
Bayside Planning Panel

10/04/2018

Item No	6.1
Application Type	Semi-detached dwelling houses with pools and Torrens Title Subdivision
Application Number	DA-2017/1246
Lodgement Date	20 December 2017
Property	127 Bay Street, Botany Lot 15 Sec F in DP 1777
Owner	Warwick and Patricia Niblock
Applicant	Simon Fraccaro and Andrew Parris
Proposal	Demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots
No. of Submissions	Four (4) objections (Round 1) Nil (Round 2)
Cost of Development	\$950,000.00
Report by	Angela Lazaridis, Senior Development Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
 - 2 That the demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots, be approved.
 - 3 That any objectors be notified of the determination made by the Bayside Planning Panel.
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Attachments

- 1 Planning Assessment Report
- 2 Roof and Site Analysis
- 3 Elevations
- 4 GFA Plan
- 5 Finishes Schedule
- 6 Sediment Control Plan
- 7 Landscape Plan
- 8 Subdivision Plan
- 9 Clause 4.6 variation

Location Plan

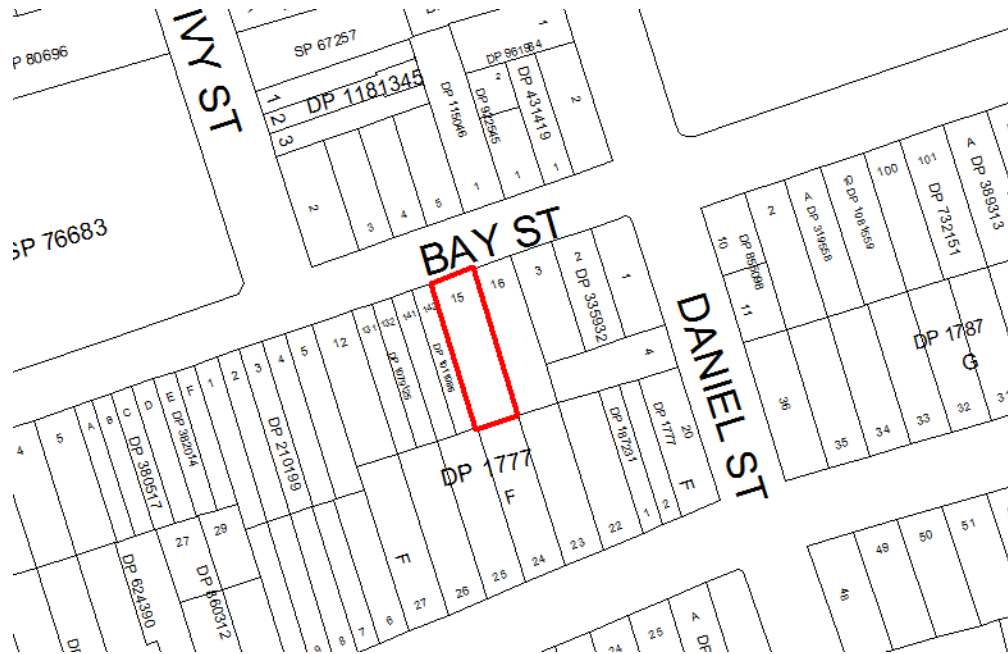


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1246
Date of Receipt:	20 December 2017
Property:	127 Bay Street Botany Lot 15 Sec F in DP 1777
Owner:	Andrew Parris, Simon and Marissa Fraccaro, and Jasna Ciric
Applicant:	Simon Fraccaro and Andrew Parris
Proposal:	Demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots
Recommendation:	Approve the development, subject to conditions.
Value:	\$950,000.00
No. of submissions:	Four (4) objections
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	19 March 2018

Key Issues

Bayside Council received Development Application No. 2017/1246 on 20 December 2017 seeking consent for the demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots at 127 Bay Street, Botany.

The application was placed on public exhibition for a fourteen (14) day period from 11 January to 25 January 2018. Four objections were received and are summarised in greater detail in the report below. The amended plans were re-notified for seven (7) days between 5 March to 12 March 2018. No further objections were received.

Key issues in the assessment of the proposal include non-compliance with FSR. The proposed development seeks a departure of the maximum FSR for each site. The maximum FSR for semi-detached dwellings is 0.5:1. The proposed FSR for each site is 0.65:1. The variance is 31% for Lot 1 and 30.5% for Lot 2. A clause 4.6 variation has been submitted with the application and is assessed in detail in the report below. The variance is acceptable considering the surrounding development has a similar FSR and the bulk of the development is not excessive.

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

Recommendation

It is RECOMMENDED that the Bayside Planning Panel, resolve:

1. That the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
2. To approve the Demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots; and
3. That any objectors be notified of the determination made by the Planning Panel.

Background

History

There is no recent town planning history on the site.

Council requested additional information on 30 January 2018 relating to amendments to the plans regarding to FSR, elevation shadow diagrams, the treatment of the front setback, survey plan to reflect the street tree, landscaped area, section plan to be updated to demonstrate the swimming pools, visual privacy by frosting the first floor balustrading of the rear balconies and updating the SEE. This information was received on 15 February 2018.

Proposal

The development application seeks consent for the demolition of the existing dwelling and structures, subdivision into two Torrens Title lots and construction of two semi-detached dwellings with a swimming pool on each lot.

The specifics of the proposal are as follows:

- Demolition of all structures on the site including tree removal at the rear yard;
- Subdivision into two lots to create Lot 1 with a site area of 269sqm and Lot 2 with a site area of 270sqm. Each lot will have a street frontage width of 6.095 metres;
- Construction of two x two storey semi-detached dwellings which each contain four bedrooms (two with ensuite), an open plan kitchen, living room and dining room, lounge room, laundry, two bathrooms, single garage and alfresco area;
- A swimming pool is to be installed on each lot within the rear yard with a maximum depth of 1.6 metres.

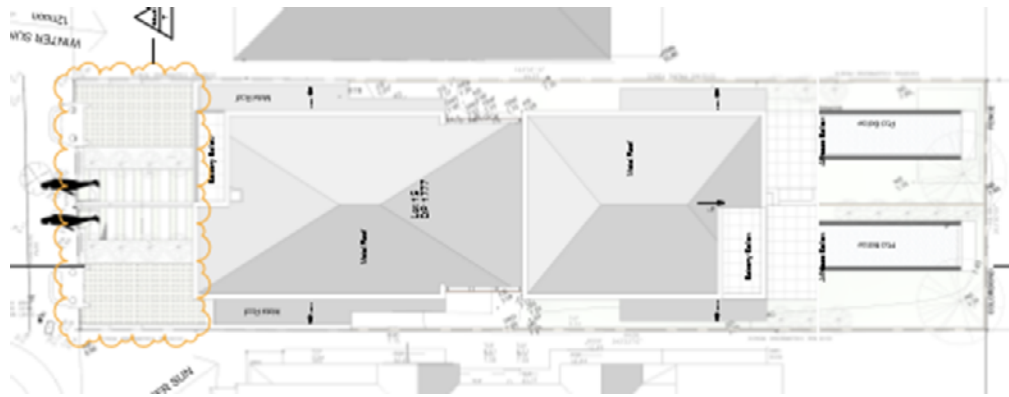


Figure 1. Proposed Site Analysis and Roof Plan

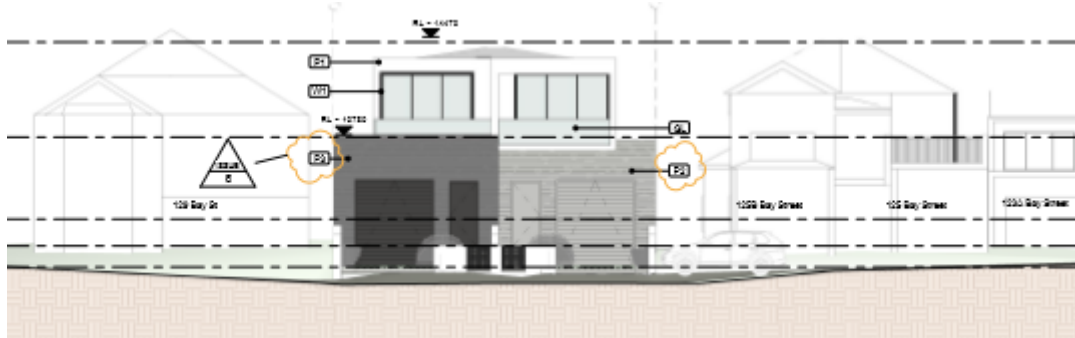


Figure 2. Proposed Northern Elevation (street frontage)

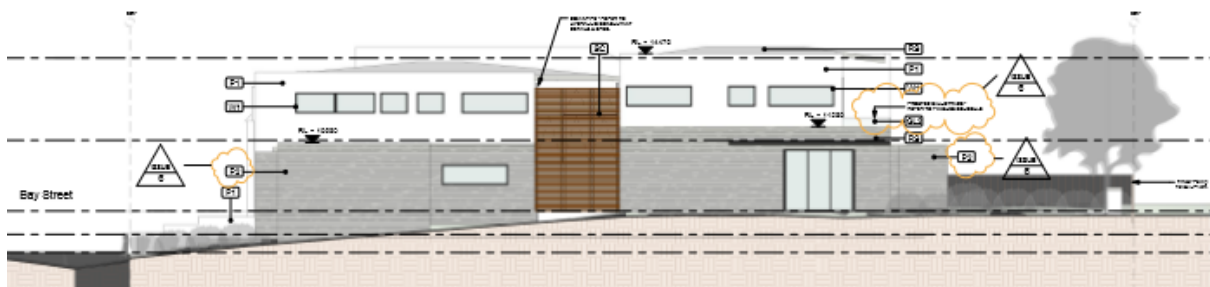


Figure 3. Proposed Western Elevation

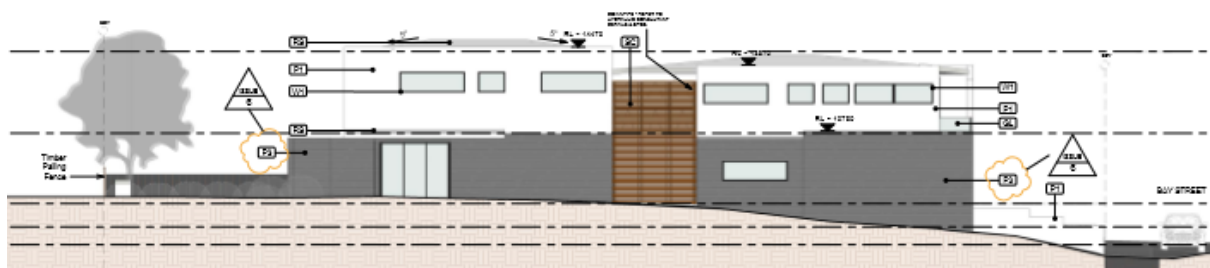
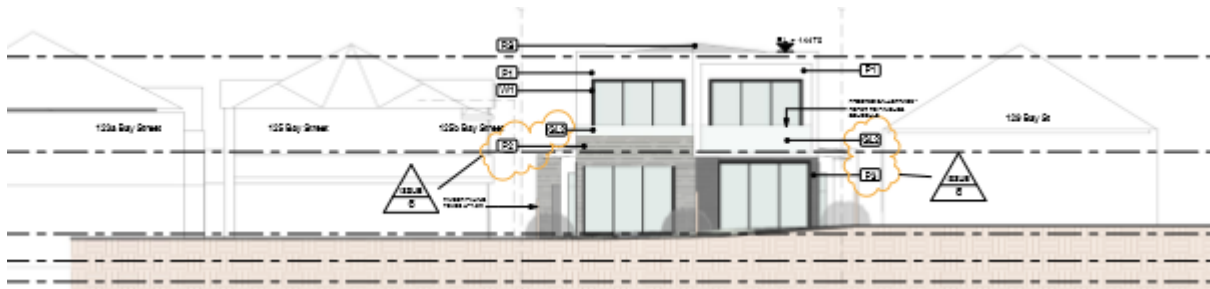


Figure 4. Proposed Eastern Elevation

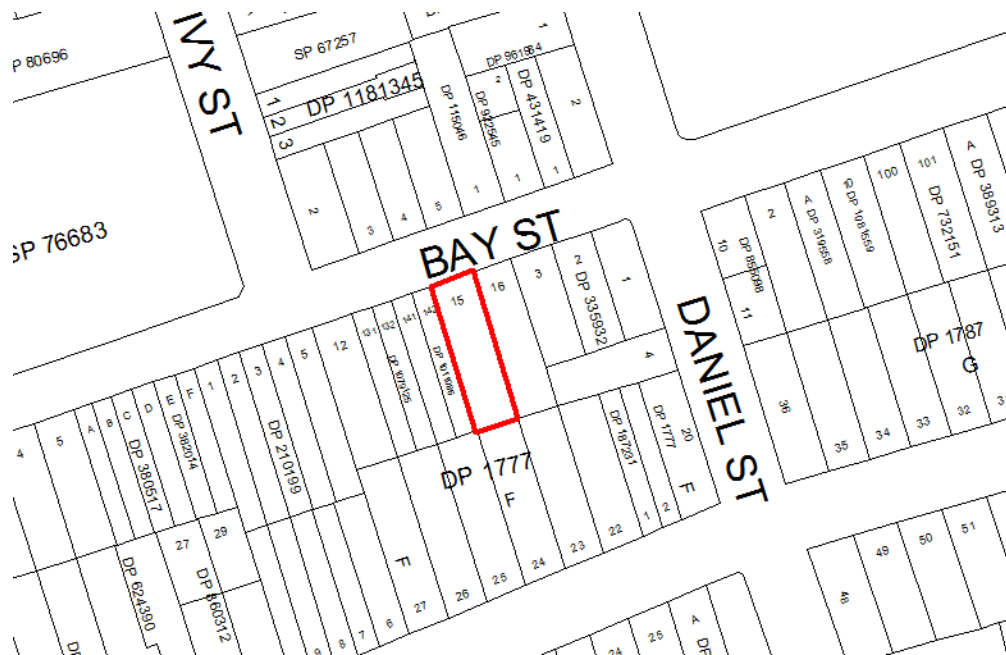


Site Description

The site is legally known as Lot 15 in DP 1777. The subject site is located on the southern side of Bay Street between Daniel Street to the east and Botany Road to the west. The site has a north-western to south-eastern orientation with north-west being the street and south-east being the rear of the site. The site is located in the R2 Low Density Residential zone.

The subject site is rectangular in shape with a total site area of 538.8sqm and has a street frontage and rear boundary width of 12.19 metres, a western boundary length of 44.06 metres and an eastern boundary length of 44.37 metres. The site has a gradual slope of 2.44 metres from the rear of the site to the front of the site.

Existing development on the site comprises of a single storey detached weatherboard dwelling house with metal roof and a detached fibro outbuilding to the rear of the site. There is a large tree located in the rear yard which is proposed for removal. The adjoining property at 125 and 125A Bay Street comprises of two storey semi-detached dwelling houses while the site at 129 Bay Street comprises of a two-storey detached brick dwelling house. Development surrounding the site consists of single and two storey detached or semi-detached dwelling houses. The site is in close proximity to Booralee Park which is a heritage item.



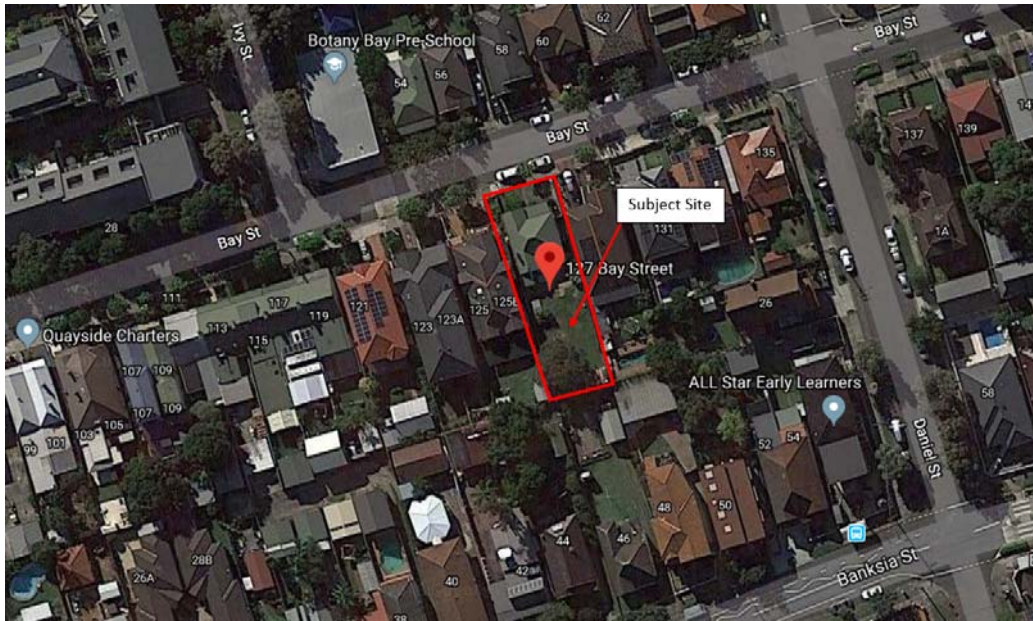


Figure 7. Aerial Plan of the subject site



Figure 8. Front elevation of the subject site



Figure 9. Rear elevation of the subject site



Figure 10. Tree and outbuilding located in the rear yard proposed to be removed

Statutory Considerations

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

S.4.15(1) - Matters for Consideration – General (formerly s.79c)

S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by

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BASIX Certificate No. 890836M dated 19 December 2017 prepared by Vipac committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use semi-detached dwelling houses which 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 B2 Local Centre: <ul style="list-style-type: none">• To provide for the housing needs of the community within a low density residential environment.• To enable other land uses that provide facilities or services to meet the day to day needs of residents.• To encourage development that promotes walking and cycling.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does Schedule 1 – Additional Permitted Uses apply to the site? If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the height of the building? Does the height of the building comply with the maximum building height?	- Yes	A maximum height of 8.5 metres applies to the subject site. Both dwellings have a maximum height of 7.4 metres from the NGL. This complies with the provisions of the BBLEP 2013.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- No- Refer to Note 1 below	The maximum Floor Space Ratio requirement is 0.5:1 for semi-detached dwelling houses. Lot 1 has a site area of 269sqm and Lot 2 has a site area of 270sqm (based on the subdivision plan submitted with application). Lot 1: 176.47sqm (0.65:1) Lot 2: 176.2sqm (0.65:1) The Floor Space Ratio of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A clause 4.6 variation has been submitted with the proposal and assessed in Note 1 below.
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?	No – Refer to Note 1 below	The site is located in an Area 3 zone. The proposal does not comply with the maximum FSR.
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.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 6.2 – Earthworks 6.3 – Stormwater Management 6.9 – Development in areas subject to aircraft noise 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site is located in a Class 4 Acid Sulfate Soils Area. As excavation is not proposed greater than 2 metres, an Acid Sulfate Soils Management Plan is not warranted.</p> <p>The proposal includes excavation for two swimming pools which have a maximum pool depth of 1.6 metres. Appropriate conditions have been imposed in the consent.</p> <p>The proposed development will provide absorption trenches partially under the driveways within the front setback. Each site will also provide 3,000L rainwater tanks. The application was reviewed by Council's Development Engineer who has no objection to the proposal.</p> <p>The site falls within the 20-25 ANEF Contour. An acoustic report prepared by Koikas Acoustics Pty Ltd was provided with the application and appropriate conditions have been included within the consent.</p>

Note 1 – Clause 4.6 variation relating to FSR variance

The development seeks an FSR of 0.65:1 for each site which results in a total GFA of 176.47sqm for Lot 1 and 176.2sqm for Lot 2.

The site is located within 'Area 3' on the FSR map and therefore Clause 4.4A of the BBLEP 2013 applies to the proposal. The objectives of this clause are as follows:

- To ensure that the bulk and scale of development is compatible with the character of the locality; and*
- To promote good residential amenity.*

Pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or 'multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. Therefore the maximum permitted FSR is 0.5:1. The FSR for a detached dwelling house on the subdivided site is 0.75:1.

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

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

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

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) That there are sufficient environmental planning grounds to justify contravening the development standard.

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

'4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are environmental planning grounds to justify the contravention of the standard

The authority established by Four2Five Pty Ltd v Ashfield Council (2015), necessitates that environmental planning grounds for the proposed variation must be established aside from the consistency of the development with the objectives of the standard and the objectives of the zone.

In Wehbe V Pittwater Council (2007) NSW LEC 827, Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object 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.*

It is generally understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of points 2-5 above.

Having regard for the authority within Wehbe, compliance with the maximum FSR development standard has been determined to be unreasonable and unnecessary in the circumstances of the case, and the following outlines the environmental planning grounds for the proposed variation:

- *The proposal seeks to maintain the rectilinear subdivision pattern that has been established within the locality and is anticipated by the desired future character of the area. The proposed frontage width and dwelling design is characteristic of nearby contemporary developments and is acceptable in the context of the subdivision and streetscape pattern.*
- *Compliance with the 0.5:1 requirement would result in a significant reduction of floor space, with the proposed allotments only able to accommodate approximately 135m² of gross floor area each. Given a dwelling house would be able to be provided with in excess of 200m² of gross floor area, an FSR of 0.5:1 would not provide an appropriate correlation between the size of the proposed lots and the extent of the development on each lot, when compared with contemporary development in the locality. In this regard, the development would not be consistent with the prevailing character of the area.*
- *Compliance with the development standard would result in a development that is not indicative of the scale and internal amenity of other contemporary developments within the locality. The diagram below provides an example of amendments that could be made to achieve compliance. For simplicity, highlighting is shown only to the eastern dwelling (127B Bay Street).*
- *Given a dwelling house, would generally require a 900mm side setback to both sides, as well as an additional parking space, a dwelling house with equal FSR to the proposal would result in less landscaped area, less private open space, and a shorter rear setback than the proposal. Note that dwelling houses are generally subject to the same numerical controls within the BBDGP 2013 as semi-detached dwellings.*
- *There is merit in applying the FSR which could be achieved for a detached dwelling (i.e. a dwelling house) being 0.75:1. The FSR of the proposed semi-detached dwellings of 0.65:1 provides a density and visual appearance which is commensurate with what may be provided for a dwelling house on each lot. Although semi-detached dwellings necessitate the provision of a party wall over the new boundary, the building bulk in this location is offset by additional floor space that might otherwise be provided elsewhere.*
- *Council has in the past granted consent to development for semi-detached dwellings, and attached dwellings that do not comply with the standard within subclause (d), but do comply with the standard within subclause (c), under similar circumstances. For instance, within the suburb of Botany, there are numerous examples of variation to the standard, including:*
 - *DA-16/116 - 124 Banksia Street, Botany*
 - *DA-15/95 - 36 Edgehill Avenue, Botany*
 - *DA-15/76 - 66 Tenterden Road, Botany*

Thus, although the standard may not have been destroyed, its application under these circumstances is not reasonable.

- *A semi-detached development could be made to comply with the 0.5:1 FSR at the site. However, it is unlikely that this would result in any changes to the presentation to the street. Two storey developments are anticipated within the street, and Council has demonstrated that there is no distinction to be made in the scale of semi-detached dwellings when compared with dwelling houses. Therefore, a*

development for semidetached dwellings which complies with the development standard would be expected to result in poorer internal amenity than is typical for the locality.

- Were Council to insist on compliance with the development standard, detached dwellings would then be the most desirable development typology on smaller lots. Preference should be given to semi-detached dwellings on small lots, given that they provide a more efficient distribution of density at the site, and that they enable smaller site coverage over the site, and a provision of greater private open space and deep soil area. In this sense, the underlying objectives and purposes of the FSR may be defeated or thwarted if compliance was required, as detached dwellings on narrow allotments would be provided with very little functional floor space, with no associated benefit to the bulk and scale or character of the locality.

Clause 4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the R2 Low Density Residential Zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.

The proposal seeks to provide additional housing to meet the needs of the local community. Semi-detached dwellings are a low density form of residential development, and the provision of further semi-detached dwellings in the locality is consistent with this objective of the zone.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

This objective relates to the various non-residential uses that are permissible within the zone, and does not strictly apply to the proposed development. However, the increased density proposed by the subject development will improve the viability of non-residential uses within the locality.

- To encourage development that promotes walking and cycling.

The development provides sufficient space to enable bicycle storage for future occupants, and given the proposal is located within proximity to local services and public transport options, the increased density associated with the proposed development better meets this objective than the existing dwelling at the site.

The objectives of Clause 4.4A of BBLEP 2013 are as follows:

- a) to ensure that the bulk and scale of development is compatible with the character of the locality,
- b) to promote good residential amenity.

The objectives to Part 4.4A relate to all development types that are affected by this clause. The table within subclause (3)(a), which applies only to dwelling houses, best demonstrates how each of these two objectives are able to be met concurrently. That is, as the size of an allotment decreases, the floor space required to maintain appropriate

residential amenity to a dwelling, must be increased relative to the size of the allotment. Additionally, as the size of an allotment increases, the floor space required to maintain a bulk and scale that is compatible with the character of the locality, must be decreased relative to the size of the allotment.

The maximum FSR for multi dwelling housing as prescribed by subclause (3)(b), and the maximum FSR for residential flat buildings as prescribed by subclause (3)(c), are each greater than the FSR proposed at the site.

Of the ten other development types affected by subclause (3)(d), only six types of development are permitted at the site. Two of these, boarding houses and seniors housing, are provided with FSR bonuses under higher order planning instruments. Secondary dwellings are not permitted by the R2 zoning but are permitted by way of State Environmental Planning Policy (Affordable Rental Housing) 2009, which also permits a floor space equal to that available for dwelling houses. This leaves only attached dwellings, group homes, and semidetached dwellings, as being strictly affected by subclause (3)(d).

Semi-detached dwellings are best able to meet the objectives of the standard, by being provided with a FSR that is expected by the vast majority of other development types that are affected by the standard.

With specific reference to the objective (b), the design of the proposal has ensured that good residential amenity is maintained as outlined in the following:

- The proposed development will not impact on views that are available from nearby properties, or to or from important landmarks within the locality.*
- The amenity of the adjoining properties is not considered to be negatively impacted as a result of the proposed development. This includes both physical impacts such as overshadowing, overlooking and acoustic privacy as well as visual impacts such as height, bulk and scale, setbacks and landscaping.*
- The physical impacts of the proposed development are considered to be minor with careful design minimising any potential impacts. Overshadowing has been reduced by way of appropriate building bulk and massing. All surrounding dwellings, and private open space areas will be capable of achieving the minimum sunlight access requirements – i.e. 3 hours solar access between 9am and 3pm at the winter solstice. Narrow sections are provided in the centre of each dwelling to improve solar access to adjoining properties.*
- With regards to overlooking, there are considered to be no privacy issues relating to overlooking opportunities to the north, south and east of the subject site. Whilst some potential overlooking opportunities exist as a consequence of the rear balconies, appropriate mitigation measures have been utilised to ensure the privacy and security of neighbours is not impacted. This includes generous rear and side setbacks, the inclusion of ground floor pergolas to obscure views to neighbouring properties, as well as sensitive internal dwelling layouts. First floor windows to side boundaries are provided with higher sill heights to minimise visual privacy impacts*
- In terms of the visual impacts, the proposed development is considered to be of an appropriate height, scale and visual appearance so as to be compatible with the surrounding area. Appropriate built form massing has ensured the development*

appears as a relatively modest building when viewed from the streetscape and the surrounding allotments.

Officer's Comments:

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

The proposal:

- will create an appropriate built form which is consistent with surrounding low density residential developments whilst the proposal does not exceed Council's height control;
- will introduce an architectural feature to Bay Street which incorporates quality facade treatments and an articulated form through the use of balconies and windows, roof form mix and a range of different materials incorporated within the facades. This creates a visually pleasing alternative to what currently exists on the subject site;
- will comprise of high internal amenity with moderate sized rooms, sufficient solar access, natural ventilation and visual privacy;
- The departure from the maximum FSR control will not result in any significant adverse amenity impacts such as overshadowing as the site has a north to south orientation, privacy impacts or any significant view loss to the surrounding neighbours and this has been addressed through the proposal and conditions;
- would comply with the maximum FSR of 0.75:1 for a single detached dwelling house on the site with subdivision and is similar in bulk and scale of developments fronting Bay Street;
- will provide the minimum one off-street car parking space for both dwellings. This number will not generate to significant traffic impact;
- complies with all other standards and planning controls including height, setbacks, landscaped area, private open space and stormwater management.

The proposed FSR is consistent with the FSR approved at the semi-detached dwellings at 125 and 125A Bay Street (0.64:1), and at 62 and 62A Bay Street (0.77:1 and 0.78:1) which is located directly opposite the site. The bulk and scale of both lots are compatible with a number of the criteria within the desired future character of the Botany Precinct. The dwellings comply with the 8.5 metre maximum height limit and are consistent with the setbacks approved in other developments in the street. The dwellings are articulated on the front and side elevations, thereby minimising visible bulk and maintaining an appropriate visual relationship along the streetscape. Additionally the bulk and scale has been reduced from the approved development.

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.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development

S.4.15(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	C2 Semi-detached dwelling house = 1 space	One space is located within a single garage on each site. The front setback also allows a second vehicle to be parked on each site.	Yes
3A.3.1 Car Park Design	C26 The minimum width of the access driveway at the property boundary shall be:- (i) For dwelling houses: <ul style="list-style-type: none">▪ 3 metres	The proposal includes two vehicular crossing and driveways to each property which have a minimum 3 metre width.	Yes

Part 3E- Subdivision and Amalgamation

Control	Proposed	Complies
C1 Development applications shall demonstrate that the proposed subdivision is consistent with the Desired Future Character of the area. Desired Future Character – Subdivision Retain and preserve the rectilinear grid pattern within the Precinct	Two allotments are proposed which are both rectangular in pattern and will maintain the rectilinear grid pattern within the precinct. The DCP does not contain a character statement and a desired future character statement has been prepared for the precinct (bounded by Bay Street, Daniel Street, Botany Road and Banksia Street).	Yes – Refer to Note 2
C2 – Proposed Subdivision must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation	The proposed lots will have a site area of 269sqm and 270sqm, will have a north-west to south-east orientation, rectilinear shape and frontage to Bay Street. The area and dimensions of the proposed allotments are consistent. The street comprises a range of lot sizes.	Yes – Refer to Note 2
C3– Development application which proposes the creation of new allotments must be accompanied by a conceptual building plan	Building Plans for the development have been provided.	Yes

Control	Proposed	Complies
that demonstrates compliance with relevant building controls.		
C5 –Proposed lots must be of a size and have dimensions to enable the siting and construction of a dwelling and ancillary structures that: <ul style="list-style-type: none"> i) Acknowledge site constraints ii) Address the street iii) Minimize impacts on adjoining properties including access to sunlight, daylight, privacy and views iv) Provide usable private open space v) Protect existing vegetation vi) Mitigate potential flood affectation and stormwater management requirements vii) Acknowledge contamination of the land viii) Protect heritage items 	The proposed allotments can accommodate dwelling houses that acknowledge site constraints, street frontage, solar access, private open space, vegetation, flood affectation and contamination.	Yes
C7 All lots created shall have at least one (1) frontage to the street.	Both lots have a frontage to Bay Street.	Yes

Note 2 – Prevailing Subdivision Pattern

The DCP states that Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. It is noted that the DCP does not provide any exclusions to how this subdivision pattern should be calculated in terms of zoning, strata subdivided properties or subdivided developments approved prior to the gazettal of the Botany Bay Local Environmental Plan 2013.

The objectives of Part 3E.2.1 – General Torrens Title Subdivision and Amalgamation of the Botany Bay Development Control Plan 2013 is to provide a building envelope that can accommodate an appropriately sized dwelling without resulting in adverse impacts on the surrounding properties. As demonstrated in the assessment of the development application, the proposed dwellings on 127A and 127B Bay Street generally comply with the DCP controls for dwellings.

Site Area and Site frontage

In summary, the site will be subdivided into two individual allotments namely 127A (Lot 1) Bay Street (269sqm) and 127B (Lot 2) Bay Street (270sqm). An assessment of the lot sizes and street frontage widths of ten properties on either side of the subject site as well as the properties to the rear of the site has been undertaken.

The subdivision pattern exhibits a varied pattern in allotment sizes ranging from 265.1sqm to 665.5sqm. The pattern directly to the east and west are rectilinear and there are examples at 123 and 123A Bay Street (265.1sqm and 267.5sqm respectively), 125 and 125A Bay Street (267.8sqm and 268.7sqm respectively) and 62 and 62A Bay Street (232.49sqm and 230.41sqm) which is opposite the site that are smaller than the proposed lots. Additionally, these lots are all semi-detached dwellings. The existing site measures 538.8sqm which is considerably larger than the majority of the site areas within the study area. The majority of allotments within the study area, on the southern side of Bay Street, are under 538.8sqm and therefore, the proposed two allotments are more consistent in size with a number of

allotments on the southern side of Bay Street. Therefore it is not considered that the proposed site areas are inconsistent with the sites in the surrounding area.

The maps below demonstrate that the immediate area and the surrounding areas:

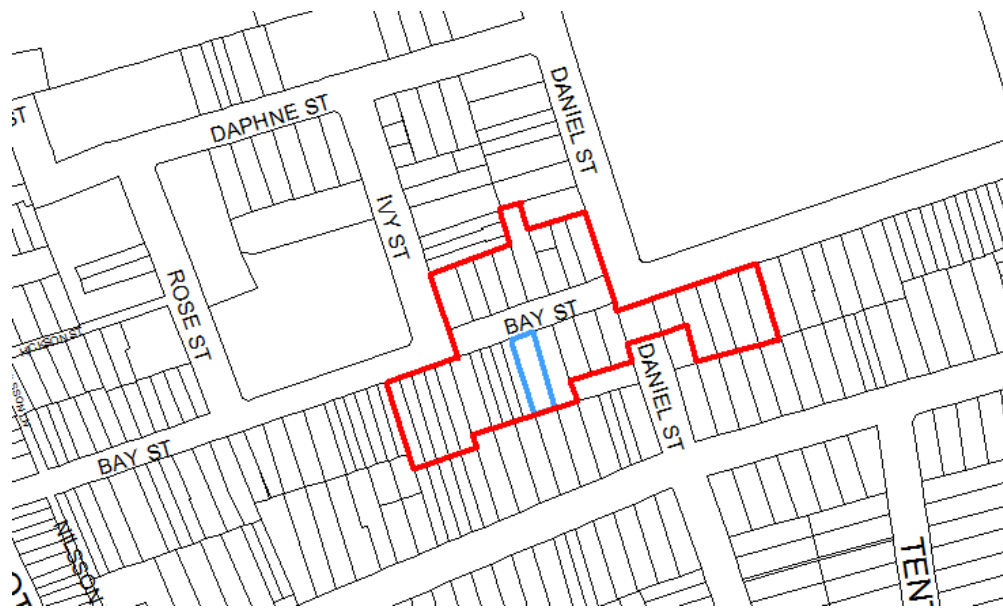


Figure 11. Cadastre of study area used to determine the existing subdivision pattern for the locality

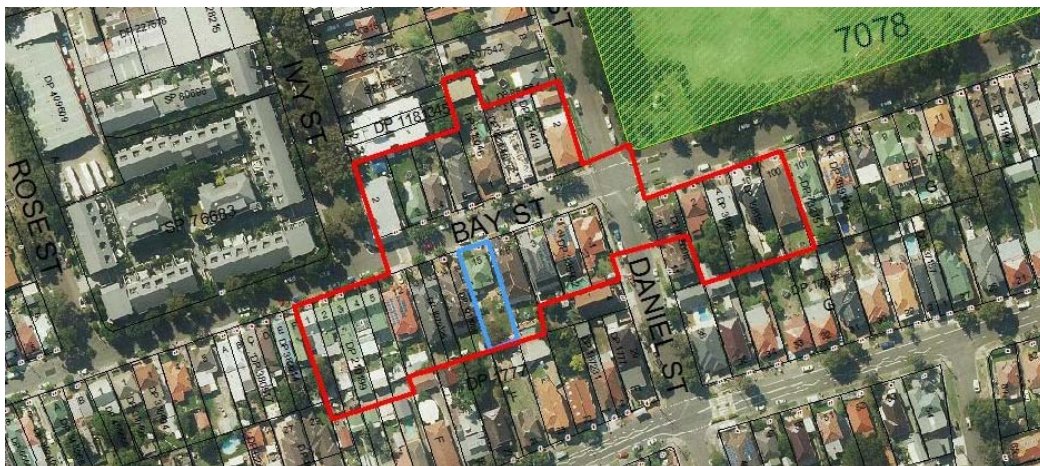


Figure 12. Aerial of existing subdivision pattern for locality and subject site

As demonstrated in the table above, there is a variance in the street frontage widths located within Bay Street. The proposed street frontage of each site is not inconsistent with the surrounding development of 6.095m for the semi-detached dwellings and is acceptable.

On its merits, the appropriateness of the resultant subdivision is acceptable when taking into consideration the existing semi-detached dwellings along Bay Street, the provision of housing opportunities in the locality and compliance with the controls under the Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013.

Part 3G – Stormwater Management

The development application was accompanied by hydraulic plans which were prepared by N. Koloff and Associates. The plans demonstrate that absorption trenches are to be provided under the driveways within the front setback of each site. In addition, the developments will

each provide a 3,000L rainwater tank to be installed along the side elevations on the ground floor. The application was referred to Council's Development Engineer who had no objections to the proposed development subject to appropriate conditions imposed in the consent.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. Residential development in these areas is considered unacceptable under Table 2.1 of Australian Standard AS2021-2000 unless an acoustic report is submitted to Council, which demonstrates that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000.

An acoustic report prepared by Koikas Acoustics Pty Ltd has been prepared to accompany the development application.

The report demonstrates that the proposed development (when complete) will conform with the relevant requirements of AS2021-2000 provided the recommendations contained in the acoustic report are undertaken. Appropriate conditions have been recommended in the consent.

Part 3K – Contamination

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and contamination is unlikely. Furthermore, the application has been assessed against SEPP 55 and is found to be satisfactory. Site investigation is not required in this instance.

It was noted during the site inspection and as raised in the objections, that rear outbuilding may contain asbestos and concern was raised about its removal during demolition. Appropriate conditions regarding to asbestos removal have been imposed in the consent attached to this report.

Part 3L – Landscaping and Tree Management

The application seeks to remove one large tree from the rear yard of the development. From inspection and from comments provided by Council's arborist, the tree is in a deteriorated condition and consent is provided for its removal. The application was accompanied by landscaped plans which demonstrate that there will be landscaping within the rear yards in addition to permeable landscaping within the front setback. One tree is proposed to be planted in the rear yard of each site. The existing street tree will be retained and protected during the construction of the development. Appropriate conditions have been imposed in the consent relating to tree preservation.

Part 3N- Waste Minimisation and Management

A Waste Management Plan (WMP) was submitted with the application. Conditions are included to ensure all waste generated will be stockpiled, managed and disposed of appropriately.

Part 4A- Dwelling Houses

The development application has been assessed against the controls contained in *Part 4A of the DCP – Dwellings*. The following table compares the proposed development with the relevant provisions of this policy.

Part	Control	Proposed	Complies
4A.2.4 Streetscape Presentation	C1 New dwellings must be designed to reflect the Desired Future Character of Botany.	The proposed development is consistent with the desired future character of Botany. This is further discussed in Part 8 below.	Yes
	C3 Dwellings must reflect dominant roof lines and patterns of the existing streetscape.	The proposal will have low pitched roofs with parapet surrounds. While it is not the dominant roof form on the street, the proposal is similar to other examples of flat roofs in close proximity.	Yes
	C4 Buildings must address the street.	Both dwellings front onto Bay Street.	Yes
	C6 Dwellings front door is to be readily apparent from the street.	The front entrances are located facing the street.	Yes
4A.2.7 Site Coverage	C2 Sites between 250sqm-300sqm, the maximum site coverage is 60%.	Lot 1 has a site area of 269sqm and Lot 2 has a site area of 270sqm. The site coverage proposed is 59.7% (160.7sqm) for Lot 1 and 59.5% (160.7sqm) for Lot 2 and includes the dwelling and the swimming pool. The site coverage complies with the minimum 60% requirement.	Yes
4A.2.8 Building Setbacks	<p>C1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1.</p> <p>Less than 12.5m lot width:</p> <ul style="list-style-type: none"> • Front – comply with prevailing street setback or 6m min. • Side – merit. • Rear – 4m min. <p>Note: The subject site has an average lot width of 12.19m however after subdivision each lot will have a street frontage width of 6.095 metres.</p>	<p>Front: <u>Ground floor:</u> Lot 1: 6.2 metres Lot 2: 5.8 metres</p> <p><u>First floor:</u> Lot 1: 5.5 metres Lot 2: 5.7 metres</p> <p>Side: <u>Eastern side:</u> Ground: Nil to 1.5 metres First: 1.5 metres</p> <p><u>Western side:</u> Ground: Nil to 1.5 metres First: 1.5 metres</p> <p>Rear: Ground Floor: 12.07 metres First Floor: 10.66 metres</p> <p>Nil setbacks: 6.9- 7.5 metres</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Acceptable</p>

Part	Control	Proposed	Complies
	C5 Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	Both the ground floor and the first floor have been articulated by incorporating different setbacks both at the side and at the front on the ground and first floor. Additionally, the proposal has been designed with a range of materials to break up the bulky walls i.e. timber screening.	Yes
4A.2.9 Landscape Area	C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2 . Table 2 requires the following minimum landscaped area: (i) 20% for sites that have an area between 250sqm-350sqm	The site area is 269sqm and 270sqm. Therefore a minimum of 20% landscaped area is required for each site. Lot 1 has a proposed approximate landscaped area of 21.7% (58.3sqm) and Lot 2 has an approximate area of 23% (62.2sqm).	Yes
	C8 The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	The driveways will be permeable paving. The front setback provides landscaped area more focused on the central part of the two sites.	Yes
	C9 The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.	The amended landscape plan demonstrates that there will be one Blueberry Ash Tree in the rear yard of each site. The front of the site cannot accommodate a tree considering the width of the sites being 6.095m.	Yes
4A.3.1 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	An amended Schedule of Colours and Finishes was submitted with the application. The Schedule demonstrates that the proposal will utilise roof sheeting, timber screening, rendered brick walls and frosted balustrading to the rear balconies.	Yes
4A.3.2 Roofs and Attics/Dormer	C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. C3 A variety of roof forms will be considered, provided that they relate appropriately to the architectural style of the proposed house and respect the scale and	The predominant roof pitch in the street is hipped. The proposal incorporates a slight pitch of less than 2 degrees and the front elevation demonstrates a parapet to resemble a flat roof. While this pitch is not the predominant roof form in the area, there are other examples of flat roofs. Additionally, incorporating a hipped roof form,	Yes

Part	Control	Proposed	Complies
	character of adjoining dwellings.	the bulk of the development will be greater than what is proposed therefore the pitch and roof form is acceptable.	
4A.3. Fences	C7 Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style	The front fences will be 1 metre in height and will be constructed out of rendered brick.	Yes
	C18 Side fences of a height of 1.8 metres are not to extend beyond the front building line. Note: Fences with untextured surfaces that present a blank appearance to the street are unsuitable and discouraged.	There is no proposed change to the side boundary and therefore will remain as existing.	Existing
	C19 The maximum height of a rear fence is not to exceed 1.8 metres.	There is no proposed change to the rear boundary and therefore will remain as existing.	Existing
4A.4.1 Visual Privacy	C2 Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> ▪ using windows which are narrow or glazing ▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings ▪ Screening opposing windows, balconies and courtyards; and ▪ Increasing sill heights to 1.5 metres above floor level. 	<p>All windows on the ground and first floor have a minimum sill height of 1.2 metres. The first floor windows have been offset as much as possible to avoid direct overlooking. Additionally, the rooms are not principal living areas therefore they are not highly used as what a living area would be. The void windows propose privacy screens on the eastern and western elevations so that there is no direct overlooking into the adjoining sites.</p> <p>The amended plans demonstrate that the first floor balconies at the rear will be frosted glass. Additionally, Lot 2 will have a wall along the eastern side of the balcony to prevent overlooking into 129 Bay Street. The balcony at Lot 1 does not provide privacy screening along the western elevation therefore a condition of consent is imposed to require it.</p>	Yes, conditioned

Part	Control	Proposed	Complies
	C3 First floor balconies are only permitted when adjacent to a bedroom.	The first floor balconies are located off bedrooms and not living areas. The balconies at the rear are will have frosted balustrading and privacy screens along the side elevations. This has been conditioned in the consent.	Yes, conditioned
4A.4.3 Solar Access	C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	<p>The applicant has submitted aerial and elevation shadow diagrams of the proposal.</p> <p>Due to the orientation of the site, the subject rear yards of both sites will not receive the minimum 2 hours of sunlight at June 21 however at March/September, they will receive greater than 2 hours of sunlight.</p> <p>The elevation shadow diagrams show that the adjoining site at 125A Bay Street will be overshadowed to the entire ground floor between 9am to 10am however will not be impacted by the development from 11am onwards. The rear yard will receive sunlight approximately from 11am to 2pm to its rear yard.</p> <p>In regards to 129 Bay Street, the proposal will overshadow the site from 2pm onwards to its rear yard. The elevation shadow diagrams show that the proposal will overshadow the western elevation of the adjoining site from 2pm. The property will receive sunlight from approximately 11.30am to 1.30pm therefore will receive sunlight for 2 hours in mid winter.</p>	Yes
	C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	There are no solar panels on the adjoining sites that will be impacted by the proposed development.	N/A

Part	Control	Proposed	Complies
4A.4.4 Private Open Space	C2 For sites greater than 250sqm, a minimum area of 36sqm applies.	Both sites have approximately 45sqm of private open space including the alfresco and the rear yard.	Yes
4A.4.7 Vehicle Access	C1 Driveways within a property shall have a minimum width of 3 metres.	Each site has a driveway that is 3 metres wide.	Yes
	C6 The number of vehicle crossings is to be limited to one (1) per allotment.	There is one vehicle crossing for each site.	Yes
4A.4.8 Car Parking	C1 Development must comply with Part 3A – Car Parking	Refer to Part 3A above.	Yes
	C10 Garages, parking structures (carports and car spaces) and driveways are not to dominate the street. Note: Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.	The amended proposal has been designed so that there are hardstand car parking spaces located in front of the single garages within the front setback. The first floor is forward of the ground floor and the ground floor is slightly articulated so that the dwelling at Lot 2 is forward of the dwelling at Lot 1 therefore the garages do not dominate the front façade and the setback.	Yes
4A.6 Ancillary development	C1 The total gross floor area of ancillary structures must not exceed 60sqm.	There is one pool on each site.	Yes

Part 70- Swimming Pool

The proposal includes the excavation of one swimming pool within the rear yard of each site. The pools will have a maximum depth of 1.6 metres and have an area of 15sqm.

The site coverage proposed is 59.7% (160.7sqm) for Lot 1 and 59.5% (160.7sqm) for Lot 2 including the pools. The swimming pool on Lot 1 has a 3-metre setback from 125A Bay Street and the pool at Lot 2 has a 1.5 metre setback from 129 Bay Street.

The plans do not demonstrate any pool fencing proposed therefore appropriate conditions of consent will be imposed so that a 1.2 metre high glass swimming pool fence in accordance with the Australian Standards will be installed around each pool.

The pool pumps will be located at the rear of the yard and has been conditioned to be within a soundproofed enclosure which has been conditioned. Appropriate conditions have been

imposed regarding to excavation and should the pool encounter groundwater, separate approval is to be sought.

The proposal is consistent with the requirements and provisions within Part 7O- Swimming Pool relating to location of pools, overall site coverage, setbacks, equipment associated with swimming pools and drainage and stormwater management. Appropriate conditions have been imposed in the consent regarding to the excavation, management and provisions prior to the occupation of the development and the ongoing use of the development.

Part 8- Botany Character Precinct

Part 8.4.2 Desired Future Character of the Botany Precinct has been considered in the assessment of the application. This section provides rationale for determining the appropriateness and descriptive strategic direction for development in Botany.

The site is located within the R2 Low Density Residential zone of the Botany Precinct on Bay Street between Daniel Street and Botany Road.

The proposal has a consistent street frontage setback similar to that of the adjoining sites to the east and west. The roof pitch is predominantly flat which is not consistent with the roof form in the immediate adjoining sites however there are examples of flat roof forms along the northern side of Bay Street and the southern side of Bay Street to the east. The height of the development is consistent or lower than the established height existing on the street.

The desired future character relevant to the proposed new dwellings include:

- Encourage site layout and building styles and designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles;
- Encourage dwelling styles that maintain and complement existing development patterns;
- Maintain and enhance low density residential accommodation in the form of detached/attached dwellings with a maximum height of 2 storeys in the remainder of the precinct;
- Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character;
- Maintain roof forms to reflect the characteristics of the prevailing designs within the street.

Both dwellings have been designed to address the street, are not considered to have an excessive bulk and scale, accommodate a mixture of setbacks to break up the front, side and rear elevations and incorporate different materials that are consistent with the existing development along Bay Street and in the surrounding locality. The dwellings are compliant in height, setback, have ample amount of landscaping and private open space and can cater for two parking spaces on each site. The subdivision pattern is consistent with the prevailing character of the locality.

Accordingly, the proposal is considered suitable for the subject site and is considered compatible with the desired future character as described in the Botany Bay Development Control Plan 2013 for the Botany precinct.

S.4.15(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.4.15(1)(b) - Likely Impacts of Development

The proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.4.15(1)(c) - Suitability of the site

It is noted that the existing structures may contain asbestos. Appropriate conditions have been imposed in the consent relating to appropriate removal of asbestos in line with the WorkCover requirements.

The proposed development, being for demolition and construction of two semi-detached dwelling houses with Torrens Title Subdivision and excavation of two swimming pools within the R2 Low Density Residential Area, is an appropriate development in the context of the site and the locality.

S.4.15(1)(d) - Public Submissions

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 11 January to 25 January 2018. Four (4) objections were received and the issues that were raised in the objections are summarised below.. The amended plans were re-notified for 7 days between 5 March to 12 March 2018. No further objections were received.

- *Privacy concerns to the adjoining properties*

Comments: Concerns were raised regarding to the privacy of the adjoining properties particularly to the adjoining rear yards and the impact from the rear balconies. The applicant has amended the plans so that rear balustrading is now frosted. The eastern elevation has a wall along the entire length of the balcony however there is no privacy wall or screening along the western elevation. A condition has been imposed to provide a 1.8 metre high privacy screen for the entire length of the western side of the balcony for Lot 1 and return of 1.5 metres for 300mm along the southern elevation for both balconies. In regards to the privacy of the properties that front onto Banksia Street, the balconies are located greater than 10 metres from the rear boundary. The distance is acceptable as the minimum rear setback for sites with a street frontage less than 12.5 metres is 4 metres. Therefore the proposed setback of both dwellings is more than adequate. Screening of the sliding doors to the bedroom would be too excessive considering the other privacy measures proposed.

Concern was raised about the location and sill height of the windows along the first floor of the western and eastern elevations. All windows with exception to the void windows have a sill height of 1.5 metres which is acceptable considering privacy. The windows to the void area and below will have privacy screening to prevent any direct overlooking.

In regards to screen planting along the southern boundaries, the applicant has proposed two trees within the rear yard and low level planting around the pool which is required under the Swimming Pool Act. Therefore screening planting at a certain height to prevent any overlooking to the neighbouring properties cannot be conditioned.

- *Concerns regarding to asbestos and contamination of dwelling and rear outbuilding*

Comment: Concern is raised that the rear outbuilding has been misrepresented in the plans demonstrating it as being a metal shed when it is a fibro shed. Concern is that due to the age and materials of the structures on the site, there may be asbestos. Appropriate conditions regarding to the removal of any asbestos in accordance with the WorkCover requirements have been conditioned in the consent.

- *Damage to the existing retaining wall at the rear of the property*

Comment: Concern is raised regarding the existing retaining wall at the rear of the site. The applicant has not indicated that the retaining wall will be removed. Any damage to the retaining wall is to be fixed by the applicant. A condition has been imposed within the consent requiring the applicant/owner to carry out a dilapidation report.

- *Damage to the adjoining properties due to the tree removal, excavation for the pools and demolition*

Comment: Concern is raised that due to the size of the tree to be removed and the proximity to the rear boundary fence in addition to the demolition of the fibro outbuilding and excavation of the two swimming pools, there could be damage to the adjoining property and the retaining wall and fence. A dilapidation report has been conditioned in the consent. Any damage, the owner of the subject site is to repair as existing. Support of the retaining wall and fence will be required should any change soil disturbance impact on the fencing.

- *Location of pool pumps and filters*

Comment: Concerns are raised in relation to the location of the pool pumps to the rear boundary and whether the distance is compliant with the regulations in addition to the noise levels that are emitted from the pump. Conditions of consent have been imposed which require the pool pump and filters to be in a soundproof enclosure. The location of the pumps and filters is acceptable.

- *Access into the adjoining sites*

Comment: Concern is raised regarding to access into 127 Bay Street from the adjoining sites. The owner of the adjoining site does not give consent for access. Any access at a later date is to be negotiated between the two owners.

S.4.15(1)(e) - Public interest

Granting approval to the proposed development will have no significant adverse impact on the public interest.

OTHER MATTERS

Section 7.11 Contributions (formerly s.94)

The City of Botany Bay's Section 94 Development Contributions Plan 2016 became effective on 14 June 2016. The below contribution applies to the proposed development:

Contribution Rates

1 x New 4 Bedroom dwellings: \$21,981.87
1 x New 4 Bedroom dwellings: \$21,981.87
Total Contribution: \$43,963.74

Credit

Since there is an existing dwelling house on the existing lot, the applicant is entitled to a credit. The credit applies to the smaller of the new dwellings. The dwellings are the same size therefore a credit applies to one dwelling.

Credit applicable: \$21,981.87

Subtotal: \$43,963.74- \$21,981.87= \$21,981.87

As the total amount of each dwelling is over \$20,000.00, the section 7.11 contribution rate is capped at \$20,000.00

Total contribution

The total Section 7.11 Contribution applicable to the proposed development is **\$20,000.00**. In accordance with the Plan, the contribution is to be paid prior to the release of the subdivision certificate.

Conclusion

Development Application No. 2017/1246 for the demolition of existing structures and construction of two (2) storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots at 127 Bay Street, Botany has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The development is compliant in height, site coverage landscaping, car parking and private open space. The amenity of the neighbouring development will not be adversely impacted by the proposal and acceptable amenity is provided to the proposal. The development is not considered out of context in the area and in the street as it proposes similar street frontage widths, dwelling bulk and scale and setbacks. The subdivision pattern is acceptable as it is similar in nature to the adjoining semi-detached dwelling to the west and east and examples of the proposed building form as semi-detached dwellings are found along the street. Therefore, the proposal is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 127 Bay Street, Botany

Da No.: DA-2017/1246

GENERAL CONDITIONS

Item	Bayside Planning Panel Meeting 10/04/2018
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1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Author	Dated Received
Dwg No. 01- Roof Plan and Site Analysis- Rev 7	Derek Raithby Architecture	Dated March 2018; Received 13 March 2018
Dwg No. 02- Ground and First Floor Plan		Dated February 2018; Received 15 February 2018
Dwg No. 03- Elevations Plan- Rev 6		Dated February 2018; Received 15 February 2018
Dwg No. 04- Section AA- Plan- Rev 6		Dated February 2018; Received 15 February 2018
Dwg. No. 05- GFA Plan- Rev 6		Dated February 2018; Received 26 March 2018
Dwg No. 06- Finishes Schedule		Dated February 2018; Received 15 February 2018
Dwg No. 07- Window/Doors Schedule		Dated February 2018; Received 15 February 2018
Dwg No. 10- Demolition Plan- 4		Dated December 2017; Received 20 December 2017
Dwg No. 11- Sediment Control Plan- Rev 4		Dated December 2017; Received 20 December 2017
Dwg No. 11- Landscaping Area- Rev 6		Dated February 2018; Received 26 March 2018
SV01- Subdivision Plan- Rev 2		Dated November 2017; Received 20 December 2017
LP01- Landscape Plan- Rev 3 (to reflect site analysis/roof plan)		Dated February 2018; Received 15 February 2018
Concept Stormwater Drainage Plan	N. Koloff Associates Civil and Structural Engineering	Dated December 2017; Received 20 December 2017

Reference Document(s)	Author	Date Received
BASIX Certificate No. 890836M	Prepared by Vipac	Dated 19 December 2017; Received 20 December 2017
Response to request for additional information	Derek Raithby Architecture	Dated 14 February 2018; Received 15 February 2018
Statement of Environmental Effects v.2	Derek Raithby Architecture	Dated February 2018; Received 15 February 2018
Clause 4.6 Exceptions to development standards written requires	Creative Planning Solutions	Dated March 2018; Received 26 March 2018
Waste Management Plan	-	Dated 15 December 2017; Received 20 December 2017
NATHERS Assessment	Nationwide Hous Energy Rating Scheme	Received 20 October 2017
Hydraulic Certificate	N. Koloff Associates Civil and Structural Engineering	Dated 12 December 2017; Received 20 December 2017

Acoustic Assessment	Koikas Acoustics Pty Ltd	Dated 11 December 2017; Received 20 December 2017
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2. This Consent relates to land in Lot 15 Sec F in DP 1777 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates (as referenced at Condition No. 1) for the development are fulfilled.

Note:

 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:-

- i) Has appointed a principal certifying authority; and
- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
- iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

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

6. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
7. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
8. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.

9. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
10. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
11. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
12. 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.
13. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
14. Dewatering is not permitted on this site without NSW-EPA approval.
15. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i. Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-

- ii. Adequate provision must be made for drainage.
16. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
17. Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$1,000.00 to ensure protection of the street tree from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of the trees by Council and/or a qualified Arborist. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 18.
- a) Prior to commencing demolition the Council street tree shall be physically protected by erecting fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete. The area within the fencing is to be mulched with leaf mulch to a depth of 100mm. Fencing shall be erected to ensure the public footway is unobstructed.
 - b) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
 - c) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

19. 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.

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

20. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
21. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-

- a) Footpath Crossing Deposit \$5,276.00 (See below)
 - b) Development Control \$1,290.00
 - c) Section 7.11 Contributions (Section 94) \$20,000.00 (See below)
22. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.

The contribution is broken down as follows:

- a) Community Facilities- Citywide: \$3,431.94
- b) Recreation Facilities- Citywide: \$14,907.66
- c) Administration: \$255.77
- d) Transport Management- Citywide: \$1,404.62

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.

23. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$5,276.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
24. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
25. Prior to the issue of the Construction Certificate, revised plans are to be provided to the Principal Certifying Authority demonstrating that:
- a) The western elevation of the rear balcony is to provide privacy screening or a solid wall to a minimum height of 1.8 metres to prevent any overlooking. A privacy screen return to a minimum 1.5 metre height along the southern elevation of both rear balconies for a width of 300mm is required to be demonstrated in the plans.
26. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure

to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

27. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
28. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. A copy of the detailed design plans shall be provided to Council where Council is not the Principal Certifying Authority.

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

The plans shall incorporate measures such as:

- a) the provision for Individual On-site Stormwater Infiltration Systems designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards for each proposed lot,

Note: a Rainwater Tank may be used as an alternative, for which up to half of the capacity may contribute towards the on-site infiltration trench.
 - b) The provision for a minimum capacity 3000L Rainwater tank servicing each proposed lot (6000L at minimum for the development in total). Each Rainwater tank shall have a catchment of at least 75% of the roof area of the development.
 - c) Additional drainage grates or an alternative suitable measure shall be provided to the rear of each garage structure to capture overland flows. The development shall not create a concentration of Stormwater on adjoining properties.
29. Prior to the issue of any Construction Certificate, a geotechnical engineer shall determine the soil absorption rate and satisfy the other requirements of the Botany Bay DCP Stormwater Management Technical Guideline relating to the water table, impact on footings, etc prior to design of the drainage system. A copy of the report shall be forwarded to Council prior to the issue of the Construction Certificate.
 30. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption trench or underground rainwater tank shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
 31. Prior to the issue of any Construction Certificate, the driveways over the absorption trenches shall be either constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the trench base or constructed as a structural slab so that no load is transferred to the plastic trench. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

32. 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, new concrete driveway laybacks shall be constructed. Two new three (3) metre wide driveway laybacks shall be constructed as part of the new driveways. 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.

All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.

The design should be submitted to the PCA for approval. The approved design form part of the future road opening permit application.

33. The relocation of the existing electricity supply pole in the road reserve at Bay Street to a suitable position outside of the proposed driveways is required to avoid conflict with the new driveways. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.
34. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

DURING WORKS

35. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

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- i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an afterhour's contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
36. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
37. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
38. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
39. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
40. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.

- e) No demolition materials shall be burnt or buried on the site.
- 41. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
 - a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings
- 42. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
- 43. No demolition materials shall be burnt or buried on the site.
- 44.
 - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 45. 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.
- 46. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 47. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 48. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 49.

- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
- b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.

50. The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

b) Level Restrictions

i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

c) Time Restrictions

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

ii) Saturday 08:00am to 01:00pm

iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

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

51. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 52.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
53. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
54. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
55. The existing power pole asset on the frontage of the site shall be relocated to a suitable position outside of the proposed driveway crossings at no cost to Council, the developer shall bare all costs relating to the relocation works. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The asset shall be relocated to be at least (1.0) metre away from any proposed/existing driveway crossing for the development and any existing/proposed driveway for neighboring properties.
56. Inspections must be conducted by Council's Engineer at the following occasions:

- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
- b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
- c) Formwork inspection of Council's footpath prior to laying of concrete,
- d) Final inspection of driveway layback and adjacent kerb and gutter,
- e) Final inspection of Council's kerb and gutter,
- f) Final inspection of Council's footpath.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE

- 57. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.
- 58. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.
 - a) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design.
 - b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
- 59. Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.

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

- 60. Prior to the issue of any Occupation Certificate, the approved subdivision is to be registered. The linen plans are to be submitted to Council prior to the release of the Occupation Certificate, and proof of registration with the Land and Property Information is to be submitted prior to occupation and use of any building.
- 61. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 62. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the

required acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

63. Prior to the issue of an Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.
64. Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
65. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - a) Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - b) The overflow from the rainwater tank shall be directed to the storm water system.
 - c) All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - d) A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
66. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
 - a) On Bay Street, adjacent to development, reconstruct the existing footpath for the full length of the proposed new properties in accordance with Council Infrastructure Specifications; and
 - b) On Bay Street, adjacent to development, reconstruct the existing kerb and gutter for the full length of the proposed new properties in accordance with Council Infrastructure Specifications.
67. 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.
68. All absorption trenches must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction.

69. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
70. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and a positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the Stormwater infiltration facilities. A maintenance schedule of the on-site infiltration system shall be prepared by a qualified engineer and included in the Positive Covenant of the 88B Instrument, as a cross-reference or appendix. The following covenants shall be imposed under Section 88(B) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
 - a) Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
 - b) Positive covenant for the maintenance of the On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
71. The Council nature strip in Bay Street shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
72. Prior to the issue of the Occupation Certificate, the swimming pools are to be registered with the NSW Government at www.swimmingpoolregister.nsw.gov.au and a registration certificate is to be submitted to the Council.
73. Prior to the issue of the Occupation Certificate, the following is required:
 - d) High-level overflows from the swimming pool shall be gravity fed and connected to Sydney Water's sewer via an approved system. The connection must not directly vent the receiving sewer. Upon completion, certification from a licence plumber shall be submitted to the Principal Certifying Authority to certify that the connection has been made in accordance with Sydney Water's requirements and the current plumbing codes.
 - e) The Principal Certifying Authority shall confirm the concourse area surrounding the swimming pool have been constructed at minimum 1.0% grade towards the pool to prevent surface water overflowing into the adjoining properties.
 - f) Where a dividing fence, being a dividing fence that separates the lands of adjoining owners or a public place, is to form part of the safety enclosure in which the swimming pool is to be located, then such fencing must be a minimum of 1.8m in height from the finished surface level surrounding the pool, sound and in a state of good repair and condition. The boundary fencing shall be installed prior to the completion of the swimming pool.
 - g) The swimming pool shall be fenced in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standard AS1926 (2012), prior to the filling of water in the pool or use of the pool. Such fence shall be provided with a self-latching and self-closing gate, opening outwards, capable of being opened from the poolside only and with provision for permanent locking when not in use. The fence shall be installed to the satisfaction of the Principal Certifying Authority, prior to the filling of water in the pool/use of the pool.

The fence required surrounding the swimming pool and in relation to any gate that forms part of such fence shall be erected in accordance with the approved plans and specifications, together with the standards set out in AS1926 entitled "Fences and Gates for Private Swimming Pools".

Note: The definition of "swimming pool" is that given under Clause 3 of the Swimming Pools Act 1992.

- h) The pool shall be provided with at least two depth markers above the water line, being of numerical figures or at least 75mm in height, and shall be located in two locations on either side of the pool, indicating the corresponding depth of the pool.
- i) The provision of a suitable poster showing the details of resuscitation techniques shall be erected. This poster should also contain the advice that "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation", according to the AS 1926.1 2012 and the Swimming Pool Regulation 2008.
- j) An approved resuscitation poster, outlining life-saving resuscitation procedures, shall be erected and displayed in a prominent position adjacent to the pool.

Note: The above notices shall be kept in a legible condition and at a visible location on the pool side at all times.

- 74. Prior to use or operation of the swimming pool, any filtration equipment or pump(s) shall be enclosed with appropriate sound insulation materials to ensure noise levels do not exceed 5dBA above the ambient background noise level when measured at the side and rear boundaries of the property.
- 75. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

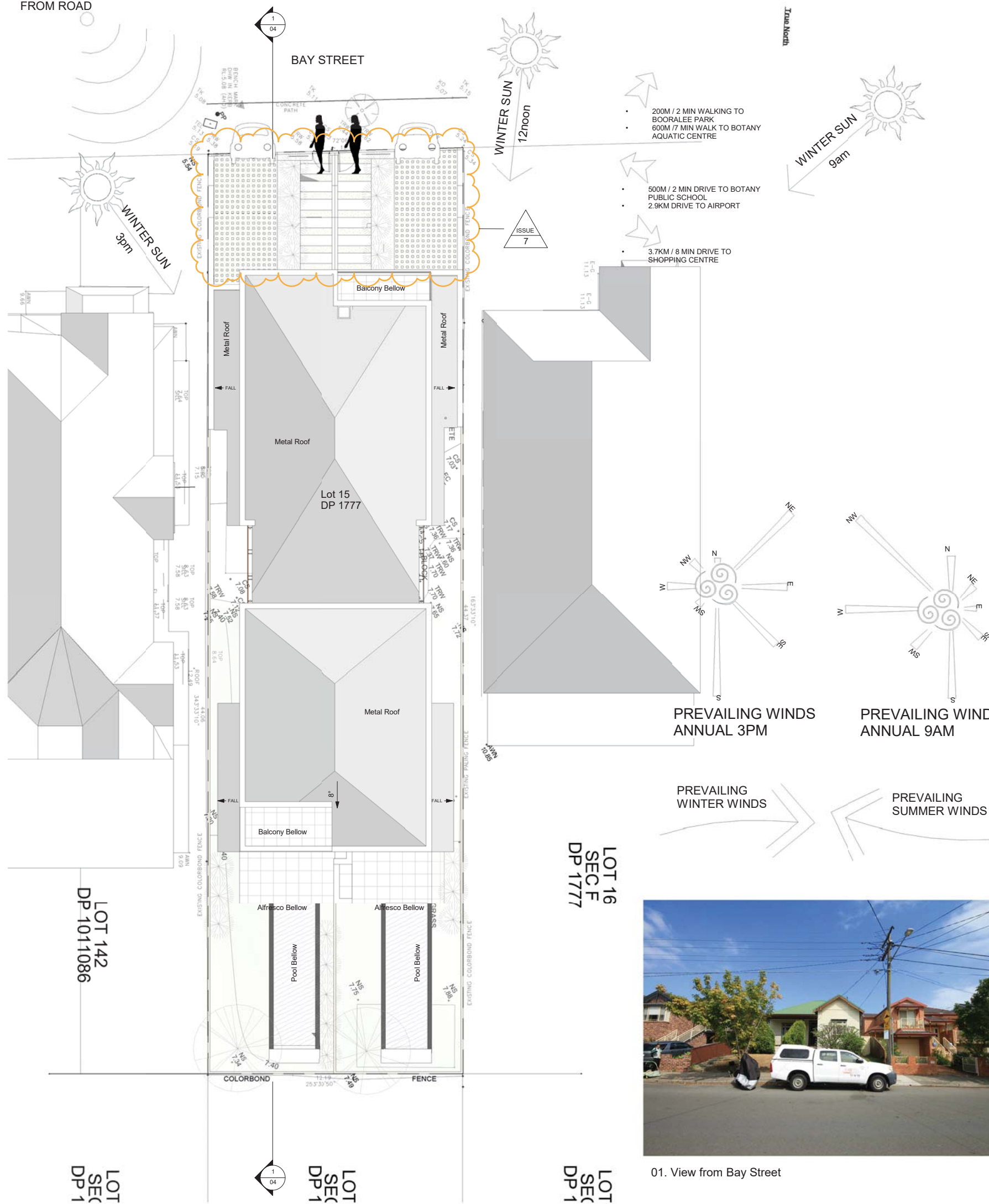
- 76. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 77. The building is approved as a single dwelling on each site for use and occupation by a single family. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
- 78. 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.

79. 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*.
80. The pool filtering equipment must be encased by a soundproof cover and be located as far as practical from adjoining properties. Pool equipment must not operate between 10:00pm and 7:00am.
81. The pool must not be filled with bore water or groundwater.
82. Access to an area in which a swimming pool is located shall not be through any garage, outbuilding or dwelling.
83. The fence including any access gate or other boundary construction that encloses the swimming pool for the purpose of child safety must at all times be maintained in a state of good repair and condition.
84. The water from the rainwater tanks should not be used for drinking, the rainwater tanks shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
85.
 - a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - b) Noise from any air-conditioning units (measured as the $L_{aeq\ 15\ minute}$) is not to exceed the background level (measured as the $L_{a90\ 15\ minute}$) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: In order to meet this condition, the compressors and any other noise generating part of the air conditioning unit, are to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

NOISE
FROM ROAD

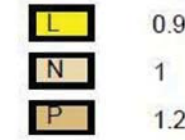


Acid Sulfate Soils



Floor Space Ratio Map - Sheet FSR_002

Maximum Floor Space Ratio (n:1)

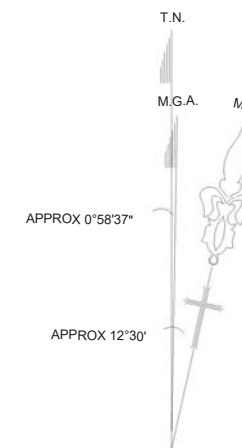
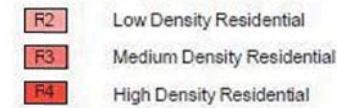


Height of Buildings Map - Sheet HOB_002

Maximum Building Height (m)



Land Zoning Map - Sheet LZN_002



LEGEND

Simbols SITE ANALYSIS - 1:200



PEDESTRIAN ACCESS



DRIVEWAY ACCESS



SITE PHOTOGRAPHY



01. View from Bay Street

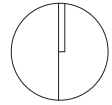


01. View from Bay Street



DEREK RAITHBY ARCHITECTURE
LEVEL 2, 57 RENWICK STREET,
LEICHHARDT NSW 2040
T: (02) 9518 3563 ABN:61613174020
info@derekraithby.com.au Architect #7469

DO NOT SCALE OFF DRAWINGS. WORK TO FIGURED DIMENSIONS ONLY. ALL DIMENSIONS ARE TO BE CONFIRMED ON SITE PRIOR TO COMMENCEMENT OF WORK. REPORT ANY DISCREPANCIES TO THE ARCHITECT. NOMINATED ARCHITECT DEREK RAITHEY REG: 7469 COPYRIGHT DRA (AUS) PTY LTD



A1 ORIGINAL SIZE

7	03/18	Issue to Council	DD
6	02/18	Issue to Council	RB
5	01/18	Issue to Consultant	DD
4	12/17	Issue to consultants	AL
3	11/17	Issue to consultants	VR
2	11/17	Amended Concept	VR
1	10/17	Inical Concept	VR
amend	date	description	bv

Client: Mr A. Parris and Mr S. Fraccaro

Consultant
Address
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Project:
Residential Development
127 Bay Street, Botany NSW, 2019.
Lot 15 DP 1777

DRAWING TITLE

Roof plan and site analysis

Date: 03/18 Drawing No. 01

Scale: 1 : 100 @A1; 1 : 200 @A3

Project No. D1705

Drawn/Checked VGR / DRA

DA SUBMISSION

01



773C 77410100 TV

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Client: Mr A. Parris and Mr S. Fraccaro

Consultant
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e-mail

Project:

Residential Development
127 Bay Street, Botany NSW, 2019.
Lot 15 DP 1777

DRAWING TITLE

GFA

Date: 02/18

Drawing No.

Scale: 1 : 100@A1; 1 : 200@A3

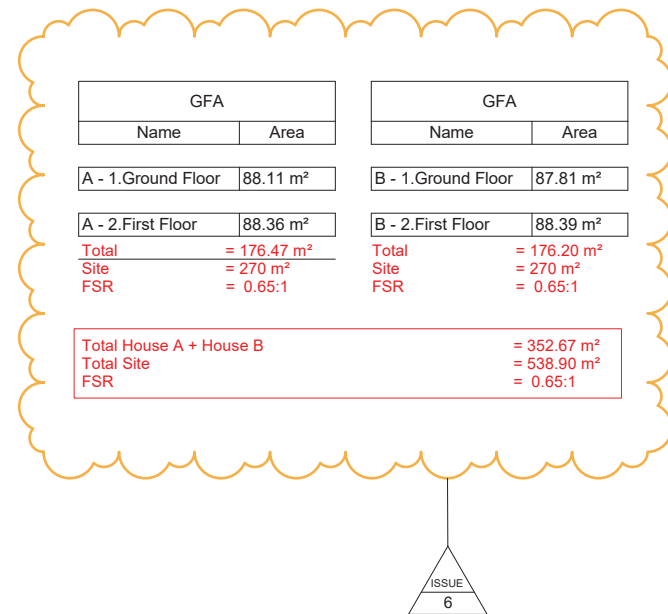
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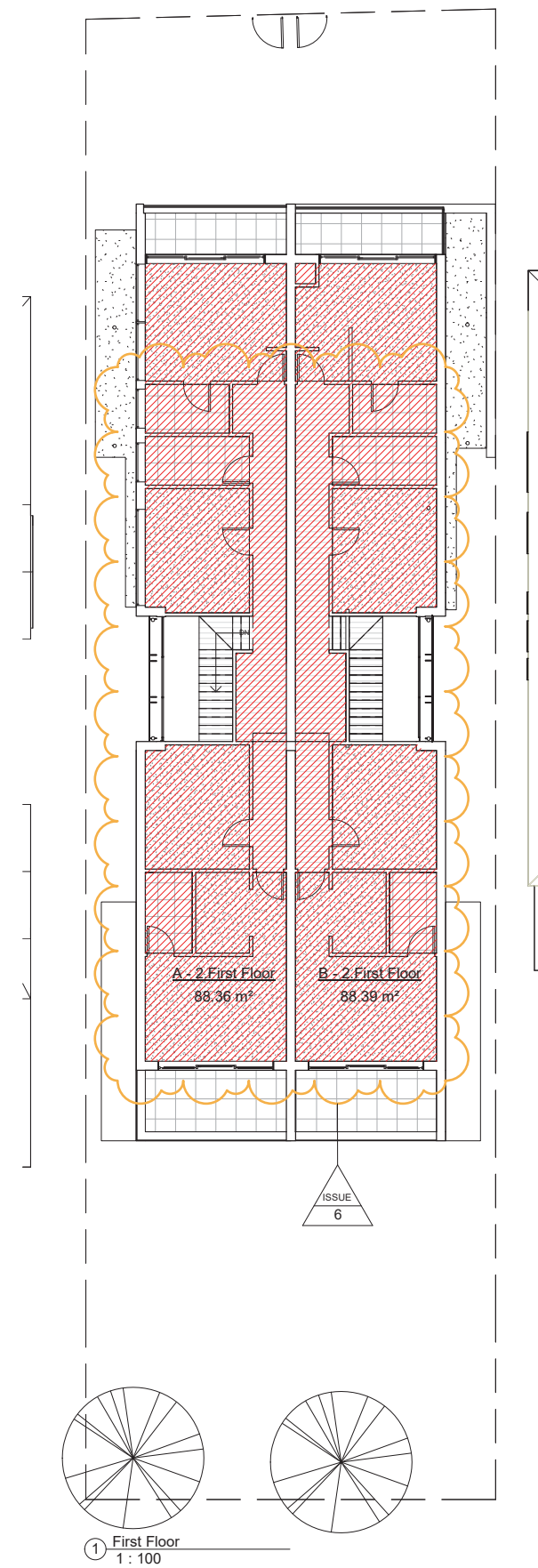
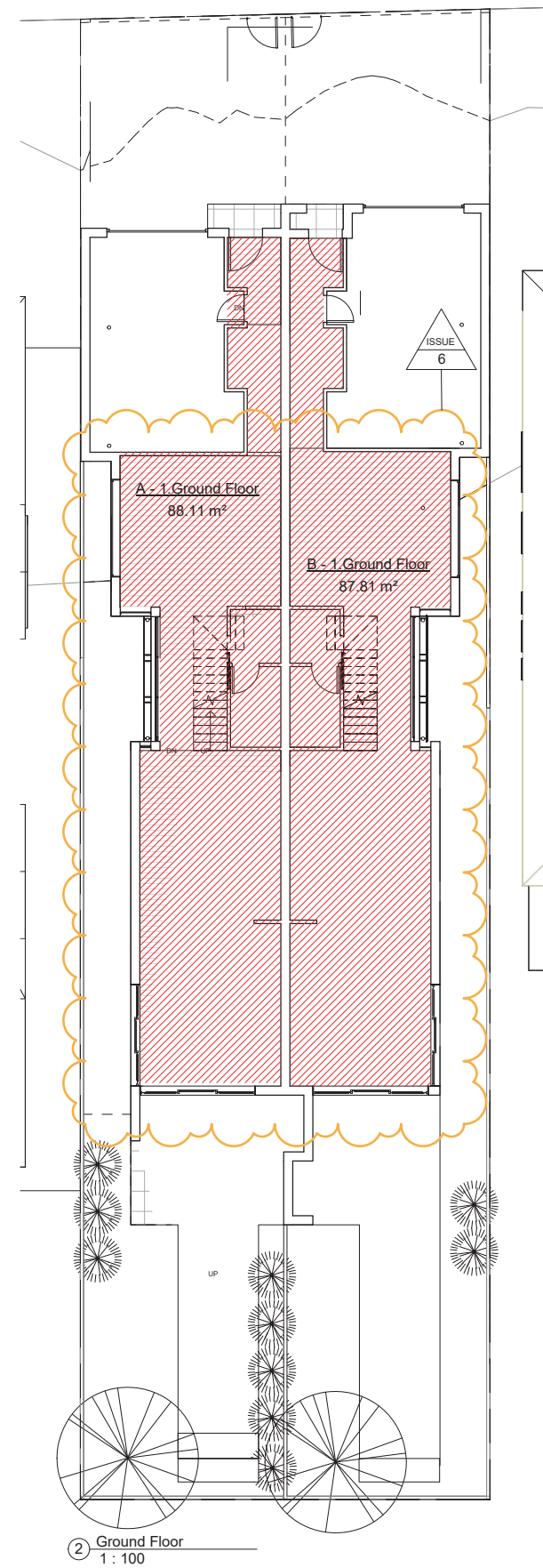
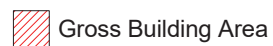
DA SIURMIS

05

DA SUBMISSION



Building Area Legend



wt



Carpet Flooring



Concrete Flooring



Translucent Glazing

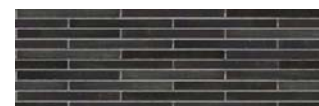


Frosted Glazing

Dulux 'Natural
white' or similar



External brick
"Austral Brick -
San Selmo Corso
- Livenza" or
similar



External brick
"Austral Brick -
San Selmo Corso
- Piave" or similar



wt



Colorbond
"Woodland Grey"
or similar



Timber Screening
wall



External concrete
tile



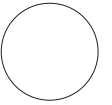
Internal porcelain
tile



Timber Flooring



Dulux 'Domino' or similar



773C 7YAH101010 TV

DRAWING TITLE	
Finishes Schedule	
Date:	02/18
Scale:	@A1; 1 : 200 @A3
Project No.	D1705
Drawn/Checked	AL / DRA
<div style="text-align: right;">Drawing No. 06</div>	
DA SUBMISSION	

1. THE SEDIMENT & EROSION CONTROLS SHALL BE MAINTAINED EFFECTIVELY FOR THE DURATION OF THE PROJECT. THEY SHALL NOT BE REMOVED UNTIL THE SITE HAS BEEN STABILIZED OR LANDSCAPED TO THE PRINCIPAL CERTIFYING AUTHORITIES SATISFACTION.
- 2.
3. A SINGLE ALL WEATHER ACCESS WAY SHALL BE PROVIDED AT THE FRONT OF THE PROPERTY CONSISTING OF 50-80 MM AGGREGATE OR SIMILAR MATERIAL WITH A MINIMUM THICKNESS OF 150 MM AND OVER NEEDLE-PUNCHED GEOTEXTILE FABRIC (BIDIM A14 OR SIMILAR) AND INSTALLED PRIOR TO ANY WORKS BEING COMMENCED ON SITE.
- 4.
5. THE SHAKER PAD MUST BE INSTALLED AS PART OF THE VEHICULAR ACCESSWAY. THE SHAKER PAD SHALL BE:

- ESTABLISHED ON SUITABLE PREPARED & COMPACTED MATERIAL
 - CONSTRUCTED SUCH THAT IT IS FLUSH WITH THE ADJOINING SURFACES
 - DESIGNED WITH RUNGS SPACED 200-250 MM APART & WITH A MAXIMUM WIDTH OF 75 MM EACH.
1. THE CONTRACTOR SHALL ENSURE THAT NO SPOIL OR FILL ENCROACHES UPON ADJACENT AREAS DURING THE PROJECT.
 2. THE CONTRACTOR SHALL ENSURE THAT ALL KERB INLETS AND DRAINS AFFECTED BY STORMWATER FLOW FROM THE SITE ARE PROTECTED AT ALL TIMES DURING THE PROJECT. KERB INLET SEDIMENT TRAPS SHALL BE INSTALLED ALONG THE IMMEDIATE VICINITY ALONG THE STREET FRONTAGE. THESE SHALL BE REGULARLY MAINTAINED DURING THE PROJECT.
 3. THE STREET / R/O SHALL BE KEPT CLEAN FROM DIRT AND DEBRIS FROM VEHICLES DEPARTING THE SITE.
 4. SEDIMENT FENCING SHALL BE SECURED TO POSTS (PLEASE NOTE THAT IF STAR PICKETS OR SIMILAR ARE USED THEN PLASTIC SAFETY CAPS SHALL BE INSTALLED ON TOP OF THE POSTS) AT 2000 MM INTERVALS WITH THE GEOTEXTILE FABRIC EMBEDDED A MINIMUM OF 200 MM IN TO THE SOIL.
 5. ALL THE TOPSOIL STRIPPED FROM THE SITE SHALL BE STOCKPILED SUCH THAT IT DOES NOT INTERFERE WITH DRAINAGE LINES AND STORMWATER THAT IT DOES NOT INTERFERE WITH DRAINAGE LINES AND STORMWATER INLET PITS. THE STOCKPILE SHALL BE SUITABLY COVERED WITH AN IMPERVIOUS MEMBRANE AND SCREENED BY SEDIMENT FENCING.

PRIOR TO THE COMMENCEMENT OF THE SITE WORKS THE FOLLOWING SHALL BE PROVIDED TO CAPTURE WATER BORNE SEDIMENTS:

- SEDIMENT FENCING
- SEDIMENT TRAP
- WASHOUT AREA
- THESE SHALL BE MAINTAINED REGULARLY DURING THE COURSE OF THE CONSTRUCTION WITH THE SEDIMENT TRAP CLEANED AFTER EACH STORM EVENT.

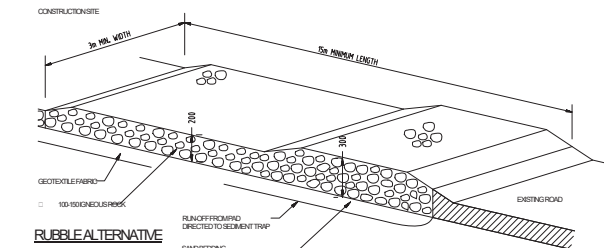
1. CONTRACTOR SHALL PROVIDE SEDIMENT FENCING MATERIAL DURING CONSTRUCTION TO THE LOW SIDE OF THE WORKS. THE SEDIMENT FENCING MATERIAL TO CYCLONE WIRE SECURITY FENCE. SEDIMENT CONTROL FABRIC SHALL BE AN APPROVED MATERIAL (EG. HUMES PROPEX SILT STOP) STANDING 300MM ABOVE GROUND AND EXTENDING 150-200mm BELOW GROUND.
2. EXISTING DRAINS LOCATED WITHIN THE SITE SHALL ALSO BE ISOLATED BY SEDIMENT FENCING MATERIAL.
3. NO PARKING OR STOCKPILING OF MATERIALS IS PERMITTED ON THE LOWER SIDE OF THE SEDIMENT FENCE.
4. DRAINAGE AREA IS 0.5 HA WITH A MAXIMUM SLOPE GRADIENT 1:2 MAXIMUM AND A MAXIMUM SLOPE LENGTH OF 50m.

1. VEHICLE ACCESS TO THE BUILDING SITE SHALL BE RESTRICTED TO A SINGLE POINT SO AS TO REDUCE THE AMOUNT OF SOIL DEPOSITED ON THE STREET PAVEMENT.
2. CONSTRUCTION ENTRY/EXIT SHALL BE VIA THE LOCATION NOTED ON THE DRAWING. CONTRACTOR SHALL ENSURE ALL DROPPABLE SOIL & SEDIMENT IS REMOVED PRIOR TO CONSTRUCTION TRAFFIC EXITING SITE. CONTRACTOR SHALL ENSURE ALL CONSTRUCTION TRAFFIC ENTERING AND LEAVING THE SITE DO SO IN A FORWARD DIRECTION.

1. WHERE THERE ARE STOCKPILES OF MATERIAL ON SITE THEY SHALL BE LOCATED AT LEAST 2000 MM AWAY FROM ANY HAZARD INCLUDING SURFACES WITH GRADES GREATER THAN 15% CONCENTRATED STORMWATER FLOWS, AWAY FROM DRIVEWAYS, TEMPORARY VEHICULAR ACCESSWAYS, FOOTPATHS, NATURE STRIPS, KERBS, OPEN SWALES & THE DRIP ZONE OF TREES.
2. SEDIMENT FENCE SHALL BE INSTALLED DOWNSLOPE OF ALL STOCKPILES. THE STOCKPILE SHALL BE COVERED WITH AN IMPERVIOUS COVER AND
3. THE STOCKPILE SHALL BE COVERED WITH AN IMPERVIOUS COVER AND HELD DOWN FIRMLY AT ALL CORNERS AND SIDES.

1. TRANSPORT STORMWATER RUNOFF WITH SUSPENDED SOLIDS FROM SITE VIA PUMP TRUCKS.
2. TREAT THE STORMWATER RUNOFF WITH SUSPENDED SOLIDS SO THE DISCHARGE WATER QUALITY TO COUNCIL STORMWATER DRAINAGE SYSTEM HAS A MAXIMUM CONCENTRATION OF SUSPEND SOLIDS THAT DOES NOT EXCEED 50 MILLIGRAMS PER LITRE IN ACCORDANCE WITH THE PROTECTION OF THE ENVIRONMENT OPERATION ACT (POE 1997) AND SHALL BE APPROVED BY LOCAL COUNCIL.

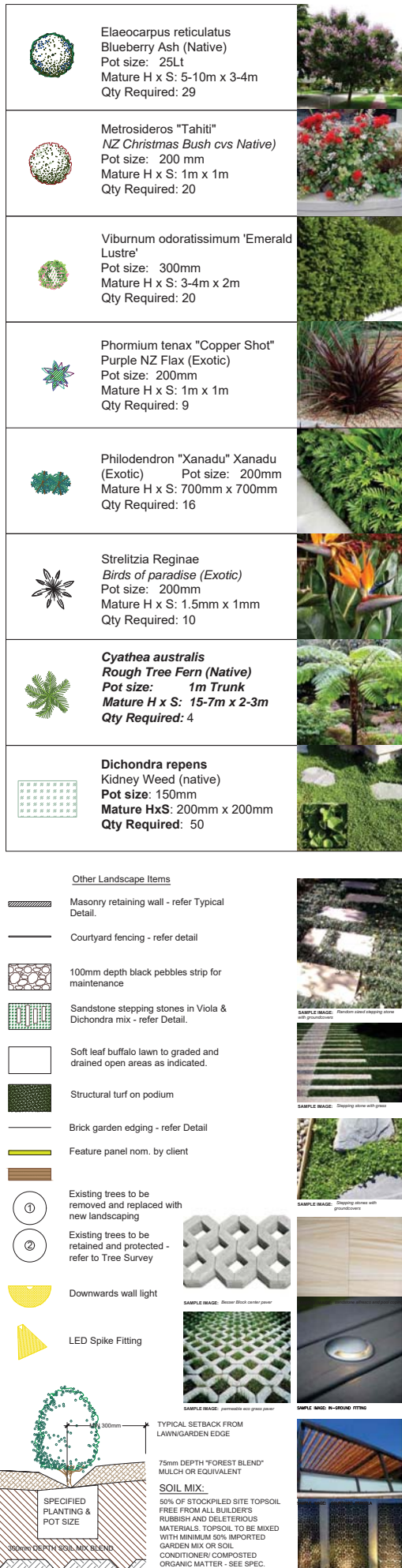
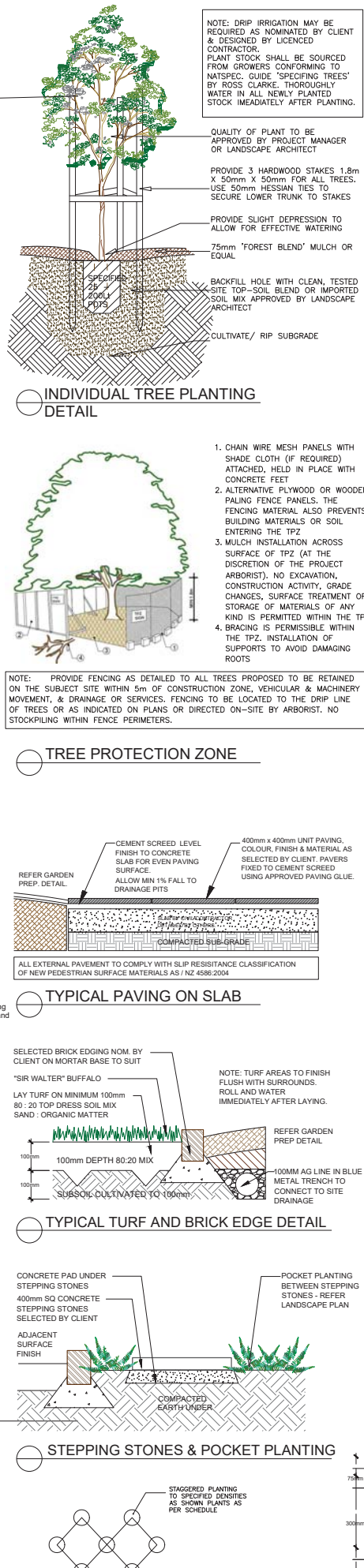
1. THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH THE ARCHITECTURAL AND OTHER CONSULTANTS' DRAWINGS / SPECIFICATIONS AND WITH OTHER SUCH WRITTEN INSTRUCTIONS AS MAY BE ISSUED DURING THE CONSTRUCTION. ANY DISCREPANCY SHALL BE REFERRED TO THE ARCHITECT BEFORE COMMENCING THE WORK.
2. ALL DRAINAGE LAYOUT AND DETAILS ARE DIAGRAMMATIC AND INDICATIVE ONLY. ACTUAL LOCATION, SIZES, LEVELS AND GRADES MAY ALTER WHEN DETAIL DESIGN WORKS ARE DOCUMENTED.
3. ALL DIMENSIONS ARE IN MILLIMETERS, UNO (UNLESS NOTED OTHERWISE).
4. THESE DRAWINGS SHALL NOT BE SCALED, REFER TO DIMENSIONS GIVEN ONLY OR REFER TO THE ARCHITECTURAL DRAWINGS.
5. ALL LEVELS AND SETTING OUT DIMENSIONS SHOWN ON THE DRAWINGS SHALL BE CHECKED ON SITE PRIOR TO THE COMMENCEMENT OF THE WORK.
6. DURING CONSTRUCTION THE STRUCTURE SHALL BE MAINTAINED IN A STABLE CONDITION WITH NO PART BEING OVERSTRESSED.
7. EXISTING SERVICES, WHERE SHOWN, HAVE BEEN DRAWN BASED ON SUPPLIED INFORMATION AND ACCURACY IS NOT BE GUARANTEED. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THEIR EXACT LOCATION PRIOR TO THE COMMENCEMENT OF WORK.
8. ALL SERVICE TRENCHES UNDER VEHICULAR PAVEMENTS SHALL BE BACK FILLED IN ACCORDANCE WITH THE RESPECTIVE AUTHORITIES REQUIREMENTS.
9. ALL TRENCH BACKFILL MATERIAL SHALL BE COMPACTED TO THE SAME DENSITY AS THE SURROUND MATERIAL.
10. ALL SUBSTRUCTURES SHALL BE REINSTATE TO THE ORIGINAL CONDITION, INCLUDING KERBS, FOOTPATHS, CONCRETE AREAS, GRAVEL AND GRASSED AREAS, PLAYGROUND ETC.
11. GRASS VERGES SHALL BE MAINTAINED AS MUCH AS PRACTICAL TO PROVIDE A BUFFER ZONE TO THE CONSTRUCTION SITE.

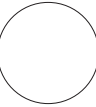


PROVIDE TAP & HOSE BEHIND FENCE
LINE . ALL TRUCKS MUST BE WASHED
DOWN BEFORE DEPARTING. ENSURE
CONTAMINATED MATERIAL, SPOIL, DUST
AND LITTER IS REMOVED PRIOR TO
DEPARTURE FROM SITE TO PREVENT
FROM BEING DEPOSITED ONTO THE
PUBLIC WAY. ALL VEHICLES ARE TO BE
CLEANED AND CHECKED BEFORE
LEAVING THE SITE.

A1 ORIGINAL SIZE

DRAWING TITLE		
Sediment Control Plan		
Date:	12/17	Drawing No.
Scale:	1" = 150' @A1; 1" = 200' @A3	11
Project No.	D1705	
Drawn/Checked VGR/DRA		
DA SUBMISSION		



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SV01

DA SUBMISSION

BOUNDARY DIMENSIONS AND AREAS
SUBJECT TO CHANGE UPON FINAL
APPROVAL AND PLAN OF REDEFINITION

Clause 4.6 Exceptions to development standards Written request – Floor space ratio

Demolition of the existing dwelling and construction of two x two storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots.



127 Bay Street, Botany NSW 2019
Lot 15 Section F DP 1777

Project No: C782
Date: March 2018

Document Control

Creative Planning Solutions works to a stringent Quality Assurance Program.

If this document has not been signed for review and approval then it is deemed a preliminary draft.

Prepared by:



Brendon Clendenning – Principal Planner

Reviewed by:



Ben Tesoriero - Director

Authorised by:



Ben Tesoriero - Director

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Clause 4.6 Written Request to Vary a Development Standard**Botany Bay Local Environmental Plan 2013**

Applicant's name	Andrew Parris
Site address	127 Bay Street, Botany NSW 2019
Proposal	Demolition of existing dwelling and construction of two x two storey semi-detached dwellings with pool and garage, and Torrens subdivision of one lot into two lots
Environmental Planning Instrument	<i>Botany Bay Local Environmental Plan 2013</i>
Development standard to be varied	Clause 4.4A – Floor space ratio The relevant subclause states: <i>(3)(d) The floor space ratio all other development for the purpose of residential accommodation is 0.5:1.</i>

Below is the written request relating to the proposed variation to Clause 4.4A of *BBLEP 2013* in accordance with the provisions of clause 4.6 of *BBLEP 2013*.

Details of development standard sought to be varied

Clause 4.4A of *Botany Bay Local Environmental Plan 2013* (BBLEP 2013) prescribes the maximum floor space ratio (FSR) for residential accommodation on land identified on the Floor Space Ratio Map as "Area 3". Clause 4.4A(3)(a) of the BBLEP 2013 permits an FSR for dwelling houses which varies between 0.55:1 and 0.85:1, depending on the size of the allotment. However, given dwelling houses, semi-detached dwellings, and attached dwellings are each listed separately within the BBLEP 2013 Dictionary, and separately within the definition for residential accommodation, Council has determined that subclause 4.4A(3)(a) does not apply to semi-detached dwellings, and that subclause 4.4A(3)(d), relating to all other development for the purpose of residential accommodation, is the clause which identifies the maximum FSR for the proposal.

Subclause 4.4A(3)(d), requires a FSR of 0.5:1 for semi-detached dwellings, which is lower than what is permitted for dwelling houses. Each dwelling within the proposed development has a FSR of 0.65:1 which exceeds the maximum

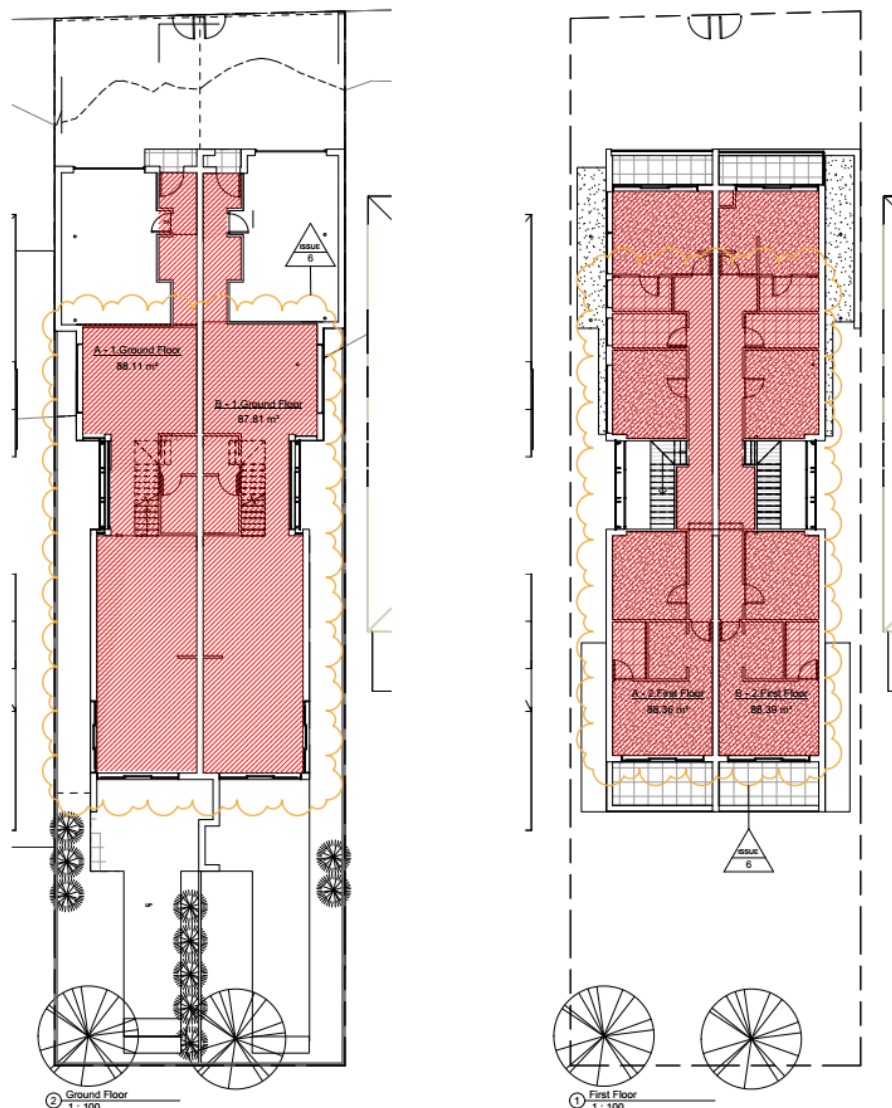


Figure 1- Gross floor area plan, with the areas in red included in the calculation of floor space ratio.

Source: Derek Raithby Architecture, 2018

Clause 4.6 Exceptions to Development Standards - Botany Bay Local Environmental Plan 2013

Clause 4.6 of *BBLEP 2013* is the mechanism by which a consent authority is able to grant consent to a development despite non-compliance with a prescribed development standard. Clause 4.6 is reproduced below:

(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 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 E3 Environmental Management or Zone E4 Environmental Living.

(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,*
- (b1) clause 4.3 (2A),*
- (b2) clause 4.4B (3),*
- (c) clause 5.4.*

4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are environmental planning grounds to justify the contravention of the standard

The authority established by *Four2Five Pty Ltd v Ashfield Council (2015)*, necessitates that environmental planning grounds for the proposed variation must be established aside from the consistency of the development with the objectives of the standard and the objectives of the zone.

In *Wehbe V Pittwater Council (2007) NSW LEC 827*, Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object 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.*

It is generally understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of points 2-5 above.

Having regard for the authority within *Wehbe*, compliance with the maximum FSR development standard has been determined to be unreasonable and unnecessary in the circumstances of the case, and the following outlines the environmental planning grounds for the proposed variation:

- The proposal seeks to maintain the rectilinear subdivision pattern that has been established within the locality and is anticipated by the desired future character of the area. The proposed frontage width and dwelling design is characteristic of nearby contemporary developments and is acceptable in the context of the subdivision and streetscape pattern.
- Compliance with the 0.5:1 requirement would result in a significant reduction of floor space, with the proposed allotments only able to accommodate approximately 135m² of gross floor area each. Given a dwelling house would be able to be provided with in excess of 200m² of gross floor area, an FSR of 0.5:1 would not provide an appropriate correlation between the size of the proposed lots and the extent of the development on each lot, when compared with contemporary development in the locality. In this regard, the development would not be consistent with the prevailing character of the area.

- Compliance with the development standard would result in a development that is not indicative of the scale and internal amenity of other contemporary developments within the locality.
- The following table shows a comparison between the proposal and a hypothetical compliant development, in relation to several critical building envelope controls contained within the *Botany Bay Development Control Plan 2013* (BBDCP 2013). For simplicity, consideration is only given to the eastern dwelling (127B Bay Street), although similar conclusions could be drawn from either lot.

Control	Requirement	Proposal (127B)	Compliant Development
Floor space ratio (LEP)	0.5:1	0.65:1	0.5:1
Landscaped area	20%	29%	36%
Site coverage	60%	56%	40%
Front setback	Prevailing	5.6m	5.6m
Rear setback	4m	12.1m (ground) 10.68 (first floor)	17.8m
Side setback (first floor)	Merit	0.9m	1.5m
Private open space	25sqm	73.85sqm	106.5sqm

It is clear from the information within the table above that there is a gross mismatch between the BBDCP 2013 controls and the requirement of the BBLEP 2013 for the FSR of semi-detached dwellings to be limited to 0.5:1. Insistence on compliance with the 0.5:1 FSR, would result in a development of an uncharacteristically small scale within the locality. For instance, compliance would result in a rear setback almost 4.5 times the minimum requirement, leaving the most usable areas of the rear yards of the proposed dwellings vulnerable to overshadowing from future development on neighbouring properties.

- Given a dwelling house, would generally require a 900mm side setback to both sides, as well as an additional parking space, a dwelling house with equal FSR to the proposal would result in less landscaped area, less private open space, and a shorter rear setback than the proposal. Note that dwelling houses are generally subject to the same numerical controls within the BBDCP 2013 as semi-detached dwellings.
- There is merit in applying the FSR which could be achieved for a detached dwelling (i.e. a dwelling house) being 0.75:1. The FSR of the proposed semi-detached dwellings of 0.65:1 provides a density and visual appearance which is commensurate with what may be provided for a dwelling house on each lot. Although semi-detached dwellings necessitate the provision of a party wall over the new boundary, the building bulk in this location is offset by additional floor space that might otherwise be provided elsewhere.
- Council has in the past granted consent to development for semi-detached dwellings, and attached dwellings that do not comply with the standard within subclause (d), but do

comply with the standard within subclause (c), under similar circumstances. For instance, within the suburb of Botany, there are numerous examples of variation to the standard, including:

- DA-16/116 - 124 Banksia Street, Botany
- DA-15/95 - 36 Edgehill Avenue, Botany
- DA-15/76 - 66 Tenterden Road, Botany

Thus, although the standard may not have been destroyed, its application under these circumstances is not reasonable.

- A semi-detached development could be made to comply with the 0.5:1 FSR at the site. However, it is unlikely that this would result in any changes to the presentation to the street. Two storey developments are anticipated within the street, and Council has demonstrated that there is no distinction to be made in the scale of semi-detached dwellings when compared with dwelling houses. Therefore, a development for semi-detached dwellings which complies with the development standard would be expected to result in poorer internal amenity than is typical for the locality.
- Were Council to insist on compliance with the development standard, detached dwellings would then be the most desirable development typology on smaller lots. Preference should be given to semi-detached dwellings on small lots, given that they provide a more efficient distribution of density at the site, and that they enable smaller site coverage over the site, and a provision of greater private open space and deep soil area. In this sense, the underlying objectives and purposes of the FSR may be defeated or thwarted if compliance was required, as detached dwellings on narrow allotments would be provided with very little functional floor space, with no associated benefit to the bulk and scale or character of the locality.

Clause 4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

The objectives of the R2 Low Density Residential Zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

The proposal seeks to provide additional housing to meet the needs of the local community. Semi-detached dwellings are a low density form of residential development, and the provision of further semi-detached dwellings in the locality is consistent with this objective of the zone.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective relates to the various non-residential uses that are permissible within the zone, and does not strictly apply to the proposed development. However, the increased density proposed by the subject development will improve the viability of non-residential uses within the locality.

- *To encourage development that promotes walking and cycling.*

The development provides sufficient space to enable bicycle storage for future occupants, and given the proposal is located within proximity to local services and public transport options, the increased density associated with the proposed development better meets this objective than the existing dwelling at the site.

The objectives of Clause 4.4A of BBLEP 2013 are as follows:

- (a) *to ensure that the bulk and scale of development is compatible with the character of the locality,*
- (b) *to promote good residential amenity.*

The objectives to Part 4.4A relate to all development types that are affected by this clause. The table within subclause (3)(a), which applies only to dwelling houses, best demonstrates how each of these two objectives are able to be met concurrently. That is, as the size of an allotment decreases, the floor space required to maintain appropriate residential amenity to a dwelling, must be increased relative to the size of the allotment. Additionally, as the size of an allotment increases, the floor space required to maintain a bulk and scale that is compatible with the character of the locality, must be decreased relative to the size of the allotment.

The maximum FSR for multi dwelling housing as prescribed by subclause (3)(b), and the maximum FSR for residential flat buildings as prescribed by subclause (3)(c), are each greater than the FSR proposed at the site.

Of the ten other development types affected by subclause (3)(d), only six types of development are permitted at the site. Two of these, boarding houses and seniors housing, are provided with FSR bonuses under higher order planning instruments. Secondary dwellings are not permitted by the R2 zoning, but are permitted by way of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, which also permits a floor space equal to that available for dwelling houses. This leaves only attached dwellings, group homes, and semi-detached dwellings, as being strictly affected by subclause (3)(d).

Semi-detached dwellings are best able to meet the objectives of the standard, by being provided with a FSR that is expected by the vast majority of other development types that are affected by the standard.

With specific reference to the objective (b), the design of the proposal has ensured that good residential amenity is maintained as outlined in the following:

- The proposed development will not impact on views that are available from nearby properties, or to or from important landmarks within the locality.
- The amenity of the adjoining properties is not considered to be negatively impacted as a result of the proposed development. This includes both physical impacts such as overshadowing, overlooking and acoustic privacy as well as visual impacts such as height, bulk and scale, setbacks and landscaping.
- The physical impacts of the proposed development are considered to be minor with careful design minimising any potential impacts. Overshadowing has been reduced by way of appropriate building bulk and massing. All surrounding dwellings, and private open space areas will be capable of achieving the minimum sunlight access requirements – i.e. 3 hours solar access between 9am and 3pm at the winter solstice. Narrow sections are provided in the centre of each dwelling to improve solar access to adjoining properties.
- With regards to overlooking, there are considered to be no privacy issues relating to overlooking opportunities to the north, south and east of the subject site. Whilst some potential overlooking opportunities exist as a consequence of the rear balconies, appropriate mitigation measures have been utilised to ensure the privacy and security of neighbours is not impacted. This includes generous rear and side setbacks, the inclusion of ground floor pergolas to obscure views to neighbouring properties, as well as sensitive internal dwelling layouts. First floor windows to side boundaries are provided with higher sill heights to minimise visual privacy impacts.
- In terms of the visual impacts, the proposed development is considered to be of an appropriate height, scale and visual appearance so as to be compatible with the surrounding area. Appropriate built form massing has ensured the development appears as a relatively modest building when viewed from the streetscape and the surrounding allotments.

Conclusion

The reasons for the proposed variation can be summarised as follows:

- The proposal seeks to maintain the rectilinear subdivision pattern that has been established within the locality and is anticipated by the desired future character of the area;
- Insistence on compliance with the 0.5:1 FSR limit, would result in a development of an uncharacteristically small scale within the locality;
- There is merit in applying the FSR which could be achieved for a detached dwelling (i.e. a dwelling house) being 0.75:1;
- The underlying object or purpose of the FSR standard would ultimately be defeated or thwarted if compliance was required;
- Council has in the past granted consent to development for semi-detached dwellings, and attached dwellings that do not comply with the standard within subclause (3)(d), but do comply with the standard within subclause (3)(a), under similar circumstances. Thus, although the standard may not have been abandoned or destroyed, its application under these circumstances is not reasonable;
- The objectives of the zone are achieved notwithstanding non-compliance with the standard;
- The proposal provides a better correlation between the size of the site and the extent of any development on the site, than that what would be provided with a compliant proposal;
- The proposal is unlikely to create significant adverse environmental effects on the use or enjoyment of adjoining properties and the public domain;
- Semi-detached dwellings are best able to meet the objectives of the standard, by being provided with a FSR that is expected by the vast majority of other development types that are affected by the standard;
- The proposal has ensured that good residential amenity is maintained.

Given the above it is considered that the requirements of Clause 4.6 have been satisfied and that the variation to the FSR development standard can be approved.