. If they are located on balconies or in public, they are to be appropriately screened;
- d) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans; and

4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
5. Emergency egress from the site must be provided from all internal areas to the Swinbourne Street frontage immediately adjoining 19 Swinbourne Street (Lot 34 DP600407). This egress point is to maintained at all times.

6. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent (Condition No. 1) that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.
- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
7. 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.
8. Proof of current liability and indemnity insurance of not less than \$20 million shall be submitted to Council. The applicant shall arrange for Bayside Council and the Roads and Maritime Services (RMS) and Sydney Buses to be named on Applicant's insurance as joint insured for the respective rights and interests of the applicant, Council and RMS and Sydney Buses, in respect of the applicant's use of the road reserve (airspace). The insurance is to be extended to include the RMS, Sydney Buses being indemnified and Bayside Council against any action that could result in litigation following any accident involving an errant motor vehicle colliding with the proposed balcony/awning.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES

9. The following conditions imposed by Water NSW are as follows:

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 belowground 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 offsite 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.

10. The following conditions imposed by **NSW Police** are as follows:

- a)
 - i. As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
 - ii. The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance); and
 - iii. Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data.
- b) Any proposed landscaping and vegetation to the street frontage should adhere to the following principles:
 - i) Shrubs bushes, plants should remain under 900mm in height;
 - ii) Branches or large trees should start at a height of two (2) metres and higher;
- c)
 - i) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
 - ii) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.
- d) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by

your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.

11. The following conditions imposed by **SACL** are as follows:

Height Restrictions

- a) The property development at 23 Swinbourne Street, Botany, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority;
- b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 22.7 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc;
- c) Should you wish to exceed 22.7 metres above Australian Height Datum (AHD), a new application must be submitted;
- d) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the *Civil Aviation (Buildings Control) Regulations Statutory Rules 1988*, No.161;
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations;
- f) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- g) Information required by Sydney Airport prior to any approval is to include:
 - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Planning for Aircraft Noise and Public Safety Zones

- h) Current planning provisions (s. 117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use

planning and for Sydney Airport was endorsed by Air services Australia on 13 March 2009 (Sydney Airport 2029 ANEF).

- i) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

12. The following conditions imposed by **Ausgrid** are as follows:

- a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site).
- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
 - i) Changes in electrical load requirements
 - ii) Changes to Ausgrids infrastructure (ie. asset relocations, decommissioning substations etc.)
 - iii) Works affecting Ausgrids easements, leases and/ or right of ways
 - iv) Changing the gradients of any roads or paths
 - v) Changing the level of roads or foot paths
 - vi) Widening or narrowing of roads
 - vii) Closing roads or laneways to vehicles
 - viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) Any work undertaken near overhead power lines needs to be done in accordance with:
 - i) Workcover Document ISSC 23 "Working Near Overhead Power Lines"
 - ii) Ausgrids Network Standard
 - iii) Ausgrids Electrical Safety Rules
- d) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

13. The following conditions imposed by **Sydney Water** are as follows:

- a) The approved plans must be submitted to the 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.

- b) *The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.*
- c) The [Tap in™](#) service provides 24/7 access to a range of services, including:
 - i) building plan approvals
 - ii) connection and disconnection approvals
 - iii) diagrams
 - iv) trade waste approvals
 - v) pressure information
 - vi) water meter installations
 - vii) pressure boosting and pump approvals
 - viii) changes to an existing service or asset, e.g. relocating or moving an asset.
- d) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

- 14. Prior to commencement of any works on-site, a dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. 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 demolition. The extent of the Dilapidation Survey is to be prepared by a practising Structural Engineer having regard to foundations/structures of the locality
- 15. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.

16. 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.
17. 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.
18. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on

Council's property/road reserve under Road Act 1993 and Local Government Act 1993:
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
19. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
20. 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.
21. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

22. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
- 23.
- a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority; and
 - b) The demolisher shall comply with Australian Standard 2601 - 1993 "*Demolition of Structures*".
24. 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 and Climate Change and Water and with the provisions of:
- 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); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
25. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - b) Prior to placement of concrete (kerb and gutter and footpath);
 - c) Prior to construction and placement of road pavement materials; and
 - d) Final inspection.

Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

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

26. 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.

27. The applicant must prior to the release of the Construction Certificate, pay the following fees:

a)	Development Control Fee	\$3,000.00
b)	Builder's Security Deposit	\$112,468.13 (see below)
c)	Landscape Maintenance Bond	\$3,150 (see below)
d)	Street Tree Maintenance Bond	\$4,550 (see below)
e)	Liability Insurance	\$20,000,000.00*
f)	Section 94 Contributions	\$241,682.97 (see below)

*The insurance is to be extended to include the RMS/STA being indemnified against any action that could result in litigation following any accident involving an errant motor vehicle colliding with the proposed building.

28. Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the *City of Botany Bay Section 94 Contributions Plan 2016*, a contribution of **\$241,682.97** is to be paid to Council prior to the issue of the first Construction Certificate.

Community Facilities – Citywide	\$41,472.10
Recreation Facilities- Citywide	\$180,146.40
Transport Management- Citywide	\$16,973.69
Administration	\$3,090.79

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

29. Prior to the issue of the Construction Certificate, amended plans are to be submitted to Council demonstrating the following:
- a) The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained within all apartments.
 - b) All apartments are to have a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area
30. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$112,468.13** (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.

31. Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council for approval, showing the following:
 - a) Storage areas are to comply with the minimum ADG requirement of 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
 - b) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
 - c) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
 - d) Plans are to show loading and unloading for the commercial tenancies either on the site or from Queen Street in the form of a loading bay. Loading and unloading is restricted along Swinbourne Street;
 - e) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
 - f) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
32. Prior to the issue of a Construction Certificate, a public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
33. Landscaping shall be installed in accordance with the landscape plan (*DA Issue D*), by Conzept, dated 15.12.2016, prior to the issue of an Occupation Certificate. This plan is to be amended to include: an additional tree added to provide three (3) evergreen native trees to be installed in the northern setback with mature height at least as tall as the proposed development, two (2) small evergreen native trees of 5-6 metres high to be installed on the podium communal open space, and all planter boxes are to have a minimum width of 750mm. The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times. A revised Landscape Plan shall be submitted for Council's approval with the Public Domain Plan prior to issue of Construction Certificate.

34. The applicant is to submit payment of a Street Tree Maintenance Bond of \$4,550.00. The duration of the Bond shall be limited to a period of 12 months after the issue of the Final Occupation Certificate, and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
35. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$3,150, for a period of 12 months after issue of the Final Occupation Certificate and upon inspection and sign off by Council's Landscape Architect, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

36. 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 and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
37. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,

- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

38. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Swinbourne Street during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

39. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
 - b) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure,
 - c) The applicant shall provide 12 resident carparking spaces that must be clearly linemarked and signposted,
 - d) The applicant shall provide 2 visitor carparking spaces that must be clearly linemarked and signposted.
40. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - b) All service vehicles shall enter the property front in front out,
 - c) Demonstrate safe headroom clearance of 3.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Small Rigid Vehicle (SRV), including Council's Garbage Truck,
 - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
41. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) A minimum 1 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
42. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16. As part of this development, a new concrete driveway shall be constructed. A new six (6) 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. The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

43. 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.

44. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.
 - c) As part of this development, the Ausgrid power pole on Bunnerong Road at the front of the development site will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
 - d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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.

45. 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 and Council for approval.

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,**
 - b) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Council’s DCP SMTG. The volume of the rainwater tank that can be used to offset from the OSD requirements is equivalent to 50% of the size of the rainwater tank,
 - c) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a “fully tanked” structure,
 - d) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - e) The pump out system from the basement carpark proposed shall discharge to the OSD system,
 - f) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
 - g) If an OSD system is proposed, discharge to Kerb and Gutter on Swinbourne St and/or Queen St shall be limited to 10L/s, one outlet only. Alternatively, the discharge pipe shall be connected to Council’s stormwater pit and pipe system,
 - h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - i) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - j) The submission of detailed calculations including computer modelling where required to support the proposal.
46. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council’s Landscape Architect prior to their installation.
47. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) ‘NSW Road Noise Policy’*, and shall also meet the criteria recommended as “Satisfactory” in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to Principal certifying authority prior to the release of the Construction Certificate.

48. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
- a) identify each item of plant and equipment;
 - b) the following additional criteria adopted by City of Botany Bay Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) 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 L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} 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.
- Note** “sensitive” positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
49. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the Construction certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
50. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
51. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
52. Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
53. All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.

54. Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
55. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council or PCA approval.
56. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
57. Plans and specifications for the storage room and for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
 - a) Waste and recycling for commercial users shall be in a separate room for the storage of waste and recycling for residential users
 - b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed,
 - c) Adequately ventilated,
 - d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor,
 - e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basked in accordance with the requirements of Sydney Water Corporation, and
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage areas
 - g) Waste collection is to be carried out from the kerb with the building manager wheeling the bins from the bin presentation area on collection day; and
 - h) Any loading bay to be from Queen Street is to be assessed and determined by Council's Traffic Committee.

CONDITIONS TO BE SATISFIED DURING WORKS

58. If the work involved in the construction of a building:
 - a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:

- i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
59. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
60. 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.
61. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
62. The Applicant shall conduct all demolition, 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.
63. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
64. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
65. As the development involves an excavation that extends below the level of the base of the footings of a building or road 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.
 - iii) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.

66. 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.
67. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
68. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
69. The Applicant has permission to remove *one (1)* Liquidamber on the property and the seven (7) street trees. The trees may only be removed after a Construction Certificate has been issued and removal shall be undertaken by the Applicant at their own expense.
 - 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.
70.
 - a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Council prior to the Issue of an Occupation Certificate.
71. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:

- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
72. 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.
73. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 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.
74. Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
75. 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*.

a) Level Restrictions

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 20 dB(A).

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).

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

All possible steps should be taken to silence construction site equipment.

76. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) must be standard flushing toilet; and,

ii) must be connected:

1 to a public sewer; or

2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

77. 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.

78. 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.

79. Concrete trucks and trucks 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 be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

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

81. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

82.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (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.
83. 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 demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
84. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

If the soil conditions required it:

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

85. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
86. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
87. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
88. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Erosion and Sediment Control Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

89. 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.
90. Prior to the issue of the Occupation Certificate, the privacy louvres along the balconies at Units 1.01 and 1.02 and Unit 2.02 are to be fixed at a 45 degree angle.
91. Prior to the issue of the Occupation Certificate, the western boundary wall is to be suitably painted as per the Schedule of Colours and Finishes and is not to be left blank.
92. Prior to the issue of the Occupation Certificate, the existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.
93.
 - a) A notice of requirement shall be obtained from the Water Board;
 - b) A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

94. 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.
95. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
96. 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.
97. Prior to the issue of the 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 all relevant standards.
98. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
 - a) On Swinbourne St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - b) On Swinbourne St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - c) On Queen St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications, and
 - d) On Queen St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications.
99. Prior to the issue of the 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.
100. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

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

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

- 101. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 102. 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. Details of street numbering shall be submitted to Council for approval.
- 103. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 104. The 16 car parking spaces shall be made available to permanent occupants, visitors and retail parking at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate. One of the visitor car parking can be utilised as a loading bay for the commercial tenancies for SRV's.
- 105. Prior to the issue of the Occupation Certificate, should a loading bay be required along Queen Street associated with the commercial uses, approval is to be provided by Council's Traffic Committee.
- 106. The Applicant shall place a positive covenant on the title of the subject site to control the maintenance and insurance of the balconies that encroaches over Council land. Details of the covenant to be supplies in a Application for Subdivision submitted prior to issue of any Occupation Certificate.
- 107. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 108. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 109. Ongoing maintenance of the road verges and footpaths in Queen Street and Swinbourne Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas

at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.

110. Council may terminate a license for airspace use. In the event that Council terminates a license, then it may be terminated by notice in writing by the Council to the licensee at any time. On receipt of which the licensee shall remove all material (by the date/time specified in the letter from Council) from the footway (including airspace) and shall have no other rights under the license.
111. 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.
112. No roller shutters are to be installed to any of the commercial shopfronts that front Swinbourne Street.
113. Waste collection is to be carried out from the kerb with the building manager wheeling the bins from the bin presentation area or waste holding rooms on collection day. Garbage collection is not to be carried out from the site unless there is a dedicated loading area within the car parking levels.
114. Prior to commencing trading each tenant must register the business premises with Council if trading as a food premise, skin penetration, hairdresser or beauty therapist.
115. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
116. Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
117.
 - a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The adaptable apartment approved under this development consent is to remain unaltered at all times; and
 - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times.
118. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

119. 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*.
120. 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.
121. 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.
122. 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. 16/237 dated as 16 December 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

Amended Clause 4.6 Variation Statement – Maximum Height (Clause 4.3)

Clause 4.3(2) of Botany Bay LEP 2013 relates to the maximum height requirements and refers to the *Height of Buildings Map*. The relevant map identifies the subject site as having a maximum height of 12m. Building height is defined as:

“ **building height (or height of building)** means:
(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

Figure 1 below provides a Section Plan indicating that the building has been designed to comply with the maximum permitted height, however, results in non-compliances that predominantly relate to the lift overrun and pergola that extend to a maximum height of 13.55m (equivalent to a 12.9% variation).

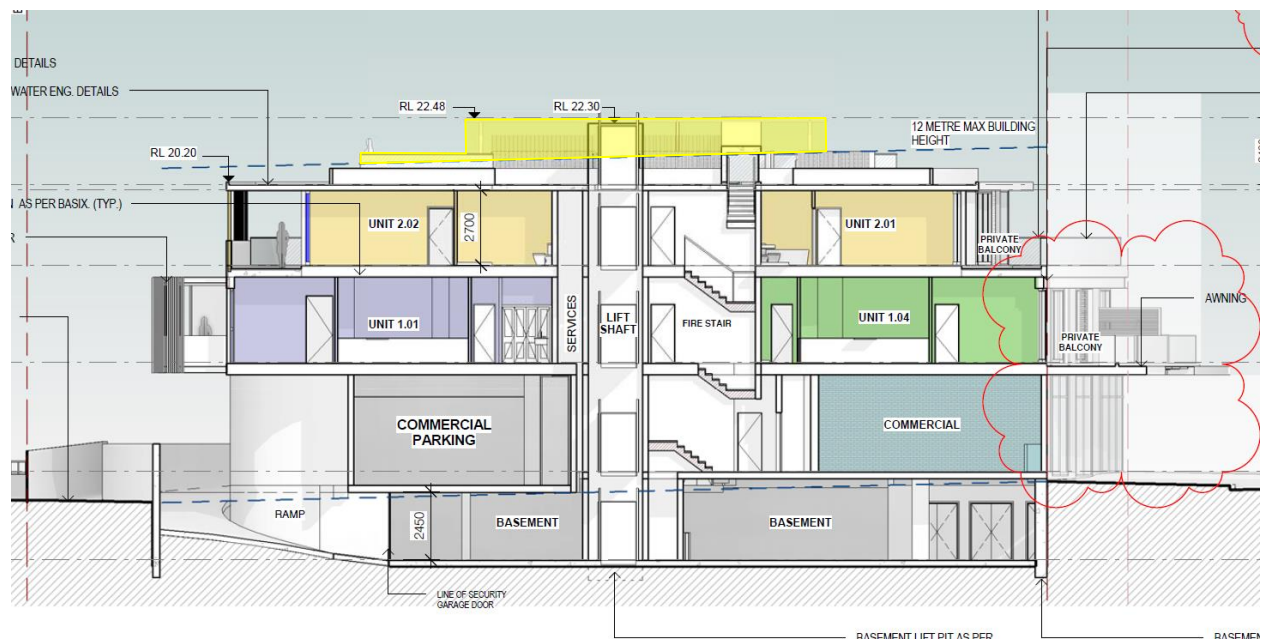


Figure 1: Section Plan demonstrating height non-compliance (highlighted in yellow)

As indicated, the height non-compliance is limited to the lift overrun and pergola. The proposed development is however considered to be generally consistent with the scale of development expected at the site.

Maximum height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP. The objectives and provisions of clause 4.6 are as follows:

- “ **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,*

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (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.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 6.1 or 6.2."

The development standards in clause 4.3 are not "expressly excluded" from the operation of clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8).

This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate to Council that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited in contrast with the development standards referred to in subclause 4.6(6).

Objective 1(b) of clause 4.6 is addressed later in this request.

The objectives and relevant provisions of clause 4.3 are as follows, inter alia:

“ **4.3 Height of buildings**

(1) *The objectives of this clause are as follows:*

- (a) *to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- (b) *to ensure that taller buildings are appropriately located,*
- (c) *to ensure that building height is consistent with the desired future character of an area,*
- (d) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- (e) *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.”*

The *Height of Buildings Map* nominates a maximum height of 12m for the site. It is hereby requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum height of 13.55m for the development.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of Clause 4.3 are addressed in turn below.

OBJECTIVE (A) TO ENSURE THAT THE BUILT FORM OF BOTANY BAY DEVELOPS IN A COORDINATED AND COHESIVE MANNER

The *Height of Buildings Map* indicates that the 12m height limit that applies to the subject site also applies to land in the immediate vicinity within Zone B1. Zone B1 extends to the east, west and south of the site, beyond the B1 Zone is R2 Low Density Residential zone where building height transitions to 8.5m. At present, the built form within the block is characterised by a combination of older housing stock and commercial development and as such building heights are varied and no development takes up the maximum building height of 12m.

As mentioned, the maximum height of the proposal is 13.55m when measured to the top of the lift overrun and rooftop pergola. The structures are set a minimum of 6m behind the Swinbourne Street and Queen Street elevations and therefore presents as a recessive element that is not readily apparent from street level. The breach in roof height is a product of providing rooftop communal open space. Communal open space on the roof is encouraged by the ADG and provides superior amenity to future occupants of the development. Accessibility to the roof communal area in the form of lift and stairs is required, thereby requesting a variation to the building height control. The roof pergola will provide protection from the elements, which will increase useability and amenity of the development.

It is anticipated that zoning changes and more generous building height and density controls implemented by BBLEP 2013 will be a catalyst for redevelopment of land in the immediate B1 Zone. Redevelopment will typically accord with the new controls and therefore building heights will become more coordinated and cohesive over time. It is submitted that the proposal, although greater in height than its neighbours, is compatible with the height of development envisaged by the LEP and, over time, will form part of a coordinated and cohesive streetscape in terms of building height.

OBJECTIVE (B) TO ENSURE THAT TALLER BUILDINGS ARE APPROPRIATELY LOCATED

The function of the *Height of Building Map* is, as suggested by objective (b), to identify appropriate locations for taller buildings. The *Height of Buildings Map* indicates that the maximum building height for the site is 12m and is therefore identified as a location where ‘taller’ buildings are appropriate. The proposal does not strictly comply with this requirement (hence the request to vary the development standard), however is not substantially taller than the height of buildings anticipated in this location. It is submitted that the proposal, which may be considered a ‘taller’ building, is appropriately located.

OBJECTIVE (C) TO ENSURE THAT BUILDING HEIGHT IS CONSISTENT WITH THE DESIRED FUTURE CHARACTER OF AN AREA

Much of the discussion provided against objective (a) is also relevant to this objective. In brief, the desired future character of an area is, to some degree, determined by the building envelope provisions that apply to the site. In this case, it is conceivable that future development in the B1 Zone will have a building height of 12m. It is also conceivable that many sites with similar development forms will seek to vary building height to account for the ADG communal open space provision. It is considered that the proposal, although marginally non-compliant with building height, is consistent with the desired future character of the area, noting that the term 'consistent' does not necessarily mean 'the same as'.

OBJECTIVE (D) TO MINIMISE VISUAL IMPACT, DISRUPTION OF VIEWS, LOSS OF PRIVACY AND LOSS OF SOLAR ACCESS TO EXISTING DEVELOPMENT

Despite this non-compliance, the proposal is designed and located to minimise visual impact, disruption of views, loss of privacy and loss of solar access to neighbouring development as described below:

- The lift overrun and rooftop pergola is set at least 6m behind each street elevation and therefore presents as a recessive element that is not readily apparent from street level. The part of the building that is non-compliant with building height, does not contribute significantly to the visual bulk of the development. It is submitted that the difference between the proposal and a development that complies with building height will be negligible when viewed from the streetscape.
- It is understood that there are no significant views obtained from or through the site that will be obscured by the non-compliant aspect of the building.
- The lift overrun and pergola do not contribute to loss of visual privacy. The communal area is recessed from all boundaries and includes planters along the perimeter of communal open space. Compliant building height elements of the building such as balconies are provided with privacy screens where orientation to the northern property is proposed. These features preclude cross viewing or overlooking of neighbouring properties therefore ensuring visual privacy.
- Solar access diagrams have been prepared and are submitted with the development application. The diagrams demonstrate that, although the building is marginally non-compliant in terms of building height, solar access to neighbouring properties is not unreasonably reduced. Due to site orientation the proposal does not excessively overshadow existing adjacent development.

As described above, although non-compliant with building height, the proposal is designed and located to minimise visual impacts, disruption of views, loss of privacy and overshadowing and therefore achieves the objective.

OBJECTIVE (E) 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

It is anticipated that the locality will undergo a period of transition as properties are redeveloped to take advantage of the zoning changes and generous height and density controls introduced through the new LEP. As previously discussed, the height of the proposal is considered to be compatible with the anticipated future character of the B1 Zone locality and in this regard makes a positive contribution to the desired streetscape. Until such time as neighbouring and adjoining sites are also developed, the proposal will be a prominent element in the immediate streetscape however will not be evident in the skyline in the same way as a residential tower is visible from a distance.

The proposed development is therefore consistent with the objectives for maximum height, despite the numeric non-compliance.

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of the B1 Neighbourhood Centre zone are as follows:

- “
- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
 - To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.”

The proposal will provide a medium density residential development that provides two small scale retail uses that serve the needs of people who live or work in the surrounding area. The proposal is a well-designed and sited shop top housing development that is compatible with the future scale and form of development of the surrounding area. The development also offers high levels of residential amenity and is entirely consistent with the intentions of the zone.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, the assessment of this numerical non-compliance is guided by the recent decision of the NSW LEC *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 whereby Justice Pain ratified the decision of commissioner Pearson.

Sufficient Environmental Planning Grounds

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite marginal non-compliance with the maximum building height standard, there will be no impact on the character of the locality or on the amenity of neighbouring and adjoining properties.

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that:

- The non-compliant lift overrun and pergola elements are a functional aspect of the building, ensuring efficient access to the roof communal open space. The required ADG communal open space provides superior amenity to future occupants with weather protection and communal facilities, such as barbeques, tables and seating.
- The discussions provided in this variation request have demonstrated that the marginal height breach will have no adverse impact on the character of the locality or the amenity of neighbouring properties. The lift overrun and pergola will not be readily visible, do not cast additional excessive shadows and do not give rise to privacy impacts nor do they result in view loss. In the absence of any adverse impact, it is considered that to require strict compliance with the development standard would, in this instance, be unreasonable and unnecessary; and
- To achieve compliance with the building height standard, the building would need to be reduced by a relatively insignificant margin of 1.55m. The visual bulk associated with the non-compliant 1.55m is negligible when compared to the visual bulk of a compliant scheme. The reduction in height would however have significant implications for the proposal as it would effectively preclude the rooftop communal open space reducing residential amenity.

For the reasons listed above, it is considered that there are sufficient environmental planning grounds to support a variation to the maximum building height standard, particularly when one considers that the breach is the direct result of providing rooftop communal open space required by the ADG, and strict compliance would reduce amenity to future occupants of the development.

Insistence on Compliance is Unreasonable and Unnecessary

Returning to Clause 4.6(3)(a), in *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

“ An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

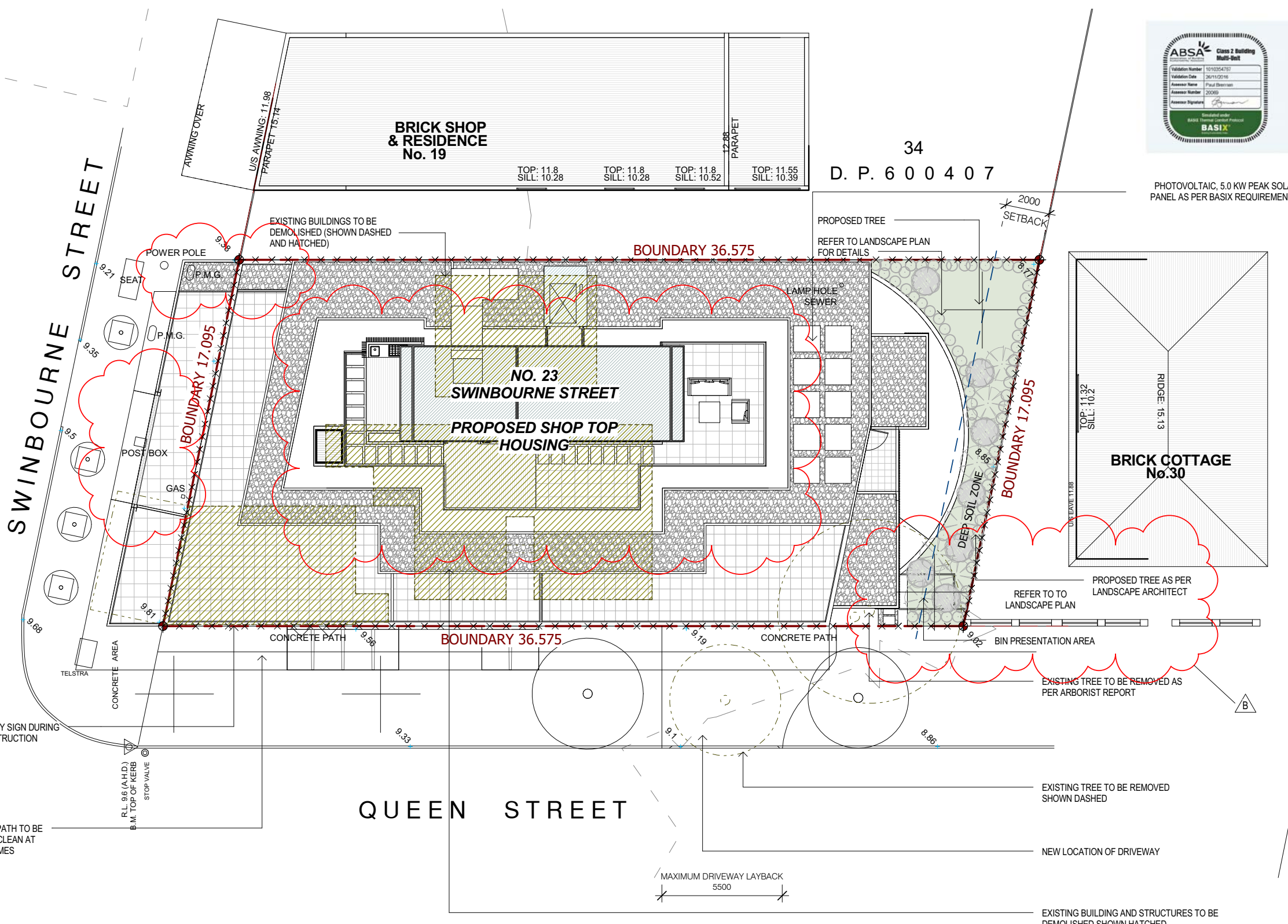
“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

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 or 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 that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that maximum building height development standard in this instance is unreasonable and on the basis of the above, the statutory tests set out in Clause 4.6 of Botany Bay LEP are satisfied.



LEGEND

- XXXX SILT FENCE
- WSC WASTE STORAGE CONTAINER
- WOA WASH OUT AREA
- STOCKPILE AREA
- WR WASTE/RECYCLE BINS
- MSA MATERIALS STORAGE AREA
- EXISTING TREE TO BE RETAINED
- EXISTING TREE TO BE REMOVED
- STRUCTURES TO BE DEMOLISHED

SEDIMENT CONTROL NOTES

- ALL SEDIMENT DAMS AND TRAPS SHALL BE CLEANED WHEN THE STRUCTURES ARE A MAXIMUM OF 60% FULL OF SOIL & DEBRIS
- SAND BAGS SHALL BE WELL PACKED AGAINST ADJOINING BAGS
- FILTER SHALL BE CONSTRUCTED BY REMOVING & WRAPPING GRATE IN FILTER FABRIC (PROPEX OR APPROVED EQUIVALENT) WITH MINIMUM 75mm FREE FABRIC OUTSIDE ALL EDGES OF GRATE WHEN IT IS REINSTALLED
- ALL EROSION AND SEDIMENTATION CONTROL MEASURES, INCLUDING REVEGETATION AND STORAGE OF SOIL AND TOPSOIL, SHALL BE

SEDIMENT DAM

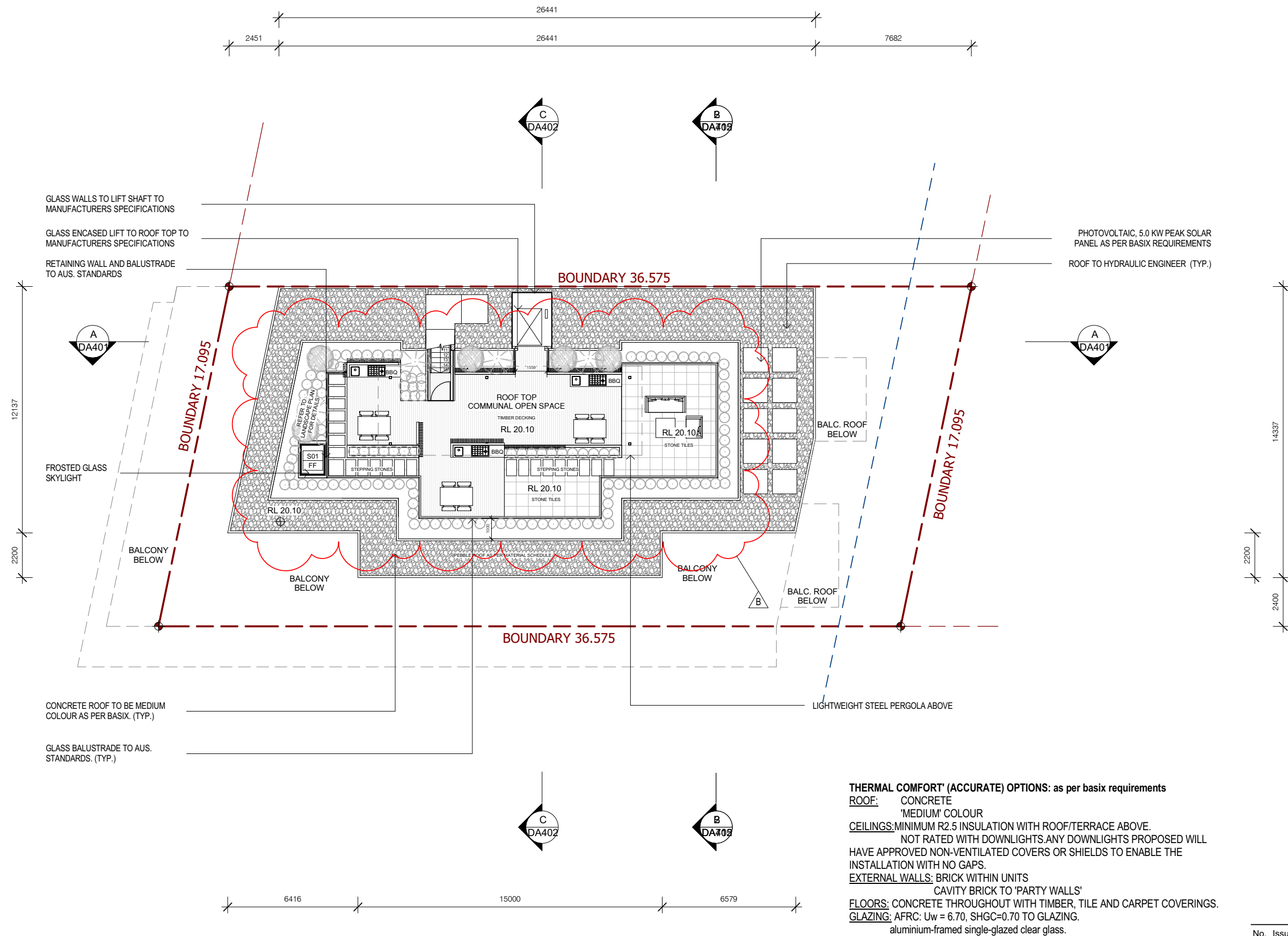
SEDIMENT FENCE

No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION 2 - ADDITIONAL INFO	2017.03.17

Sheet Number: **DA202** Issue: **B**

1 SITE PLAN
1 : 200

FOR DEVELOPMENT APPLICATION

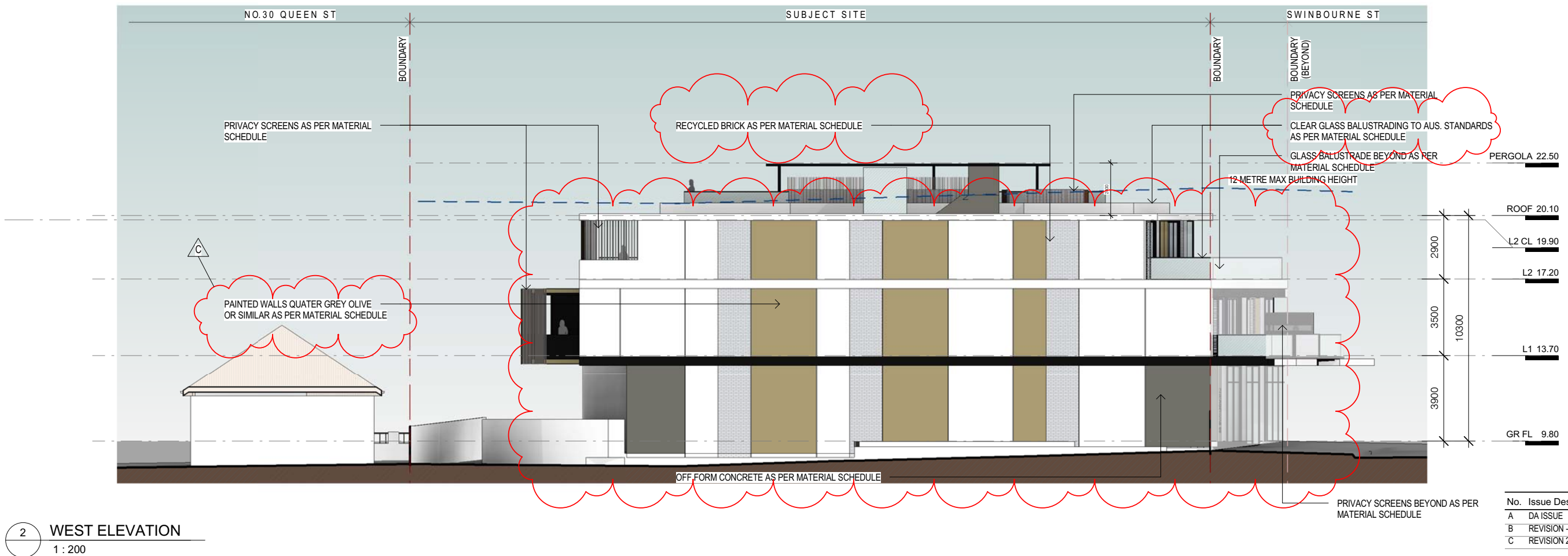
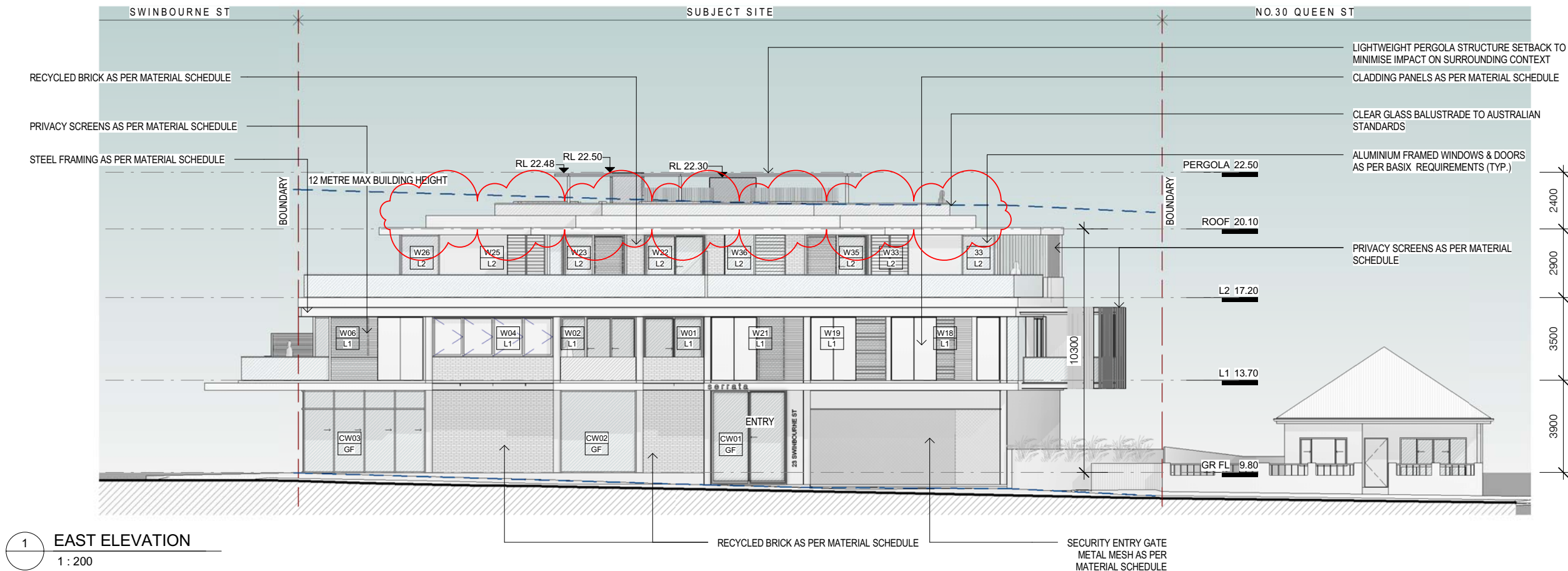


THERMAL COMFORT* (ACCURATE) OPTIONS: as per basix requirements
ROOF: CONCRETE
'MEDIUM' COLOUR
CEILINGS: MINIMUM R2.5 INSULATION WITH ROOF/TERRACE ABOVE.
NOT RATED WITH DOWNLIGHTS. ANY DOWNLIGHTS PROPOSED WILL
HAVE APPROVED NON-VENTILATED COVERS OR SHIELDS TO ENABLE THE
INSTALLATION WITH NO GAPS.
EXTERNAL WALLS: BRICK WITHIN UNITS
CAVITY BRICK TO 'PARTY WALLS'
FLOORS: CONCRETE THROUGHOUT WITH TIMBER, TILE AND CARPET COVERINGS.
GLAZING: AFRC: $U_w = 6.70$, $SHGC = 0.70$ TO GLAZING.
aluminium-framed single-glazed clear glass.

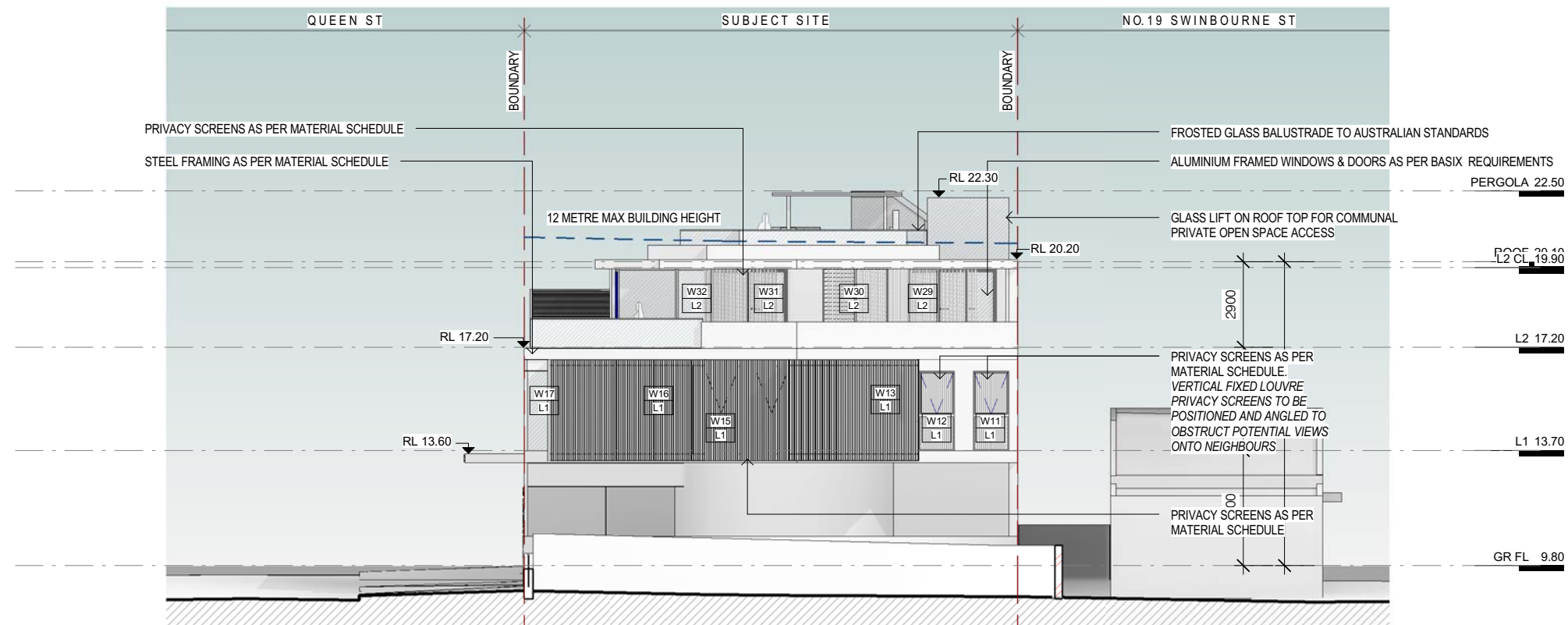
1 ROOF PLAN
1 : 200

FOR DEVELOPMENT APPLICATION

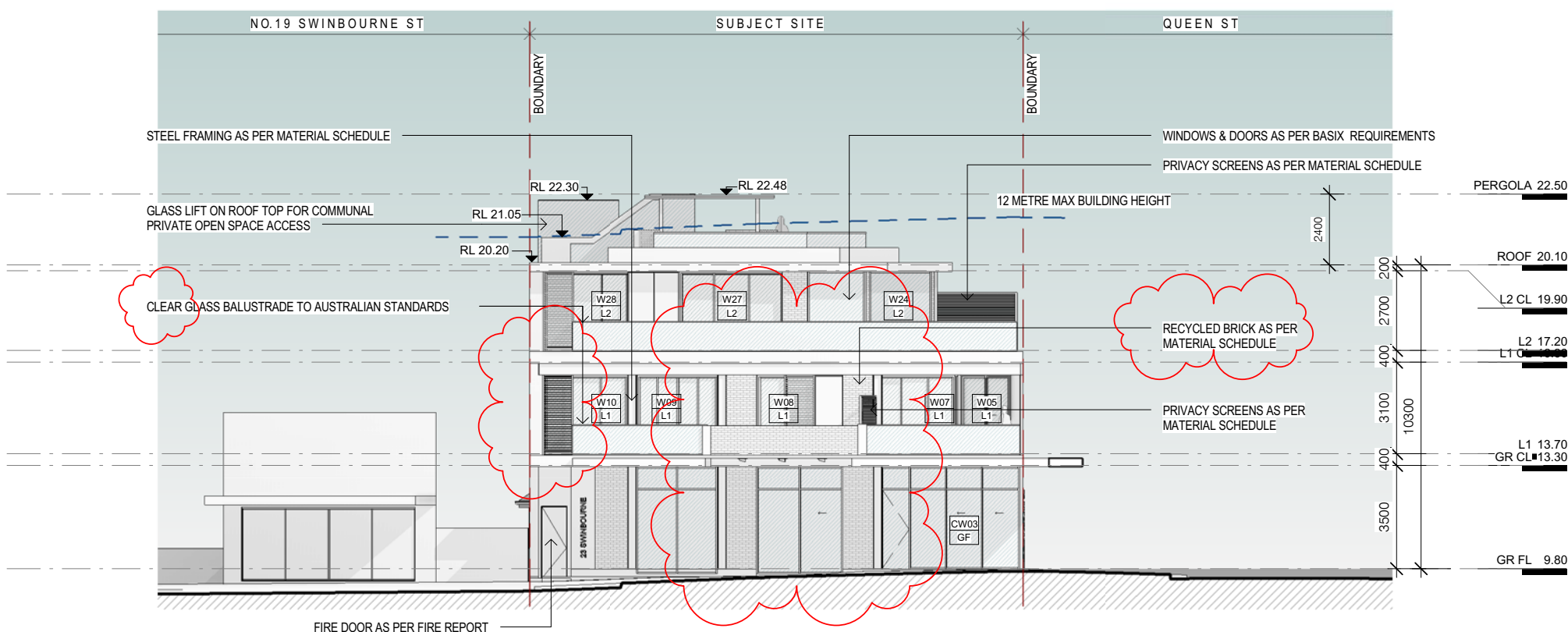
No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION 2 - ADDITIONAL INFO	2017.03.17



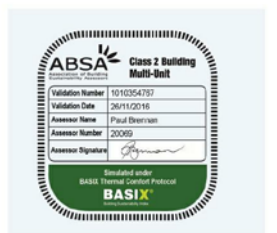
FOR DEVELOPMENT APPLICATION



1 NORTH ELEVATION
1 : 200

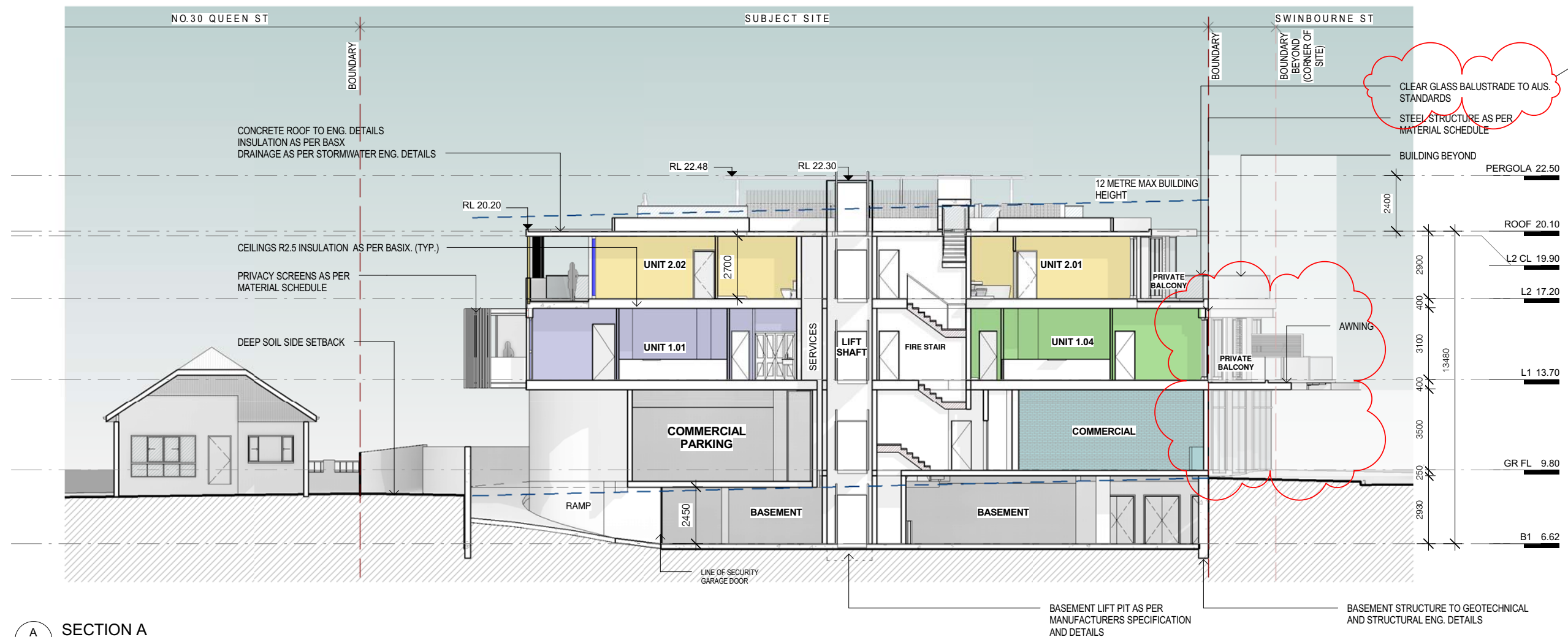


2 SOUTH ELEVATION
1 : 200



No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24
C	REVISION 2 - ADDITIONAL INFO	2017.03.17

FOR DEVELOPMENT APPLICATION



A SECTION A
1 : 200



THERMAL COMFORT' (ACCURATE) OPTIONS: as per basix requirements

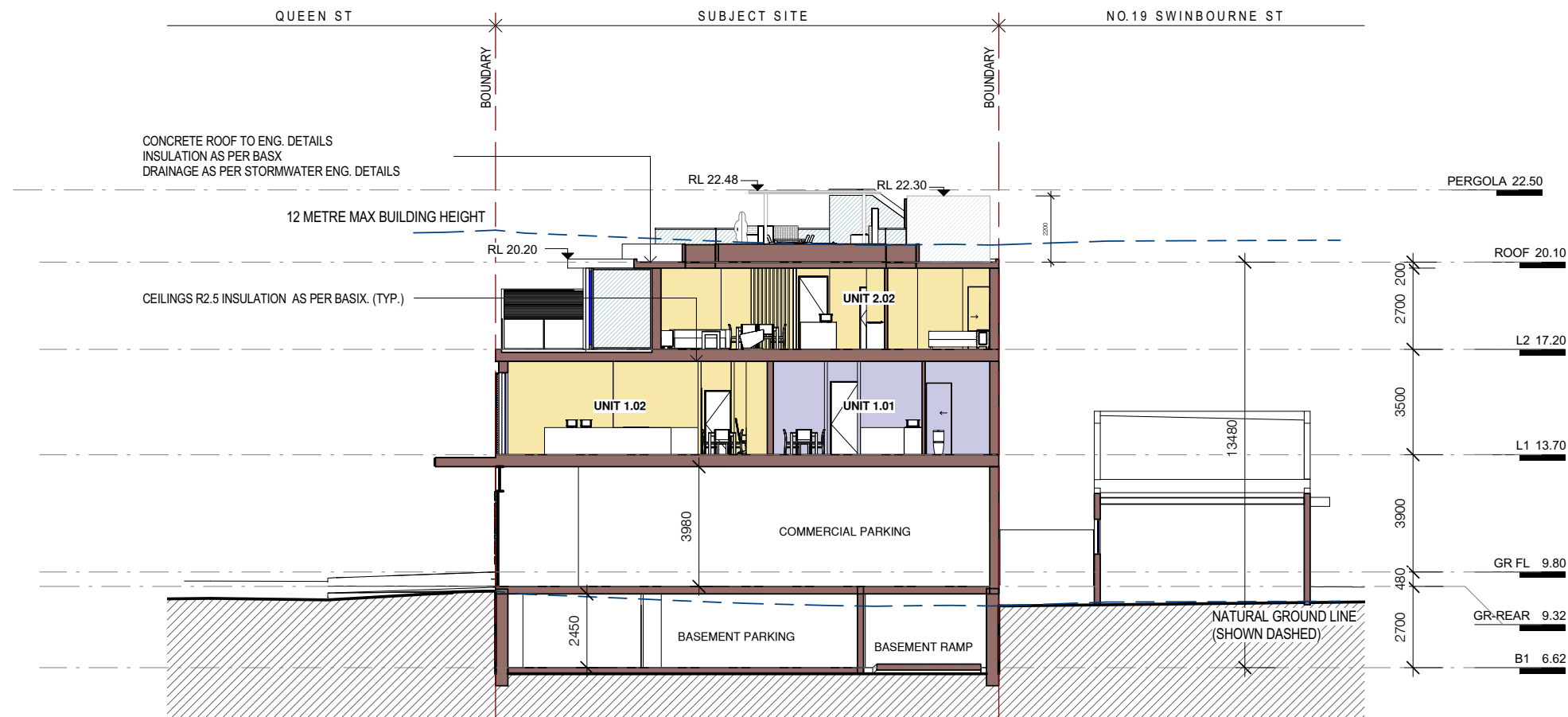
ROOF: CONCRETE
'MEDIUM' COLOUR
CEILINGS: MINIMUM R2.5 INSULATION WITH ROOF/TERRACE ABOVE.
NOT RATED WITH DOWNLIGHTS. ANY DOWNLIGHTS PROPOSED WILL
HAVE APPROVED NON-VENTILATED COVERS OR SHIELDS TO ENABLE THE
INSTALLATION WITH NO GAPS.
EXTERNAL WALLS: BRICK WITHIN UNITS
CAVITY BRICK TO 'PARTY WALLS'
FLOORS: CONCRETE THROUGHOUT WITH TIMBER, TILE AND CARPET COVERINGS.
GLAZING: AFRC: Uw = 6.70, SHGC=0.70 TO GLAZING.
aluminium-framed single-glazed clear glass.

Legend

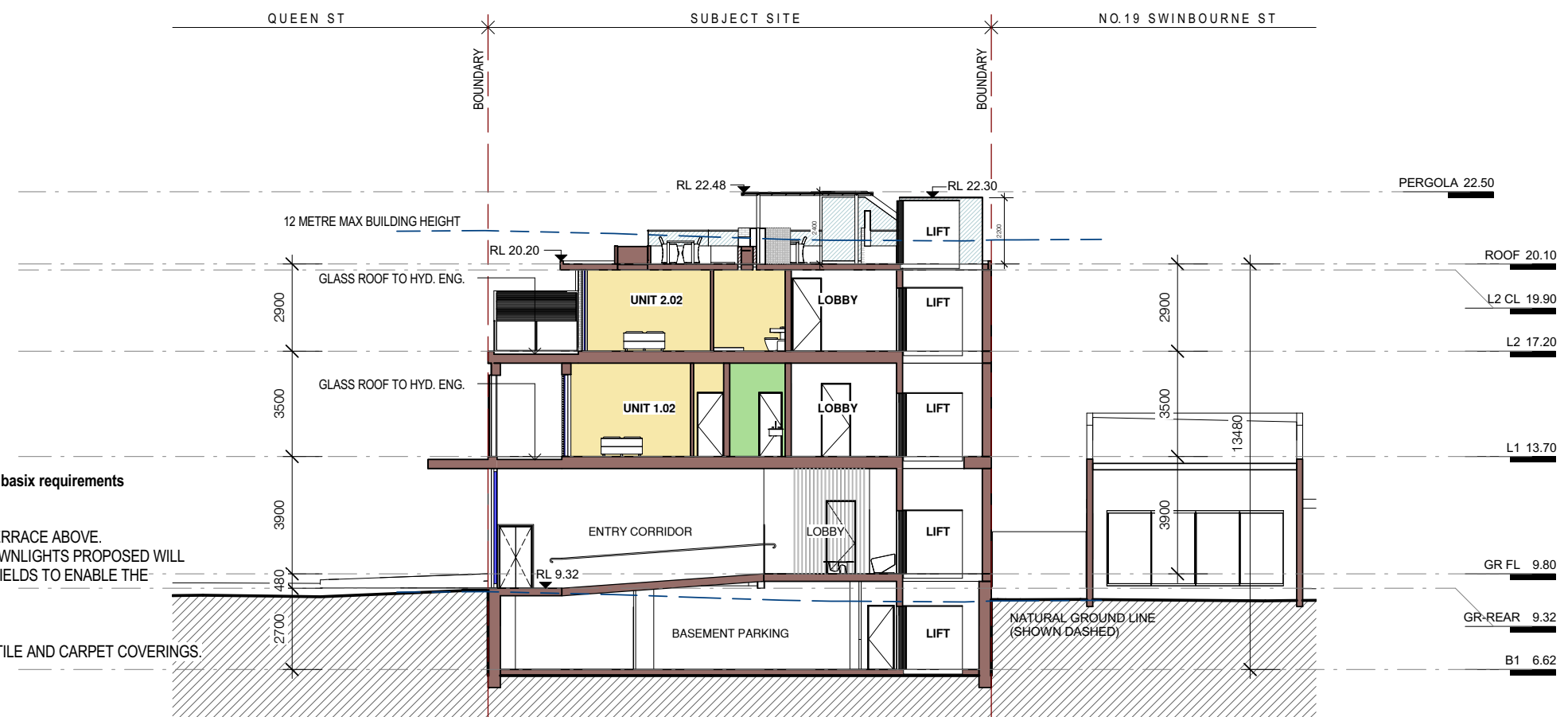
- 2 BEDROOM UNIT
- 3 BEDROOM UNIT
- COMMERCIAL UNIT
- 2 BEDROOM ADAPTABLE UNIT

No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24
C	REVISION 2 - ADDITIONAL INFO	2017.03.17

FOR DEVELOPMENT APPLICATION



B SECTION B
1 : 200



C SECTION C
1 : 200

THERMAL COMFORT* (ACCURATE) OPTIONS: as per basix requirements
ROOF: CONCRETE
 'MEDIUM' COLOUR
CEILINGS: MINIMUM R2.5 INSULATION WITH ROOF/TERRACE ABOVE.
 NOT RATED WITH DOWNLIGHTS. ANY DOWNLIGHTS PROPOSED WILL
 HAVE APPROVED NON-VENTILATED COVERS OR SHIELDS TO ENABLE THE
 INSTALLATION WITH NO GAPS.
EXTERNAL WALLS: BRICK WITHIN UNITS
 CAVITY BRICK TO 'PARTY WALLS'
FLOORS: CONCRETE THROUGHOUT WITH TIMBER, TILE AND CARPET COVERINGS.
GLAZING: AFRC: $U_w = 6.70$, $SHGC = 0.70$ TO GLAZING.
 aluminium-framed single-glazed clear glass.

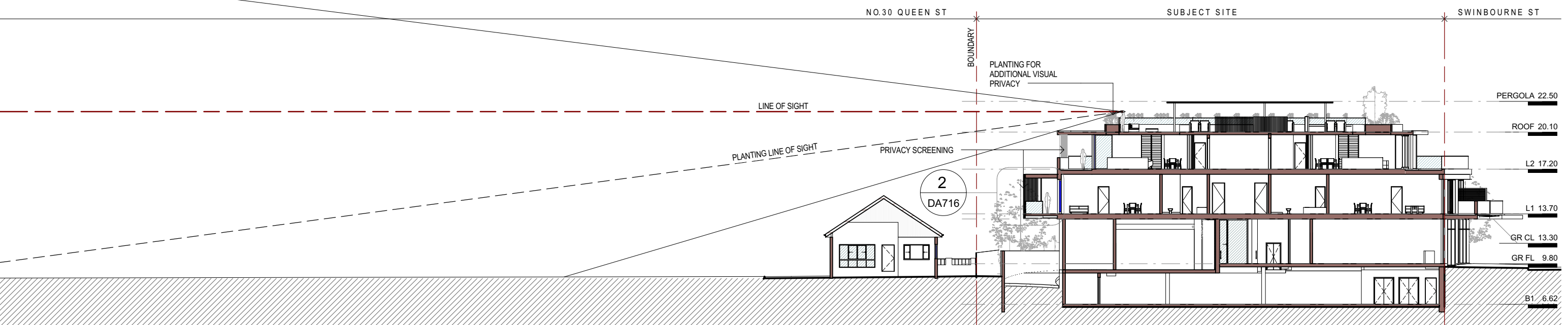
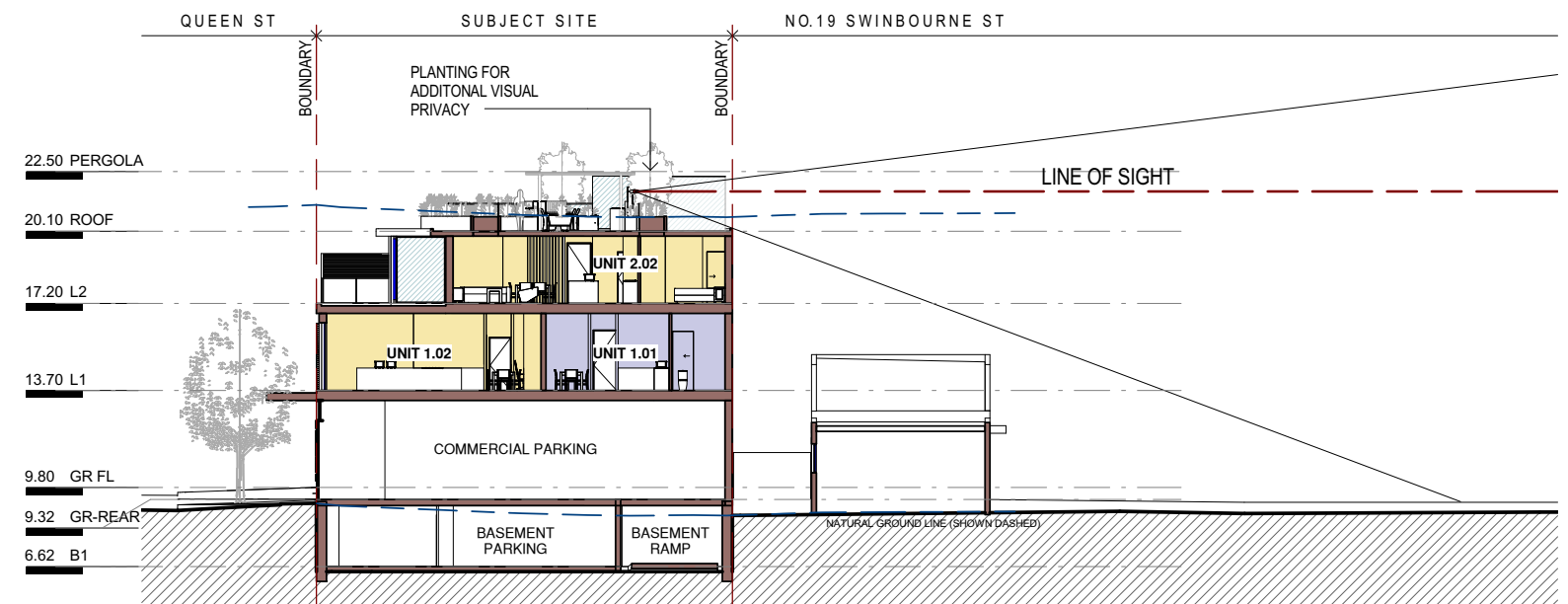
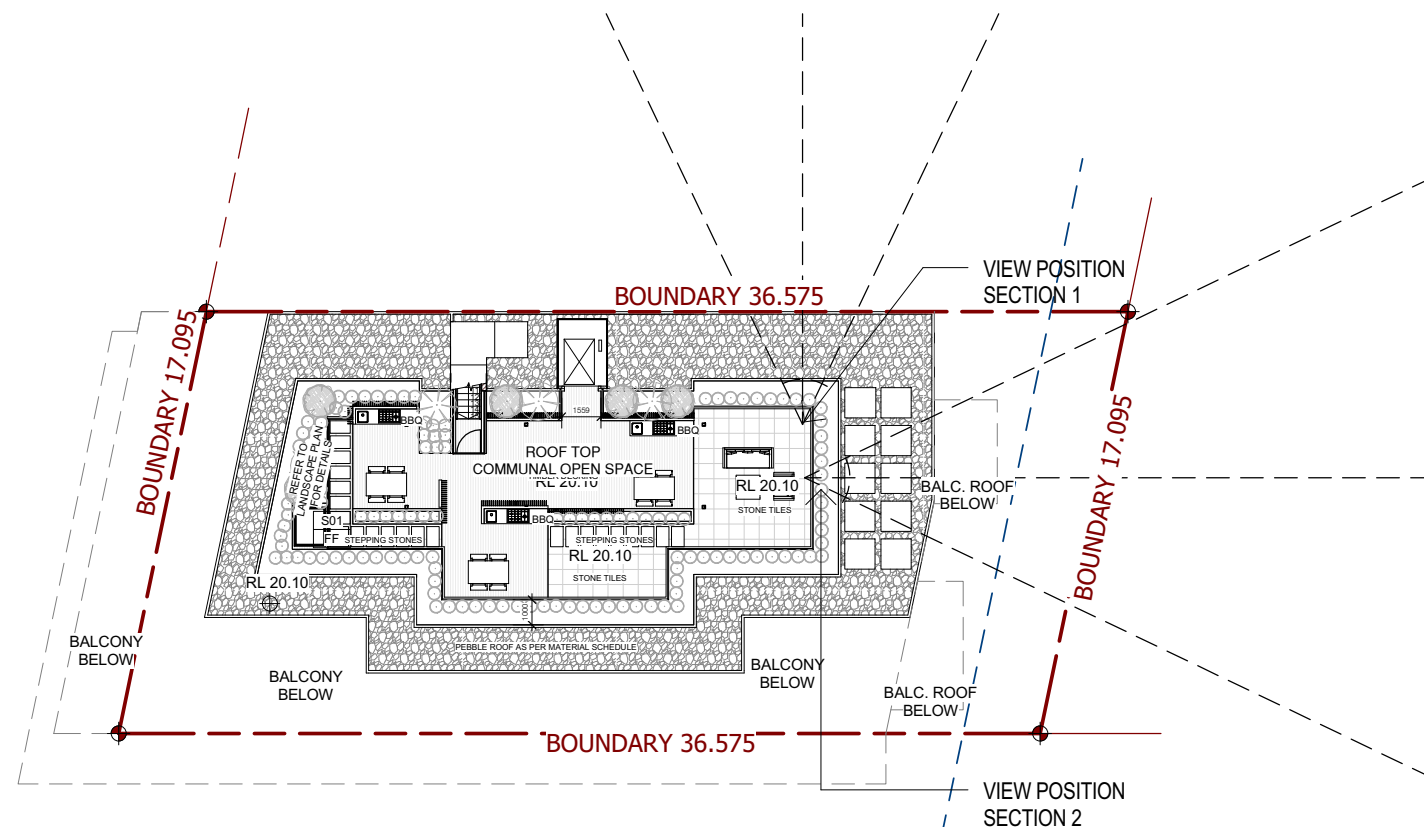


Legend

- 2 BEDROOM UNIT
- 3 BEDROOM UNIT
- COMMERCIAL UNIT
- 2 BEDROOM ADAPTABLE UNIT

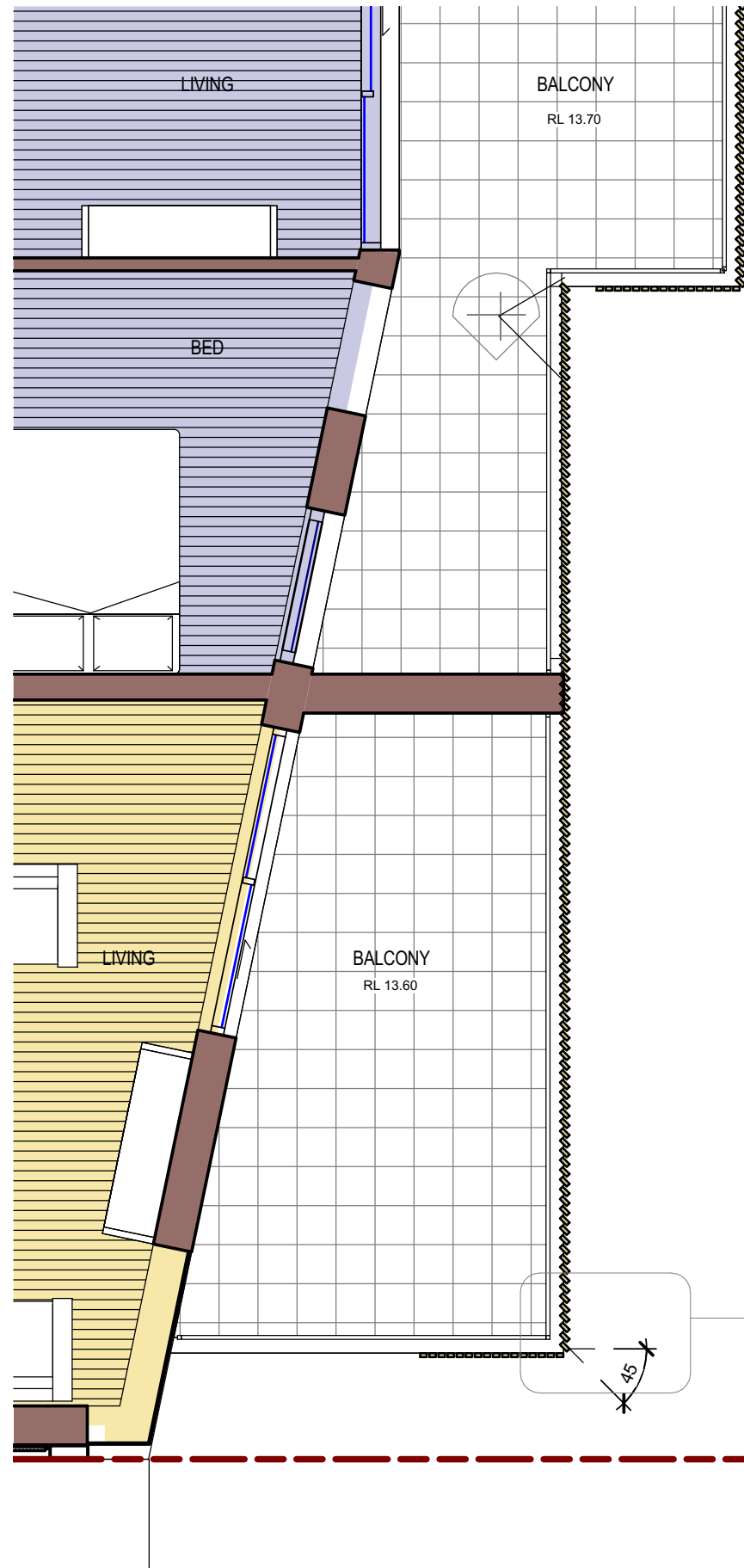
No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24

FOR DEVELOPMENT APPLICATION

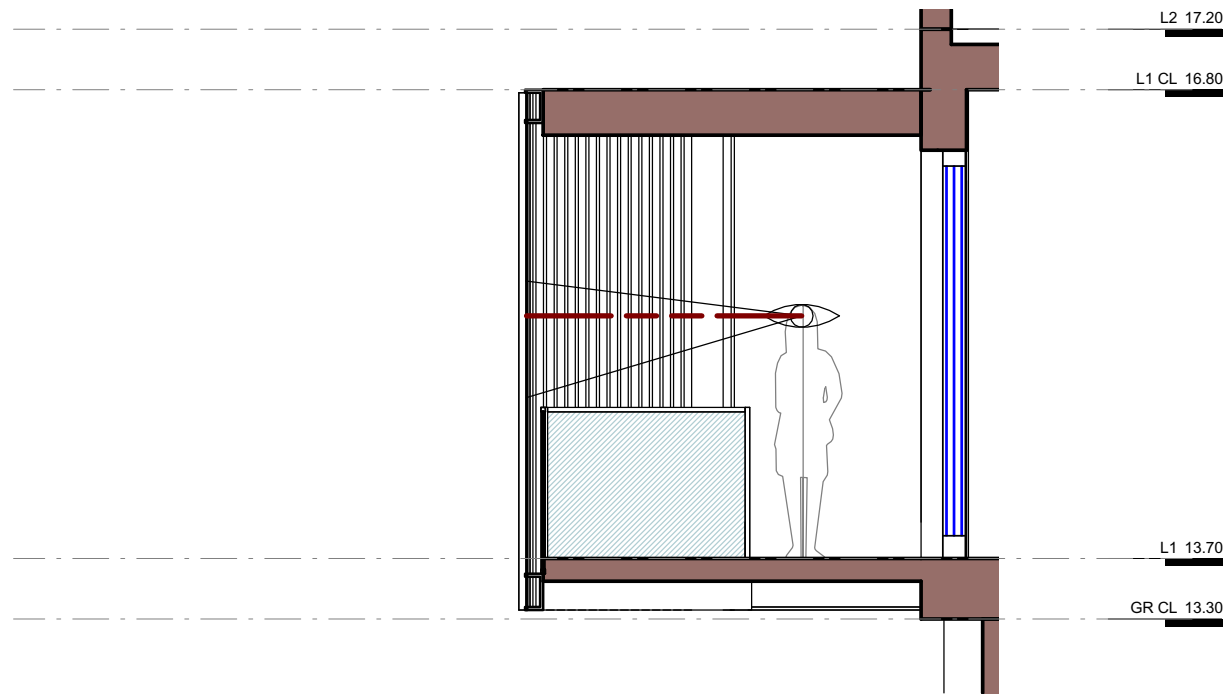


No.	Issue Description	YYYY-MM-DD
A	REVISION 2 - ADDITIONAL INFO	2017.03.17

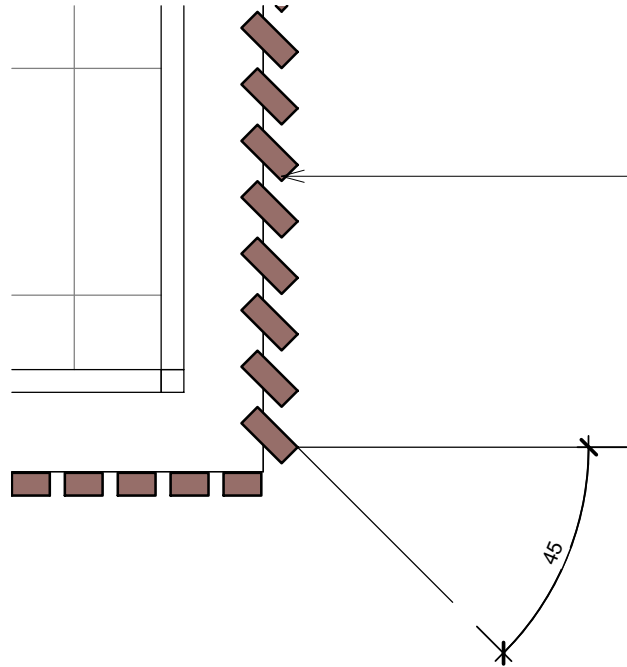
FOR DEVELOPMENT APPLICATION



1 BALCONY VIEW STUDY
1:50



2 VIEW STUDY SECTION 2 - Callout 1
1:50



VERTICAL LOUVRE BLADES TO
BE ANGLED 45 DEGREES TO
PREVENT VIEWS TO
NEIGHBOUR AND PROMOTE
TOTAL VISUAL PRIVACY

3 BALCONY VIEW STUDY - Callout 1
1:10

FOR DEVELOPMENT APPLICATION



01. RENDERED WALLS
EXTERIOR PAINT FINISH
NATURAL WHITE

02. RECYCLE BRICK

03. CONCRETE
CONCRETE SLAB



04. DECOWOOD PRIVACY SCREENS
WESTERN RED CEDAR
VERTICAL FIXED LOUVRE PRIVACY
SCREENS TO BE POSITIONED AND
ANGLED TO OBSTRUCT POTENTIAL
VIEWS ONTO NEIGHBOURS

05. GLASS
GLASS WINDOWS & DOORS
CLEAR GLASS

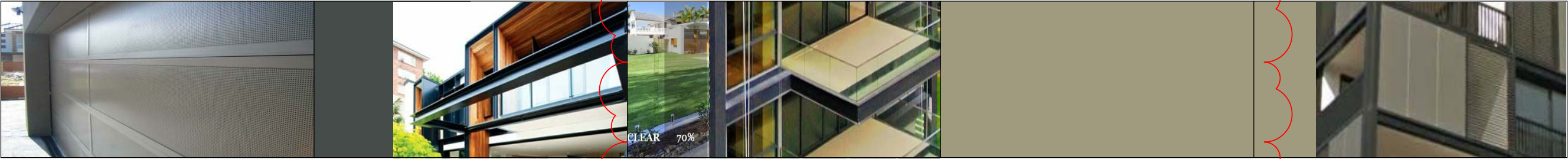
06. WINDOW FRAMES
ALUMINIUM WINDOWS AND DOORS
MONUMENT



07. OUTDOOR TILES
STONE TILES
TRAVERTINE OR SANDSTONE

08. PEBBLE ROOF
20-40MM PEBBLES
WHITE

09. METAL SCREENING
HORIZONTAL SLATS
MONUMENT OR SIMILAR



10. GARAGE DOOR
PERFORATED ALUMINIUM
POWDER COATED ASTRO

11. ARCHITECTURALLY EXPOSED STEEL
STEEL FRAME
MONUMENT OR SIMILAR

12. FRAMELESS GLASS BALUSTRADE
FRAMELESS SLIGHT TINTED GLASS (70%)

13. PAINTED PRECAST PANEL
QUATER GREY OLIVE
OR SIMILAR

14. CLADDING PANELS
QUATER GREY OLIVE
OR SIMILAR

WINDOW SCHEDULE					
NO.	LEVEL	WIDTH	HEIGHT	AREA	ORIENTATION
W01	L1	2600	2700	7.0 m²	E
W02	L1	3200	2700	8.6 m²	E
W03	L1	2045	2700	5.5 m²	N
W04	L1	5100	2700	13.8 m²	E
W05	L1	1700	2700	4.6 m²	S
W06	L1	2850	2700	7.7 m²	E
W07	L1	2550	2700	6.9 m²	S
W08	L1	2980	2700	8.0 m²	S
W09	L1	3860	2700	10.4 m²	S
W10	L1	2980	2700	8.0 m²	S
W11	L1	1200	2700	3.2 m²	N
W12	L1	1200	2700	3.2 m²	N
W13	L1	3600	2700	9.7 m²	N
W14	L1	1000	2700	2.7 m²	N
W15	L1	1200	2700	3.2 m²	E
W16	L1	2400	2700	6.5 m²	E
W17	L1	1990	2700	5.4 m²	NE
W18	L1	2200	2700	5.9 m²	E
W19	L1	2200	2700	5.9 m²	E
W20	L1	2045	2700	5.5 m²	S
W21	L1	2200	2700	5.9 m²	E
W22	L2	2600	2700	7.0 m²	E
W23	L2	2600	2700	7.0 m²	E
W24	L2	2755	2700	7.4 m²	S
W25	L2	1600	2700	4.3 m²	E
W26	L2	3615	2700	9.8 m²	SE
W27	L2	3600	2700	9.7 m²	S
W28	L2	2980	2700	8.0 m²	S
W29	L2	2980	2700	8.0 m²	N
W30	L2	2200	2700	5.9 m²	N
W31	L2	2600	2700	7.0 m²	N
W32	L2	2540	2700	6.9 m²	NE
W33	L2	1600	2700	4.3 m²	E
W34	L2	2000	2700	5.4 m²	N
W35	L2	2600	2700	7.0 m²	E
W36	L2	2600	2700	7.0 m²	E
S01	ROOF	1200	1500	1.8 m²	N/A



No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28
B	REVISION - ADDITIONAL INFO	2017.01.24
C	REVISION 2 - ADDITIONAL INFO	2017.03.17

Sheet Number: DA801

Issue: C

LEGEND

- PROPOSED BUILDING SHADOW
- EXISTING NEIGHBOURS SHADOW
- ADDITIONAL SHADOW CAST BY PROPOSED BUILDING

1 WINTER SOLSTICE 9AM
1 : 500

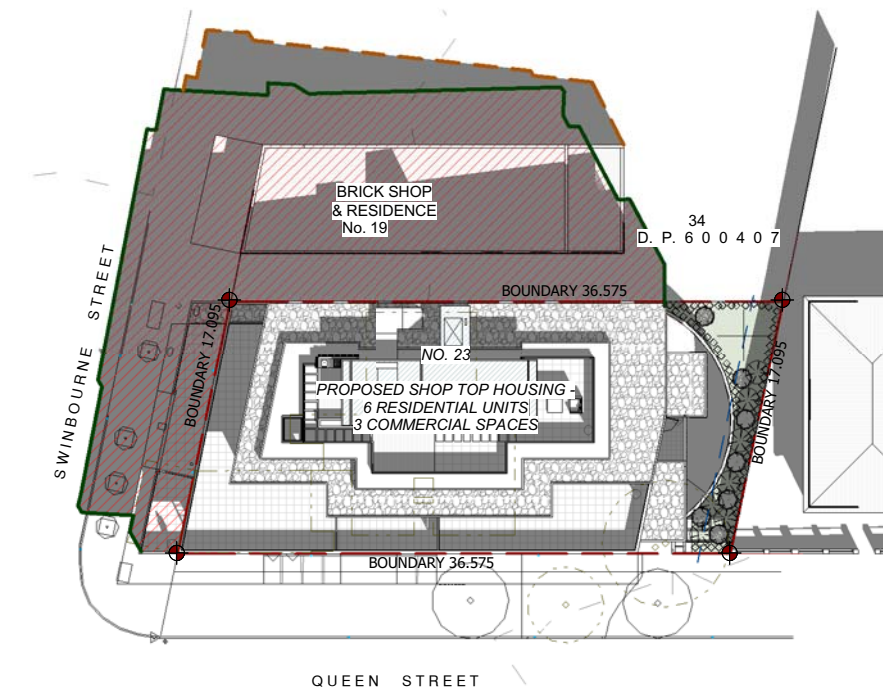
2 WINTER SOLSTICE 12PM
1 : 500

3 WINTER SOLSTICE 3PM
1 : 500

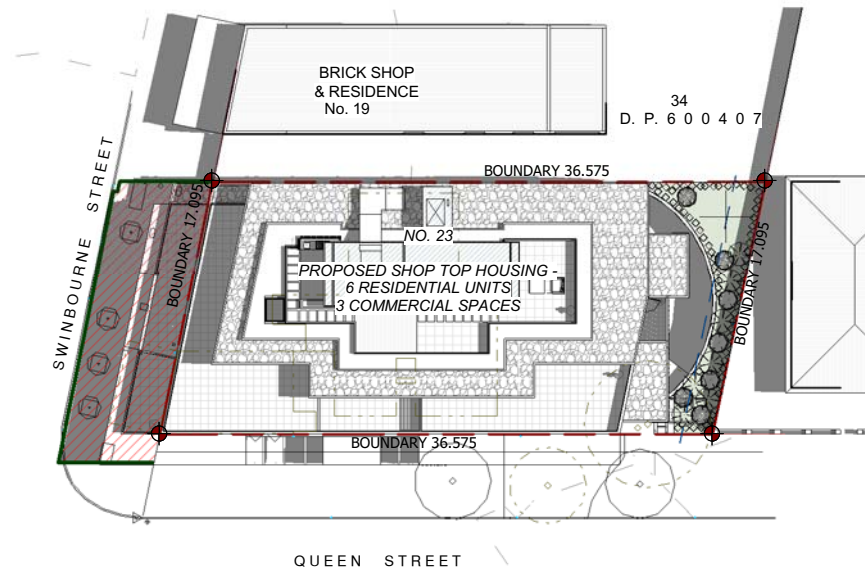
FOR DEVELOPMENT APPLICATION

No.	Issue Description	YYYY-MM-DD
A	DA ISSUE	2016.11.28

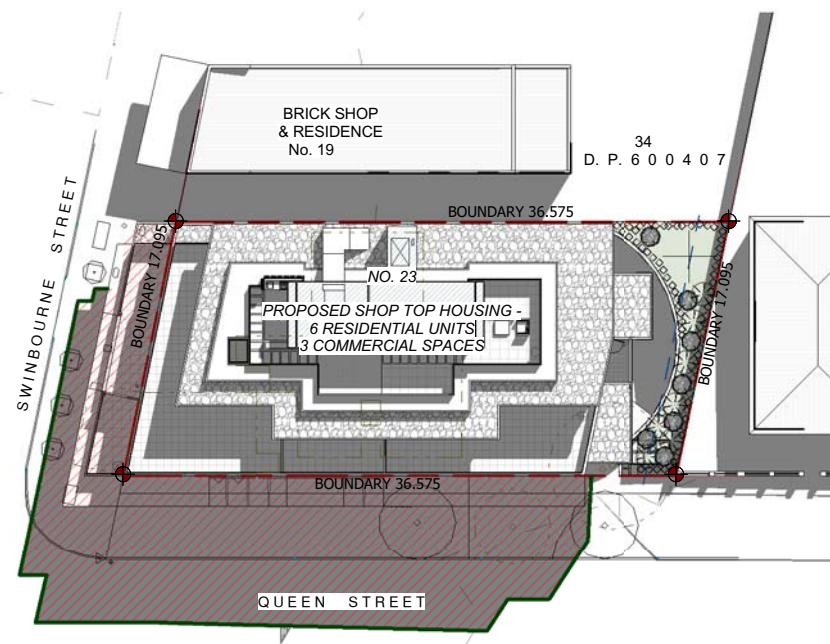
Sheet Number: DA704
Issue: A



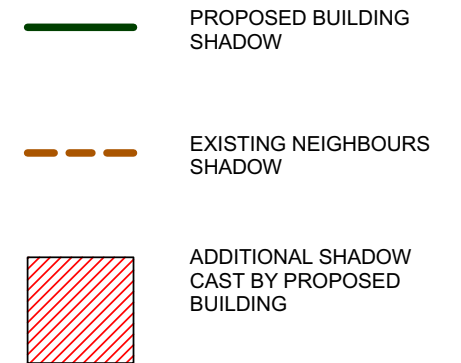
1 21ST MARCH - SOLSTICE 9AM
1 : 500



2 21ST MARCH - SOLSTICE 12PM
1 : 500



3 21ST MARCH - SOLSTICE 3PM
1 : 500



FOR DEVELOPMENT APPLICATION