

## **MEETING NOTICE**

A meeting of the  
**Bayside Planning Panel**  
will be held in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany  
on **Tuesday 12 June 2018 at 6.00 pm**

## **ON-SITE INSPECTIONS**

On-site inspection/s will precede the meeting.

## **AGENDA**

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

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

### **2 APOLOGIES**

### **3 DISCLOSURES OF INTEREST**

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

4.1 Minutes of the Bayside Planning Panel Meeting - 22 May 2018.....3

### **5 REPORTS – PLANNING PROPOSALS**

Nil

### **6 REPORTS – DEVELOPMENT APPLICATIONS**

6.1	DA-2016/310/B - 1 Bowood Avenue, Bexley.....	10
6.2	DA-2016/215/A - 17-19 Belmore Street, Arncliffe.....	55
6.3	DA-2016/66/A - 4 Magdalene Terrace, Wolli Creek .....	108
6.4	DA-2016/205/A - 78-80 Ramsgate Road, Ramsgate .....	373
6.5	DA-2017/54/B - 27-31 Bryant Street Rockdale.....	379
6.6	SF18/709 - 1368 Botany Road, Botany.....	437
6.7	F18/404 - 72-74 High Street, Mascot .....	536
6.8	F18/404 - 40 Ricketty Street, Mascot.....	597

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

The meeting will be video recorded and live streamed to the community via Council's Facebook page.

Meredith Wallace  
**General Manager**



## **Bayside Planning Panel**

**12/06/2018**

Item No	4.1
Subject	<b>Minutes of the Bayside Planning Panel Meeting - 22 May 2018</b>
Report by	Bruce Cooke, Acting Manager Governance & Risk
File	SC17/781

---

### **Recommendation**

That the Minutes of the Bayside Planning Panel meeting held on 22 May 2018 be confirmed as a true record of proceedings.

---

### **Present**

Robert Montgomery, Chairperson and Independent Specialist Member  
Anthony Reed, Independent Specialist Member  
Stephen Moore, Independent Specialist Member  
Jesse Hanna, Community Representative

### **Also present**

Michael McCabe, Director City Futures  
Luis Melim, Manager Development Assessment  
Bruce Cooke, Acting Manager Governance and Risk  
Marta Gonzales-Valdes, Coordinator Development Assessment  
Pascal Van de Walle, Coordinator Development Assessment  
Angela Lazaridis, Senior Development Assessment Planner  
Teresita Chan, Development Assessment Planner  
Adam Iskander, Development Assessment Planner  
Ian Vong, IT Officer  
Lauren Thomas, Governance Officer

---

The Chairperson opened the meeting in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany at 6:03 pm.

## **1 Acknowledgement of Traditional Owners**

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

## **2 Apologies**

There were no apologies received.

### **3 Disclosures of Interest**

There were no disclosures of interest.

### **4 Minutes of Previous Meetings**

#### **4.1 Minutes of the Bayside Planning Panel Meeting - 8 May 2018**

##### **Decision**

That the Minutes of the Bayside Planning Panel meeting held on 8 May 2018 be confirmed as a true record of proceedings, subject to amending an administrative error in the decision for Item 6.1 - DA-2013/56/03 – 13A Church Avenue, Mascot, that involves replacement of the first bullet point of decision 1 with the words: “Conditions 2 and 3 are amended to provide a figure of \$1,821,458.36 which is indexed as at today’s date for the Section 94 Contribution to be in accordance with Council’s Development Contribution Plan”.

### **5 Reports – Planning Proposals**

Nil.

### **6 Reports – Development Applications**

#### **6.1 DA-2016/402/A - 686 and 688 Princes Highway, Kogarah**

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

The following people spoke:

Andrew Minto - Principal of Minto Planning Services P/L and Iftekhar Abdullah - architect, spoke for the officer’s recommendation and responded to the Panel’s questions.

##### **Determination**

That Development Application DA-2016/402/A for the modification application to delete condition number 11A, 11B, 31, and 51 relating to loading bay, location of services and swept paths at 686 & 688 Princes Highway, Kogarah is APPROVED pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 subject to recommended conditions of consent.

##### **Reason for Determination**

- The applicant has demonstrated that the conditions as stated are impractical to implement.

- The revised landscaping plans provide an acceptable outcome in terms of presentation to the rear laneway.

## **6.2 DA-2016/401/B - 1/18 Market Street, Rockdale**

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

The following people spoke:

Karam Ibrahim - applicant, Habib Mehdi - Architect) and Pierre Khoury - Business Advisor/Project Manager spoke for the officer's recommendation and responded to the Panel's questions.

### **Determination**

- 1 That the Section 4.55 Application No.DA-2016/401 for modifications to conditions 5 and 9 relating to extension of trading hours to 6am to 12 midnight Friday and Saturday and 6am to 11pm Sunday to Thursday and removal of non-smoking sign on Brays Lane be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report and the following changes to the conditions:
  - Condition 9 is to be amended to read: "Smoking should only be carried out within the café property in the designated smoking areas."
  - Condition 9(c) is to be amended to read: "The consumption of food is prohibited in any smoking area."
  - An additional condition is to be added as follows: "Within nine months (and not less than six months) of commencement the operator shall provide certification to Council by suitably-qualified persons that the acoustic treatment and exhaust/ventilation systems are working in accordance with the relevant specifications."
- 2 That the objectors be advised of the Bayside Planning Panel's decision.

### **Reason for Determination**

- The applicant has adequately addressed the potential issues of noise and smoke impact on adjoining residences.
- The proposed extended hours of operation are considered reasonable, particularly in context of the Rockdale Town Centre Masterplan which advocates a vibrant and unique place.

## **6.3 DA-2017/501 - 41 Lynesta Avenue, Bexley North**

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

The following people spoke:

Thanh Quach – applicant, Dennis Mai – architect and Diana Brajuha - town planner, spoke for the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Bayside Planning Panel supports the variation to Clause 4.1(3B)(a) in accordance with the Clause 4.6 justification provided by applicant.
- 2 That the development application DA-2017/501 for the demolition of existing structures and construction of a two (2) storey attached dual occupancy and Torrens Title subdivision at 41 Lynesta Avenue, Bexley North is APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report subject to the deletion of Condition numbers 12, 68 and 80.

### Reason for Determination

- The Panel is of the view that the split driveway still provides sufficient on-street parking while presenting a better streetscape.
- The Panel is satisfied with the justification provided by the applicant pursuant to Clause 4.6 of the LEP in relation to minimum lot size for a subdivision.
- The design has been altered to address the comments of the previous Panel.

## 6.4 DA-2017/26 - 83-85 Railway Street, Rockdale

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

The following people spoke:

Mrs Christine Searle – affected neighbour, Mr James Searle – affected neighbour, Councillor Liz Barlow – affected resident, spoke against the officer's recommendation.

Joseph El Khawaja – Architect and Adam Burns – Town Planner at Think Planners, spoke for the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Bayside Planning Panel support the Clause 4.6 variation to Clause 4.3 of RLEP 2011 (Height) as requested by the Applicant.
- 2 That **DEFERRED COMMENCEMENT** consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979 in accordance with the Deferred Commencement Conditions provided below and subject to the conditions of consent attached to this report, with the following amendments:
  - Delete condition 22(c)

- An additional condition 44(e): “A total of three visitor parking spaces are to be provided within the basement.”
- An additional condition 44(f): “Parking for residential units shall be provided in accordance with the *Guide to Traffic Generating Developments*.”
- The following words are to be added after the first sentence of condition 57: “Particular attention should be paid to the adjoining Guild Theatre building” for the benefit of the Guild Theatre patrons.
- An additional condition be added requiring toilet facilities to be provided within, or in close proximity to, the ground floor commercial tenancy space.

This consent must not operate until you satisfy Council of the following matters:

- a. That approval / certification has been obtained from Sydney Trains as to the following matters and the approval / certification has been forwarded to the Council:
  - i. The Applicant shall prepare and provide to Sydney Trains for approval / certification the following items:
    - (a) Detailed Rail specific Geotechnical Engineering Report and Civil and Structural design plans that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains facilities by the development.
- b. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- c. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- d. Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains easement and rail corridor land.
- e. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

- i. Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.
- f. A voluntary planning agreement (VPA) in accordance with the offer set out in the letter from Think Planners to Bayside Council dated 2 March 2018 is to be entered into between the developer and Council.
- g. A draft Stratum Subdivision Plan for subdivision of the site into two (2) lots, including the rear portion of the site that is to be dedicated to Council (refer to Item (a) in the VPA Offer) and the remainder of the site. The area of land to be dedicated will be unlimited in height but limited in depth to approximately 1,200mm below the finished surface level of the pedestrian link. The plans are to be to the satisfaction of Council.
- h. Amended plans and information, accompanied by a Conservation Specification, prepared by a suitably qualified heritage architect / consultant shall be submitted to, and approved by, Council. The amended plans / information must address the following matters:
  - i. The front three (3) metres of the existing building being retained (including the basement being set back three metres from the front boundary).
  - ii. Retention of the existing central entry and 'Kadwell Chambers' sign over the door at the ground floor level (which may be used to house the fire booster valves).
  - iii. The layout of the ground floor reflecting the existing layout.
  - iv. The awning being retained or reconstructed to the same design.
  - v. Revised finishes schedule, accompanied by a sample of all materials and finishes. The schedule shall include details for all parts of the building including the roof top communal terrace and awning structures.
- i. A detailed structural engineering report prepared by a suitably qualified engineer shall be submitted to, and approved by, Council which demonstrates proposed construction methodologies and procedures, including staging of works and materials required, that will ensure protection of the front façade of the building (including the front 3m of the building as required by Item D above).

The report must conclude that the front façade and side walls (north and south) extending 3 meters from the frontage façade facing Railway Street can be maintained and protected and will withstand any demolition, excavation and construction works.

- 3 That the objectors be notified of the Bayside Planning Panel's decision.

#### **Reason for Determination**

- Since the previous panel decision to defer the application, there has been greater clarity provided by the finalisation of the planning proposal on adjoining land.

- Further consultation as occurred with the Guild Theatre operators.
- The retention of the original building façade as now proposed presents a better overall design outcome.

The Chairperson closed the meeting at \_\_:\_\_ pm.

Robert Montgomery  
**Chairperson**

---

**Bayside Planning Panel**

**12/06/2018**

Item No	6.1
Application Type	Modification to submission
Application No	DA-2016/310/B
Lodgement Date	20/03/2018
Property	<b>1 Bowood Avenue, Bexley</b>
Ward	Bexley
Owner	Mr D Salevski and Mrs C Vasilevska
Applicant	Mr D Salevski
Proposal	Modification of approved development to delete ground floor doors and replace with small windows in west elevation resulting from minor internal reconfiguration works; delete external cladding and replace with brick; delete ground floor bathroom; change roof material to tiles and rear single storey flat roof to pitched roof; render all elevations (light grey), and modify windows in west elevation and retain double garage
No. of Submissions	One letter of support and twelve (12) letters of objection and one petition containing 49 signatures objecting in response to the original notification letter.  Eight (8) letters of objection received in response to notification of the amended S4.55 Modification Application.
Cost of Development	\$660,000
Report by	Michael Maloof, Development Assessment Planner

---

**Officer Recommendation**

- 1 That Development Application No. DA-2016/310/B, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/310 (as modified) to delete ground floor doors and replace with small windows in west elevation resulting from minor internal reconfiguration works; delete external cladding and replace with brick; delete ground floor bathroom; change roof material to tiles and rear single storey flat roof to pitched roof; render all elevations (light grey), and modify windows in west elevation and retain double garage at 1 Bowood Avenue Bexley be **APPROVED** and the consent amended in the following manner:
    - (i) By amending condition no. 2 to read
  2. *The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.*
-



Plan/Dwg No.	Drawn by	Dated	Received by Council
<i>Schedule of External Colours and Finishes</i>	MCAD Design	11 May 2018	14 May 2018
<i>First Floor Plan/Ground Floor Plan/Site Plan, Drawing No. 1655-01, Rev F</i>	MCAD Design	10 May 2018	14 May 2018
<i>Elevations/Section AA, Drawing No. 1655-02, Rev F</i>	MCAD Design	10 May 2018	14 May 2018
<i>Roof Plan / Site Plan, Drawing No. 1655-09, Rev D</i>	MCAD Design	10 May 2018	14 May 2018
<i>Soil and Water MGMT Plan/Demolition Plan, Drawing No. 1655-03</i>	MCAD Design	5 February 2016	7 March 2016
<i>Concept Subdivision Plan, Drawing 1655-04</i>	MCAD Design	5 February 2016	7 March 2016

(ii) Amending Condition no. 5 to read:

*The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 707384M\_02 other than superseded by any further amended consent and BASIX certificate.*

*Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters:*

*(a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires*

*Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled.*

*Note: For further information please see <http://www.basix.nsw.gov.au>.*

(iii) By amending condition no. 10 to read:

*10. The materials and finishes of the dual occupancy development shall comprise a pitched tile roof, rendered brick walls and be sympathetic with the surrounding dwellings. In this regard, the development is subject to the approved Schedule of External Colours and Finishes as submitted with the amendment application.*

(iv) Additional condition no. 6A to read:

*6A. The first floor balcony at the rear of each dwelling shall not be enclosed at any future time without prior development consent.*

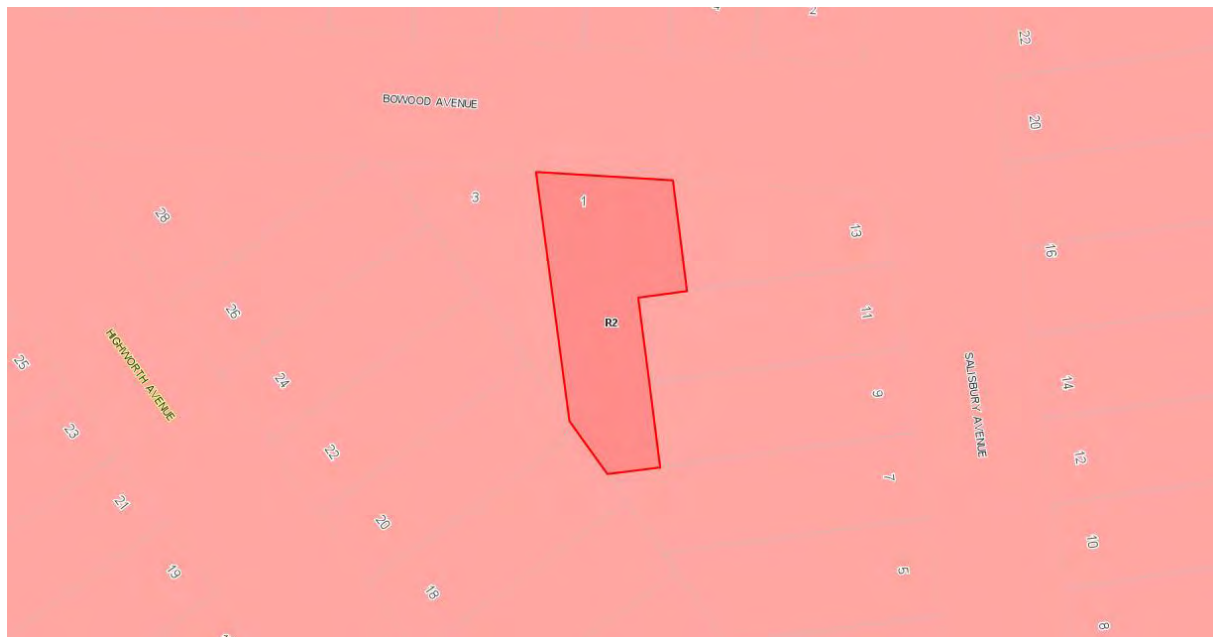
(v) Additional condition no. 20B to read:

*20B. A Building Certificate is to be obtained from Council prior to the release of any Occupation Certificate for the unapproved building works carried out on the site.*

2 That the objectors be notified of the Bayside Planning Panel's decision.

---

## Location Plan



---

## Attachments

- 1 Supplementary Planning Assessment Report
- 2 Schedule of External Colours and Finishes
- 3 Architectural Elevation Plans
- 4 Architectural Roof Plan
- 5 Previous Planning Assessment Report [↓↓↓↓↓](#)

---

## BAYSIDE COUNCIL

### Supplementary Planning Assessment Report

---

#### Application Details

---

<b>Item Number:</b>	<i>[By Governance]</i>
<b>Application Number:</b>	DA-2016/310/B
<b>Date of Receipt:</b>	20 March 2018
<b>Property:</b>	1 Bowood Avenue Bexley (Lot 48 in DP 8760)
<b>Owners:</b>	Mr Danny Salevski and Mrs Christina Vasilevska
<b>Applicant:</b>	Mr Danny Salevski
<b>Proposal:</b>	Modification of approved development to delete ground floor doors and replace with small windows in west elevation resulting from minor internal reconfiguration works; delete external cladding and replace with brick; delete ground floor bathroom; change roof material to tiles and rear single storey flat roof to pitched roof; render all elevations (light grey), and modify windows in west elevation and retain double garage
<b>Recommendation:</b>	Approval
<b>No. of Submissions:</b>	One letter of support and twelve (12) letters of objection and one petition containing 49 signatures objecting in response to the original notification letter. Eight (8) letters of objection in response to notification of the amended S4.55 Modification Application.
<b>Cost of Development:</b>	\$660,000
<b>Author:</b>	Michael Maloof, Senior Development Assessment Planner
<b>Date of Report:</b>	30 May 2018

#### Key Issues

---

On 8 May 2018, the Bayside Planning Panel (the Panel) considered this development application and resolved:

- 1 *That Development Application No. DA-2016/310/B, being a Section 4.55(1A) application to amend Development Consent Number DA2016/310 (as modified), to extend the roof over the rear first floor balconies, deletion of the ground floor doors and replacement with small windows in the western elevation, rear pitched roof, change roof material and modification of windows in the west elevation at 1 Bowood Avenue Bexley be DEFERRED to allow the applicant the opportunity to submit amended plans that:*
  - a. *Incorporate the roof and balcony enclosure of the rear first level at its original location.*
  - b. *Reinstate the tandem garage.*

eMerge\_Type\_Codes

- c. Consider the external brickwork / render as to the final finish.
- d. Incorporate such other amendments as the applicant may wish to pursue for consideration, such as fenestration.

- 2 That the amended plans and documentation should be provided to the Council within two weeks to allow the matter to be resubmitted back to the Panel for determination.

The proposal was amended by the applicant and now includes more appropriate finishes and materials which were made clear in the submitted plans. The Applicant has submitted the amended plans and information to address the issues raised by the Panel at their meeting of 8 May 2018 (shown above).

The adjoining owners were re-notified of the amended scheme and given a period of 14 days in which to make another submission regarding the changes to the previously approved development. The notification period expired on the 29 May 2018 and there were eight (8) letters of objection received by Council during that time.

The amended plans and information submitted has been reviewed and the application is recommended for Approval subject to the conditions attached in this Supplementary Report.

### Recommendation

- A. That Development Application No. DA-2016/310/B, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/310 (as modified), to delete ground floor doors and replace with small windows in west elevation resulting from minor internal reconfiguration works; delete external cladding and replace with brick; delete ground floor bathroom; change roof material to tiles and rear single storey flat roof to pitched roof; render all elevations (light grey), and modify windows in west elevation and retain double garage at 1 Bowood Avenue Bexley be **APPROVED** and the consent amended in the following manner:
- (i) By amending condition no. 2 to read
  - 2. *The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.*

Plan/Dwg No.	Drawn by	Dated	Received by Council
<i>Schedule of External Colours and Finishes</i>	MCAD Design	11 May 2018	14 May 2018
<i>First Floor Plan/Ground Floor Plan/Site Plan, Drawing No. 1655-01, Rev F</i>	MCAD Design	10 May 2018	14 May 2018
<i>Elevations/Section AA, Drawing No. 1655-02, Rev F</i>	MCAD Design	10 May 2018	14 May 2018
<i>Roof Plan / Site Plan, Drawing No. 1655-09, Rev D</i>	MCAD Design	10 May 2018	14 May 2018
<i>Soil and Water MGMT Plan/Demolition Plan, Drawing No. 1655-03</i>	MCAD Design	5 February 2016	7 March 2016
<i>Concept Subdivision Plan, Drawing 1655-04</i>	MCAD Design	5 February 2016	7 March 2016

- (ii) Amending Condition no. 5 to read:

*The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 707384M\_02 other than superseded by any further amended consent and BASIX certificate.*

*Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters:*

*(a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires*

*Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled.*

Note: For further information please see <http://www.basix.nsw.gov.au>.

- (iii) By amending condition no. 10 to read:

10. The materials and finishes of the dual occupancy development shall comprise a pitched tile roof, rendered brick walls and be sympathetic with the surrounding dwellings. In this regard, the development is subject to the approved Schedule of External Colours and Finishes as submitted with the amendment application.

- (iv) Additional condition no. 6A to read:

- 6A. The first floor balcony at the rear of each dwelling shall not be enclosed at any future time without prior development consent.

- (v) Additional condition no. 20B to read:

- 20B. A Building Certificate is to be obtained from Council prior to the release of any Occupation Certificate for the unapproved building works carried out on the site.

- B. That the objectors be notified of the Bayside Planning Panel's decision.

## Proposal

The applicant has amended the proposal in accordance with the previous directions of the Panel. This includes a reduction in the length of roof over the first floor balconies at the rear, reinstatement the tandem garage and render the entire building (**Figure 1**) in an appropriate colour. The proposal will also include replacing the cladding on the first floor at the side and rear elevations with full brick being rendered and painted and retain the pitched tile roof over the single storey portion of the dwelling at the rear of the site. The proposed modifications retain the same building height with a floor space ratio of 0.49:1.

The remainder of the proposal remains as described in the report submitted to the Panel on 8 May 2018.



**Figure 1** – Amended proposal including a rendered front façade and pitched tile roof.

### Assessment of the Panel's deferment

At the Bayside Planning Panel meeting of 8 May 2018, the Panel resolved the following changes to the scheme:

- Incorporate the roof and balcony enclosure of the rear first level at its original location.*
- Reinstate the tandem garage.*
- Consider the external brickwork / render as to the final finish.*
- Incorporate such other amendments as the applicant may wish to pursue for consideration, such as fenestration.*

Compliance with the Panel's recommendation is discussed below:

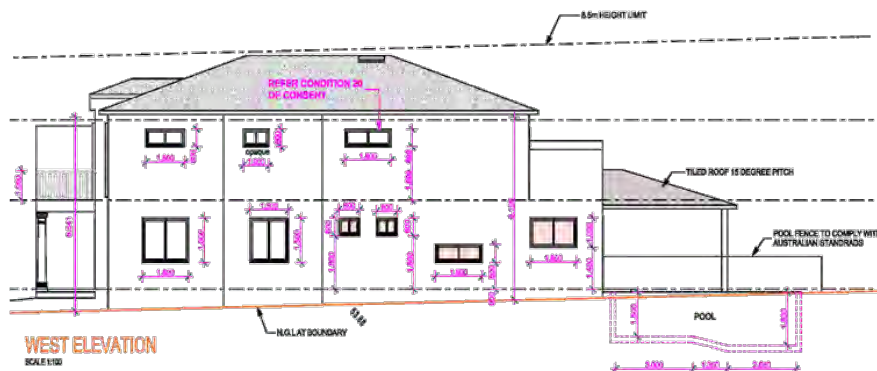
- Incorporate the roof and balcony enclosure of the rear first level at its original location.*

**Comment:**

The proposal has been amended to incorporate the previously approved roof over the two storey portion of the attached dual occupancy development with no structure over the first floor balconies to the rear which shall remain open as requested by the Panel.

In this regard, the plans now reflect the original location of the previously approved roof. However, the two side walls of the balcony being 1.7m high along each side edge are retained in order to minimise overlooking and are in accordance with the previous approval granted on the site. (**Figure 2**).





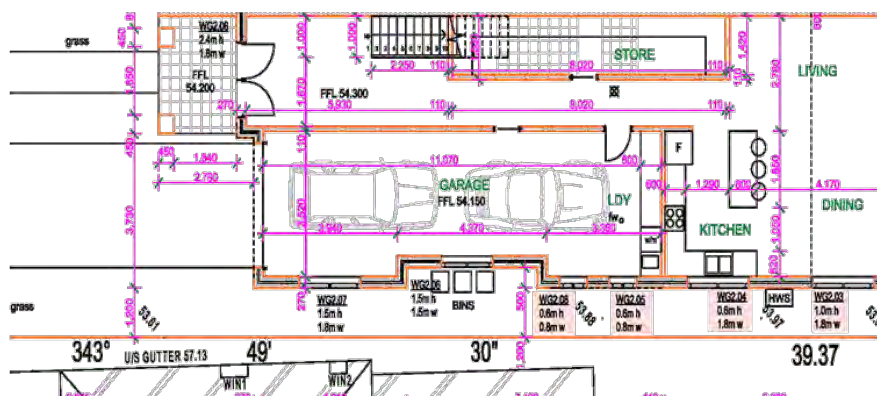
**Figure 2** – Elevation plan showing the roof being setback

b. Reinstate the tandem garage.

Comment:

The plans have been amended to reinstate the tandem garage which complies with Council's DCP in respect to car space dimensions, access and on-site car parking requirements for the site. (Refer to **Figure 3**). The proposal will allow both cars to be garaged at the same time and will retain the landscaped front setback which is consistent with neighbouring dwelling houses in the street.

The bathroom has been removed from the ground floor and the store room under the stairs and laundry within the garage have been retained in order to allow the double garage to be reinstated. This is not unreasonable as the first floor will contain both a bathroom and ensuite for the dwelling.



**Figure 3** – Reinstated tandem garage

*c. Consider the external brickwork / render as to the final finish.*

Comment:

The applicant has accepted the recommendations of the Panel and has amended the plans to render the entire building with a light grey (Dulux) colour or similar. An examination of the existing streetscape has revealed that there are half a dozen dwelling houses in the precinct some with a portion being light beige and others with white render while the adjoining dwelling house at 13 Salisbury Avenue contains a full render in light grey which is similar to that proposed on the subject site. This dwelling has a prominent location on a corner and is highly visible. In this regard, the proposal is not unlike other dwellings in the street, is not likely to dominate or challenge the existing streetscape along Bowood and Salisbury Avenues and is acceptable in this regard.

*d. Incorporate such other amendments as the applicant may wish to pursue for consideration, such as fenestration.*

The applicant will include the removal of the cladding on the side and rear of the building and the use of full masonry with a rendered painted finish. The amended proposal will also retain a pitched tile roof over the single storey component of the building at the rear.

The fenestration of openings within the western side elevation will remain the same as previously sought with this amending application. As such, the windows will improve privacy between adjacent properties and no objections are raised in this regard. Finally, the proposal includes conversion to a first floor concrete slab instead of a timber floor as previously approved on the site.

### **Assessment**

The applicant has agreed with the recommendations of the Panel and sought to improve the development through the changes in the design. The resulting development complies with the maximum height and floor space ratio controls under Council's LEP 2011 and is consistent with the requirements of Council's DCP 2011. The proposed development does not involve any changes to the setbacks, overall layout or floor levels as previously sought in the amending application.

The reduction in the length of roof will reduce the bulk and scale of the development when viewed from the adjoining properties. The tandem garage will improve the external appearance of the site and the proposed materials and finishes will substantially improve the external appearance of the development, particularly when compared with the common bricks currently used in all elevations.

### **Submissions**

Consideration has been given to the eight (8) letters of objection as outlined below:

- Objection to replacing face brick with rendered brick as out of character and inconsistent with Bowood Avenue and will exaggerate the size and scale of the bulk building



- The proposal will detract from my visual enjoyment of the streetscape

Comment: As discussed by the Panel, the use of common bricks is not appropriate for the development and the use of a render to seal the brickwork and provide an appropriate colour would be more compatible with the existing streetscape. The Panel has confirmed there are several other developments in the precinct with a render and painted finish being in part beige with one dwelling adjoining the site in the same light grey colour. In this regard, the applicant has considered the Panel's recommendation in providing a render and painted finish for the development.

- Bulk and scale
- Increasing the bulk of the patio roof

Comment: The proposal complies with the maximum floor space ratio applying to the site and includes minor internal changes which will not increase the building footprint on the site. The roof has been setback from the first floor balconies at the rear and therefore does not increase the bulk or scale of the previously approved development. The pitched roof over the single storey patio at the rear is not excessive and is not likely to unreasonably add to the bulk and scale of the previously approved development.

- Removal of cladding

Comment: While the removal of the cladding at the side and rear will reduce the range of materials, the entire building will be rendered and painted and is therefore not unreasonable in this regard.

- Loss of privacy to my back yard

Comment: This has been addressed in the previous assessment report (refer to section 4.4.5). There are no other changes to the proposal which would result in any increased privacy impacts when compared with the previously approved development on the site. Accordingly, the proposal does not require the use of any additional privacy measures and is acceptable in respect satisfying the requirements of Council's DCP in respect to privacy.

- Objection due to the history of unauthorised work by the developer

Comment: The letters of objection received discussed in detail the history of the building works on the site and express discontent with the developer. The history of the site is noted. Notwithstanding this, the current application will not alter the basis of the previous approval granted and seeks formal consent for changes to the previously approved development on the site.

- Arches built over the first floor balcony doors while plans note a flat lintel
- Enforcement of tandem garage questionable and deletion of bathroom

Comment: A site inspection revealed that arches have been built over the first floor balcony doors instead of a flat lintel as indicated on all of the plans submitted with the application. The objection is well founded and is another item of non-compliance with the applicant's own plans for the site. However, the arches shall be removed and replaced with a flat lintel and then rendered around the door openings as required on the latest plans with the application. Enforcement of the final plans shall be undertaken by the private certifier prior to the Occupation Certificate being issued for the site. This shall include all of the changes

including the tandem garage (with the waste pipes being made redundant), deletion of front arches, bathroom and so on.

Given the above, no objections are raised to the amendments sought and the proposal is acceptable subject to the recommended conditions.

#### *Conditions*

The application will include the following changes to conditions proposed in the previous report to the Panel on 8 May 2018:

Condition 2 shall be amended to refer to the amended plans that were revised in accordance with the recommendations of the panel

Condition 10 shall be amended as the rendered masonry walls are not required to be acid washed and the cladding on the first floor has been removed. Further, this condition shall reference the approved Schedule of External Colours and Finishes.

Condition 6A shall be retained as previously sought as the rear balconies shall not be enclosed at any future time without prior development consent.

Condition 20B shall be retained as previously sought as a Building Certificate is to be obtained from Council for the unapproved building works carried out on the site.

#### **Conclusion**

---

The issues raised by the Panel at their meeting of 8 May 2018 have been addressed. The revised plans were publically exhibited and eight (8) letters of objection were received from the owners in relation to the amended scheme. Issues have been considered and addressed.

The amended plans submitted to Council have been assessed and are considered to address issues raised by the Panel and result in an improved development for the Bexley precinct. Therefore, it is recommended that the Panel consider the amended plans and determine the application in accordance with the recommendation provided.

**SCHEDULE OF EXTERNAL COLOURS AND FINISHES**

1 BOWOOD AVENUE, BEXLEY NSW 2207

Date: 11/05/2018

**MATERIALS COLOUR SCHEDULE**

<b><u>BRICKWORK:</u></b>	RENDERED PAINTED LIGHT GREY (DULUX) OR SIMILAR
<b><u>ROOF TILES:</u></b>	CHARCOAL ROOF TILES OR SIMILAR
<b><u>WINDOWS:</u></b>	SURFMIST/ WHITE ALUMINIUM
<b><u>MOULDINGS:</u></b>	PAINTED WHITE/GREY (DULUX) OR SIMILAR
<b><u>GARAGE DOOR:</u></b>	CHARCOAL - TIMBER OR ALUMINIUM
<b><u>RAILINGS (BALUSTRATE):</u></b>	GLASS/WROUGHT IRON

**MCAD Design**

abn 33 139 182 219  
PO Box 280, Marrickville NSW 1475  
ph: 0412 840 507  
[tom@mcad.net.au](mailto:tom@mcad.net.au)





# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/310/B
<b>Date of Receipt:</b>	20 March 2018
<b>Property:</b>	1 Bowood Avenue, BEXLEY
<b>Owner(s):</b>	Mr Danny Salevski Mrs Christina Vasilevska
<b>Applicant:</b>	Mr Danny Salevski
<b>Proposal:</b>	Modification of approved development including extending roof over rear first floor balcony, deletion of ground floor doors and replacement with small windows in west elevation resulting from minor internal reconfiguration works, rear pitched roof, change roof material and modification of windows in west elevation
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	One letter of support, twelve letters of objection and one petition containing 49 signatures objecting to the proposal
<b>Author:</b>	Michael Maloof
<b>Date of Report:</b>	30 April 2018

### Key Issues

---

The key issues related to this application are:

- Extension of roof by 2.8m to cover the first floor rear balcony
- Car parking
- External appearance

### Recommendation

---

(A) That Development Application No. DA-2016/310/B, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/310 (as modified), to extend the roof over the rear first floor balconies, deletion of the ground floor doors and replacement with small windows in the western elevation, rear pitched roof, change roof material and modification of windows in the west elevation at 1 Bowood Avenue Bexley be **APPROVED** and the consent amended in the following manner:

(i) By amending condition no. 2 to read

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



following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
First Floor Plan/Ground Floor Plan/Site Plan, Drawing No. 1655-01, Rev E	MCAD Design	20 March 2018	24 April 2018
Elevations/Section AA, Drawing No. 1655-02, Rev E	MCAD Design	20 March 2018	24 April 2018
Roof Plan / Site Plan, Drawing No. 1655-09, Rev C	MCAD Design	20 March 2018	24 April 2018
Soil and Water MGMT Plan/Demolition Plan, Drawing No. 1655-03	MCAD Design	5 February 2016	7 March 2016
Concept Subdivision Plan, Drawing 1655-04	MCAD Design	5 February 2016	7 March 2016

- (ii) Amending Condition no. 5 to read:

*The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 707384M\_02 other than superseded by any further amended consent and BASIX certificate.*

*Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters:*

*(a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires*

*Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled.*

*Note: For further information please see <http://www.basix.nsw.gov.au>.*

- (iii) By amending condition no. 10 to read:

*10. The materials and finishes of the dual occupancy development shall comprise a pitched tile roof, acid washed face brick walls to be sympathetic with the surrounding dwellings and cladding to the bathroom and bedrooms 3 and 4 on the first floor as specified on the approved plans. An amended Schedule of Colours and Materials, shall be submitted to the satisfaction of the PCA.*

- (iv) Additional condition no. 6A to read:

*6A. The first floor balcony at the rear of each dwelling shall not be enclosed at any future time without prior development consent.*

- (v) Additional condition no. 20B to read:

*20B. A Building Certificate is to be obtained from Council prior to the release of any Occupation Certificate for the unapproved building works carried out on the site.*

- (B) That the objectors be advised of the Bayside Planning Panel's decision.

## Background

### History

The following applications have previously been considered by Council in relation to the subject site:

- DA-2016/310, Construction of two (2) storey dual occupancy, front boundary fence, Torrens Title subdivision, boundary adjustment and demolition of existing structures - Approved on 12 October 2016.
- DA-2016/310/A, Modification to include upper floor rear balconies, minor amendments to front facade and inground pool to unit 2 - Approved on 21 March 2017.

Amendments to the previously approved section 96 application (DA-2016/310/A) included changes to conditions 2, 5 10 (schedule of colours and materials), 20, 20A, 29A and 50A.

### Proposal

Council is in receipt of section 4.55(1A) application DA-2016/310/B at 1 Bowood Avenue Bexley which seeks consent to extend the roof over the rear first floor balcony, delete the ground floor doors and replace with small windows in the western side elevation resulting from minor internal reconfiguration works, rear pitched roof, change roof material and modify several windows in the west elevation.

The proposal consists of:

- 2.85m extension to the pitched roof over the rear first floor balconies.
- Replace the full length glazed doors with two highlight windows within the western elevation on the ground floor comprising two small square shape openings.
- Reduce the kitchen window sill height to the bench top and reduce the window height from 1.5m to 0.6m to underneath the wall cupboards.
- Reduce the height of the first floor window to bedroom 2 from 1.2m to 0.6m to become highlight and 1.8m above the floor level.
- Modify the dining room window by raising the sill height to 1.4m above floor level and reduce the window height from 1.5m to 1.0m
- Replace the flat skillion roof over the rear ground floor level with a pitched tile roof.
- Change the roofing material from metal to tile.
- Relocation of the bathroom and laundry on the ground floor adjacent to the western side elevation which will reduce the length of the tandem double garage (from 11m to 8.2m) making it a single car garage with storage room, and resulting in window and door changes described previously. In this regard, the second car parking space will be relocated to within the front building setback being an open car parking space.
- The proposal will increase the size of the store room under the stair (given the relocation of the bathroom and laundry rooms).



Some of the above works have been completed and a condition is proposed requiring submission and approval of a Building Certificate (BC) prior to the release of the Occupation Certificate.

The amendments outlined above involve the amendment to the conditions 2, 5 and 10 of the development consent to refer to the amended plans, revised BASIX Certificate and clarification of the final colours and materials in the development. The proposal also involves the imposition of two additional conditions of development consent being 6A and 20B. The amended conditions are to read as follows:

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
First Floor Plan/Ground Floor Plan/Site Plan, Drawing No. 1655-01, Rev E	MCAD Design	20 March 2018	24 April 2018
Elevations/Section AA, Drawing No. 1655-02, Rev E	MCAD Design	20 March 2018	24 April 2018
Roof Plan / Site Plan, Drawing No. 1655-09, Rev C	MCAD Design	20 March 2018	24 April 2018
Soil and Water MGMT Plan/Demolition Plan, Drawing No. 1655-03	MCAD Design	5 February 2016	7 March 2016
Concept Subdivision Plan, Drawing 1655-04	MCAD Design	5 February 2016	7 March 2016

*5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number **707384M\_02** other than superseded by any further amended consent and BASIX certificate.*

**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -

- (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

**Note:** For further information please see <http://www.basix.nsw.gov.au>.

*10. The materials and finishes of the dual occupancy development shall comprise a pitched tile roof, **acid washed** face brick walls to be sympathetic with the surrounding dwellings and cladding to the bathroom and bedrooms 3 and 4 on the first floor as specified on the approved plans.*

The new conditions are to read as follows:

6A. *The first floor balcony at the rear of each dwelling shall not be enclosed at any future time without prior development consent.*

20B. *A Building Certificate is to be obtained from Council prior to the release of any Occupation Certificate for the unapproved building works carried out on the site.*

### **Site location and context**

The subject site is known as Lot 48 in DP 8760, at 1 Bowood Avenue Bexley. The site is an L shape lot with a front boundary of 21.26m and a rear boundary width of 8.41m. The side boundaries are 39.37m and combined depth of 51.875m deep. The total site area is 736.3 sq.m. The topography of the site is such that it has a small fall to the street of 1m from the rear to the front.

The subject site contains a two-storey attached dual occupancy development which is currently under construction. The building works have almost been completed and comprises a ground and first floor concrete slab, brick walls and a timber pitched roof within on internal finishes or fittings. The site is located on the southern side of Bowood Avenue and is between Salisbury and Highworth Avenues. Adjoining development to the sides includes single and two storey established dwelling houses on each of the properties. The properties to the east back onto the site fronting Salisbury Avenue and contain detached garages. The rear yard of a row of single storey dwellings are situated on the adjoining properties to the west that front Highworth Avenue. There is a mix of one and two storey residential buildings within close proximity to the subject property.

## **Statutory Considerations**

---

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

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

### **S4.55 (1A) - Modification**

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:

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

Comment: The proposed modifications are minor in nature, including an extension to a roof over a balcony, minor internal reconfiguration works, change to roof material and modifications to windows and a door in a side elevation. In this regard, the proposed modifications are of minimal environmental impact.

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

Comment: The application is only for minor modifications to the development consent. The proposal

remains as previously approved, namely a dual occupancy development. The proposed modifications will not change the land use or substantially alter the nature of the development. As such it is considered substantially the same development.

c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: The application has been notified in accordance with the provisions of Council's DCP 2011.

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

Comment: Twelve letters of objection and one petition containing 49 signatures have been received by Council during the notification period. In addition, one letter of support was received. The issues raised have been addressed later in this report.

#### **S4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

S4.55(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

#### **S4.15 (1) - Matters for Consideration - General**

##### **S4.15 (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**

The applicant has submitted a BASIX Certificate for the proposed development as modified. The Certificate number is 707384M\_02.

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

Reduction in Energy Consumption 45 %

Reduction in Water Consumption 40 %

Thermal Comfort Pass

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

**Rockdale Local Environmental Plan 2011**

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes
6.2 Earthworks	Yes	Yes
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes
6.12 Essential services	Yes	Yes

**2.3 Zone R2 Low Density Residential**

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

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

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

**4.3 Height of buildings**

The height of the proposed building is 8.5m (RL 62.1 - NGL RL 53.60) which is the same as that previously approved and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map. Further, the proposed development is in keeping with the previously approved development on the site and will not alter the basis of the previous approval. In this regard, the proposed amendment does not represent any real change to the conclusions reached previously regarding the redevelopment of the site. Accordingly, the proposed height of the building satisfies the objectives of this clause.

**4.4 Floor space ratio - Residential zones**

The proposed amendment will involve minor changes to the ground floor including the relocated bathroom and laundry rooms that will now be included as GFA as they replace car parking that was not included as GFA. As such, the proposal will have a total gross floor area of 360.2m<sup>2</sup> over a site area of 736.23m<sup>2</sup> being an increase of 12m<sup>2</sup> on the site. In this regard, the proposed floor space ratio (FSR) for the entire dual occupancy is 0.49:1 and therefore does not exceed the maximum FSR for the land (0.5:1) as shown on the Floor Space Ratio Map. The proposal also complies with the maximum FSR control applying to each lot of 0.5:1 and therefore the proposed amendment is acceptable in respect to floor space ratio.

The proposed amendment will not alter the basis of the previous development approval for the site and there is no real change to the conclusions reached previously. Further, the proposed amendment will not alter existing character of the area.

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

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at RL 51.0m AHD. The building height is at 8.5m (RL 62.1m) and therefore will penetrate the OLS by 11.1m. Therefore, the original application sought approval under the Airports (Protection of Airspace) Regulations 1996, for the intrusion of the proposed development into the airspace, which under the regulations, is prescribed airspace for Sydney Airport.

In this regard, the original proposal was referred to Sydney Airports for comment which includes a maximum height at RL 62.1. Sydney Airports approved the proposal subject to a condition limiting the height to RL 62.1. The recommended condition has been included in the draft Notice of Determination and the current proposal satisfies the requirements of this clause.

#### **S4.15(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

#### **S4.15 (1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - Low and medium density residential	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes	Yes - see discussion
4.6 Parking Provisions - Alterations and additions	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The proposed amendment will involve the extension to the roof form a distance of 2.85m over the rear first floor balcony. The proposal is not likely to reduce any existing view corridors out over the subject site given the topography of the land and location of dwellings on the adjoining properties. As such, the proposal is not unreasonable in respect to views and complies with Council's requirements in this regard.

#### 4.2 Streetscape and Site Context - General

The previous approval includes a dual occupancy development with face brick finish and a metal roof on the site. The proposed amendment will not involve any changes to the front facade. However, it will involve changing the metal roof to tile. The external appearance of the previously approved dual occupancy development when viewed from Bowood Avenue will therefore remain as approved except for the tile roof which relates well with the context of the site. However, an inspection of the site revealed that the existing building under construction includes a brick finish which is constructed in "commons" brickwork which are ordinarily used when a building is to be rendered and painted. The applicant has been advised that this is contrary to the development consent issued for the site and that this application does not request approval to modify the materials. The applicant has accepted this and agreed to comply with the conditions in his development consent. As such, the applicant will retain the face brick finish. The inspection of the site also revealed that the timber pitched roof trusses constructed for the entire building are for roof tiles rather than a metal roof. The current amendment will also change the roof form of the rear section from the previously approved skillion metal roof to a pitched tile roof which is more consistent with the adjoining dwellings along Bowood Avenue.

Notwithstanding the above, the current proposal will retain the brick face finish and include a pitched tile roof as detailed on the amended plans. In this regard, the current proposal is acceptable and complies with Council's requirements in respect to streetscape.

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

The proposal will not result in any changes to landscaping and private open space areas for each dwelling on the site when compared with the previously approved development. Accordingly, the amended proposal is acceptable and complies with the requirements of this clause.

#### 4.4.1 Energy Efficiency - Residential

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

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

The proposed amendment will include a 2.85m extension to the approved pitched tile roof above the first floor and a new pitched tile roof at the rear for the single storey component of the previously approved dual occupancy development. As such, the proposal will result in a small extension to the line of shadow cast by the development over the rear of the site and part of the adjoining properties to the east and west.

The proposal will result in shadows being cast over the adjoining property to the west (3 Bowood Avenue) during the morning and to the east (9 Salisbury Avenue) in the afternoon during the winter months. An examination of the shadow diagrams submitted with the application has revealed that the expected increase in shadows is accurate and indicates an increase in the line of shadow between 1m and 2m over the adjoining properties at different times of day of mid winter. The subject site has a north south orientation and as such the anticipated increase in the shadow lines will affect one adjoining property in the morning, the rear yard of the subject site at midday and the other one in the afternoon. Notwithstanding this, the adjoining properties will retain 3 hours of direct sunlight to each dwelling and 50% of private open space areas at the rear of the adjoining properties even during the winter months. As such, the proposal complies with Council's requirements despite the minor increase in the extent of overshadowing. Accordingly, the proposal complies with the requirements of this clause and is acceptable in respect to solar access.

#### 4.4.5 Visual privacy

The proposed changes to the door and window openings within the western side elevation will result in windows replacing the full length glazed doors and smaller window openings replacing the larger windows at both ground and first floor level. In this regard, the changes to the openings are likely to increase privacy and not result in any greater adverse amenity impacts on the adjoining property to the west. The first floor balconies will retain the previously approved 1.7m high privacy screens (being previously approved as solid brick to 1.7m) on the side edge of each balcony and the dividing wall between the two balconies. As such, the proposal will not increase overlooking to the adjoining properties and will not result in any greater adverse privacy impacts than the previously approved balconies. As such, it is considered that the proposal does not require the use of any additional privacy measures and is acceptable in respect to privacy and amenity and satisfies the objectives of this clause.

#### 4.6 Parking Provisions - Alterations and additions

The proposal includes a relocation of the bathroom and laundry on the ground floor adjacent to the western side elevation which will reduce the length of the tandem double garage making it a single car garage with storage room. In this regard, the second car parking space will be relocated to within the front building setback being an open car parking space. The amended scheme will therefore comply with Council's DCP in providing two on site car parking spaces on the site and no objection is raised to the proposal in this regard.

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

The proposed amendment will retain the same front, side and rear setbacks as previously approved on the subject site. Apart from the extension to the roof over first floor balconies at the rear which is setback a minimum of 10.365m from the rear boundary, the proposal will include the same building mass as previously approved on the site. Accordingly, the proposal complies with the setback requirements of this clause and is acceptable in this regard.

### **S4.15(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - *Demolition of Structures* when demolition of a building is involved. In this regard the condition of consent originally imposed to ensure compliance with the standard will be retained in the Notice of Determination.

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

proposal.

#### **4.15(1)(b) - Likely Impacts of Development**

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

##### **Construction**

Construction of the proposed dual occupancy development is nearing completion. It is constructed in brick and pitched tile roof with concrete floors. There are no specific issues relating to the BCA in the proposed design as modified. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

##### **General**

The proposed amendments have been assessed under Council's LEP and DCP and found to comply. In this regard, the modifications are acceptable and not likely to result in any significant adverse impacts subject to the imposition of the conditions in the draft Notice of Determination. The proposed changes to the roofing and some internal rooms has been assessed against the relevant DCP and found to comply. Accordingly, the proposal complies with Council's requirements and is acceptable in this regard.

#### **S4.15(1)(c) - Suitability of the site**

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

#### **S4.15(1)(d) - Public submissions**

Adjoining owners were notified of the development in accordance with the provisions of Rockdale DCP 2011 from 5 April 2018 to 20 April 2018. During the notification period thirteen (13) submissions have been received, one of which is in support of the proposal. On 29 April 2018 a petition was received by Council containing 49 signatures. The issues raised in the petition and submissions against the proposal are discussed below:

Issue 1: Increased bulk of development due to unapproved changes, the building has become over sized, bulky and awkward, gross over-development

Comment: The current proposal will increase the gross floor area on the site for one dwelling by 12m<sup>2</sup> however, it will reduce the garage by the same amount. As such, the proposed amendment will be contained wholly within the existing built form. Notwithstanding this, the proposal complies with the maximum permissible floor space ratio of 0.5:1 under the Rockdale LEP 2011 which applies to the individual proposed lots and the overall site. The extended length of roof over the first floor balcony to the rear is minor when compared with the overall building and will retain a minimum setback of 10.365m from the rear boundary. Further, the proposed roof form over the single storey section at the rear will change from a flat roof to a pitched tile roof. The changes to the roof will not include any additional GFA on the site.



Overall, the change will have minimal impacts on bulk and scale when viewed from adjoining properties. As such, the proposed amendment will not increase the size or scale of the previously approved dual occupancy development to any unreasonable degree and complies with Council's requirements.

**Issue 2: Loss of privacy**

Comment: This has been addressed previously in this report where it was found that the proposed changes would reduce privacy impacts. (Please refer to section 4.4.5 of this report).

**Issue 3: The proposal will change the nature of the locality, will dominate the landscape and impact on surrounding residents**

Comment: Other than the front setback containing a permanent open car parking space rather than temporary one, there is no visible difference between the current scheme and the previous approval when viewed from Bowood Avenue apart from the roof change from metal to tiles. The front and rear setbacks will retain the same amount of landscaping which is capable of softening the proposed development. While the rear elevation is notably different with the roof extension and hipped roof on the ground floor, otherwise the proposal will not involve any increase in building height or reduction in setbacks from boundaries. As such, the proposal will have minimal impacts on the buildings appearance when viewed from the street or any adjoining property and the use of roof tiles will better integrate the development into the existing streetscape.

**Issue 4: Changes to the exterior including bagging or rendering of all brickwork are proposed instead of face brick which was to be sympathetic to neighbouring street buildings**

Comment: The current amendment will involve a change to the external appearance of the previously approved development in respect to the roof for the rear portion and the use of tiled roofing for the whole building. In this regard, the plans that were placed on notification stated the words "front facade change for section 96 modification" however, this was on the plans from the previous amendment application which the applicant overlooked and failed to remove from the plans. Subsequently, the applicant submitted a revised plan which clearly shows the development will involve retention of the brick face exterior as previously approved on the site which is in accordance with condition 10 of the previous development consent. In this regard, condition 10 has been amended in the current application to reaffirm this and clarify the external building materials to ensure the proposal is consistent with the context of the site and surrounding locality. Accordingly, the current amendment will retain a brick face finish and is acceptable in this regard.

As discussed previously in this report, an inspection of the site revealed that the bricks used in the construction of the dual occupancy are not smooth face bricks but rather "commons" which are usually used when a building is to be rendered. In this instance, the applicant was reminded to comply with the previously approved plans which clearly show the development will be constructed with a face brick finish.

**Issue 5: How was the site monitored by the certifier when so many breaches were carried out without objection - the works sought have already been carried out**

Comment: The private certifier raised concerns with the builder and owner of the property. This section 96 application was subsequently lodged with Council to address the changes to the scheme. In this regard, adjoining residents can lodge a complaint with the Building Professional Board (BPP).

**Issue 6: Extension of the roof over the balconies results in the balconies becoming habitable rooms -**

the balconies will be fully enclosed

Comment: The proposal will include construction of a pitched tile roof over the previously approved first floor balconies at the rear. However, the plans detail the balconies will be open to the air on the rear and side elevations. The side walls along the edges of the balconies contain a 1.7m privacy screen to reduce privacy impacts. This is consistent with the previous approval and indicates the balconies are not enclosed. An additional condition is proposed requiring that the balconies must not be enclosed at any future time. Accordingly, the proposed amendment is acceptable in this regard.

**Issue 7: Overshadowing**

Comment: This has been addressed previously in this report (please refer to section 4.4.2).

Overshadowing impacts were found to be minimal and in accordance with the requirements in Council's DCP 2011.

**Issue 8: Changes to the garage will increase FSR, reduce on site parking and then impact the parking for local residents**

Comment: The proposed amendment will include relocation of the bathroom and laundry to the west side of one dwelling which will increase the gross floor area on the site. However, the change will not result in any increase in the size of the building as it will replace existing garage floor space. The dwelling will also still comply with the maximum permissible floor space ratio of 0.5:1 applying to that proposed lot and for the overall site. The proposed amendment will relocate one car parking space from the attached garage to the front building setback. This complies with Council's DCP in respect to parking and is not unlike other developments in the street. As such, the proposal will retain two on site car parking spaces and will not result on any on street parking impacts or affect parking in the street for local residents. Accordingly, the proposal complies with Council's DCP and is acceptable in respect to parking.

**Issue 9: Previous DA had a cost of \$660,000 and fees and charges were based on this figure - the two amendments included changes yet costs were zero - how is this possible?**

Comment: While the fees charged for the original development application were based on the cost of construction under the relevant legislation, fees charged by Council for the section 96 application were not. A standard fee was applicable and was paid by the applicant at the time of lodgement. In this regard, a standard fee for the amendment was imposed and the cost of the construction changes was not required to be documented.

**Issue 10: The current proposal is "development creep" resulting in significant changes over time. Council should not support the amendment until all irregularities and departures from the previous approval are dealt with and rectified.**

Comment: The current amendment contains unauthorised works, minor changes and therefore may constitute "development creep". However, the changes will not alter the basis of the previous approvals granted on the site nor the type of development previously approved which is for an attached dual occupancy development. Accordingly, the current application seeks formal consent for the changes to the previously approved development on the site, and a condition is proposed to be imposed requiring that a Building Certificate Application be obtained for all unauthorised works prior to the issue of any Occupation Certificate.

**S4.15(1)(e) - Public interest**

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that

the proposed development is in the public interest.

### **S7.11 Contribution towards provision or improvement of amenities or services**

The previously approved dual occupancy development included a fee levied under this section of the Act. The current proposal will not alter this situation and accordingly, the proposal satisfies the requirements of this clause.

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

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

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

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

### **Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas**

The proposal is affected by the 15.24m Building Height Civil Aviation Regulations, however the proposed building height at 8.5m will have minimal impact upon the height requirement in the regulations.

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

### **General Conditions**

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

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

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
<i>First Floor Plan/Ground Floor Plan/Site Plan, Drawing No. 1655-01, Rev E</i>	<i>MCAD Design</i>	<i>20 March 2018</i>	<i>24 April 2018</i>
<i>Elevations/Section AA, Drawing No. 1655-02, Rev E</i>	<i>MCAD Design</i>	<i>20 March 2018</i>	<i>24 April 2018</i>
<i>Roof Plan / Site Plan, Drawing No. 1655-09, Rev C</i>	<i>MCAD Design</i>	<i>20 March 2018</i>	<i>24 April 2018</i>

Soil and Water MGMT Plan/Demolition Plan, Drawing No. 1655-03	MCAD Design	5 February 2016	7 March 2016
Concept Subdivision Plan, Drawing 1655-04	MCAD Design	5 February 2016	7 March 2016

*[Amendment B - Section 96(1A) amended on 8 May 2018]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. *The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 707384M\_02 other than superseded by any further amended consent and BASIX certificate.*  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
*Note: For further information please see <http://www.basix.nsw.gov.au>.*

*[Amendment B - Section 96(1A) amended on 8 May 2018]*

6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
- 6A. *The first floor balcony at the rear of each dwelling shall not be enclosed at any future time without prior development consent.*

*[Amendment B - S96(1A) inserted on 8 May 2018]*

*Reason for additional condition 6A is:*

- *To ensure the proposal complies with the controls applying to the site*
  - *To ensure the proposal is not an over-development of the site*
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
  8. The dwelling located on the eastern part of the site shall be known as 1 Bowood Avenue and the dwelling located on the western part of the site shall be known as 1A Bowood Avenue.
  9. The two dwellings, being dwelling 1 and dwelling 2 in the stamped Site Plan shall each be used as a single occupancy.
  10. *The materials and finishes of the dual occupancy development shall comprise a pitched tile roof, acid washed face brick walls to be sympathetic to surrounding dwellings and cladding to the bathroom and bedrooms 3 and 4 on the first floor as specified on the approved plans.*

*[Amendment B - Section 96(1A) amended on 8 May 2018]*

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

11. All condensation from the air conditioning unit shall be discharged into the sewerage system.
12. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
13. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
14. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
15. Trees located within the footprint of the proposed buildings may be removed.
16.
  1. An amended stormwater plan prepared by a suitably qualified hydraulic engineer must be submitted to the PCA prior to the issue of a Construction Certificate. The amended stormwater plan must include the following offset from the existing Eucalyptus tree in the street reserve in front of proposed Lot 1:
    - (a) An AQF Level 5 qualified Arboriculturist shall determine appropriate offset from the existing Eucalyptus. Note. This offset shall determine the minimum distance any stormwater pipes can be located from the Eucalyptus tree.
  2. An Arboriculturist is to supervise any excavations that may occur within the tree protection zone of the Eucalyptus tree located on the street reserve in front of proposed Lot 1.
  3. Any utility services to be located underground within the TPZ of the Eucalyptus tree located on the street reserve in front of proposed Lot 1, are to be undertaken utilising excavation techniques that prevent or minimise damage to structural roots (roots greater than 20 mm diameter). Further, in order to prevent soil compaction and root damage these works should be conducted with non-motorised hand tools, air knife or directional drilling.
17. Temporary site access during demolition and construction, and the proposed vehicle entrance shall be located not less than 2 metres from the base of the Eucalyptus Tree in the street reserve of Bowood Avenue.
18. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.  
The Registered Proprietor will:

- i). permit stormwater to be temporarily detained by the system;
  - ii). keep the system clean and free of silt, rubbish and debris;
  - iii). maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv). carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v). not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi). permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii). comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
19. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
20. The window of bedroom 2 of the dwelling on proposed Lot 1 and the window of bedroom 2 of the dwelling on proposed Lot 2, identified as WF1.06 and WF2.07 on the First Floor Plan/ Ground Floor Plan/ Site Plan prepared by MCAD Design (revision A), shall have window sill heights of a minimum 1.7 metres measured from fixed floor level, or shall be obscured to a minimum height of 1.7 metres measured from fixed floor level.
- 20A. The pool is for the private use of the dwelling residents only and not for public use.

The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 8pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926. Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926.

Suitable depth markers shall be provided at each end of the swimming pool.

The motor, filter, pump and all sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to the neighbours.

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Bayside Council or the Royal Life Saving Society.

[Amendment A - Section 96(1A) amended on 21 March 2017]

**Reasons for additional condition:**

- to ensure the swimming pool complies with the Swimming Pool Act and Council's

requirements;

- to ensure the swimming pool is constructed appropriately and is acceptable in respect to construction;
- to ensure the swimming pool has appropriate levels of safety for the future users.

[Amendment A - Section 96(1A) inserted on 21 March 2017]

- 20B. *A Building Certificate is to be obtained from Council prior to the release of any Occupation Certificate for the unapproved building works carried out on the site.*

[Amendment B - S96(1A) inserted on 8 May 2018]

*Reason for additional condition 20B is:*

- *To ensure development consent is obtained for unauthorised works*
- *To ensure the proposal as modified complies with the Building Code of Australia*

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

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

21. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$2,508.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
22. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
23. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
24. A Section 94 contribution of \$11,122.83 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only

for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$9,481.84
Community Services & Facilities	\$552.65
Town Centre & Streetscape Improvements	\$207.70
Pollution Control	\$819.57
Plan Administration & Management	\$61.07

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

25. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
26. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
27. The residential dwellings are to be designed and constructed to achieve interior noise levels which comply with Australian Standard 2012-2000 Acoustic - Aircraft Noise Intrusion. An appropriately qualified Noise Consultant is to advise on appropriate measures to be incorporated in the design of the building so that it will meet this standard. The information shall be submitted to Council prior to issue of the Construction Certificate.
28. A Waste Management Plan shall be prepared and implemented in accordance with Council's Development Control Plan 2011.
29. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater and the treatment of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Council's Technical Specification – Stormwater Management, and drainage design calculations and conformance with stormwater pollution reduction targets using MUSIC modelling are to be submitted with the plans. Council's Technical Specification – Stormwater Management sets out the minimum documentation requirements for detailed design plans and minimum pollution reduction targets.  
Note: The plans shall also be certified by a suitably qualified structural engineer deeming the proposed OSD tank can withstand the forces imposed by a fully laden delivery vehicle.
- 29A. A landscape plan, prepared by a qualified Landscape Architect or Landscape Designer/Consultant, shall be submitted to Council or the accredited certifier (AC) for approval with or before the application for a Construction Certificate. The plan shall be at a scale of 1:100 or 1:200 and comply with Rockdale Technical Specification Landscape and all other relevant conditions of this Consent.

[Amendment A - Section 96(1A) amended on 21 March 2017]



**Reason for additional condition:**

- to update the landscape plan in accordance with the current changes;
- to ensure the landscape is consistent with Council's DCP.

[Amendment A - Section 96(1A) inserted on 21 March 2017]

**Prior to commencement of works**

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

30. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

31. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
32. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
33. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
34. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
35. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

**During demolition / excavation / construction**

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

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

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request. If Council is appointed as the Principal Certifying Authority, 48 hours notice is to be given that the above works is ready for inspection.
39. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
40. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

41. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
42. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
43. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
44. Provide drop edge beams where and if necessary to contain all filling within the building envelope.
45. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
46. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
47. The new building work shall be protected in accordance with the provisions of AS

3660.1-2000 'Termite Management - Part 1: New Building Work', as required by Part 3.1.3 of the Building Code of Australia. Certification is required to be submitted to the Principal Certifying Authority (PCA), prior to the next stage of works to ensure that the selected method of treatment is in compliance with the relevant provisions of the standard. Such certification is to be prepared by a suitably qualified person.

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

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

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and

maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 49. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 50. The existing Eucalyptus street tree located at the front of the property is not to be removed or pruned, including root pruning, without the written consent of Council.
- 50A. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i) prior to pouring any in-situ reinforced concrete building element,
    - a. Steel reinforcement for structure concrete, and
    - b. Pool fencing and associated gates (before the filling of pool), and
  - ii) after the building work has been completed and prior to any occupation certificate being issued in relation to the building
    - a. After the construction of the swimming pool is completed and barrier (if one is required under the Swimming Pools Act 1992) has been erected and before the pool is filled with water, and
    - b. Completion of the pool before use incorporating depth markers and resuscitation chart.

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

[Amendment A - Section 96(1A) inserted on 21 March 2017]

**Reasons for additional condition:**

- to ensure the swimming pool complies with the Swimming Pool Act and Council's requirements;
- to ensure the swimming pool is constructed appropriately and is acceptable in respect to construction;
- to ensure the swimming pool has appropriate levels of safety for the future users.

[Amendment A - Section 96(1A) inserted on 21 March 2017]

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

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

51. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
52. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
53. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
54. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
55. The width of the single driveway of proposed Lot 2 shall be a minimum of 2.5 metres and a maximum of 3.0 metres.

The width of the double driveway at the boundary of proposed Lot 1 shall be a maximum of 5 metres.

Note: Council's Vehicular Entrance Policy restricts the width of the vehicular entrance over the footpath to a maximum of 4.5 metres.

The distance between the driveway of proposed Lot 2 and proposed Lot 1 shall be a minimum 6 metres.

56. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
57. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
58. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
59. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
60. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

61. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter, referenced FA-2016/03, issued by Council on 9 July 2015.
62. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
63. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

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

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

64. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
65. The endorsed subdivision certificate shall not be released until completion of the development and the issue of the Final Occupation Certificate.
66. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
67. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

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

68. The new lots created are to be numbered lot 700 and lot 701.
69. All existing and proposed services on the property shall be shown on a plan, and

shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.

70. A positive covenant shall be provided over the on-site detention system. A Section 88B Instrument and four copies shall be lodged with the Subdivision/Strata Certificate.
71. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Energy Australia's specifications. Energy Australia will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Energy Australia shall be obtained prior to the issue of the Subdivision Certificate.
72. Council will not issue the Subdivision Certificate unless the following has been provided to Council:
  - Works-As-Executed Plan for Stormwater Drainage System
  - Engineer's Compliance certificate for Stormwater Drainage System & work as executed drawing
  - Final Occupation Certificate
  - Utility Service Plan
  - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
  - Landscape certification (if Council not appointed as PCA)
  - Administration Sheet and 88B instruments prepared by a qualified surveyor

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

73. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 62.10 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield manager of the finished height of the building.

**Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the buildings. Construction



cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations, therefore Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

### **Roads Act**

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

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

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

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

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

- i) construction of two new fully constructed concrete vehicular entrances;
- ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iii) removal of redundant paving;
- iv) smooth transition with new driveways and footpath areas.

76. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
77. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
78. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
79. Following completion of concrete works in the footpath reserve area, the balance of

the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

### Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- e. If Council is the Principal Certifying Authority for the development, a drainage inspection fee shall be paid prior to the issue of the Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

NB: This fee does not include a confined space entry into the on-site detention tank. Where a confined space entry is required, an additional fee is payable. A confined space entry will be required where:

- a) Information provided in the works-as-executed drawing and engineering certification is inconclusive as to the compliance of the system with the approved plans; and/or
- b) Visual inspection from outside the tank is inconclusive as to the compliance of the system with the approved plans.

- f. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
- i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into 2 lots;
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- g. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate, and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- h. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005
- All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.
- i. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall

be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.

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

## Bayside Planning Panel

12/06/2018

Item No	6.2
Application Type	Modification to Submission
Application No	DA-2016/215/A
Lodgement Date	03/11/2017
Property	<b>17-19 Belmore Street, Arncliffe NSW 2205</b>
Ward	Mascot
Owner	M.R & Family Pty Ltd
Applicant	Architecture & Building Works Pty Ltd
Proposal	Modification Application to amend the approved ground floor level resulting in an increase in overall building height; change external materials and finishes; relocate booster assembly and minor amendment to conditions of consent
No. of Submissions	Two submissions received
Cost of Development	Nil
Report by	Michael Maloof, Development Assessment Planner

## Officer Recommendation

- 1 That Development Application No DA-2016/215/A, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/215, to amend the approved ground floor level resulting in an increase in overall building height; change external materials and finishes; relocate booster assembly and minor amendment to conditions of consent at 17-19 Belmore Street Arncliffe be APPROVED and the consent amended in the following manner:
  - a. By amending condition no. 2 to read:
    2. *The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.*

Dwg No. / Issue	Plan title	Drawn by	Dated	Received by Council
A012 / 3	Site Plan	Architecture and Building Works	6.4.16	11/4/16
A013 / 5	Lower Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A014 / 5	Upper Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A015 / 5	Ground Floor Plan	Architecture and Building Works	30/01/18	30/01/18
A016 / 5	Level 1 Plan	Architecture and Building Works	30/01/18	30/01/18
A017 / 5	Level 2 Plan	Architecture and Building Works	30/01/18	30/01/18
A018 / 5	Level 3 Plan	Architecture and Building Works	30/01/18	30/01/18
A019 / 5	Level 4 Plan	Architecture and Building Works	30/01/18	30/01/18
A020 / 5	Roof Plan	Architecture and Building Works	30/01/18	30/01/18
A021 / 6	East Elevation	Architecture and Building Works	30/01/18	30/01/18
A022 / 6	North Elevation	Architecture and Building Works	30/01/18	30/01/18
A023 / 6	South Elevation	Architecture and Building Works	30/01/18	30/01/18
A024 / 6	West Elevation	Architecture and Building Works	30/01/18	30/01/18

A025 / 7	Section A-A	Architecture and Building Works	30/01/18	30/01/18
A026A / 4	Section C-C	Architecture and Building Works	30/01/18	30/01/18
A0000	Material Sample	Architecture and Building Works	April 2016	11/4/16
A033 / 3	Adaptability details	Architecture and Building Works	6/4/16	11/4/16
A033/A / 2	Adaptable Unit	Architecture and Building Works	6/4/16	11/4/16

- b. By amending condition no. 124 to read:

124. *In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Belmore Street will be required to be undertaken at the applicant's expense:*

- (i) Construction of stormwater pits and pipes in Belmore Street;*
- (ii) Construction of streetscape works in Belmore Street.*

*Note: Detailed plans, including plans and longsections of the pipes, are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate. In addition to engineering plans, detailed traffic management plans and erosion and sediment control plans are required. Traffic management plans are required to be prepared in accordance with AS1742 and RTA guidelines. Erosion and sediment control plans shall be prepared in accordance with the Department of Housing "Blue Book".*

- c. By deleting the following conditions:

- 43(e) *The rear 1.6m section of the patio areas for Units G.01 and G.02 which protrude beyond the upper level building must, for those sections provided at grade, be amended to be porous paving to ensure that natural water penetration within this rear area is maximised.*
- 115 *The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.*
- 119 *The outside finished ground level shall be constructed a minimum of 200mm below the habitable floor level for the whole building perimeter.*

- 2 That the objectors be advised of the Bayside Planning Panel's decision
-

## Location Plan



## Attachments

- 1 Planning Assessment Report
- 2 Site Plan
- 3 Elevation Plan North
- 4 Elevation Plan East
- 5 Elevation Plan South
- 6 Elevation Plan West
- 7 Section A-A Plan
- 8 Section C-C Plan [↓↓↓↓↓↓↓↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/215/A
<b>Date of Receipt:</b>	3 November 2017
<b>Property:</b>	17 Belmore Street, ARNCLIFFE (Lot 17 DP 1003901), (Lot 18 DP 1411) 19 Belmore Street, ARNCLIFFE (Lot 16 DP 1003901)
<b>Owner:</b>	M.R & Family Pty Ltd
<b>Applicant:</b>	Architecture & Building Works Pty Ltd
<b>Proposal:</b>	17 & 19 Belmore Street, Arncliffe NSW 2205 - Modification Application to amend the approved ground floor level resulting in an increase in overall building height; change external materials and finishes; relocate booster assembly and minor amendment to conditions of consent
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Two submissions received
<b>Author:</b>	Michael Maloof
<b>Date of Report:</b>	28 May 2018

### Key Issues

---

The key issues related to this application are:

- Building Height
- Pedestrian access from the street
- Streetscape

### Recommendation

---

That Development Application No DA-2016/215/A, being a Section 4.55(1A) application to amend the approved ground floor level resulting in an increase in overall building height; change external materials and finishes; relocate booster assembly and minor amendment to conditions of consent at 17-19 Belmore Street Arncliffe be APPROVED and the consent amended in the following manner:

A. By amending condition no. 2 to read

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



Dwg No. / Issue	Plan title	Drawn by	Dated	Received by Council
A012 / 3	Site Plan	Architecture and Building Works	6.4.16	11/4/16
A013 / 5	Lower Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A014 / 5	Upper Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A015 / 5	Ground Floor Plan	Architecture and Building Works	30/01/18	30/01/18
A016 / 5	Level 1 Plan	Architecture and Building Works	30/01/18	30/01/18
A017 / 5	Level 2 Plan	Architecture and Building Works	30/01/18	30/01/18
A018 / 5	Level 3 Plan	Architecture and Building Works	30/01/18	30/01/18
A019 / 5	Level 4 Plan	Architecture and Building Works	30/01/18	30/01/18
A020 / 5	Roof Plan	Architecture and Building Works	30/01/18	30/01/18
A021 / 6	East Elevation	Architecture and Building Works	30/01/18	30/01/18
A022 / 6	North Elevation	Architecture and Building Works	30/01/18	30/01/18
A023 / 6	South Elevation	Architecture and Building Works	30/01/18	30/01/18
A024 / 6	West Elevation	Architecture and Building Works	30/01/18	30/01/18
A025 / 7	Section A-A	Architecture and Building Works	30/01/18	30/01/18
A026A / 4	Section C-C	Architecture and Building Works	30/01/18	30/01/18
A0000	Material Sample	Architecture and Building Works	April 2016	11/4/16
A033 / 3	Adaptability details	Architecture and Building Works	6/4/16	11/4/16
A033/A / 2	Adaptable Unit	Architecture and Building Works	6/4/16	11/4/16

By amending condition no. 124 to read

124. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Belmore Street will be required to be undertaken at the applicant's expense:

- (i) Construction of stormwater pits and pipes in Belmore Street;
- (ii) Construction of streetscape works in Belmore Street.

*Note: Detailed plans, including plans and longsections of the pipes, are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate. In addition to engineering plans, detailed traffic management plans and erosion and sediment control plans are required. Traffic management plans are required to be prepared in accordance with AS1742 and RTA guidelines. Erosion and sediment control plans shall be prepared in accordance with the Department of Housing "Blue Book".*

**B. By deleting the following conditions:**

43(e). The rear 1.6m section of the patio areas for Units G.01 and G.02 which protrude beyond the upper level building must, for those sections provided at grade, be amended to be porous paving to ensure that natural water penetration within this rear area is maximised.

115. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

119. The outside finished ground level shall be constructed a minimum of 200mm below the habitable floor level for the whole building perimeter.

## Background

### History

Council's records show that the following applications were previously lodged in respect to the subject site:

- Various Change of Use Applications - The site has been subject to a number of previous change of use applications. The most recent use application (DA-2012/34) granted approval for the change of use to the ground floor of the rear of existing premises to an amusement centre and cafe operating 9.00 am to 10.00 pm, seven days a week. This consent was approved on 16 November 2011 and modified on 11 July 2013 by Section 96 No. 2012/34/A.
- DA-2015/228 - Application for the construction of five (5) storey mixed use development comprising twenty four (24) residential units, one (1) commercial unit, basement parking and demolition of existing structures. The application was withdrawn on 25 March 2015.
- DA-2016/215 - Application for the construction of a five storey mixed use development comprising 22 residential units, one commercial unit, basement car parking and demolition of existing structures. This application was approved on 7 September 2016.

### Proposal

Council is in receipt of a development application DA-2016/215 at 17-19 Belmore Street Arncliffe, which seeks consent to amend the approved ground floor level resulting in an increase in overall building height; change external materials and finishes; relocate booster assembly and minor amendment to conditions of consent

Specifically, the proposal consists of:

- Raise the ground floor level from RL 22.80 to RL 23.40 resulting in an increase in the height of the building by 400mm to 800mm to allow the ground floor to be the same level as the footpath in front of the site thereby improving access to it. The lift overrun (highest point) has been reduced so that it is an increase of only 400mm at RL 40.10.
- Delete the substantial entry ramp to the foyer as the levels will be the same level as the footpath
- Amend the levels of the terraces at the rear to suit the revised floor levels at the front

- Vertical glass bricks along northern elevation changed to horizontal and external material & facade changed from two (2) toned face brick to two (2) toned Hebel and Dincel concrete rendered wall system
- Relocate the booster assembly from the main entry to adjacent to the fire stair facing Belmore Road
- Amend condition 2 to refer to the amended plans and amend condition 124 which relates to an incorrect street reference
- The applicant sought to amend condition 13 (SACL) to increase the highest point to RL 40.5 however, the amended plans were received which lowered the lift overrun to RL 40.1. As such, an amendment to condition 13 is not required.
- Delete condition 43(e) as it relates to the rear section of the ground floor patios which sit on top of the basement not on natural ground so cannot be made porous
- Delete condition 115 as it is inconsistent with the minimum height specified in condition 114
- Delete condition 119 as it relates to outside ground level being 200mm below the habitable floor level for the entire building and this would not satisfy accessibility requirements and affect the relationship of the building to the street

### Site location and context

The site is located in the B4 Mixed Use zone, and also within the proposed "Arncliffe Priority Precinct" which aims to deliver more housing in areas with access to infrastructure, transport, services and jobs.

The site is comprised of three rectangular shaped lots with a 20.2m frontage to Belmore Road and a total area of 827.7m<sup>2</sup>. The site is currently occupied by one and two storey brick buildings with shops at ground floor level. The site slopes to the rear and also has a cross fall from north down to south with a difference in levels of approximately 2m, and is affected by Class 5 acid sulphate soils. There is a significant (2.6m) level difference between the subject site and the site to the rear (No. 10A Firth Street).

The surrounding area has a mixture of commercial and residential uses. The site is immediately adjoined by retail / commercial uses within the B4 zone, however the rear northern corner of the site abuts land zoned R4 High Density Residential. Immediately opposite the site is a sandstone rock face with a residential flat building beyond (18 Belmore St), and a mixed use development which has recently been completed (10-12 Belmore St). These buildings are located on land zoned R4 and B4 respectively.

The proposal will result in the isolation of No. 21 Belmore Street, a triangular shaped parcel of land with a 10m frontage to Belmore Road and total site area of 221m<sup>2</sup>. The Applicant submitted evidence of unsuccessful attempts made to acquire the site with the previously approved development application on the site. The previous development application was accompanied by an assessment against the Land and Environment Court's Planning Principles for site isolation. Accordingly, the current proposal is merely an amendment to the previous approval and will not revisit the isolation issue. Furthermore, a development application has been lodged for this adjoining site and is under assessment (DA-2017/605).

## Statutory Considerations

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

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental*

*Planning and Assessment Act, 1979.*

#### **S4.55 (1A) - Modification**

Section 4.55 of the Environmental Planning & Assessment Act 1979 states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent if:

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

Comment: the proposed modifications are minor in nature, including an increase in the height of the overall building by 800mm with the lift overrun being limited to an increase on 400mm. In this regard, the proposed modifications will not have any significant additional impacts and are of minimal environmental impact.

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

Comment: The application is only for minor modifications to the development consent including a minor increase in height and minor changes to building materials in the front facade. The proposal remains as previously approved, namely a mixed use development. The proposed modifications will not change the land use or substantially alter the nature of the development. As such it is considered substantially the same development.

c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: The application has been notified in accordance with the provisions of Council's DCP 2011.

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

Comment: Two letters of objection have been received in respect to the proposal and the issues raised in these submissions have been addressed later in this report.

#### **S4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

**S4.55(3) of the Environmental Planning and Assessment Act 1979 states:**

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

#### **S4.15 (1) - Matters for Consideration - General**

##### **S4.15 (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**

The applicant previously submitted a BASIX Certificate for the previously approved development. The Certificate number is 577816M\_03. The current proposal does not alter this situation and the previously imposed condition of development consent will be retained in this regard. The condition will be retained on the consent to ensure that these requirements are adhered to.

##### **State Environmental Planning Policy (Infrastructure) 2007**

###### **Clause 45 - works within the vicinity of electricity infrastructure**

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of overhead power lines and therefore in accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given. A response was not received from AusGrid for the original proposal (previously approved development), however Ausgrid responded to the previous similar application on the site (DA-2015/228) and did not raise objections subject to imposition of recommended conditions. These conditions are standard conditions which have been retained on the development consent and have been imposed on the draft Notice of Determination with this section 96 application. The application is therefore consistent with the provisions of the SEPP and is acceptable in this regard.

##### **State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

The proposed amendment will include minor changes to the external appearance of the previously approved mixed use development in the side elevations. These changes include modifying the window openings from a vertical design to a horizontal highlight window within the side elevations to dwellings on levels 3 and 4 at the front and level 3 at the rear. The proposed horizontal window opening is acceptable and contains glass bricks similar to the previous window design.

The proposal also includes changes to the side elevations with previously approved brick face being replaced with rendered and painted concrete. This change is not supported given the proximity of neighbouring development in the street which contain brick face materials and the requirements of Part 4X of the Apartment Design Guide which encourages the use of materials which are long lasting and weather well such as brickwork. Accordingly, the amended schedule of finishes and materials is not supported in this instance.

In this regard, the proposed changes will not affect the proposal's compliance with the requirements of the Design Review Panel applied to the previous approval. As such, the proposal is acceptable in respect to the provisions of SEPP 65.

**Rockdale Local Environmental Plan 2011**

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

**2.3 Zone B4 Mixed Use**

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as amendments to a previously approved residential flat building and a commercial premises which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposed development is consistent with the objectives of the zone as it provides a mix of land uses which are compatible within and external to the site, and provides a business premises and residential units in proximity to Arncliffe Railway Station.

**4.3 Height of buildings**

As per the provisions of this clause a maximum building height of 16m is permitted upon the subject site. The proposal will increase the previously approved building height by 0.8m across the building but only 0.4m at the lift overrun. The proposed building comprises a height as follows:

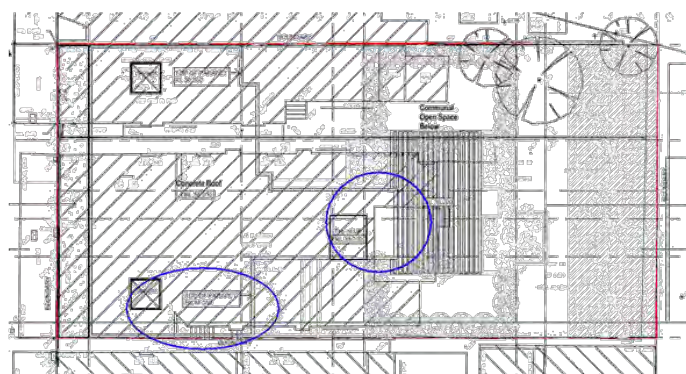
- Top of building fronting Belmore Road - 16m to the centre of the development and along the north western side, and 17.14m at the front south-western corner fronting Belmore Road (approved at 16.3m).
- Top of lift overrun - 17.65m (RL 40.1 - NGL 22.45) - (Previously approved at 17.1m).
- Top of rear of building - 14.8m - (Previously approved at 14.0m).
- Top of Pergola / Toilet structures within rooftop communal open space area - 17.17m - (Previously approved at RL 16.37m or 0.8m higher).

As can be seen above, the proposal partially varies the 16m height LEP limit for the south eastern portion of the building, which directly adjoins the front property boundary and common side boundary of 11A Belmore Road, by 1.17m - 1.47m as a result of the slope in the natural ground level of the site.



This is only for a small portion of the proposed development.

The proposed lift overrun exceeds the height limit by 1.65m and the toilet facility / pergola within the rooftop communal open space area exceed the height limit by 1.47m. The top of the parapet wall along the south edge at the front will exceed the height limit by 1.6m. The image below indicates the area and extent of the non compliance.



**Figure 1 - Key area's of non compliance**

The applicant has requested a variation to the maximum building height requirement. The current proposal raises the previously approved building by between 400mm and 800mm including all levels (from the basement to the roof). The purpose for raising the building is to allow the commercial premise on the ground floor to be 100mm above the level of the footpath enabling direct access from the street and improving activation of the street frontage rather than having to enter the building, proceed half way down a ramp and then turn to enter the commercial premise from within the building.

The applicant has justified the variation to the height control with the following:

- The raising of the levels on the ground floor will allow the commercial unit to be at street level which allows for direct access from the footpath into the unit and activation of the street and better presentation to the public domain. Similarly, the levels on the ground floor have improved access to the residential entry from the footpath level and removes the need for a substantial entry ramp into the foyer.
- Strict compliance with the development standard would not improve the building's relationship to its surroundings. The proposed design solution is considered to represent the best possible development outcome for the site, whilst ensuring the amenity of both existing development and future residents is preserved.
- The proposed variation to the height standard is considered minor and does not relate to the entire building only parts of the building as a result of the cross fall of the site and the lift overrun. The northern side of the development along the street frontage is compliant but due to the fall of the land the southern side of the development is non-compliant.
- The non-compliance resulting from the provision of the lift overrun and fire stairs to the rooftop communal open space allows equitable access to this space that enhances the amenity for residents and visitors within the development without impacting on the amenity of surrounding properties
- The proposed development is a high quality mixed development building that is well articulated using architectural elements, varied setbacks and materials to ensure that the development

contributes positively to the streetscape and when viewed from surrounding lands and the public domain.

- It is considered that given the nature of surrounding land uses the areas of non-compliance with height do not result in any significant increase in adverse amenity impacts on these properties in terms of privacy, overshadowing, view loss or visual intrusion.
- Properties within the Arncliffe Shopping Centre are all zoned B2 – Local Centre and given its identification as a Priority Precinct it is anticipated that substantial redevelopment of the locality in a similar form to that currently proposed is likely to occur in the future.

The objectives of clause 4.3 of the Rockdale LEP 2011 are as follows:

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

The proposal is considered to be consistent with the objectives of this clause for the reasons outlined above. The proposal is also considered to be consistent with the objectives of the zone as discussed previously. The applicant's request to vary the height standard is considered to be reasonable as the variation is consistent with the objectives and strict compliance with the height control is unreasonable and unnecessary in this instance. The variation to the height control will result in improved outcomes for the public domain / streetscape. Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance.

#### 4.4 Floor space ratio

The gross floor area of the proposed development will remain unchanged. It has been calculated as 1,644m<sup>2</sup> over a site area of 827.7m<sup>2</sup>. In this regard, the proposal will have the same GFA as the previously approved development on the site. The proposed floor space ratio (FSR) for the building is 1.99:1 and therefore does not exceed the maximum 2:1 FSR permitted for the land as shown on the Floor Space Ratio Map.

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

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

#### 6.1 Acid Sulfate Soil - Class 5

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

#### 6.2 Earthworks

The proposal involves excavation works within the site to accommodate a basement level of car parking. The impacts of the proposed earthworks have been considered in the assessment of the previously approved development application and the current proposal will not alter this situation.



Conditions of consent were imposed in the previously approval issued to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The current proposal will still satisfy the objectives of this clause.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51 metres to Australian Height Datum (AHD). Condition 13 of the previous approval restricted the height of the building to RL 40.1 in accordance with the requirements of Sydney Airport Corporation Ltd (SACL). The plans submitted with this application proposed a building height at RL 40.5 metres to AHD and the application was referred to SACL for consideration. On Thursday 4 January 2018 SACL approved the increase in height to RL 40.5m. However, on 30 January 2018 the applicant submitted amended plans which proposed a building height of RL 40.1m AHD. In this regard, the proposed development will not involve any change to condition 13. Accordingly, the proposal will have minimal adverse impact on the OLS and hence is acceptable with regards to this clause.

#### 6.7 Stormwater

Council's Development Engineer has assessed the previously approved development and included recommended conditions that required the submission of amended Stormwater Plans to be prepared prior to issue of the Construction Certificate. The Engineer included two conditions (114 and 115) requiring the basement parking level to be flood proofed while only one of these conditions was required. As such, the applicant has requested condition 115 be deleted and no objections are raised in this regard.

Subject to deletion of condition 115 the proposal is found to be satisfactory with regards to the requirements of Clause 6.7.

#### 6.11 Active Street Frontages

The subject site is land identified as Active Street Frontage in RLEP 2011 Active Street Frontage Map, and accordingly is subject to clause 6.11. The ground floor of the premises with a frontage to Belmore Street comprises of a single commercial / retail tenancy with direct access to the footpath, with the remainder of the frontage comprised of a vehicular entrance driveway, residential entrance lobby, and fire egress routes. The proposal maximises the amount of frontage dedicated to the commercial tenancy. The proposed amendment will improve this active street frontage and therefore satisfies the requirements of this clause.

#### 6.12 Essential services

Services will generally be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

#### **S4.15(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

#### **S4.15 (1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

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

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.6 Development on Sloping Sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes - see discussion
5.2 RFB - Building Design	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.3 Mixed Use - Rear Setbacks	Yes	No - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	No - see discussion
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes

#### 4.1.1 Views and Vista

The proposal will retain the same setbacks as previously approved and are generally in accordance with RDCP 2011. The proposal will include an increase in the overall height of the building a maximum of 0.8m with the increase in height of the lift overrun being limited to 0.4m. As such, the proposal is not likely to result in any significant intrusion into the existing views out over the subject site when compared with the previously approved building on the site. The proposed building will therefore not have any unexpected impacts on the views presently enjoyed by adjacent and surrounding residents.

The proposed development has also been designed to provide views toward the north (city) and the airport from the rear units as well as from the communal open space area provided at Level 4 (roof top). The proposal is therefore satisfactory in this regard.

#### 4.1.6 Development on Sloping Sites

The objectives of this clause are to limit site excavation and minimise cut and fill by allowing the building mass to step in accordance with the slope of the land; and to protect the amenity of adjoining properties. In this regard, the topography of the site falls from west down to east and from front down to the rear. The proposal had also been stepped at the rear so that the rear building steps down with the topography of the site. A step in the front elevation was not considered necessary in this case. As such, condition 119 was imposed that required the following:

*The outside finished ground level shall be constructed a minimum of 200mm below the habitable floor level for the whole building perimeter.*

The current proposal involves an increase in the building height to allow the ground floor commercial premise to be at the same level as the foot path and allow direct pedestrian access with no additional

steps. In considering the increase in height, the condition above is no longer applicable as the ground floor matches the foot path at the front and the rear level is higher than the natural ground level at the rear of the site. As such, the building steps down the site and contains stairs at the rear which provide access to the finished ground level. Compliance with the above condition would require filling the rear setback of the site which is not appropriate. As such, the proposed deletion of the condition requested by the applicant is considered appropriate and supported in this instance.

#### 4.2 Streetscape and Site Context - General

The proposal will not alter the main building elements and fenestration within the front facade apart from the relocation of the booster assembly from the main entry point to underneath the first stair (north western side) along the north western edge of the building. As such, the proposal will not alter the existing streetscape along this part of Belmore Street. In this regard, the current proposal is not likely to result in any significant adverse impacts in respect to the external appearance of the building on the site. Accordingly, the proposal is acceptable in respect to streetscape and satisfy the requirements of this clause.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The current proposal will not result in any significant change in overshadowing when compared with the previous approval on the site. In this regard, the proposal will retain the same building form with no increase in gross floor area or number of dwellings. The proposal will have shadows cast on the adjoining properties, however it is not unexpected given the zoning, FSR and heights permitted on this, and adjoining, sites. In this regard, the increase in the line of shadows due to the increase in height is minimal and not likely to adversely affect the amenity of the adjoining properties in respect to solar access. Furthermore, the building has a break in the centre which will permit some sunlight to penetrate through to the adjoining sites to the south. Accordingly, the current amendment is acceptable in respect to the requirements of this clause.

#### 4.4.5 Visual privacy

The proposed changes to the side elevations include replacing vertical windows with highlight window openings. As such, the proposal will not result in any significant changes to privacy when compared with the previously approved development on the site. The proposal is therefore acceptable in this regard.

#### 4.4.6 Noise Impact

The proposal is not likely to result in any significant changes in respect to noise impacts both on the site and the adjoining properties. Conditions were imposed in the previous approval to ensure compliance with the relevant Australian Standards and noise requirements applying to the site. Accordingly, the proposal is acceptable in respect to the requirements of this clause.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The proposal will not involve any changes to the previously approved development in respect to social equity and housing mix. Accordingly, the proposal satisfies the requirements of this clause.

#### 4.6 Basement Parking - General

The current proposal will raise the basement parking level by 800mm but will include the same number of parking spaces, layout and arrangement of spaces as previously approved on the subject site. The proposed amendment will not require any changes to the ramp grades or basement design as it merely includes raising the previously approved levels all by the same amount. As such, the proposal is not likely to result in any adverse amenity impacts in respect to traffic and parking and is acceptable in this

regard.

#### 5.2 RFB - Building Design

The design of the proposed development will remain largely the same as the previously approved development apart from the increase in height and improved access to the commercial premise on the ground floor. In this regard, the proposal is almost the same as the previous scheme which has been assessed against the requirements of SEPP 65 and the ADG and has been found to be acceptable. Accordingly, the proposal is acceptable and meets the objectives of this clause.

#### 5.2 RFB - Building Entry

The proposal will include raising the previously approved mixed use development and allowing direct pedestrian access to the commercial premise on the ground floor from the existing footpath along Belmore Street. As such, the proposal will improve the design of the building at street level, provide barrier free access, provide a visual connection with the street, and create legibility along its formal street frontage. The proposal will also continue to allow barrier free access to the residential lobby. As such, the proposal is acceptable and complies with the requirements of this clause.

#### 5.3 Mixed Use - Rear Setbacks

The amended proposal has a rear setback that is consistent with the approved development, being 6m to the ground floor terrace and 7.6m to the balconies. The terraces at the rear of the ground floor units have been retained but their design modified to suit the changes in the floor levels. This does not satisfy the 12m setback required by Council's DCP, however it exceeds the minimum requirements of the ADG. Given that the entire rear 6m setback is all deep soil and can include mature tree and landscape planting, the proposal satisfies the objectives of the DCP and is supported in this case. Accordingly, the proposal is acceptable in respect to the rear setback.

#### 5.3 Mixed Use - Ground Level Uses

The current proposal will retain the ground floor commercial tenancy with a design that has improved access and the proposal satisfies the requirements of this clause.

#### 5.3 Mixed Use - Retail

The proposed amendment contains the same breakdown of commercial and residential floor space as the previous approval on the site. As such, the changes to the scheme will not alter the percentage of retail space or ratio of floor space on the site. Notwithstanding this, the proposal comprises the optimal use of space on the constrained site width with suitable vehicular access, lobby access and fire egress points. Therefore the proposal as amended is acceptable as it will activate the street frontage in a suitable manner and satisfies the active street frontage requirement as did the previously approved scheme. Accordingly, the amended proposal meets the objectives of the control and is satisfactory in this regard.

### **S4.15(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard the proposed amendment will involve raising the previously approved development and the previous development consent already conditions conditions of development consent relating to compliance with the standard. Accordingly, the proposal is acceptable in this regard.

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

proposal.

#### **4.15(1)(b) - Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls and in the assessment of the original development application. There are no additional impacts to consider.

#### **S4.15(1)(c) - Suitability of the site**

The relevant matters pertaining to the suitability of the site for the proposed development as amended have been considered in the assessment of the proposal. The proposed amendments are not likely to result in any greater adverse amenity impacts than the previously approved development on the site. In this regard, there are no additional conditions of consent required to be proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

#### **S4.15(1)(d) - Public submissions**

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and two (2) submissions have been received. The issues raised in the submissions are discussed below:

Issue 1: Dilapidation Report requested to be conducted on 8-12 Station Street Arncliffe as a condition  
Comment: The previous development approval included condition 72 which requires submission of a dilapidation survey to be taken of several of the adjoining properties prior to the commencement of works. This report included surveying 8-12 Station Street and as such, satisfies this concern.

Issue 2: Front extremities of balconies to be concrete not glass

Comment: The proposal includes a mixture of both concrete and obscure glass front balustrades on the west elevation. The balcony design includes different portions on each floor with some units having part concrete and part obscure glass and others having a single material in each type. The design will retain architectural interest and provides a suitable external appearance to the subject site. A design which includes full concrete balustrades would result in a more bulky appearance and as other developments in the street do not contain such balustrades, the current proposal is acceptable in this instance.

Issue 3: How many floors with the building be? How many units will it involve? Any great increase in units should take into account traffic congestion in Belmore Street which is one lane wide. Some families have two cars and where are they going to park?

Comment: The proposed amendment includes the same number of floors as previously approved, which is five. The amendment includes the same number of residential and commercial units (22 and 1 respectively) as previously approved on the site. The proposal will not increase the number of units previously approved on the site and therefore will not increase traffic and parking congestion on and around the site. The proposal includes a basement car parking level which complies with Council's DCP in respect to car parking.

Issue 4: Consider realigning the building to match those on adjoining properties in Belmore Street - otherwise no future road widening could take place

Comment: The proposal includes a front building alignment which matches those of the buildings on the adjoining properties, as did the previously approved development on the site. In this regard, the proposal will facilitate the future road widening of Belmore Street.

**S4.15(1)(e) - Public interest**

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

**S7.11 Contribution towards provision or improvement of amenities or services**

A condition relating to the payment of Section 94 Contributions was imposed in the previously approved development application on the site. The current proposal will not alter this situation and in this regard, the proposal satisfies the requirements of this clause.

***Civil Aviation Act, 1988***

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

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

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

**Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas**

The subject site is affected by the 15.24m building height Civil Aviation Regulation. The proposed building height at 17.65m, and therefore the proposal was referred to Sydney Airports for comment. Sydney Airports approved the proposed height subject to a condition. The recommended condition has been included in the draft Notice of Determination.

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

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

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

Dwg No. / Issue	Plan title	Drawn by	Dated	Received by Council
A012 / 3	Site Plan	Architecture and Building Works	6.4.16	11/4/16

A013 / 5	Lower Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A014 / 5	Upper Basement Plan	Architecture and Building Works	30/01/18	30/01/18
A015 / 5	Ground Floor Plan	Architecture and Building Works	30/01/18	30/01/18
A016 / 5	Level 1 Plan	Architecture and Building Works	30/01/18	30/01/18
A017 / 5	Level 2 Plan	Architecture and Building Works	30/01/18	30/01/18
A018 / 5	Level 3 Plan	Architecture and Building Works	30/01/18	30/01/18
A019 / 5	Level 4 Plan	Architecture and Building Works	30/01/18	30/01/18
A020 / 5	Roof Plan	Architecture and Building Works	30/01/18	30/01/18
A021 / 6	East Elevation	Architecture and Building Works	30/01/18	30/01/18
A022 / 6	North Elevation	Architecture and Building Works	30/01/18	30/01/18
A023 / 6	South Elevation	Architecture and Building Works	30/01/18	30/01/18
A024 / 6	West Elevation	Architecture and Building Works	30/01/18	30/01/18
A025 / 7	Section A-A	Architecture and Building Works	30/01/18	30/01/18
A026A / 4	Section C-C	Architecture and Building Works	30/01/18	30/01/18
A0000	Material Sample	Architecture and Building Works	April 2016	11/4/16
A033 / 3	Adaptability details	Architecture and Building Works	6/4/16	11/4/16
A033/A / 2	Adaptable Unit	Architecture and Building Works	6/4/16	11/4/16

[Amendment A - S96(1A) amended on XX/XX/XX]

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 577816M\_03 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as

each relevant BASIX certificate requires.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

**Note:** For further information please see <http://www.basix.nsw.gov.au>.

6. A separate development approval is required for the strata subdivision of the development.
7. The structures provided at roof top level shall not be enclosed at any future time without prior development consent.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
10. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
11. Street Numbering & Mail Boxes
  - (a) The residential entry shall be known as 17 Belmore Street and the Commercial premises shall be known as 19 Belmore Street.
  - (b) Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
12. Parking shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

- 1 bedroom apartments - a minimum of 0.6 spaces per unit (i.e. a minimum of 60% of 1 bed units require a parking space);
- 2 bedroom apartments - a minimum of 0.9 spaces per unit (i.e. a minimum of 90% of 2 bed units require a parking space);
- 3 bedroom apartments - a minimum of 1.4 spaces per unit (i.e. a minimum of 3 spaces allocated to the 2 x 3 bed units, resulting in a minimum of 1 space for 1 x 3 bed unit and a minimum of 2 spaces for the other 3 bed unit);
- Commercial Units 1 space per 40m<sup>2</sup> gross floor area = 2 parking spaces

**Non-Allocated Spaces**

- Residential Visitor Spaces 1 space per 5 apartments = 5 parking spaces (minimum)
  - 1 visitor space is shared with a car-wash bay;
  - 1 visitor space must be an adaptable parking space, and;
  - 1 visitor space is shared with a Van Delivery Bay.
- Motorcycle spaces - 3 spaces (minimum)
- Bicycle spaces - 10 spaces (minimum)



Parking calculations that are not whole numbers must be rounded up to the nearest whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

#### **13. INTEGRATED DEVELOPMENT / EXTERNAL AUTHORITIES**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act 1979.

##### Sydney Airport Corporation Limited (SACL)

SACL has approved the maximum height of the proposed building at 40.10metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units. For further information on Height Restrictions please contact SACL on 9667 9246.

14. The front window shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.

#### **15. AusGrid Requirements**

The following AusGrid requirements must be satisfied at the relevant stage of works:

- Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements.
- The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006).

#### **16. Relocation of Electricity Supply Pole**

The existing electricity supply pole located in front of the site in Belmore Street must be relocated to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall

enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

17. Approval for the footpath dining is not expressed or implied and a separate approval is required for the footpath dining. In this regard you are advised to contact Council to obtain a copy of the licensing agreement entitled *Outdoor Dining Licensing Agreement*.
18. Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment.
19. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
20. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
21. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
22. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
23. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the

- time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
24. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
  25. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
  26. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
  27. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  28. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  29. Temporary dewatering of the site to enable the construction of the subsurface structure shall not be carried out unless a permit has been issued pursuant to the Water Management Act 2000, and, in the case where water is to be pumped into the public road, a permit has been issued pursuant to the Roads Act 1993.
  30. Temporary dewatering of the site to construct the subsurface structure is not permitted.
  31. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
  32. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
  33. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
  34. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.

35. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
36. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
37. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
38. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

39. a) In order to ensure the design quality excellence of the development is retained:
  - i. Abworks is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
 b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
40. External paths and ground surface adjoining the walls of the building shall be graded and drained away from the dwelling in such a manner as to not cause a nuisance to adjoining properties.
41. (a) Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
 

(b) If mechanical ventilation is required, plans showing the location of the proposed system shall be submitted to, and approved by, Council prior to issue of the Construction Certificate.
42. Balustrades for the first two (2) residential levels fronting Belmore Street shall be

constructed from a solid/opaque material to a minimum height of 1000mm.

43. Landscaping

Landscape plans shall be amended prior to the issue of the Construction Certificate to demonstrate the following:

(a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.

(b) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).

(c) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab (over and above any drainage medium).

(d) Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.

(e) *Deleted*

*[Amendment A - S96(1A) deleted on XX/XX/XX]*

f) The planter boxes in the Ground Floor Level communal area must be amended to reflect the planter boxes shown in the landscape plans.

g). The planter box located on the terrace area between Units 1.03 & 1.06 must be increased in width to a minimum of 2.5 metres, and its soil depth shall be a minimum of 800mm, to improve privacy and ensure that the planter can accommodate larger landscape planting. The landscape plans shall be updated to ensure that appropriate planting is provided in this planter box.

h). Landscape Plans for the Communal Open Space at Level 4 shall be updated to include:

- ☐ i) a minimum of two (2) tables and chairs,
- ☐ ii) a solid roof over the BBQ and kitchen area, and extending 1 metre to the east of this area to provide weather protection for persons using these facilities.
- ☐ iii) Provision of some alternative treatments to the surface, including consideration of synthetic grass and/or timber.
- ☐ iv) Provision of a storage cupboard.

The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

44. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.

45. Satellite dishes, TV antennas, air conditioning units and any ancillary structures:
  - i) are not visually intrusive to the streetscape;
  - ii) are located in positions that have a minimal impact on the amenity of adjoining properties and neighbouring lands; and
  - iii) do not have a negative impact on the architectural character of the building to which they are attached.
46. Roller shutters over windows and entry doors of the commercial tenancy are not permitted.

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

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

47. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$10,840.20. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
48. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
49. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
50. Where works relating to Council drainage pipe and pits, and footpath and pavement restorations will be undertaken by a Private Licensed Contractor, a bond must be paid to Council to cover the partial cost of the works. Such bond must be paid to Council prior to issue of the Construction Certificate. Contact Council for details of the value of the bond to be paid to Council prior to issue of the Construction Certificate.
51. If the stormwater drainage works require the connection of stormwater drainage pipes to Council's existing kerb inlet pit, the pit must be inspected by Council prior to backfilling. A payment of \$254.00 is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is

unsatisfactory, each additional inspection will incur an extra charge.

52. A Section 94 contribution of \$293 152.94 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Arncliffe Regional Open Space \$15823.29  
 Arncliffe City Wide Open Space \$25027.12  
 Arncliffe Local Open Space \$221769.75  
 Arncliffe Local TC & Streetscape \$2371.85  
 Arncliffe City Wide TC & Streetscape \$2812.69  
 Arncliffe Pollution Control Management \$14476.66  
 Arncliffe Administration & Management \$1109.72  
 Child Care Services \$589.89  
 Community Services \$631.92  
 Library Services \$8540.05

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

53. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
54. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within two (2) residential unit, and between this unit(s) and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit number(s) G.01 and 1.01. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

55. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the

responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

56. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate. If a substation is required the plans must be amended by way of a Section 96 Application.
57. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
58. Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:
  - (a) Construction of drainage pits and pipes.
  - (b) Construction of footpath and streetscape works.
  - (c) Construction of a vehicular entrance.
59. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
60. Amended Stormwater Plans  
 Prior to issue of the Construction Certificate, amended stormwater design and plans shall be submitted to, and approved by, the Principal Certifying Authority (PCA). Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. The documentation is to be prepared by a qualified drainage engineer. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The amended design shall address the following issues:

- (a) The OSD areas shall be clearly identified in the plans. The current plans having two areas being nominated as OSD areas.
- (b) OSD tanks within the basement areas are not recommended and shall be **relocated within the deep soil area or at grade.**
- (c) The internal clear depth of an OSD tank shall be minimum of 1.0m.
- (d) It is necessary for the owner /developer to arrange for the stormwater pipe to be physically located in Belmore Street, including the depth of the pipe. Not all stormwater pipe details are held by Council and a registered surveyor must be engaged to peg the pit and prepare location plans.
- (e) A geotechnical engineer must review and comment on the proposed stormwater drainage design, specifically the impacts of any tanked basement / subsoil drains / permanent dewatering and ground water table if any.



(f) Any paths around the building including terrace are to be directed to landscape areas in the rear yard. In this regard with all new paving consideration to be given to using porous paving to reduce runoff into the downstream properties.

All runoff from the landscape areas to be dispersed as sheet flows with no concentrated flows to the rear properties.

Alternatively, stormwater from the OSD tanks including overflows to be piped to the Belmore Street Kerb via a charged system. To aid in this installation and to achieve a gravitational fall to the kerb the outlet can be connected to the kerb up to 15m of the property boundary.

If it is not possible to comply with the condition above then Council will require all runoff including paved surface runoff to be initially directed to an on-site below ground tank and discharged to Belmore Street via a dual pump out system. All runoff from landscaped areas are to be dispersed as sheet flows with no concentrated flows into the downstream properties.

Council's stormwater specification details the design of the detention tank and pumpout system as follows:

#### Numerical design standards

- The piped drainage within the site should be capable of conveying the 5% AEP flow; and
- Overland flow paths (i.e. situated internally within the building and used when the flow in the piped drainage exceeds the 5% AEP flow) should be capable of conveying the 1% AEP flows.

#### General design standards

- All piped drainage within the development should discharge to the OSD tank; and
- All surface runoff from car park areas should be directed through a proprietary oil treatment system prior to discharge to the basement sump pit.
- Overflow from the retention tank shall be directed to the existing kerb and gutter along Belmore Street. The connection to the kerb and gutter must be within 15 m of the property boundary and the discharge must be less than 50 l/s for the combined discharge of the site for the 50 year ARI event.

#### General controls

- The design should meet water sensitive urban design principles.

#### 61. Construction & Traffic Management Plans

A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not

be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Note: The swept path of the longest vehicle entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.

Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.

All road works / regulatory signposting associated with the proposed development shall be at no cost to the Council or RMS.

COPIES OF THE CMP AND TMP SHALL BE SUBMITTED TO COUNCIL.

62. Vibration monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land

the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

63. Wind Impacts

(a) Prior to issue of the Construction Certificate, the submitted Wind Assessment Report must be amended to address potential impacts on the public domain areas (i.e. the Belmore Street footpath area). If the report identifies that mitigation measures are required, then the plans submitted with the Construction Certificate must include the requirements.

(b) The mitigation measures detailed in the submitted Wind Assessment Report (prepared by ANA Civil, Ref No. 2014-610 R1) must be included in the plans submitted with the Construction Certificate and must be complied with for the lifetime of the development. The key measures include:

- (i) Levels 1-4 balcony/terrace balustrades to contain no openings (preferably);
- (ii) Full height impermeable blade wall/screen/louvres on western sides of all balconies;
- (iii) The pergola over the roof area to be as shown in the approved plans; and
- (iv) Landscaping planting surrounding the communal open space areas must be maintained at all times with dense shrubs and trees in accordance with the approved plans.

64. The plans submitted with the Construction Certificate shall include mechanical ventilation for the commercial tenancy to permit the use of the tenancy as a food premises. The system shall comply with AS1668 and the vent shall be provided at least 1 metre above the roof of the building.

65. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.

66. A visitor car space shall also operate as a car wash bay. A tap and power point shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.

67. Prior to issue of Construction Certificate, a swept path analysis shall be submitted to, and approved by, the Certifying Authority.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and an 'SRV' sized vehicle entering/exiting of the ground floor car park and/or basement level and be in accordance with section 7.3 of Councils Technical Specification – Traffic, Parking and Access.

Where a Private Certifier issues an Construction Certificate, a copy of the plans mentioned in the above paragraph must be provided to Council.

68. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals comply with the conditions of consent.
69. Adjoining buildings founded on loose foundation materials  
 As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing Geotechnical Engineer must prepare a geotechnical report including an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:
  - (a) A site description, including vegetation, bedrock outcrops, high rainfall & drainage, site seepage & groundwater, existing development, etc.
  - (b) Description of site substrata and identification of the geological formations present in accordance with standard geological practice
  - (c) The depth to weathered bedrock over the site generally and within the building area in particular. Logs of boreholes put down to determine depth of soil/weathered rock strata. The borehole to penetrate the site strata to bedrock and at least one borehole to be within the building area of the site.
  - (d) The site slopes observed [expressed in degrees] and maximum site slope. Delineation of site into areas of common slope and measured slope angles in the various areas.
  - (e) A "Risk Assessment" of the various parts of the land in accordance with the Australian Geomechanics Society Guidelines for Landslide Risk Management– March 2007 or as subsequently amended, delineation of the land into areas where different degrees of risk are determined, together with a site classification in accordance with As 2870- 2011 [or latest amended edition].
  - (f) A statement of the effect of the proposed site development on the site, and adjoining land, stability, and suitability of the proposal.
  - (g) An assessment of the stability of the land immediately surrounding and above/below the site and possible effects of instability [eg. a rock fall] on the adjoining/nearby land on the site.
  - (h) A descriptive Geotechnical Report shall also include:
    - (i) Sufficient detailed information and recommendations for a structural engineer and/or civil engineer to provide a design for the development to accommodate any instability considered to affect the land and/or related land and site stormwater management.
    - (ii) Review of the dilapidation survey and provide recommendations
    - (iii) Foundation recommendation
    - (iv) Proposed method of excavation
    - (v) Permanent and temporary support measures for excavation
    - (vi) Ground-water levels (if any)
    - (vii) Potential vibration caused by method of excavation
    - (viii) De-watering including seepage and off site disposal rate (if any)

Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

70. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:
- A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.
  - B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
  - C). Glass balustrades shall be provided as frosted or opaque.
  - D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and 2.4m for non habitable, as measured vertically from finished floor level to the underside of the ceiling.
  - E). Compliance with the recommendations of the Access Report dated ref:A2296-Rev1.1 dated 27/11/2015 prepared by AED Group.
  - F). The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 8 September 2015 ref 2014-610 R1. are to be implemented on site.
  - G). Acoustic Attenuation - The noise reduction measures specified in the noise report prepared by "Acoustic Noise and Vibration Solutions Pty Ltd" dated 3 September 2015 shall be shown in the construction plans.
  - H). A single antenna shall be provided to the building for use of all residents.
  - I). Direct pedestrian access must be provided from Belmore Street into the Commercial tenancy.
  - J). The front doors to the residential lobby must be moved toward the front Belmore Street, with a maximum setback of 1.2m from the front building line.
  - K). The Level 1 terrace located between Units 1.06 and 1.03 must be setback a minimum of 2.5 metres from the sites southern side boundary with No. 11 Belmore Street.
  - L). Storage areas to be provided in accordance with the schedule submitted with the application with No. "Pn\_0420", dated 06/04/2016, prepared by Architecture and Building Works. All storage areas provided in the basement must be secured / caged with lock and key for future occupants.
  - M). Windows to the study for Units 1.03 & 1.06 must be amended to include privacy screening similar to that provided for Unit 2.06.
  - N). Bedroom windows to Units 1.03, 1.06, 2.03, 2.06, 3.03, and 3.06 shall be double glazed and operable windows to address potential noise impacts from within the central void area while ensuring compliance with cross-ventilation and ventilation requirements of the BCA.
  - O). Lift size - Lift cars are to have minimal internal dimensions of 2.1m x 1.5m, capable of carrying stretchers, with lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.

P). Mechanical ventilation for the commercial tenancy shall be provided with a vent at roof top level to ensure that future use by a food premises will have minimal odour impacts on adjoining properties.

71. Safety and Security

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
- c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
- d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
- e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
- f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.

**Prior to commencement of works**

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

- 72. A dilapidation survey shall be undertaken of all properties including 8-12 Station Street, 23-25 Belmore Street, 11A and 21 Belmore Street, 10-10A Firth Street and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
- 73. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

- 74. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably

qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.

75. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
76. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,

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

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

  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

  - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
77. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
78. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

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

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

79. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
80. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
81. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
82. If ground water is encountered, it shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

83. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
84. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
85. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been



constructed at the approved levels.

- v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

86. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

87. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
88. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip).

Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

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

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

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

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 91. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 92. All existing trees located within the site may be removed.

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

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

- 93. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 94. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 95. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in

accordance with any directions given by the Owners Corporation.

(d) the Strata Body shall maintain the three (3) trees approved within the Landscape Plans at all times. If the trees are damaged and/or die these trees must be replaced with the same species of tree.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

96. Lot 17 in DP 1003901, Lot 18 in DP 1411 and Lot 16 in DP 1003901 must be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
97. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
98. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
99. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
100. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
101. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
102. Prior to issue of the Occupation Certificate:
  - (a) Convex mirrors shall be installed at blind corners within, and leading to, the basement car parking levels to provide increased sight distance for vehicles.
  - (b) A traffic signal system must be designed and installed to manage vehicular movement on and adjacent to the one-way ramp that provides vehicle access to the basement. The traffic signal system shall control traffic to ensure safe movement of vehicles on the ramp at all times.
  - (c) The traffic signals shall operate with the following operational mode:
    - Automatically revert to and dwell on green for incoming
    - Outgoing driver activates push button
    - Signals change to red for incoming and green for outgoing
    - After a preset clearance time signals revert to red for outgoing traffic and

green for incoming traffic.

(d) The design of parking areas shall be in accordance with DCP Part 4 Sec 4.6 and Rockdale Technical Specification – Traffic, Parking and Access. Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.

(e) A suitably qualified and experienced engineer shall design traffic management facilities within the site, including those listed in (a) - (d) above, to the requirements of AS2890.1:2004 and relevant Austroads Guidelines. The facilities designed by the engineer shall include signs (including vehicular guide signs, car park full sign, regulatory signs and warning signs), linemarking and pavement markers, and other controls such as passing bays, traffic islands, median or separator, convex mirror and traffic signals to ensure safe movement of vehicles within the site at all times.

103. The gate for the basement shall be located in order to permit the queuing of one (1) vehicle when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
104. Bollard(s) shall be installed by the Developer on all adaptable shared spaces to ensure that vehicles do not park in the shared areas.
105. Two (2) off-street car spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.
106. Thirty (30) off-street car spaces (including one shared visitor / car-wash bay and one accessible visitor space), a minimum of three (3) off-street motorcycle spaces and a minimum of 10 off-street bicycle spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
107. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.  
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
108. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
109. Prior to issue of Occupation Certificate the applicant shall submit to the Principal

Certifying Authority (PCA) an Certificate of Compliance to verify that the measures stated in the acoustic report prepared by Acoustic Noise and Vibration Solutions dated 3 September 2015 and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air-conditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The certificate of compliance shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

110. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
111. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that any mechanical ventilation/air conditioning system installed at the premises complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
114. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
115. *Condition deleted.*

*[Amendment A - S96(1A) deleted on XX/XX/XX]*

116. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
  - (a) the stormwater detention system,
  - (b) the pump system; and,
  - (c) the ramp control traffic signal system;
 to provide for the ongoing maintenance of the facilities.
117. The pump system and the traffic control system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person prior to issue of the Occupation Certificate. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA.
118. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian

Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

119. *Condition deleted.*

*[Amendment A - S96(1A) deleted on XX/XX/XX]*

120. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
121. Prior to issue of the Occupation Certificate the existing power pole located in front of the site in Belmore Street shall be relocated to be clear of the driveway entrance in accordance with AusGrid requirements (refer also to previous condition in 'Prior to issue of Construction Certificate' section of this consent for detailed requirements).

## Roads Act

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

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

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

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

123. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
124. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Belmore Street will be required to be undertaken at the applicant's expense:

- (i) Construction of stormwater pits and pipes in Belmore Street;
- (ii) Construction of streetscape works in Belmore Street.

*Note: Detailed plans, including plans and longsections of the pipes, are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate. In addition to engineering plans, detailed traffic management plans and erosion and sediment control plans are required. Traffic management plans are required to be prepared in accordance with AS1742 and RTA guidelines. Erosion and sediment control plans shall be prepared in accordance with the Department of Housing "Blue Book".*

*[Amendment A - S96(1A) amended on XX/XX/XX]*

- 125. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
- 126. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
- 127. Where the works are undertaken by a Private licensed Contractor, the contractor shall:
  - i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;
  - ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works;
  - iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.;
  - iv) Make a payment to Council of for inspection of the works in accordance with Council's Fees and Charges. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges;
  - v) Provide Council with 48 hours notice of the following:
    - a) Commencement of the works
    - b) Completion of excavation;



- c) Prior to backfilling; and
- d) Completion of works.

**Note:** An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be 6 months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

- a) Keep the works clean and free of silt, rubbish and debris;
- b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;
- d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;
- e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).

- 128. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
- 129. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Belmore Street:
  - i) Detailed design plans and specifications, including structural details; and
  - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).  
 Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

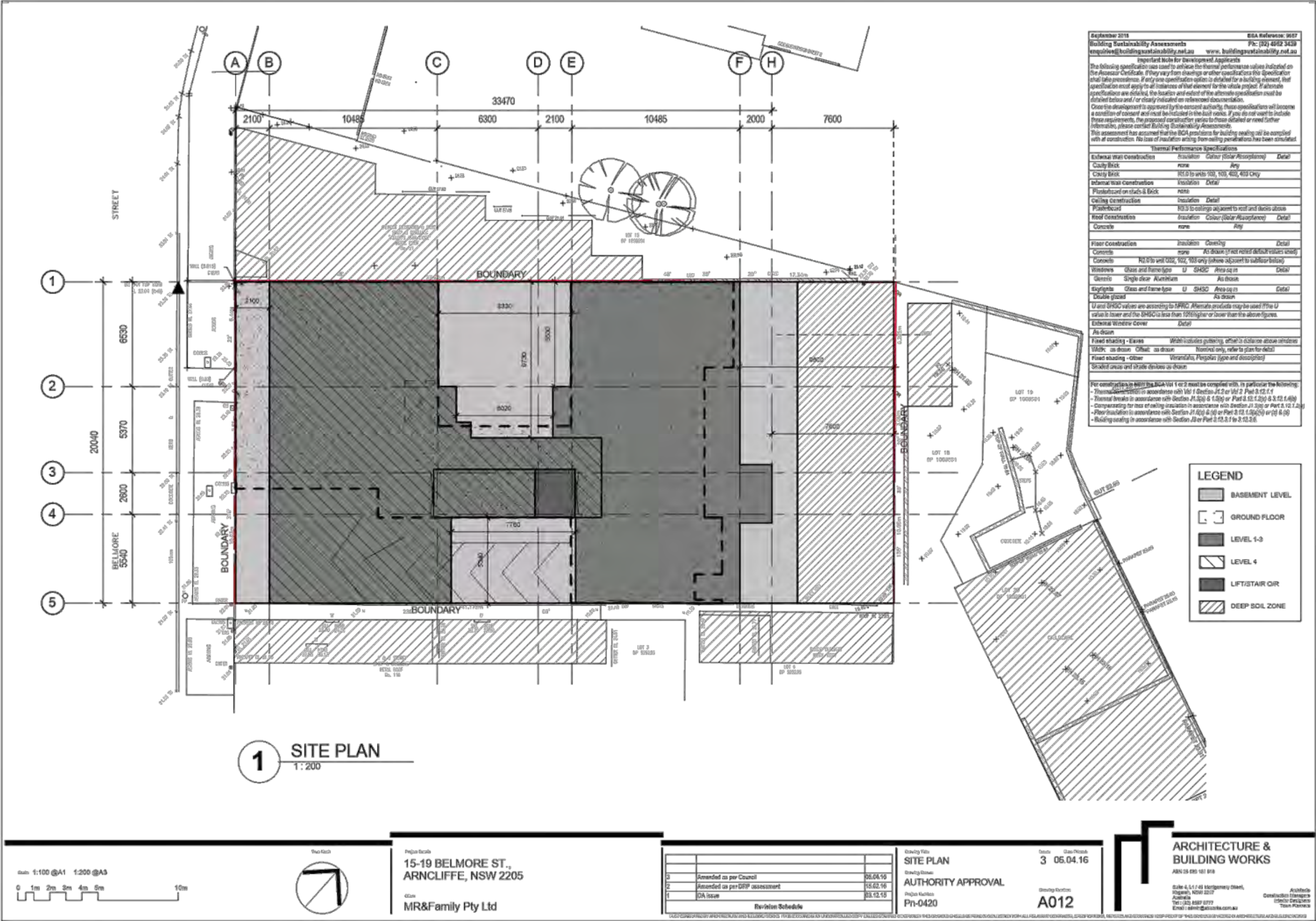
- 130. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath

reserve must not start until the application has been approved by Council.

131. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

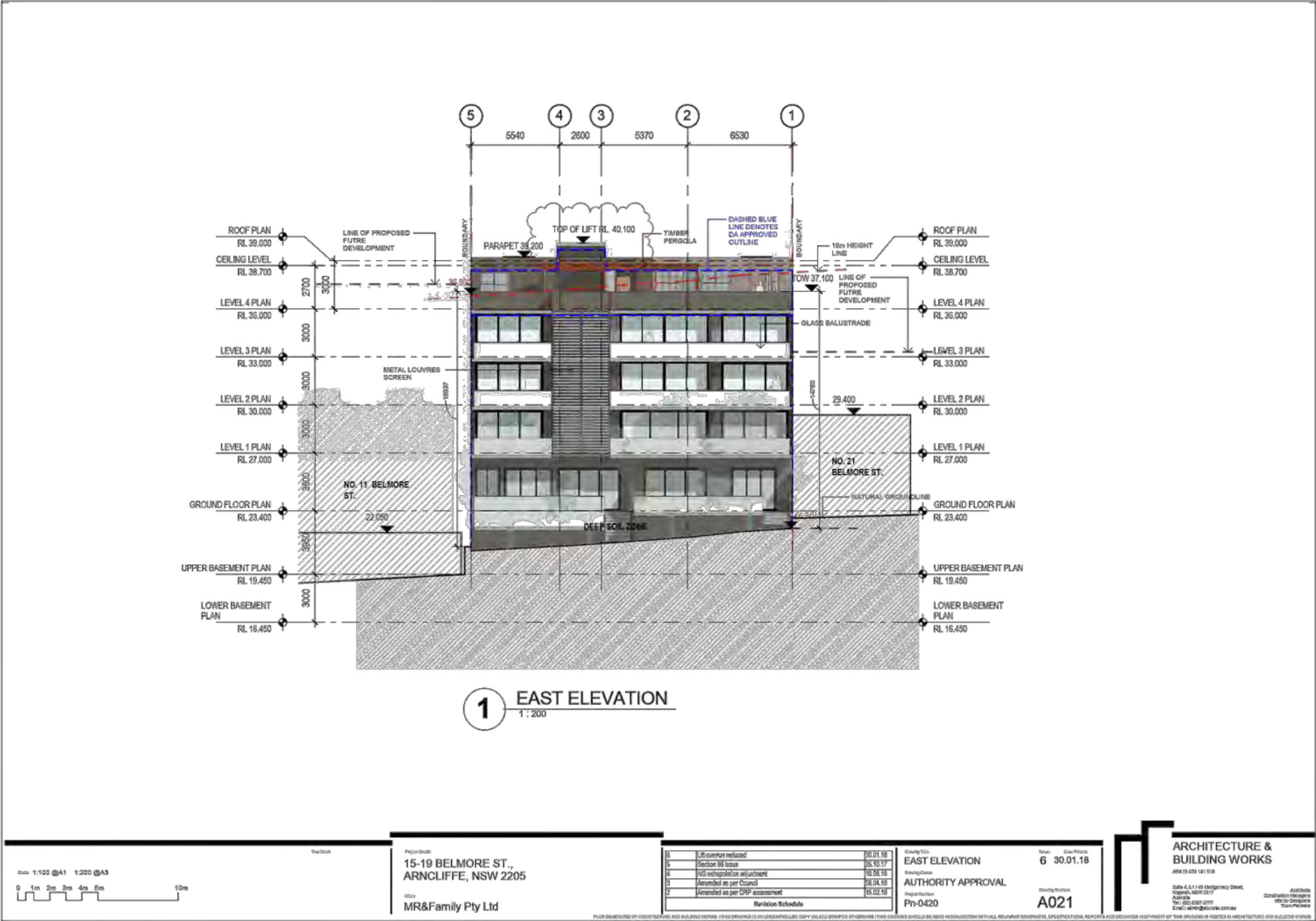
### **Development consent advice**

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.

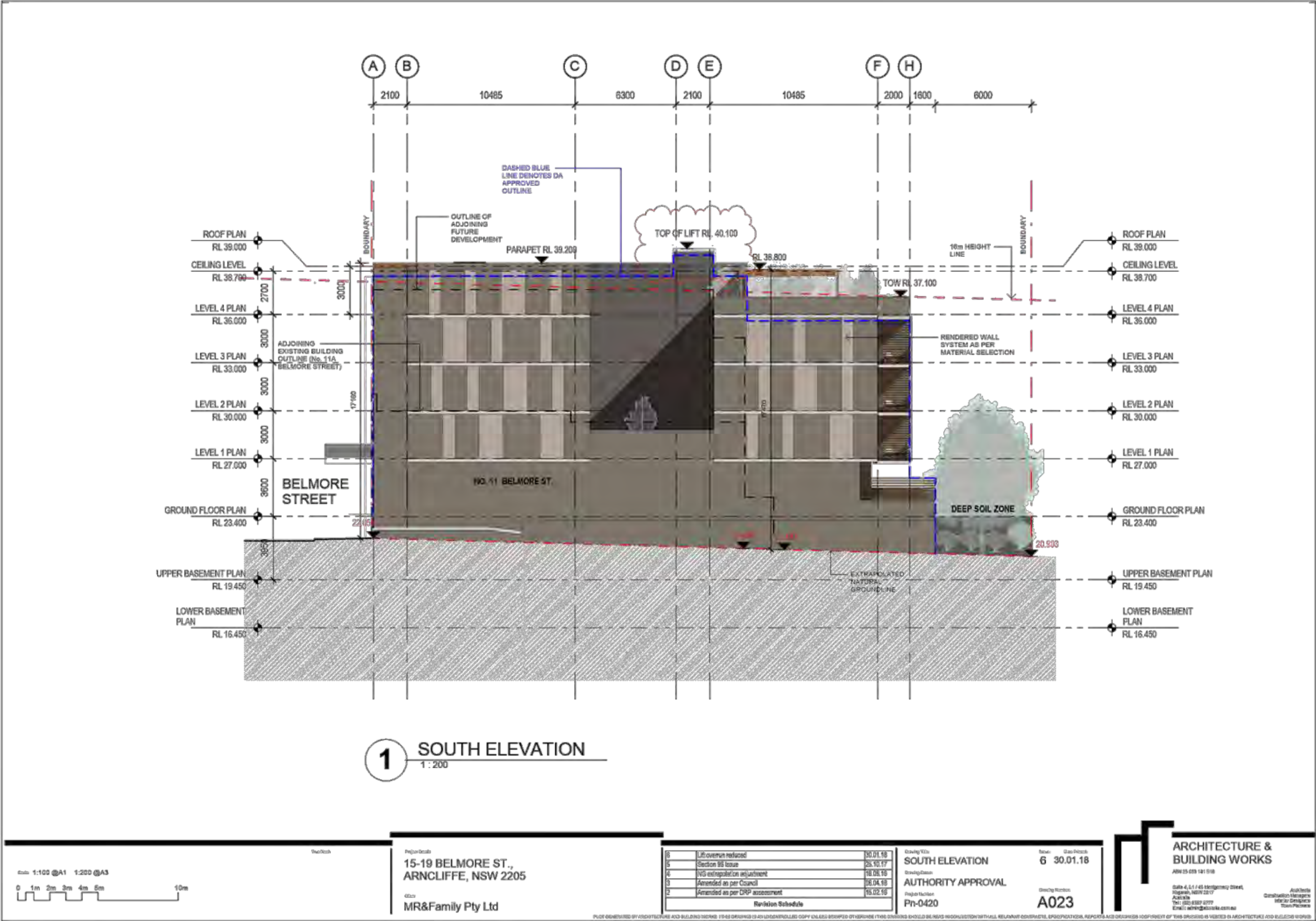






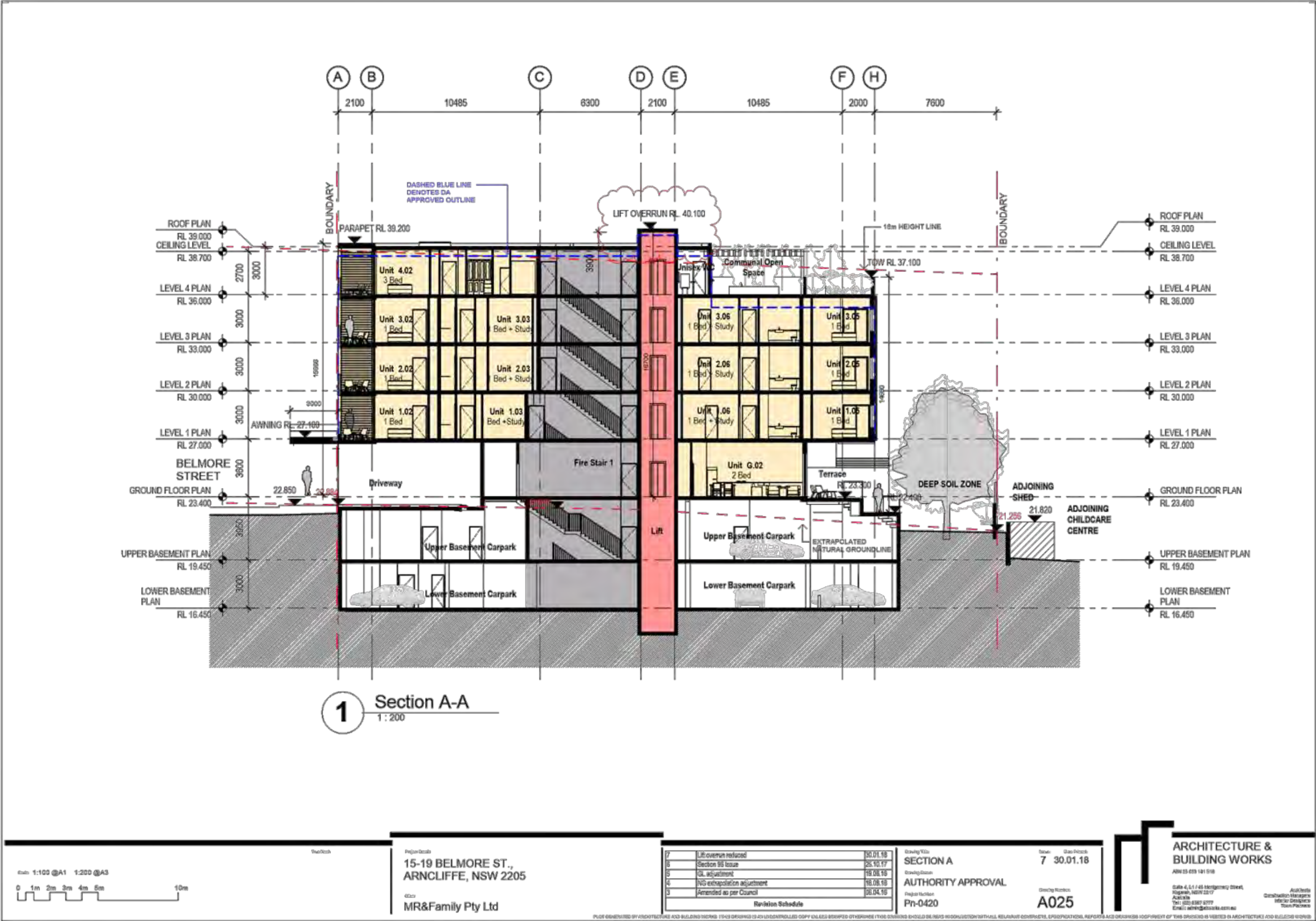




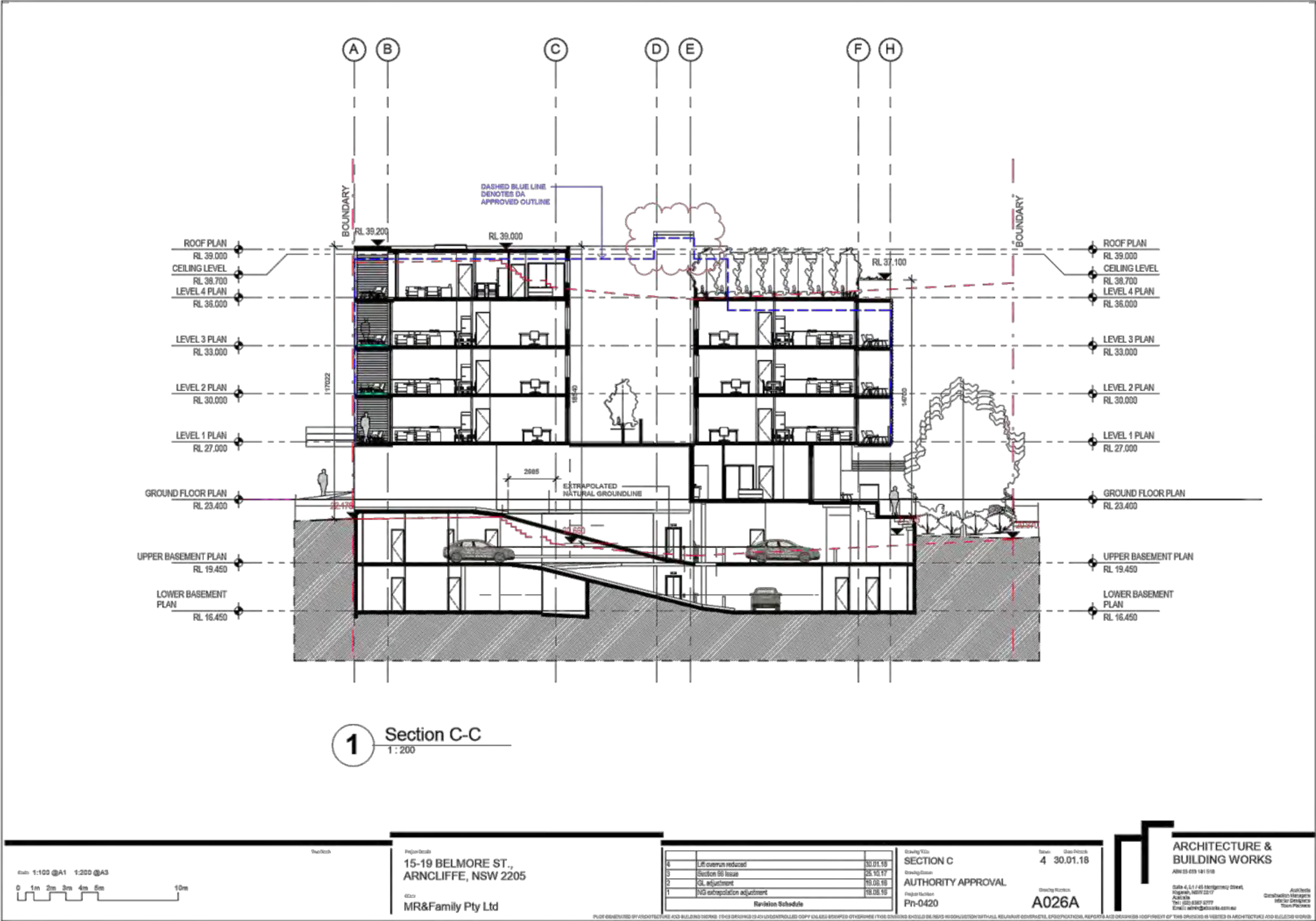












---

## **Bayside Planning Panel**

**12/06/2018**

Item No	6.3
Application Type	S4.55(2) Modification
Application No	DA-2016/66/A
Lodgement Date	09/03/2017
Property	<b>4 Magdalene Terrace, Wolli Creek</b>
Ward	Mascot
Owner	Maroun Pty Ltd
Applicant	Design Workshop Australia
Proposal	S4.55(2) Modification - Addition of 1 storey to previously approved development, including 7 additional residential units, to create a total of 107 units, new communal area on level 9 and reconfiguration of basement 2 level to include additional parking spaces
No. of Submissions	Nine (9) – Original Notification Six (6) – Revised Scheme
Cost of Development	\$9,083,496
Report by	Fiona Prodromou, Senior Assessment Planner

---

## **Officer Recommendation**

- 1 That the Bayside Planning Panel is satisfied that the applicant's amended plans have addressed the matters required to be demonstrated as per the determination of the Bayside Planning Panel on 10 May 2018.
  - 2 That the Bayside Planning Panel approve the Section 4.55(2) application to modify DA-2016/66 for the addition of 1 storey to the previously approved development, including 7 additional residential units, to create a total of 107 units, new communal area on level 9 and reconfiguration of basement 2 level to include additional parking spaces.
  - 3 That the revised conditions of consent in the updated draft Notice of Determination be endorsed by the Bayside Planning Panel.
  - 4 That the objectors be notified of the determination made by the Bayside Planning Panel.
-

## Location Plan



## Attachments

- 1 Planning Report
- 2 Draft Notice of Determination
- 3 Photomontage 1
- 4 Photomontage 2
- 5 Proposed Level 9
- 6 Proposed Roof Plan
- 7 View Corridor Analysis
- 8 Section A
- 9 Section B
- 10 Section C
- 11 Site Analysis
- 12 Site Plan, Survey & Statistics
- 13 North South Elevation
- 14 East West Elevation
- 15 Revised 9am - 10am Midwinter Overlaid Shadows
- 16 Revised 11am - 12pm Midwinter Overlaid Shadows
- 17 Revised 1pm - 2pm Midwinter Overlaid Shadows
- 18 Revised 3pm Midwinter Overlaid Shadows
- 19 Revised Building B Western Facade Midwinter Shadows 9am - 12pm
- 20 Revised Building B Western Facade Midwinter Shadows 1pm - 3pm
- 21 Revised Building B Northern Facade Midwinter Shadows 9am - 12pm

- 22 Revised Building B Northern Facade Midwinter Shadows 1pm - 3pm
- 23 Original 4.55 Report [↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/66/A
<b>Date of Receipt:</b>	9 March 2017
<b>Property:</b>	4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)
<b>Owner:</b>	Maroun Pty Ltd
<b>Applicant:</b>	Design Workshop Australia
<b>Proposal:</b>	Modifications - Addition of 1 storey to previously approved development, including 7 additional residential units to create a total of 107 units, new communal area on Level 9 and reconfiguration of Basement 2 level to include additional parking spaces
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Nine (9) - Original Scheme Six (6) - Revised Scheme
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	5 June 2018

### Key Issues

---

On 10 May 2018 DA-2016/66/A was referred to the Bayside Planning Panel (BPP) for determination. Council's Planning Officer's recommendation was for Refusal.

The BPP determined as follows:

*"That this item be deferred to allow the applicant the opportunity to submit amended plans to demonstrate impacts and benefits of the modification application. Such amendments to the built form should include the redesign of the upper level to allow for increased view sharing and a reduction in overshadowing."*

Following the recommendation of the BPP, amended plans were submitted to Council on 14th May 2018.

Amended plans illustrated the following changes to the initially proposed scheme;

- a) Addition of a recessed single storey to the approved building resulting in a 10 storey development. Proposed level 10 is recessed 19.5m from the southern end of the floor below and 6.8m - 8m from the eastern end of the floor below.
- b) Addition of 7 units, in lieu of 9 previously sought, resulting in a total of 107 units within the development. (3 x 3 bed / 3 x 2 bed / 1 x 1 bed)

c) Reduction in previously sought FSR variation from 3.27:1 (1,159sq/m surplus GFA) to 3.16:1 (620.1sq/m surplus GFA). This represents a reduction in the variation sought from 9.3% to 5.6% of the FSR standard.

d) Addition of a 245sq/m area of communal area at level 9. A further 51sq/m room is provided as a communal gym. The proposed gym facility adjoins and is directly linked to the communal open space area at level 9. This proposed communal area is provided with periphery landscaped areas, a central sculptural raised planter and dedicated seating area pergola structure for weather protection.

e) Provision of a steel and glass awning structure to level 10 communal open space area for weather protection.

Amended plans requested by the BPP for DA-2016/66/A at 4 Magdalene Terrace, Wolli Creek were submitted to Council. These plans have been reviewed by the Planning Officer and an assessment is provided below. The concerns raised by the BPP have been addressed by the applicant. The proposal is therefore reported back to the BPP for determination on the basis of the above. It is recommended that the BPP consider the amended plans and determine the application.

## Recommendation

---

1. That the Bayside Planning Panel is satisfied that the applicant's amended plans have addressed the matters required to be demonstrated as per the determination of the Bayside Planning Panel on 10 May 2018.
2. That the Bayside Planning Panel determine the Section 4.55(2) application to modify Development Consent 2016/66 for the addition of 1 storey to the previously approved development, including 7 additional residential units, to create a total of 107 units, new communal area on level 9 and reconfiguration of basement 2 level to include additional parking spaces.
3. That the revised conditions of consent in the updated draft Notice of Determination be endorsed by the Bayside Planning Panel.
4. That objectors be notified of the determination made by the Bayside Planning Panel.

## Background

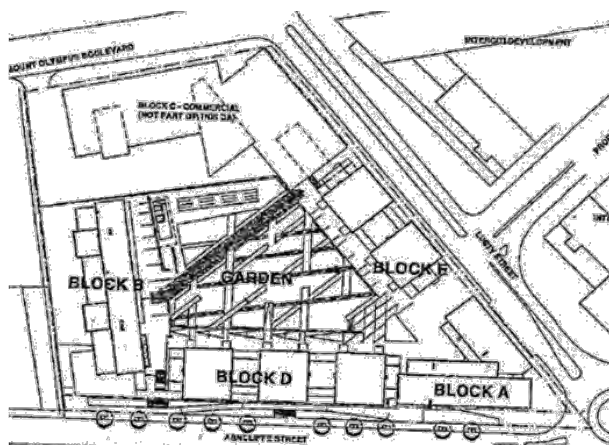
---

### History

#### 10 October 2001

Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4. This condition also allocated the floor space within the development site. The below diagram is indicative of the approved master plan. Under the approved Master Plan the future building to be constructed upon 'Block C', the subject site was to be entirely commercial.



#### 2 October 2002

DA-2002/1243 was approved by Council. This DA incorporated Stage 1 of the redevelopment of the site within the diagram above and included the construction of four buildings to a height of 5-21 storeys to comprise a mixed use development known as "Proximity" being blocks A / B / D / E. Following October 2002, a number of various amendments were made to previously issued consents.

#### 2011

Following the notification of Rockdale Local Environmental Plan in 2011, the subject site was zoned B4 Mixed Use. Residential flat buildings were permissible upon the subject site, with a height and FSR standard, based on the original Masterplan controls put in effect.

#### 13 September 2012

Approved - DA-2011/461 - Stage 2 Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage.

#### 6 July 2016

Approved as Deferred Commencement - DA-2016/66 - Construction of 100 residential dwellings above the previously approved ground floor commercial premises and incorporated the addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area. The approved development complied with the FSR standard for the site and a variation to the height limit was approved, being a 0.8m - 4.6m height variation.

As a result of the approval of DA-2016/66, the applicant was required to surrender DA-2011/461. DA-2011/461 was surrendered by the applicant on 13 October 2017.

#### 15 August 2017

Activation of Deferred Commencement.

#### 9 March 2017

DA-2016/66/A - Submitted to Council - Addition of 1 storey to previously approved development, including 9 additional residential units, creating a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces.

22 March - 12 April 2017

Public notification of proposal as modified.

6 April 2017

Consideration by the Design Review Panel.

10 May 2018

Planning Report to BPP for determination. Council's Planning Officer's recommendation was for Refusal. The BPP determined as follows:

*"That this item be deferred to allow the applicant the opportunity to submit amended plans to demonstrate impacts and benefits of the modification application. Such amendments to the built form should include the redesign of the upper level to allow for increased view sharing and a reduction in overshadowing."*

14th May 2018

Amended plans submitted to Council

## **Proposal**

The proposal as modified seeks to:

- a) Add a single storey to the approved building resulting in a 10 storey development.
- b) Proposed level 10 is recessed 19.5m from the southern end of the building and 6.8m - 8m from the eastern end of the building.
- c) The single additional storey at level 10, includes a total of 7 additional units, resulting in a total of 107 units within the development. The 7 additional units proposed comprise 3 x 3 bed / 3 x 2 bed / 1 x 1 bed
- d) Alterations to the configuration of basement levels 2 - 4, including additional car parking spaces to accommodate the additional apartments within the approved basement footprint.
- e) Increase the height of the approved building from 35.6m to 38.6m.
- f) Increase the FSR of the approved building from 2.96:1 (compliant) to 3.16:1, being 620.1sq/m surplus gross floor area, equivalent to a 5.6% variation to the FSR control.
- g) Addition of a 245sq/m area of communal area at level 9. A further 51sq/m room is provided as a communal gym. The proposed gym facility adjoins and is directly linked to the communal open space area at level 9. This proposed communal area is provided with periphery landscaped areas, a central sculptural raised planter and dedicated seating area pergola structure for weather protection.
- h) Provision of a steel and glass awning structure to level 10 communal open space area for weather protection.

## **Site location and context**

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard and originally formed part of the Proximity Development adjoining to the east, prior to its subdivision



and subsequent change in ownership in 2006.

The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. Construction is occurring on site, with basement levels underway. A large tree is located adjacent to the site at 16 Guess Avenue, Wolli Creek.

The 'Proximity' development adjoins the subject property along its eastern boundary. Buildings within Proximity comprise shop top housing above ground level retail uses. A number of established building forms exist within the Proximity site as follows:

- Block E - directly adjoins the proposed development to the east and fronts Magdalene Terrace. Block E is 5 storeys in height with a maximum 21RL.
- Block A - is located at the junction of Magdalene Terrace and Arncliffe Street, it is the highest building within the Proximity Development, 21 storeys in height with a 66.25RL.
- Block D - fronts Arncliffe Street and is 5 storeys in height with a maximum 21RL.
- Block B - is oriented east / west within the Proximity site and is 14 storeys in height with a maximum 51.4RL.

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. There are three mixed use buildings, 10, 18 and 22 storeys in height opposite the site. On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.



*Aerial Context*

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. This site is zoned RE1 – Public recreation under RLEP 2011 and is earmarked for a future park. Council records however indicate that following a recent resolution of Council, Council is in the process of engaging independent planning consultants to prepare a Planning Proposal to lift the reservation and modify the zoning, height and FSR of the earmarked 'Park' in order to permit redevelopment with a height and FSR which reflects adjoining sites.



*Subject Site and eastern neighbour 'Proximity'*

## Statutory Considerations

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

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

#### **S4.46 - Development that is Integrated Development**

The original development constituted Integrated Development and required approval from the NSW Office of Water. The proposal as modified does not modify previously approved basement depths and as such the general terms of approval (GTA) previously imposed remain, should the proposal as modified have been supported for approval.

#### **S4.55 (2) - Modification**

4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

4.55(2) states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:*

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

Comments: In determining whether the proposal is 'substantially the same development' consideration has been given to the Land & Environment Court Case 'Moto Projects No.2 Pty Limited v North Sydney Council [1999] NSWLEC 280', which at paragraphs 55 and 56, Commissioner Bignold described the process for consideration of a proposed modification of development as follows:

*"55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development."*

Comment: The approved development constitutes a 9 storey mixed commercial / residential building with basement parking levels, podium and rooftop communal open space areas. The proposal as modified does not include changes to the footprint of the building or basement, and the building envelope for the approved levels remain largely unchanged. The proposal as modified seeks to add a recessed additional storey of residential dwellings within the development, resulting in a 10 storey building on site.

Given the above the proposal as modified remains is essentially and materially the same as the approved development. As such, it is the opinion of the planning officer that the proposal as modified is substantially the same development.

*b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comments: The proposal as modified was referred to relevant authorities.

*c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or  
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comments: The application has been notified in accordance with the provisions of Rockdale DCP 2011. Revised plans were renotified from 16 - 31 May 2018.

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

Comments: A total of nine (9) objections were received in relation to the notification of the original plans. Six (6) objections were received in relation to revised plans. Matters raised by objectors have been considered further in this report.

#### 4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

4.55(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of s4.15(C) of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of s4.15(1) of the Environmental and Planning Assessment Act.

#### **S4.15 (1) - Matters for Consideration - General**

##### **S4.15 (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**

The applicant submitted a revised BASIX Certificate for the proposal as modified. The Certificate number is 641848M\_06. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption	20
Reduction in Water Consumption	40
Thermal Comfort	Pass

The proposal as modified is consistent with the provisions and objectives of the SEPP.

##### **State Environmental Planning Policy (Infrastructure) 2007**

*Division 15 - Development in or adjacent to Railway Corridors*

*Clause 86 - Excavation in, above or adjacent to rail corridors*

*Proposed development that involves ground penetration at least 2m depth that is within 25m of a rail corridor, requires concurrence from Sydney Trains.*

Comment: The original proposal involved excavation within 25 metres of the East Hills rail corridor and was referred to Sydney Trains who raised no objection in relation to the proposed development, subject to the imposition of deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations.

The proposal as modified does not alter the aforementioned.

*Clause 87 - Impact of rail noise or vibration on non-rail development*

*A building for residential use adjacent to a rail corridor requires that measures are taken to limit LAeq (equivalent continuous noise levels) and they are not exceeded:*

*(3)(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,  
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

Comment: An Acoustic Report prepared by "Harwood Acoustics" dated 28/02/2017 was submitted with the proposal as modified. The report considered the potential impact of railway noise to

residential dwellings and recommends amelioration measures to ensure that these levels are not exceeded. Relevant conditions within the original consent have been modified accordingly within the attached draft Notice of Determination. The proposal as modified is satisfactory with respect of the provisions of this clause.

**State Environmental Planning Policy No 55—Remediation of Land**

The matter of site contamination and remediation was addressed as part of the assessment of the original application. The site was deemed suitable for the development, with conditions of consent being imposed accordingly. The proposal as modified does not seek to undertake further excavation on site greater than that previously approved. In this regard the proposal as modified remains consistent with the provisions of SEPP 55.

**State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

The proposal as modified was referred to the Design Review Panel on 6 April 2017. The Panel supported the proposal as modified as discussed below. Revised plans submitted to Council on 14 May 2018 were not submitted to the DRP for review given the nature and scale of proposed changes.

b. The design quality of the development when evaluated in accordance with the design quality principles.

The relevant design quality principles of the SEPP have been considered in the assessment of the proposal as modified. The comments of the Design Review Panel are as follows in italics below.

Principle 1 – Context and Neighbourhood Character

*The Panel was provided with advice that the Wolli Creek development area has been subject to a number of section 4.6 and S96 applications seeking to increase the density of the development. The Panel was also advised that the Discovery Point Project which was previously approved under Part 3A Concept Plan had been increased in density by approximately 7%. In this context the Panel considered that the proposed increase under S96 application of around 9% was appropriate subject to an appreciation of the environmental and social benefits that would accrue.*

Comment: Revised plans illustrate a reduced foot print to proposed level 9, with increased setbacks to the southern and eastern sides of the floor below as previously referred to in this report. A reduced footprint to this level has also resulted in a reduction in overall density, with the proposal as modified incorporating a 5.6% surplus to the applicable FSR standard for the site.

The subject site is located in a primarily established area of Wolli Creek with buildings ranging in height from 5 to 21 storeys. The revised proposal minimises the previously sought bulk, scale and extent of proposed level 9 and accordingly alleviates previous concerns in relation to bulk, scale and character.

The revised scheme is not considered to be inconsistent with the established high density residential character and nature of the Wolli Creek town centre, particularly with respect to the buildings located to

the north and adjoining the site further to the east.

The proposal is consistent with the nature of building forms contextually surrounding the site and is satisfactory with regard to this principle.

#### Principle 2 – Built Form and Scale

*The Panel considered that the proposed additional floor level (level 10) represented an acceptable built form outcome that benefited from the existing approved design.*

Comment: The revised proposal incorporates a clear glass and steel awning structure, at the rooftop communal open space area. The clear glazing proposed to this structure assists in minimising any perceived bulk and additional height, given its transparency.

The reduction in size, extent and area of the proposed additional level allows the revised scheme to address its corner location and provide the appearance of a stepped building form with a reduced upper level scale, mass and bulk than the previous scheme submitted by the applicant.

The revised scale, mass and building form fits appropriately within the established context of the site.

#### Principle 3 – Density

*The Panel acknowledged that the proposed increase in density from 2.96:1 to 3.27:1 exceeded the permissible maximum of 3.0:1 but considered that the potential benefits such as increasing housing supply and diversity, and close proximity to a transport node warrant acceptance of the increase subject to the application of an additional negotiated development contribution which would be directed toward broader public realm improvements.*

Comment: The revised scheme seeks to provide a density on site which slightly exceeds the maximum permitted FSR by 5.6% (620.1sq/m), equating to a further 7 units within the development. Consideration has been given to the additional floor area in Clause 4.4 - FSR of this report, where the density was deemed to be satisfactory for the reasons discussed.

Whilst the density as sought exceeds the development standard for the site, the proposed building form, mass and extent is not inconsistent with established densities and building forms in context of the subject site.

Given the aforementioned, the proposal as modified is consistent with this principle.

#### Principle 4 - Sustainability

*Acceptable.*

Comment: The proposal as modified does not seek to remove previously approved sustainability measures on site. The revised proposal was accompanied by an updated BASIX certificate which confirms energy efficiency measures. The proposal as modified is satisfactory with respect to this principle.

#### Principle 5 – Landscape



*Acceptable.*

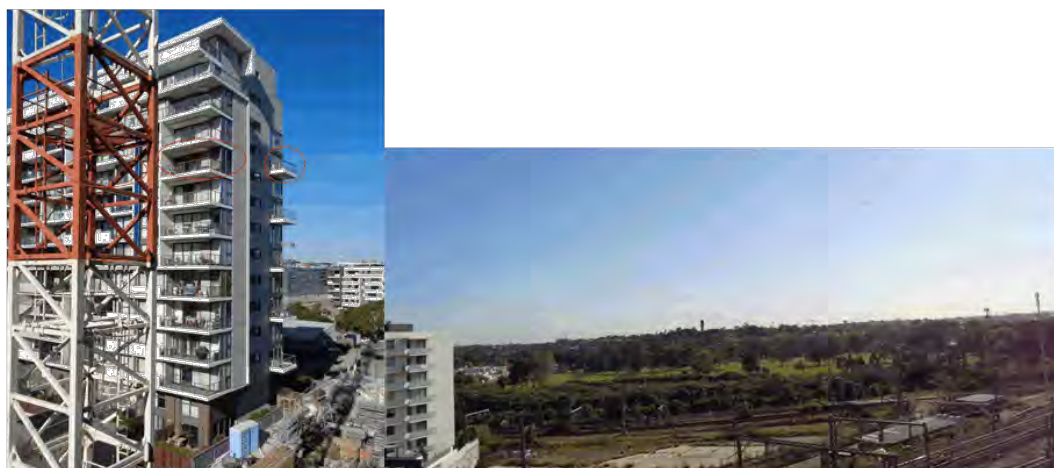
Comment: Revised plans modify the previously approved rooftop communal open space area, given changes to the floor level below. The proposed rooftop communal open space area is provided with appropriate facilities, weather protection, landscaping and amenities and remains consistent with this principle.

#### Principle 6 – Amenity

*The Panel acknowledged that the increased height of the building does not adversely affect the amenity of the proposed development or the amenity of the adjacent buildings and surrounds.*

Comment: Revised plans illustrate that level 9 has been recessed 15m - 19.5m from the southern end of the floor below and this area is provided as a new additional communal open space area with periphery planting capable of growing to a mature height of up to 10m.

Concern was initially raised in relation to potential view loss impacts to units within Proximity Building B. Specifically these units have been identified as B10.07/B10.06 with a northern balcony and B9.08 with a western balcony, as circled in red below which benefit from distant north westerly views of Wentworth Park and the Cooks River.



Whilst the proposal in its revised form recesses proposed level 9 from the southern end of the floor below, proposed units 101/106/107 contribute to the loss of distant north westerly parkland views from the balconies and windows of units B10.06/B10.07.



Notwithstanding the above, units B10.06/B10.07 benefit from and retain their distant north easterly views to Cahill Park, Cooks River, the airport and Port Botany. This thus affords satisfactory amenity to these units.



With respect of unit B9.08, whilst planting is illustrated within the proposed level 9 communal open space area, it is likely that partial north westerly views to this unit will be retained through any gaps in planting. The revised proposal will further provide a reasonable outlook to this unit of a landscaped area in lieu of a previously proposed building mass. This is not considered to be unsatisfactory.

Given the above, whilst it is likely that there will be some degree of view loss as a result of the proposed additional recessed level, the affected units will retain a reasonable outlook and retain satisfactory amenity.

The revised proposal in this regard is satisfactory in relation to view loss.

With respect of general amenity, proposed residential units are of sufficient overall areas, with appropriate room dimensions, orientation, solar access and cross ventilation. Internal storage and associated car parking and supplementary storage is provided at basement level. The residential units shall further benefit from access to three separate areas of communal open space on site, incorporating bbq, gym, communal room and swimming pool facilities which will maximise amenity.

#### Principle 7 - Safety

##### *Acceptable*

Comment: The proposal as modified retains previously approved safety and security measures on site. The development is provided with two prominent and clearly identifiable residential building entries to both Magdalene Terrace and Mount Olympus Boulevard, which comprise direct pedestrian access, generous lobbies and provide a high level of visibility to the street. Residential apartments, communal



open space & car parking areas are accessible via a secure electronic system. Common areas are to be well lit with clearly defined pathways.

The original consent incorporates conditions with respect of the provision of CCTV security cameras at residential entries and basement levels and the incorporation of clear directional signage on site to advise users of security measures in place. The proposal as modified is satisfactory in regards to the requirements of this principle.

#### Principle 8 - Housing Diversity and Social Interaction

*Acceptable. The Panel acknowledges that the proposed S96 variation will increase the diversity of housing within the overall complex.*

Comment: The proposal as modified increases the number of larger unit types within the development, catering to a mix of household types and potentially multigenerational families. The design of additional units provides for varied housing choice.

The proposal as modified retains the previously approved communal open space at podium level, which incorporates various spaces including bbq, lawn, pool and children's playground, which will encourage and provide opportunities for social interaction between future occupants.

Revised plans illustrate the addition of a new 245sq/m area of communal area at level 9. A further 51sq/m room is provided as a communal gym for future occupants. The proposed gym facility adjoins and is directly linked to the communal open space area at level 9. This proposed communal area is provided with periphery landscaped areas, a central sculptural raised planter and dedicated seating area pergola structure for weather protection.

The proposal as modified reduces the size of the previously approved rooftop communal open space to align with the reconfigured level 9 footprint. As a result a total of 746sq/m of communal open space is provided at rooftop level, incorporating communal gardens, timber seating, bbq, toilet and seating areas.

The revised proposal further incorporates the provision of a steel and glass awning at rooftop level, to the same height as the proposed lift overrun to afford weather protection for future residents.

The proposal as revised is satisfactory with respect of this principle.

#### Principle 9 – Aesthetics

*Acceptable.*

Comment: The proposal as modified does not seek to alter the previously approved colours, finishes or materials. Materials and colours are retained as per the approved schedule of colours and finishes. The proposal is satisfactory with respect of this principle.

#### c. the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG) below:

CLAUSE	DESIGN CRITERIA			COMMENTS	COMPLIES
3D - Communal Open Space	25% (913.5sq/m) Site Area 50% Direct sunlight to principle useable part of COS for minimum 2 hours between 9am - 3pm in midwinter			2627sq/m 2 hours solar access to rooftop and level 9 COS achieved.	Yes Yes
3F Visual Privacy	Building height	Habitable rooms & balconies	Non habitable	21.8m building separation from eastern façade of development to western wall of Building B within the Proximity Development.	Yes
	> 25m (9+storeys)	12m	6m		
3J - Bicycle and car parking	Min parking requirements are set out by the ADG. Max parking requirements are set out by Rockdale DCP 2011. The applicant has chosen to provide the maximum car parking permitted on the site in accordance with the rates set out in Rockdale DCP 2011.			Refer to Part 4.6 - Parking Rates of this report.	Yes
4A – Solar and daylight access	Living rooms + POS of at least 70% (75 of 107) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			91.6% (98 of 107) units receive 2 hours solar access in midwinter	Yes
	Max 15% (16 of 107) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			3.7% (4 of 107) receive nil solar in midwinter	Yes
4B – Natural ventilation	Min 60% (65 of 107) of apartments are naturally cross ventilated in the first nine storeys of the building. < 18m, glass line to glass line			71% (76 of 107) units cross ventilated	Yes
				17m maximum depth glass line to glass line	Yes
4C – Ceiling heights	Min ceiling heights:			2.7m / 2.4m floor to ceiling	Yes
	Habitable	2.7m			
	Non-habitable	2.4m			

4D – Apartment size and layout	Apartment type		Min area	1 bed - 56sq/m 2 bed – 70sq/m 3 bed – 90sq/m - 122sq/m	Yes Yes Yes
	1 bed		50m²		
	2 bed		70m²		
	3 bed		90m²		
4E – Private open space and balconies	Type	Min area	Min depth	1 bed - 8sq/m 2 bed - 10sq/m - 17sq/m 3 bed - 12sq/m - 46sq/m Balcony depth > 1m	Yes Yes Yes
	1 bed	4m²	2m		
	2 bed	10m²	2m		
	3 bed	12m²	2.4m		
	Min balcony depth contributing to the balcony area is 1m.				
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.			7 units off single circulation core	Yes
4G – Storage	Dwelling	Volume		Appropriate fixed storage provided within units and supplementary at basement level for future occupants.	Yes
	2 bed	8m²			
	3 bed	10m²			

### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	No - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified is defined as shop top housing, which constitutes a permissible development only with development consent. The proposal as modified is consistent with the objectives of the zone, providing residential accommodation within an accessible location.

#### 4.3 Height of buildings

A maximum height of 31m applies to the subject site. The table below illustrates the approved height of the development, variations inclusive, as compared to the proposal as modified:

Location	As Approved	Proposed	Complies	Difference
Roof of building	31.8m (34.8RL) (2.5% variation)	34.8m (37.8RL) 12.2% variation	No	+9.7% overall increase in height variation to that previously approved
Top of balustrade	32.92m (35.92RL) (6.1% variation)	35.92m (38.92RL) 15.8% variation	No	
Top of vertical facades elements	33.25m (36.25RL) (7.2% variation)	36.25m (39.25RL) 16.9% variation	No	
Top of lift/stair overrun, toilet & pergola	35.6m (38.6RL) (14.8% variation)	38.3m (41.3RL) 23.5% variation	No	

As can be seen above, the proposal maintains an overall building height by a total of 3m. This results in a height variation of 3.8m - 7.6m, being an overall additional variation of 9.7% to the height standard.

As the proposal is a 4.55 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the additional variation to the height limit as sought by the applicant has been assessed against the objectives of Clause 4.3 - Height of Buildings and the objectives of Clause 4.6 below.

#### Applicants Justification

- a) *The proposed modification is consistent with the height objectives of Clause 4.3(1) of the RLEP as noted in the previous Clause 4.6 Variation;*
- b) *The proposed development is consistent and compatible with the desired future character of the land which is for high density mixed use development as established by the existing built form in the surrounding area (notably the 5-21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) and the 46m height zone to the north;*
- c) *The proposed development is consistent with the objectives of the B4 Mixed Use Zone;*
- d) *Amenity is not compromised for the public domain or adjacent residential sites as a result of the non-compliance with the height standard;*
- e) *The departures from the height control within the RLEP 2011 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls;*
- f) *Council has virtually abandoned their controls in the vicinity of the site relative to additional height as via the height variation of the "Proximity" development.*
- g) *The proposed area of height non-compliance is considered to result in a size and scale of*

*development that is compatible with the desired future character of the locality. In particular, adjacent buildings (notably the 21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) breach the height standard of by up to 32m. In this regard, the 'Proximity' building is 11 storeys taller than the proposed development when measured from Arncliffe Street. Seen within the context of the surrounding development, the proposed modification remains compatible with the desired future character of the locality.*

*h) The proposed modification does not contribute to adverse overshadowing or overlooking of the habitable and or private open space areas of neighbouring properties.*

*i) Given the varying building height of surrounding development, which is generally much higher than the approved development, the additional single storey will assist to improve the visual relationship with surrounding development.*

*j) The increase in height provides for a suitably articulated and interesting roof form that provides a high level of residential amenity. The proposed rooftop structures are also directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development. The structures service the rooftop communal open space area which has been provided to benefit the future occupants of the site. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.*

*k) The proposed height is considered appropriate in respect of its impact on wind, design and amenity improvements, views, shadows, and privacy.*

#### Assessment

Following a review of the application, it is considered that the height variation as proposed is appropriate for the following reasons:

a) The proposed area of height non compliance is not considered to result in a size or scale of development that is incompatible with the established character of Wolli Creek. The revised proposal is of a height which is commensurate and comparable with approved and established residential building heights within the context of the subject site

b) The proposed rooftop structures which exceed the height limit are directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development. The structures service the rooftop communal open space area which has been provided to benefit the future occupants of the site. In general a 3m high structure is required for a lift cart with approximately 0.6m - 1m additional height to permit the installation of the lift overrun which consists of cables / bolts and beams to pull the lift up and down the rails on the back wall. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.

c) The revised proposal as modified reduces the extent of overshadowing of the original development, onto the southern neighbouring properties, which are earmarked for a future public park as per RLEP 2011 from 9am - 12pm in midwinter. The park is intended to form a key feature and social hub within the future desired character of Wolli Creek and the revised proposal is thus in the public interest.

d) The revised proposal as modified is consistent with the principles of SEPP 65 as previously discussed within this report.

e) The revised proposal as modified is consistent with the aims of the Apartment Design Guide with respect of building height.

- f) The revised proposal as modified is consistent with the objectives of Clause 4.3 - Height of Buildings.
- g) The scale and nature of the non compliance is unlikely to set an undesirable precedent given the established context and locational circumstances of the subject site.
- h) The proposal as modified was supported by the Design Review Panel.
- i) The revised scheme is consistent with the objectives of the B4 - Mixed Use zone.

Given the site and development circumstances as discussed above, the proposed additional height sought by the applicant is not considered to be unreasonable in this instance and is supported.

#### 4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10 962.9sq/m.

The table below illustrates the FSR and gross floor area of the development as approved and proposed:

<i>As Approved</i>	<i>Proposed</i>	<i>Complies</i>	<i>Variation</i>
2.96:1 10,825sq/m GFA	3.16:1 (11,583m <sup>2</sup> GFA)	<b>No</b>	620.1sq/m surplus GFA 5.6% variation to FSR standard

As the proposal is a 4.55 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the variation to the FSR control as sought by the applicant has been assessed against the objectives of Clause 4.4 - Floor Space Ratio and the objectives of Clause 4.6 below.

This assessment further considers the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, where it was established that justification was required in order to determine whether a development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of standard. Consideration is to be given to the particular site circumstances of the site and development.

#### Applicants Justification

A summary of the applicants key arguments supporting the additional FSR are as follows:

- *The proposal is consistent with the objectives of Clause 4.4, the increased density of development is considered appropriate within the context of the site. Specifically, the proposed additional seven (7) units can be sustained by the existing infrastructure, public transport, access to jobs, community facilities, public open space and the environment. It follows that the proposed modification will therefore allow the development of the site in accordance with its environmental capacity. Consequently, the development and intensity of land use is in accordance with the infrastructure capacity and desired future character of the locality.*
- *The proposed modification would not result in an unreasonable impact on surrounding properties. The modifications will have minimal (if any) potential amenity impacts (in terms of wind, design,*

views and privacy), and the additional parking requirements are fully accommodated within the approved basement levels.

- The development will remain compliant with SEPP 65 and the Apartment Design Guidelines (ADG). It is therefore considered that the modification will have minimal impact on the use or enjoyment of adjoining properties.
- The modified development will retain an appropriate visual relationship with the surrounding area, which is undergoing significant transformation.
- The development is located in a highly accessible location, with direct access to public transport, employment, community facilities and public open space. The proposed nine additional units seek to maximise the sites potential, particularly in relation to the use of Wolli Creek Railway Station. It is also noted that the modified development will provide for 30 bicycle parking spaces, which is 19 more than required by the Rockdale Development Control Plan 2011 (RDCP). In this respect, the proposed modification provides for suitably integrated land uses that will maximise public transport patronage and encourage walking and cycling.
- The proposed building is a high quality building that will add architectural value to the existing streetscape. The proposal has been designed with appropriate modulation and building depth which allows for the proposed residential units to obtain appropriate solar access and ventilation. The proposed development also provides for an appropriate correlation between the maximum building height, density and ground floor activation of a prominent corner location.
- The proposal will therefore allow the development of the site in accordance with its environmental capacity.
- There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the breach of the floor space ratio standard. In the circumstances of this particular site and its current approval, we therefore consider it more appropriate to allow a variation in FSR that achieves an improved outcome rather than to strictly apply the FSR standard.

#### Assessment

Following a review of the application, the FSR variation as revised is deemed appropriate for the following reasons:

- a) The scale and extent of the proposed additional density i.e. 5.6% is not inconsistent with previous approvals within the context of the subject site.
- b) The proposed development will result in an increase in housing supply and diversity in a high density location, which is located within close proximity to a key public transport node , i.e. Wolli Creek railway station. As a result of the aforementioned, the revised scheme is deemed to be in the public interest.
- c) The revised proposal as modified is consistent to the principles of SEPP 65 as previously discussed within this report.
- d) The revised proposal as modified is consistent with the aims of Part 2C - Building Height and Part 2D - FSR of the Apartment Design Guide.
- e) The revised proposal as modified provides in excess of double the required communal open space provision on site for future occupants in the form of three well designed and located communal open space areas. These areas have been designed to incorporate a range of facilities, including a swimming pool, children's playground and gymnasium. This will maximise amenity and benefit the

lifestyle needs of future occupants, including multigenerational families.

f) The revised proposal as designed, far exceeds the minimum required cross ventilation and solar access provisions of the Apartment Design Guide as noted earlier in this report. The additional units at level 9 have been designed within a floor plate and orientation which maximises internal amenity for future occupants and minimises adverse impacts onto neighbouring sites.

g) The revised proposal as modified is consistent with the objectives of Clause 4.4 - FSR, as the revised scheme does not result in adverse environmental effects upon the use or enjoyment of adjoining properties, is located close to public infrastructure including retail premises and transport nodes and maintains an appropriate visual relationship with the established character of the area.

h) The proposal as modified, given the increased setbacks to the proposed upper level, results in a reduction in overshadowing in midwinter from 9am - 12pm to southern adjoining properties, which are earmarked for a public park, as per RLEP 2011. As such the proposal is in the public interest.

i) The proposal as modified is consistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.

j) The revised scheme is consistent with the objectives of the B4 - Mixed Use zone.

k) The proposal as modified was supported by the Design Review Panel.

Given the site and development circumstances as discussed above, the proposed additional FSR as proposed by the revised scheme and sought by the applicant is not considered to be unreasonable in this instance and is supported.

#### 6.6 Flood Planning Land

The subject site is identified in council records as being flood affected. The proposal as modified does not seek to alter previously approved ground floor levels which are to be constructed above the flood threshold. As such the modified proposal maintains compliance with the provisions of this clause.

#### 6.7 Stormwater

The proposal as modified does not seek to alter previously issued conditions of consent relating to the disposal of stormwater from the subject site. The proposal as modified remains consistent with the provisions of this clause.

#### 6.11 Active Street Frontages

The proposal as modified does not seek to reduce or alter the previously approved commercial tenancies at ground level which facilitate the provision of an active street frontage to both Mount Olympus Boulevard and Magdalene Terrace. The proposal as modified remains consistent with the requirements of this clause.

#### 6.12 Essential services

Services are generally be available on the site, and standard conditions of consent were generally imposed upon the original DA. The proposal as modified does not alter the aforementioned and the proposal as modified remains consistent with the provisions of this clause.

### **S4.15(1)(a)(ii) - Provisions of any Draft EPI's**



No relevant proposed instruments are applicable to this proposal.

#### **S4.15 (1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Servicing - Wolli Creek and Bonar Street	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Visual Connections	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes - see discussion
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and Density	Yes	No - see discussion
7.1.8 Wolli Creek Street Character and Setbacks	Yes	No - see discussion
7.1.9 Wolli Creek - Environmental Management	Yes	Yes

#### 4.1.1 Views and Vista

The matter of view loss has been previously addressed in the SEPP 65 section of this report. The proposal as modified is satisfactory in this regard.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter. This clause further requires that development be designed and sited to minimise the extent of shadows that it casts on private and communal open space of adjoining dwellings. Whilst the provisions of this clause require a minimum of 3 hours of solar access, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause. Notwithstanding, a merit assessment has been undertaken below against the objectives of this clause.

The approved development is positioned primarily to the north, west and north west of the adjoining 'Proximity' development, which comprises shop top housing in residential towers 5 - 21 storeys in height. Given the orientation of the subject site, position of the approved development and proposed additional recessed level as sought by this application, it is inevitable that some degree of overshadowing occurs onto the adjoining existing 'Proximity' development (including its podium level communal open space and pool).

Further to the above, to the north of the subject site and the 'Proximity' development, at 1-7 Magdalene Terrace, are three existing buildings within the 'Discovery Point' development, which are 10, 18 and 22 storeys in height overall. Given the height and location of these buildings directly north of the subject site and 'Proximity' development, some overshadowing impacts already occur to the subject site and 'Proximity' development.

Notwithstanding the above, an assessment of the proposal as revised has been undertaken below.

#### Proximity Building B

Elevational shadow diagrams illustrating the approved and proposed shadows onto the western and northern facades of Building B were submitted with the revised proposal. These diagrams illustrate the additional overshadowing that is cast onto the northern and western facades of Building B of the Proximity development, as a result of the proposed additional level.

Submitted shadows demonstrate that a minimum of 2 hours of solar access is achieved in midwinter between 10am - 12pm to the west facing window / balcony openings to units within Building B of Proximity. This complies with the requirements of the Apartment Design Guide (ADG).

With respect to the northern façade of Building B, the revised modification will have no impact on solar

access to the northern façade of Proximity Building B before 1pm in mid-winter. This elevation will retain current levels of solar access in midwinter until 1pm, whereby minor additional overshadowing occurs as a result of the proposed additional level.

Given the above, the proposal is satisfactory in this regard and the northern and western facades of Proximity Building B receive sufficient solar access in midwinter.

#### Proximity Pool

Revised midwinter shadow diagrams submitted to Council illustrate that the recessed additional level does not generate further additional shadow impacts onto the Proximity pool, beyond the shadow previously cast by the originally approved development. The proposal as modified does not result in further overshadowing to the pool, given the aforementioned.

#### Proximity Communal Open Space

Roughly half of the communal podium open space area receives 2 hours of sunlight in midwinter from 10am - 12pm.

The revised proposal as modified generates additional overshadowing onto a portion of the central podium communal open space of Proximity at 12pm - 2pm. The additional shadow proposed to be cast is above and beyond that generated by neighbouring existing buildings and the previously approved development and is a direct consequence of the proposed recessed additional level.

Notwithstanding the aforementioned, approximately 50% of the podium communal open space area of Proximity retains 2 hours of solar access in midwinter and the proposal complies with the necessary requirement.

Given the context, position and orientation of the adjoining Proximity podium communal open space and level of sunlight retained to this space, the revised proposal as modified is deemed satisfactory with respect of overshadowing.

#### 4.4.4 Glazing - General Controls

Plans indicate the provision of louvered and sliding screens to residential balconies to the eastern, western and northern elevations. This will aid in reducing the necessity for mechanical heating and cooling to habitable areas and provide appropriate weather protection. The proposal as modified complies with the requirements of this clause.

#### 4.4.5 Acoustic privacy

The original development was conditioned to adhere to the recommendations of the Acoustic Report prepared by the Acoustic Group dated 24 July 2015, which incorporated noise amelioration measures to mitigate against traffic, rail and internal noise transmission, ensuring appropriate internal acoustic amenity is achieved.

The proposal as modified was accompanied by an acoustic report prepared by Harwood Acoustics, which considered road and rail noise, along with internal noise transmission. The report recommended measures to be incorporated during construction to ensure appropriate amenity is retained within the proposal as modified.

Revised plans illustrate that the courtyard space of proposed unit 107 directly adjoins the newly proposed communal open space area created at level 9. Accordingly an addendum to the aforementioned Acoustic Report was provided to Council, prepared by Harwood Acoustics and dated 18 May 2018. The addendum report clarifies how potential noise impacts from the proposed new communal area at level 9 may best be managed, given its location adjoining the proposed courtyard to unit 107 as shown below.



The following recommendations are provided;

*Construct a sound barrier screen around the northern and western boundaries of the courtyard of Unit 107. The screen should be constructed from any impervious material, such as masonry, glass or timber. In this instance it is proposed that the screen will be constructed from the masonry component of the planter box at the base with an opaque glass 'balustrade' above, and this will be acoustically acceptable, providing:*

- a) The finished height of the screen is a minimum 1.8 metres above the ground level of the courtyard without holes or gaps, other than a maximum 20 mm at the base if required.*
- b) The weatherproof pavilion with seating should be located as far to the west of the COS as practicable, or removed from the design and general seating placed further away from Unit 107 toward the west and north west of the COS;*
- c) Access to the COS should be restricted after 10 pm and before 7 am to avoid the potential for sleep disturbance – this may be achieved via the Body Corporate, for example, with lockable access or signage;*
- d) The proposed timber decking flooring is acoustically preferable to concrete or tile and will minimise "foot fall" noise impacting on the courtyard.*

The proposal as modified has been conditioned to ensure that the development conforms and adheres to the recommendations in both the initial and addendum reports by Harwood Acoustics. Subject to the aforementioned, the proposal as modified is satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

#### 4.4.7 Wind Impact

The proposal as modified was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 21 May 2018 ref 2015-341 Rev.4. The report stipulates that the most critical annual limiting gust wind speeds are expected in the following open areas:

- Communal Area at Podium Level;

- Podium Balconies;
- Level 2 – 9 Balconies; and
- Levels 9 & 10 - Communal Open Space.

The report provides recommendations as follows in order to mitigate wind impacts on site given the height of the development.

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

The proposal as modified complies with the requirements of this clause, subject to the implementation of the recommendations of the report referred to above.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The development is required to comply with the following unit mix:

DCP Requirement	Approved	Proposed	Complies
1 bed / Studio 10% (11) - 20% (22)	2 x studio 13 x 1 bed 14 x 1 bed + study 29 of 100 (9 surplus)	2 x studio 14 x 1 bed 14 x 1 bed + study 30 of 107 (10 surplus)	No - 28%
2 bed 50% (54) - 75% (81)	56 x 2 bed 1 x 2 bed + study 57 of 100	59 x 2 bed 1 x 2 bed + study 60 of 107	Yes - 56%
3 bed 10% (11) - 30% (33)	7 x 3 bed 7 x 3 bed + study 14 of 100	10 x 3 bed 7 x 3 bed + study 17 of 107	Yes - 16%

As demonstrated above, the proposal as modified complies with the minimum required number of 2 - 3 bedroom units sought to be achieved by the provisions of this clause. The proposal results in an increase of smaller units, via the addition of 1 x 1 bedroom unit within the development. Notwithstanding, this is a minor increase and is not considered likely to result in an adverse housing mix on site, such as to warrant refusal of the application.

The proposal as modified is deemed satisfactory with regards to the objectives of this clause.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (11) of residential units within the development are required to be provided as adaptable units. A total of 18 units (2, 4, 6, 7, 8, 14, 31, 32, 33, 41, 56, 57, 58, 66, 81, 82, 83, 91) were previously approved as adaptable units within the development. There are no new adaptable units provided within the proposed addition. The proposal

as modified thus retains compliance with the minimum number of adaptable dwellings required within the development.

Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels and communal open space areas allowing equitable access for persons with a disability / mobility impairment.

An Access Report prepared by Accessible Building Solutions, dated 15 February 2017 confirms compliance with relevant disability legislation. The proposal as modified is consistent with the requirements and objectives of this clause.

#### 4.6 Parking Rates - Shop-top Housing

The car parking rates of Rockdale DCP 2011 apply to the development. These rates were applied in the assessment of the original application and are sought by the applicant as part of the proposal as modified.

As per the provisions of this clause, parking provision is to be provided as follows on site.

- 1 space per studio, 1 and 2 bedroom (90 spaces required)
- 2 spaces per 3 bedroom (34 spaces required)
- 1 visitor space per 5 dwellings (22 visitor spaces required)
- 1 x dedicated car wash bay
- 58 commercial spaces
- 11 bike spaces
- 8 motorbike spaces

Given the above, a total of 205 car parking, 11 bike and 8 motorbike spaces are required for the proposal as modified.

Plans illustrate a total of 211 car, 42 bike and 18 motorbike spaces provided as follows:

Basement 1 - 58 commercial car spaces / 6 bike / 2 motorbike

Basement 2 - 55 car spaces (22 visitor / 31 residential / 2 car wash bays) / 12 bike / 6 motorbike

Basement 3 - 65 residential spaces / 12 bike / 4 motorbike

Basement 4 - 33 residential spaces / 12 bike spaces / 6 motorbike

The proposal as modified complies with the requirements of this clause and provides a surplus of 6 car parking spaces, which could otherwise be counted as gross floor area as per the GFA definition of Rockdale LEP 2011.

In order to ensure these spaces are not included in GFA and FSR calculations, condition 66 is proposed to be modified to require that 6 residential car spaces be deleted from plans and provided as additional storage for residential units within the development.

#### 4.6 Car Wash Facilities

Two (2) appropriately dimensioned car wash bays are proposed within basement level 2. The proposal as modified satisfies the requirements of this clause.

#### 4.6 Pedestrian Access and Sustainable Transport

Plans indicate the provision of 36 bicycle spaces within basement levels 2-4. These areas are secure and enclosed with mesh fencing. The proposal as modified provides in excess of the minimum number of bicycle spaces required by DCP 2011. The proposal as modified is therefore considered to positively encourage future occupants to adopt alternative modes of transport. The proposal as modified is consistent with the requirements and objectives of this clause.

#### 4.7 Air Conditioning and Communication Structures

Plans indicate the provision of air conditioning units upon the balconies of residential units. Balconies are provided with either masonry or glazed balustrades to both street frontages of the property. The existing consent comprises a condition requiring that glass balustrades be opaque to ensure that air conditioning units are not visible from the public domain. This existing condition ensures that the proposal as modified is also satisfactory in relation to the requirements of this clause.

#### 4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of two (2) waste chutes within the development, being one chute adjoining each lift core within the building. Waste is to be discharged into 1100L residential and 660L commercial bins on site. Waste is to be compacted and discharged into waste holding rooms within basement level 2 which is of sufficient dimension and area to accommodate the proposal as modified. Separate previously approved garbage storage areas are provided at ground level adjoining the loading dock for use by commercial tenancies on site.

Recycling bins are provided within a waste compartment on each residential level for the north core and levels 3, 5, 7 and podium for the dual level cross over apartments in the northwest core. Full waste and recycling bins will be transferred to the bin enclosure on basement 2. Bins will then be transferred to the ground floor loading bay via the goods lift on the day of collection and serviced by Council within the loading dock.

The proposal as modified provides appropriate on site waste management and satisfies the provisions of this clause.

#### 4.7 Servicing - Wolli Creek and Bonar Street

The existing consent comprises a condition, which requires the developer to relocate underground electricity cables on the frontages of the site at no cost to Council. The proposal as modified is therefore consistent with the provisions of this clause.

#### 4.7 Laundry Facilities and Drying Areas

Residential units are provided with appropriate internal laundry facilities. The proposal as modified satisfies the provisions of this clause.

#### 4.7 Letterboxes

Residential mail boxes were previously approved adjoining the main entry foyers to the upper residential levels. The proposal as modified complies with the requirements of this clause.

#### 4.7 Hot Water Systems

Nil details are provided in relation to the location of hot water units to residential dwellings. Notwithstanding the original consent incorporates conditions to ensure that all hot water systems/units located on the balcony of dwellings are encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work concealed. The proposal as modified is satisfactory with respect of the provisions of this clause.

### 5.2 RFB - Building Entry

As approved the development comprises individual residential building entries to both frontages of the site at Magdalene Terrace and Mount Olympus Boulevard. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street and development. The proposal as modified does not alter previously approved building entries and thus remains compliant with the requirements and objectives of this clause.

### 5.2 RFB - Lift Size and Access

Three lifts, as previously approved, are provided within the proposal as modified. A single lift core is provided to the portion of the building fronting Magdalene Terrace and a dual lift core to the portion of the building fronting Mount Olympus Boulevard. Each lift provides access from basement levels to the uppermost storey of each building on site. Cross over between lifts is provided at levels 3 / 5 / 7 via a common corridor and the rooftop communal open space area, enabling future occupants access to three lifts within the building. Lifts are appropriately dimensioned. The proposal as modified complies with the requirements and objectives of this clause.

### 5.3 Mixed Use - Visual Connections

The proposal as modified retains the previously approved glazed ground floor retail spaces to both street frontages with clearly identifiable residential lobbies. Upper levels of the approved development, including the proposal as modified incorporate residential balconies and windows, which overlook the public domain and provide passive surveillance from the site. The proposal as modified is satisfactory in this regard.

### 5.3 Mixed Use - Secured Access to Parking

This clause requires that where a building contains residential and non-residential uses, separate lift access be provided from basement car parking to the residential and non-residential areas. Additionally that residential parking spaces be secure and separate from non-residential vehicle parking and servicing areas.

As approved plans detail the provision of secure residential car parking at separate levels from commercial car parking on site. Additionally, approved plans illustrate the provision of a separate goods / customer lift and ramp provided within the development for the future commercial uses, enabling future customers to access the ground level retail uses via a separate lift from those intended for the upper level residential uses.

The proposal as modified does not alter the aforementioned and remains consistent with the objectives and requirements of this clause.

### 7.1.7 Wolli Creek Built Form: Building Heights and Density

The building height diagram within Part 7.17 of DCP 2011 illustrates a height of up to 8 storeys being permitted upon the subject site. The development as approved comprised a total of 9 storeys with rooftop elements atop the building. Whilst the 9th storey was a variation to this control, the development as approved, to the rooftop level complied with the LEP height requirements.

The proposal as modified seeks to add an additional level to the approved development, resulting in a 10 storey building with associated rooftop structures on site. The height of the revised proposal as modified is satisfactory for the reasons previously discussed within Clause 4.3 - Height of Buildings in this report.



The requirements of this control further require that solar access to public parks be retained between 12pm - 2pm on June 21. Plans illustrate that the revised proposal as modified reduces the overshadowing impact of the originally approved development unto the land to the south earmarked for a future public park.

The proposal as revised is satisfactory with respect of the objective of this clause.

#### 7.1.8 Wolli Creek Street Character and Setbacks

The Magdalene Terrace frontage of the site is identified as 'Retail Street Frontage' with the Mount Olympus Boulevard frontage of the site identified as 'Mixed Use Street Frontage' within the street character diagrams depicted within this clause.

Accordingly, a 2m building setback is required to both frontages of the site, of which a further 2.5m articulation zone is also required. The articulation zone is intended to comprise only balcony elements.

The development as approved complies with the 2m building setback to both frontages, with building elements protruding into the articulation zones at both site frontages as can be seen in yellow below.

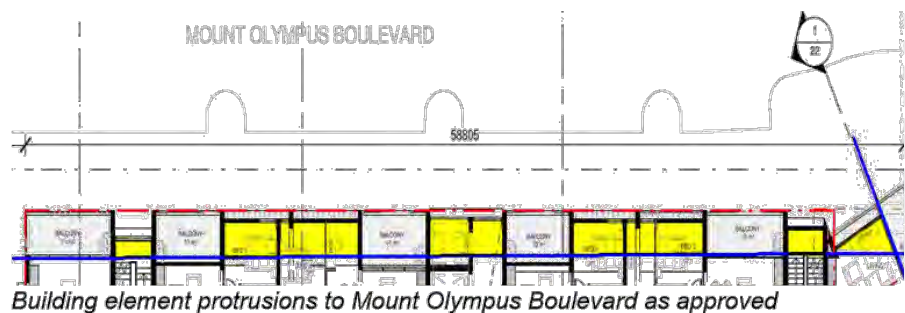
As approved, the design of the development alternates on each level, with balconies proposed within the articulation zone on Levels 2, 4, 6 and 8 and a mix of floor space and balconies on Levels 3, 5, 7 and 9. The proposal as modified remains consistent with the aforementioned and illustrates partial protrusions within the articulation zone.



*Building element protrusions to Magdalene Terrace as approved*

Building E adjoining the approved development to the east is positioned closer to Magdalene Terrace than the approved development and the proposal as modified. Building E comprises solid balcony elements which protrude forward of the building line of the approved development and proposal as modified.

The additional level proposes building line protrusions akin to those previously approved. Given the established building line and balcony elements of Building E to the east, and the consistency of protrusions with those previously approved, the variation in this instance is not unreasonable.



With respect to building protrusions to the Mount Olympus Boulevard frontage of the site, it is reiterated that the level 10 protrusions are akin to those previously approved at levels below. Further, the proposal as modified shall be the only building directly fronting Mount Olympus Boulevard.

Given the above, the proposal as modified is satisfactory with respect of the objectives of this clause.

**S4.15(1)(a)(iv) - Provisions of regulations**

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

**4.15(1)(b) - Likely Impacts of Development**

Sydney Trains

The subject site is positioned opposite the railway line. The original proposal was referred to Sydney Trains for comment and deferred commencement conditions were imposed, to ensure the construction of the development did not adversely impact upon the nearby train line or its operations. The Deferred Commencement conditions remain applicable with respect of the proposal as modified.

Safety & Security

The development was previously approved with clearly identifiable and legible residential building entries to both Magdalene Terrace and Mount Olympus Boulevards. Residential lobbies comprise direct pedestrian access and are glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal as modified remains consistent with the aforementioned and is satisfactory in this regard.

Social Impact

The proposal as modified provides a greater number of larger residential dwellings within the previously approved development. The larger unit types and mix will cater to and accommodate a range of housing types.

Modified Conditions

In order to facilitate the revised proposal, it is noted that the following conditions as originally imposed upon DA-2016/66 are required to be revised. These have been modified accordingly in the updated draft Notice of Determination attached to this report.

Condition	Detail
-----------	--------

2	Revised plans
5	Revised BASIX
10	Revised total parking numbers and allocation
48	Revised S94 Contributions
53	Revised total number of accessible units
66	References to Wind, Acoustic and Access Reports revised to reflect updated reports. (O) Inserted to ensure 6 surplus car spaces are converted to residential storage for future occupants.
105	By Law condition amended to ensure recommendation of Harwood Acoustics Addendum is incorporated. i.e. L9 communal space is limited in use to between 7am – 10pm Monday to Sunday, public holidays inclusive.
126	Total residential parking numbers revised.
138A	New Condition to ensure communal open space areas are designated accordingly upon any Strata Plan
139	Revised maximum building height as permitted by Sydney Airport.

#### **S4.15(1)(c) - Suitability of the site**

The relevant matters pertaining to the suitability of the site for the revised proposal as modified have been considered in the assessment of this proposal. Given the established context of the site, locational circumstances and minimal adverse impacts on site and to neighbouring properties, the subject site is deemed to be suitable for the proposal as modified.

#### **S4.15(1)(d) - Public submissions**

The proposal as modified has been notified in accordance with the provisions of Rockdale DCP 2011. Nine (9) submissions were received in relation to the initial scheme with six (6) received following renotification of revised scheme. The issues raised in the submissions received by Council are discussed below:

##### *Further overshadowing to south facing apartments at 1-7 Magdalene Terrace*

Comment: The proposal as modified does not overshadow the objectors unit at 1 Magdalene Terrace. The objectors building is positioned north of the subject site, on the northern side of Magdalene Terrace, within Discovery Point. The objectors building overshadows itself given its orientation and location.

##### *Number of storeys of the proposal is queried*

Comment: The proposal as modified is 10 storeys in height.

##### *Privacy impacts to units in 1 Magdalene Terrace*

Comment: The proposal as modified is positioned in excess of 25m away from the objectors property. Given the aforementioned building separation, privacy impacts are not anticipated.

*Further overshadowing of Proximity pool and gardens by extra storey*

Comment: The matter of overshadowing has been discussed previously within this report.

*View loss impacts from units within Proximity Development*

Comment: The matter of view loss has been previously discussed in this report.

*View loss impacts from 1-7 Magdalene Terrace*

Comment: Buildings at 1-7 Magdalene Terrace are located to the north of the subject site and comprise buildings ranging in height from 10 - 22 storeys. The orientation and outlook of these buildings to the south is as such that there is no significant identified view corridor. These units fronting Magdalene Terrace benefit from a distant southern outlook of residential areas in the locality. Accordingly, it is not considered that the proposal as modified results in significant adverse view loss impacts to these units.

*Increased Traffic / Mount Olympus Boulevard is too narrow for service vehicles to enter the site i.e. Woolworths trucks / Service trucks*

Comment: The proposal as modified complies with the car parking requirements of DCP 2011. The previously approved vehicle entry, exits and turning areas, particularly with respect of trucks, loading and unloading are not proposed to be modified. The width of Mount Olympus Boulevard is sufficient to accommodate vehicular movements anticipated for the approved development.

*Visual privacy impacts to Proximity pool / Visual privacy impacts to units within Proximity Building B & D*

Comment: The podium level of the proposed development and the adjoining Proximity development are not aligned, with substantial shrub and tree terraced planting provided at podium level of the proposed development along the common eastern boundary of the site with Proximity. Also, given the approved landscaping at the common boundary and level difference of 2.4m, it is unlikely that the proposal will result in adverse overlooking of the Proximity Pool.

Further to the above, the rooftop communal open space is recessed from the edge of the building, with periphery shrub and tree planting provided. Additionally the proposal as modified comprises a building separation of greater than 20m from Building B and further to building D within the Proximity development. The building separation as proposed and previously approved as aforementioned is considered to be satisfactory in order to avoid adverse visual privacy impacts between neighbours.

*Traffic & Car Parking impacts*

Comment: Councils Engineer considered the matters of car parking, maneuverability and traffic and was satisfied that the proposal as modified was unlikely to result in adverse traffic or car parking impacts within the surrounding road network and the surrounding roads are capable of accommodating the additional traffic likely to be generated by the proposal as modified. It is reiterated that the proposal complies with relevant car parking requirements and provides an on site loading / unloading bay.

*Devaluation of property*

Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.

*Acoustic impact of rooftop communal open space to residents in Building B*

Comment: The rooftop communal open space area is located in excess of 20m away from Building B within Proximity. The rooftop area is intended to be provided as a secondary 'passive' communal open space area, with the swimming pool and children's play equipment located within the 'active' communal open space area at podium level. Given the distance of the rooftop communal open space area from Building B and the high density residential context of the area, it is not considered likely that the rooftop communal open space area will result in adverse acoustic impacts to neighbours.

*Loss of solar access to building B within Proximity development.*

Comment: The matter of solar access has been previously discussed within this report.

*Cracks to Proximity Development*

Comment: The original consent required the provision of a dilapidation report. This will ensure the structural integrity of adjoining developments is retained during construction and any associated damage as a result of construction is rectified by the developer.

*Limited shops, supermarkets, restaurants and amenities, there is not enough room for more people in Wolli Creek*

Comment: Wolli Creek is a town centre which is not as yet developed to its full potential, however comprises a number of existing commercial / retail premises. A number of approvals exist within Wolli Creek for developments which have not as yet been constructed or completed, and numerous shops and additional amenities will emerge. The subject site currently has approval for an Aldi supermarket in addition to a number of commercial premises at ground level which are not as yet completed or tenanted.

*Proposal will set a bad precedent*

Comment: For the reasons previously outlined in this report, it is not considered that the proposal as modified will set a precedent. There are specific site and development specific circumstances which warrant the proposed modifications. It is noted that each application submitted to Council is considered on its merits.

*Construction noise, pollution, traffic etc.*

Comment: Construction of new developments is temporary. Standard conditions of consent are already imposed which require developers to mitigate traffic, acoustic, dust, soil and water impacts and the like.

**S4.15(1)(e) - Public interest**

The proposal as modified is considered to be satisfactory and in the public interest, for the reasons previously outlined within this report.

### **S7.11 Contribution towards provision or improvement of amenities or services**

Should the proposal as modified be supported for approval, additional S94 contributions can be levied for the further increase in density on the site.

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

### **General Conditions**

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

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

Plan / Dwg No.	Drawn by	Dated	Received by Council
<i>Basement Level 4 (Drawing 18E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 3 (Drawing 19E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 2 (Drawing 20E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016



Level 9 (Drawing 21M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Site Plan (Drawing 02M)	Design Workshop Australia	08/05/2018	14/05/2018
Roof Plan (Drawing 22M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
East / West Elevations (Drawing 23M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
North / South Elevations (Drawing 24M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections C (Drawing 27M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections B (Drawing 26M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Section A (Drawing 25M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Detailed Sections 01/02/03/04, drawing 20(G) (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue D	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA01 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA02 Issue E	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA06 Issue A	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016

Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015
-----------------------------	------------------------------	------------	------------

*[Amendment A - S96(2) amended on 12/06/2018]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. *The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M\_06 other than superseded by any further amended consent and BASIX certificate.*

*Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -*

*•(a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.*

*Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."*

*Note: For further information please see <http://www.basix.nsw.gov.au>.*

*[Amendment A - S96(2) amended on 12/06/2018]*

6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
- Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
- Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
- Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
- Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
- Retail E - 1/6 Mount Olympus Boulevard Wolli Creek



- Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
- Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek

10. *A total of 205 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:*

*Allocated Spaces*

*Studio - 2 bedroom apartments - 1 space per apartment (90 spaces total)*

*3 and 3+ bedroom apartments - 2 spaces per apartment (34 spaces total)*

*Commercial Units - as specified within this consent (58 commercial spaces total)*

*Non-Allocated Spaces*

*Residential Visitor - 22 spaces*

*Car wash bay - 1 space*

*Basement level 1*

*Retail tenancy A – 7 spaces*

*Retail tenancy B – 2 spaces*

*Retail tenancy C – 2 spaces*

*Retail tenancy D – 2 spaces*

*Retail tenancy E – 2 spaces*

*Supermarket – 43 spaces*

*All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*

*Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*[Amendment A - S96(2) amended on 12/06/2018]*

## **Development specific conditions**

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".
13. The front windows of retail premises shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. Bicycle and motorbike spaces within the development shall be depicted as common

property within any future subdivision plan for the development.

15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.  
  
B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Ridgid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in size and mass than the Heavy Ridgid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.
19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained and pumped by the system;

- ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
  23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  24. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
  26. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
  27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
  28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
  29. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
  30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
  31. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
    - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled

flooring within corridors, living areas and bedrooms is not permitted.

- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

32. a) In order to ensure the design quality excellence of the development is retained:
  - i. Mr Robert Gizzi of Design Workshop Australia is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
 b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
34. The proposed signs must not have / use:
  - flashing lights
  - electronically changeable messages
  - animated display, moving parts or simulated movement
  - a method and level of illumination that distracts or dazzles

### 35. *Landscaping*

Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.

Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).

Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.

All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip

resistance on both private and Council property.

The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

36. *Swimming Pool*

The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.

*Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.*

Suitable depth markers shall be provided at each end of the swimming pool.

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

The motor, filter, pump and all sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to the neighbours.

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Rockdale Council or the Royal Life Saving Society.

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days.

39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

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

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$45 195.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
44. Mount Olympus Boulevard  
Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:
  - (a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:
    - (i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.

(ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.

Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.

(b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.

45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
48. *A Section 94 contribution of \$3,169,285.46 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.*

*[Amendment A - S96(2) amended on 12/06/2018]*

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.
51. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that



the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.

52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
53. *Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of 11 residential units within the development and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.*

*Note: Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.*

*[Amendment A - S96(2) amended on 12/06/2018]*

54. The applicant shall confer with Ausgrid to determine if:
  - installation of electricity conduits in the footway is required.
  - satisfactory clearances to any existing overhead High Voltage mains will be affected.
  - an electricity distribution substation is required.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.
57. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be

undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

58. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities comply with the conditions of consent.

59. *Adjoining buildings founded on loose foundation materials*

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Implement all recommendations contained in the report prepared by Douglas Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd - Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on sub soil drains / spoon drain connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).

(f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in

damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

60. *Vibration monitoring*

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.

62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;
- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

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

64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior to excavation.
65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:

A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.

B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

C). Glass balustrades shall be provided as frosted or opaque.

D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

*E). Compliance with the recommendations of the Access Report dated ref:214473 Issue C dated 15/02/2017 prepared by Accessible Building Solutions.*

*F). The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 21 May 2018 ref 2015-341 Rev.4 are to be implemented on site, including*

- Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- Pergolas, canopies and awnings over open areas; and*
- Landscaping such as dense shrubs and trees.*
- Canopy or pergola on the roof terrace.*

G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.

H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.

I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

*M). Acoustic Attenuation - The noise reduction measures specified in the acoustic reports and addendum prepared by "The Acoustic Group" dated 24/07/2015, Harwood Acoustics, and the addendum report by Harwood Acoustics dated 18 May 2018 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:*

*(i) in any bedroom in the building-35 dB(A) at any time between 10.00pm and 7.00 am; and*

*(ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.*

*Recommendations in relation to the courtyard of unit 107 and communal open space on level 9 shall be illustrated on plans.*

N) A single antenna shall be provided to the building for use of all residents.

O) Six (6) car spaces within lower basement levels shall be converted to residential storage cages.

*[Amendment A - S96(2) amended on 12/06/2018]*

67. **Safety & Security**

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels
- b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
- c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
- d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
- e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
- f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.

68. All recommendations contained in the Geotechnical Investigation report prepared by by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

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

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

69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) and Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Arncliffe Street, Wollie Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway. As access via the temporary wall is no longer required the applicant shall obtain approval from the Body Corporate of the Proximity development for the easement for access that benefits Lot 2 DP1064374 to be expunged from the title of DP 1066102 and at the applicant's cost.
71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:
- a) Hours of work,
  - b) contact details of site manager,
  - c) traffic management,
  - d) noise and vibration management,
  - e) waste management,
  - f) erosion and sediment control,
  - g) protection of trees to be retained.

A copy of the approved Construction Management Plan shall be submitted to



Council.

73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
75. A Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
  - a) Ingress and egress of construction vehicles to the site,
  - b) routing and control of construction vehicles,
  - c) parking of employees vehicles,
  - d) loading and unloading, including construction zones, for all construction vehicles,
  - e) predicted traffic volumes, types and routes,
  - f) pedestrian and traffic management methods,
  - g) the hours of operation of the construction site,
  - h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
  - i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.

The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.

76. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
  - hazard identification and control
  - site security
  - personal protective equipment
  - work zones and decontamination procedures
  - contingency plans and incident reporting
  - environmental monitoring.
77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
  - a) Identification of the specific activities that will be carried out and associated noise sources',

- b) identification of all potentially affected sensitive receivers including residences, schools and existing facility,
- c) the construction noise objective specified in the conditions of this approval,
- d) the construction vibration criteria specified in the conditions of this approval,
- e) noise and vibration monitoring, reporting and response procedure,
- f) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- g) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- h) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
- i) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- j) contingency plans to be implemented in the event of non compliance's and/or noise complaints.

A copy of the approved Plan shall be submitted to Council.

- 78. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
- 79. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
- 80. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,

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

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

  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

  - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

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

81. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
83. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

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

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

85. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
86. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
87. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.
88. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and

- ii. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
90. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality.
91. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
93. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
94. All excavation and backfilling associated with the erection or demolition of a building

must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

95. When soil conditions require it:
  - i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
97. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's

Customer Service Centre.

- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

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

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

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

than washing and disposed of appropriately.

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
99. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

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

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

- 100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
- 102. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
- 103. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 104. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
- 105. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.



(d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.

(e) notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

(f) *The level 9 communal open space area adjoining the courtyard of unit 107 shall be limited in use to between the hours of 7am - 10pm, Monday to Sunday, public holidays inclusive.*

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

*[Amendment A - S96(1A) amended on 12/06/2018]*

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.
110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:

☐ describe and document all works performed;

- ☐ include results of validation testing and monitoring;
  - ☐ include validation results of any fill imported on to the site;
  - ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
  - ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.

The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at [www.foodnotify.nsw.gov.au/nafsis/](http://www.foodnotify.nsw.gov.au/nafsis/) and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

112. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
113. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.

A Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.

114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.

The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 20 May 2011.

115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
117. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.

118. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the development shall be provided in accordance with the submitted plans and the following.
  - ☐ Retail tenancy A – 7 spaces
  - ☐ Retail tenancy B – 2 spaces
  - ☐ Retail tenancy C – 2 spaces
  - ☐ Retail tenancy D – 2 spaces
  - ☐ Retail tenancy E – 2 spaces
  - ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be

controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. *A total of 147 off-street residential car spaces (124 residential / 22 visitor / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

*Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.*

*[Amendment A - S96(2) amended on 12/06/2018]*

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.  
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
128. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
129. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
130. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.

134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

136. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:

- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and
- (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.

138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

- 138A. *Communal open space areas on site are to be designated as common property*

*upon any Strata Plan.*

*[Amendment A - S96(2) inserted on 12/06/2018]*

*Reason for additional condition 138A is:*

- *To ensure appropriate allocation of communal open space on site.*

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

#### **139. Sydney Airport Corporation Limited**

*SACL has approved the maximum height of the proposed building at 41.6 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.*

*Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.*

*For further information on Height Restrictions please contact SACL on 9667 9246.*

*[Amendment A - S96(2) amended on 12/06/2018]*

#### **140. Sydney Trains**

A. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- a) Machinery to be used during excavation/construction.
- b) Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- c) If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

B. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

C. All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or

are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

G. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

H. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

I. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

J. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor.

These measures are to comply with Sydney Trains requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

K. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

L. Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

M. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.



N. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

O. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

P. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Q. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

R. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

S. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.

141. NSW Office of Water

*General*

A. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

B. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building.

Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

C. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and

- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

E. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

*Prior to excavation*

A. The following shall be included in the initial report:

- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.

- (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

- (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

- (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

B. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

C. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be

included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

D. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

E. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A copy of a valid consent for the development shall be provided in the initial report.

F. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

G. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### *During Excavation*

A. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

B. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

C. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

D. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of

pumped groundwater shall be complied with.

E. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

F. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

G. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

*Following Excavation*

A. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

B. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

## **Roads Act**

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

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

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

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

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

- i) construction of a concrete footpath along the frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance/s;

- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
144. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
145. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:
- i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;
  - ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.
  - iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.
  - iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.
  - v) Provide Council with 48 hours notice of the following:
    - a) Commencement of the works
    - b) Completion of road sub-grade trimming and compaction; and
    - c) Completion of road base-course trimming and compaction; and
    - d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and
    - e) Prior to covering any stormwater drainage pipes and connections; and
    - f) Prior to placement of road wearing course; and
    - g) Completion of works.
- Note: An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an

engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

- a) Keep the works clean and free of silt, rubbish and debris;
- b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;
- d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;
- e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).

- 147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
- 148. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.
- 149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:

- i) Detailed design plans and specifications, including structural details; and
- ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

### **Development consent advice**

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development.

The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.

- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.
- h. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- i. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.



- j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Our Ref: DA-2016/66/A  
Contact: Fiona Prodromou 9562 1666

Design Workshop Australia  
PO BOX 3091  
BALGOWNIE NSW 2519

## NOTICE OF DETERMINATION

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

**Application Number:** DA-2016/66/A  
**Property:** 4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)  
**Proposal:** Construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas.

**Authority:** [Amendment A - S96(2) amended on 12/06/2018]  
Delegated to Bayside Planning Panel

---

**Determination:** Approved  
**Date of determination:** 6 July 2016  
**Date consent commences:** 15 August 2017  
**Date consent lapses:** 6 July 2021

---

Your application was considered under the *Environmental Planning and Assessment Act 1979*. The application sought to modify the following previous consent(s):

- DA-2016/66 approved on 6 July 2016

Your application is **approved** subject to the following conditions:

### General Conditions

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

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

application, except as may be amended in red on the attached plans and by the following conditions.

Plan / Dwg No.	Drawn by	Dated	Received by Council
<i>Basement Level 4 (Drawing 18E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 3 (Drawing 19E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 2 (Drawing 20E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
<i>Level 9 (Drawing 21M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>Site Plan (Drawing 02M)</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>Roof Plan (Drawing 22M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>East / West Elevations (Drawing 23M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>North / South Elevations (Drawing 24M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>Sections C (Drawing 27M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>Sections B (Drawing 26M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>
<i>Section A (Drawing 25M) Issue M</i>	<i>Design Workshop Australia</i>	<i>08/05/2018</i>	<i>14/05/2018</i>

Detailed Sections 01/02/03/04, drawing 20(G) (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue D	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA01 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA02 Issue E	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA06 Issue A	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015

*[Amendment A - S96(2) amended on 12/06/2018]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. *The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M\_06 other than superseded by any further amended consent and BASIX certificate.*

*Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -*

- (a1) *that the plans and specifications for the building include such matters as*

*each relevant BASIX certificate requires.*

*Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."*

*Note: For further information please see <http://www.basix.nsw.gov.au>.*

*[Amendment A - S96(2) amended on 12/06/2018]*

6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
- Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
- Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
- Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
- Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
- Retail E - 1/6 Mount Olympus Boulevard Wolli Creek
- Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
- Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek

10. *A total of 205 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:*

*Allocated Spaces*

*Studio - 2 bedroom apartments - 1 space per apartment (90 spaces total)*

*3 and 3+ bedroom apartments - 2 spaces per apartment (34 spaces total)*

*Commercial Units - as specified within this consent (58 commercial spaces total)*

*Non-Allocated Spaces*

*Residential Visitor - 22 spaces*

*Car wash bay - 1 space*

*Basement level 1*

*Retail tenancy A – 7 spaces*

*Retail tenancy B – 2 spaces*

*Retail tenancy C – 2 spaces*

*Retail tenancy D – 2 spaces  
Retail tenancy E – 2 spaces  
Supermarket – 43 spaces*

*All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*

*Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*[Amendment A - S96(2) amended on 12/06/2018]*

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".
13. The front windows of retail premises shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.  
  
B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Rigid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in

size and mass than the Heavy Rigid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.

19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained and pumped by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
  23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or



domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.

24. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
29. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
31. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

32. a) In order to ensure the design quality excellence of the development is retained:
  - i. Mr Robert Gizzi of Design Workshop Australia is to have direct involvement in the design documentation, contract documentation and construction stages of the

project;

ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;

iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.

b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.

33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.

34. The proposed signs must not have / use:

- flashing lights
- electronically changeable messages
- animated display, moving parts or simulated movement
- a method and level of illumination that distracts or dazzles

35. *Landscaping*

Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.

Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).

Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.

All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

36. *Swimming Pool*

The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.

*Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.*

Suitable depth markers shall be provided at each end of the swimming pool.

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

The motor, filter, pump and all sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to the neighbours.

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Rockdale Council or the Royal Life Saving Society.

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days.
39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

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

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

- i. A Footpath Reserve Restoration Deposit of \$45 195.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
44. Mount Olympus Boulevard  
Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:  
  
(a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:  
  
(i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.  
  
(ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.  
  
Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.  
  
(b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.
45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
48. *A Section 94 contribution of \$3,169,285.46 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.*

*[Amendment A - S96(2) amended on 12/06/2018]*

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.
51. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
53. *Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of 11 residential units within the development and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.*

*Note: Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.*

*[Amendment A - S96(2) amended on 12/06/2018]*

54. The applicant shall confer with Ausgrid to determine if:
- installation of electricity conduits in the footway is required.
  - satisfactory clearances to any existing overhead High Voltage mains will be affected.
  - an electricity distribution substation is required.
- Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.
57. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
58. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities comply with the conditions of consent.
59. *Adjoining buildings founded on loose foundation materials*

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Implement all recommendations contained in the report prepared by Douglas Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd - Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM

Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on sub soil drains / spoon drain connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).

(f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

60. *Vibration monitoring*

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event



identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;

- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

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

- 64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior to excavation.
- 65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
- 66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:

A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.

B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

C). Glass balustrades shall be provided as frosted or opaque.

D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

*E). Compliance with the recommendations of the Access Report dated ref:214473*

*Issue C dated 15/02/2017 prepared by Accessible Building Solutions.*

F). *The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 21 May 2018 ref 2015-341 Rev.4 are to be implemented on site, including*

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.

H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.

I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

M). *Acoustic Attenuation - The noise reduction measures specified in the acoustic reports and addendum prepared by "The Acoustic Group" dated 24/07/2015, Harwood Acoustics, and the addendum report by Harwood Acoustics dated 18 May 2018 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:*

*(i) in any bedroom in the building-35 dB(A) at any time between 10.00pm and 7.00*

am; and

(ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.

*Recommendations in relation to the courtyard of unit 107 and communal open space on level 9 shall be illustrated on plans.*

N) A single antenna shall be provided to the building for use of all residents.

O) Six (6) car spaces within lower basement levels shall be converted to residential storage cages.

*[Amendment A - S96(2) amended on 12/06/2018]*

#### 67. Safety & Security

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels
- b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
- c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
- d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
- e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
- f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.

68. All recommendations contained in the Geotechnical Investigation report prepared by by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

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

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

69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) and Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of

the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Arncliffe Street, Wollie Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway. As access via the temporary wall is no longer required the applicant shall obtain approval from the Body Corporate of the Proximity development for the easement for access that benefits Lot 2 DP1064374 to be expunged from the title of DP 1066102 and at the applicant's cost.

71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:

- a) Hours of work,
- b) contact details of site manager,
- c) traffic management,
- d) noise and vibration management,
- e) waste management,
- f) erosion and sediment control,
- g) protection of trees to be retained.

A copy of the approved Construction Management Plan shall be submitted to Council.

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

but not limited to, the following matters:

- a) Ingress and egress of construction vehicles to the site,
- b) routing and control of construction vehicles,
- c) parking of employees vehicles,
- d) loading and unloading, including construction zones, for all construction vehicles,
- e) predicted traffic volumes, types and routes,
- f) pedestrian and traffic management methods,
- g) the hours of operation of the construction site,
- h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
- i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.

The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.

76. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- hazard identification and control
- site security
- personal protective equipment
- work zones and decontamination procedures
- contingency plans and incident reporting
- environmental monitoring.

77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:

- a) Identification of the specific activities that will be carried out and associated noise sources',
- b) identification of all potentially affected sensitive receivers including residences, schools and existing facility,
- c) the construction noise objective specified in the conditions of this approval,
- d) the construction vibration criteria specified in the conditions of this approval,
- e) noise and vibration monitoring, reporting and response procedure,
- f) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- g) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- h) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
- i) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- j) contingency plans to be implemented in the event of non compliance's and/or noise complaints.

A copy of the approved Plan shall be submitted to Council.

78. The site shall be secured by a 1800 mm (minimum) high temporary fence for the

duration of the work. Gates shall be provided at the opening points.

79. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
80. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place.

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

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

  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

  - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
81. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.



83. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

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

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

85. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
86. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
87. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.
88. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - ii. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
90. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of

the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality.

91. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
93. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
94. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

95. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
97. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
98. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

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

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
99. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

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

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

100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
102. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
103. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
104. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
105. A by-law shall be registered and maintained for the life of the development, which requires that :

- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
- (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
- (c) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.
- (d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.
- (e) notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L<sub>nT,w</sub> 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
- (f) *The level 9 communal open space area adjoining the courtyard of unit 107 shall be limited in use to between the hours of 7am - 10pm, Monday to Sunday, public holidays inclusive.*

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

*[Amendment A - S96(1A) amended on 12/06/2018]*

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.
110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:
  - ☐ describe and document all works performed;
  - ☐ include results of validation testing and monitoring;
  - ☐ include validation results of any fill imported on to the site;
  - ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
  - ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.

The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at [www.foodnotify.nsw.gov.au/nafris/](http://www.foodnotify.nsw.gov.au/nafris/) and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

112. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.

113. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.

A Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.

114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.

The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 20 May 2011.

115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
117. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
118. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed



and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.

123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the development shall be provided in accordance with the submitted plans and the following.
  - ☐ Retail tenancy A – 7 spaces
  - ☐ Retail tenancy B – 2 spaces
  - ☐ Retail tenancy C – 2 spaces
  - ☐ Retail tenancy D – 2 spaces
  - ☐ Retail tenancy E – 2 spaces
  - ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. *A total of 147 off-street residential car spaces (124 residential / 22 visitor / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

*Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.*

*[Amendment A - S96(2) amended on 12/06/2018]*

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator.

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

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.

128. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
129. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
130. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

136. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance

- with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:

- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and
- (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.

138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

- 138A. *Communal open space areas on site are to be designated as common property upon any Strata Plan.*

*[Amendment A - S96(2) inserted on 12/06/2018]*

*Reason for additional condition 138A is:*

- *To ensure appropriate allocation of communal open space on site.*

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

139. Sydney Airport Corporation Limited

*SACL has approved the maximum height of the proposed building at 41.6 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney*

*Airport Corporation Limited.*

*Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.*

*For further information on Height Restrictions please contact SACL on 9667 9246.*

*[Amendment A - S96(2) amended on 12/06/2018]*

140. Sydney Trains

A. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- a) Machinery to be used during excavation/construction.
- b) Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- c) If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

B. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

C. All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

G. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

H. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

I. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the

measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

J. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor.

These measures are to comply with Sydney Trains requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

K. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

L. Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

M. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

N. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

O. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

P. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be

for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Q. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

R. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

S. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.

141. NSW Office of Water

*General*

A. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

B. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

C. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

E. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

*Prior to excavation*

A. The following shall be included in the initial report:

- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
- (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

B. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

C. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

D. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

E. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A copy of a valid consent for the development shall be provided in the initial report.



F. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

G. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### *During Excavation*

A. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

B. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

C. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

D. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

E. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

F. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

G. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

#### *Following Excavation*

A. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

(a) detail of the volume of water taken, the precise periods and location of water

taken, the details of water level monitoring in all of the relevant bores; and  
 (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and  
 (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

B. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

## Roads Act

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

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

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

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

143. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
144. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
145. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1).

Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:

i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;

ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.

iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.

iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.

v) Provide Council with 48 hours notice of the following:

- a) Commencement of the works
- b) Completion of road sub-grade trimming and compaction; and
- c) Completion of road base-course trimming and compaction; and
- d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and
- e) Prior to covering any stormwater drainage pipes and connections; and
- f) Prior to placement of road wearing course; and
- g) Completion of works.

Note: An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

- a) Keep the works clean and free of silt, rubbish and debris;
- b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;
- d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;
- e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the

system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).

147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
148. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.
149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:
  - i) Detailed design plans and specifications, including structural details; and
  - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).  
 Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

### **Development consent advice**

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate

including a note that the landscaping and drainage works have been completed in accordance with the approved plans.

- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- h. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- i. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

### Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Under Section 8.7 and 8.10 of the Act, applicants who are dissatisfied with the

outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

---

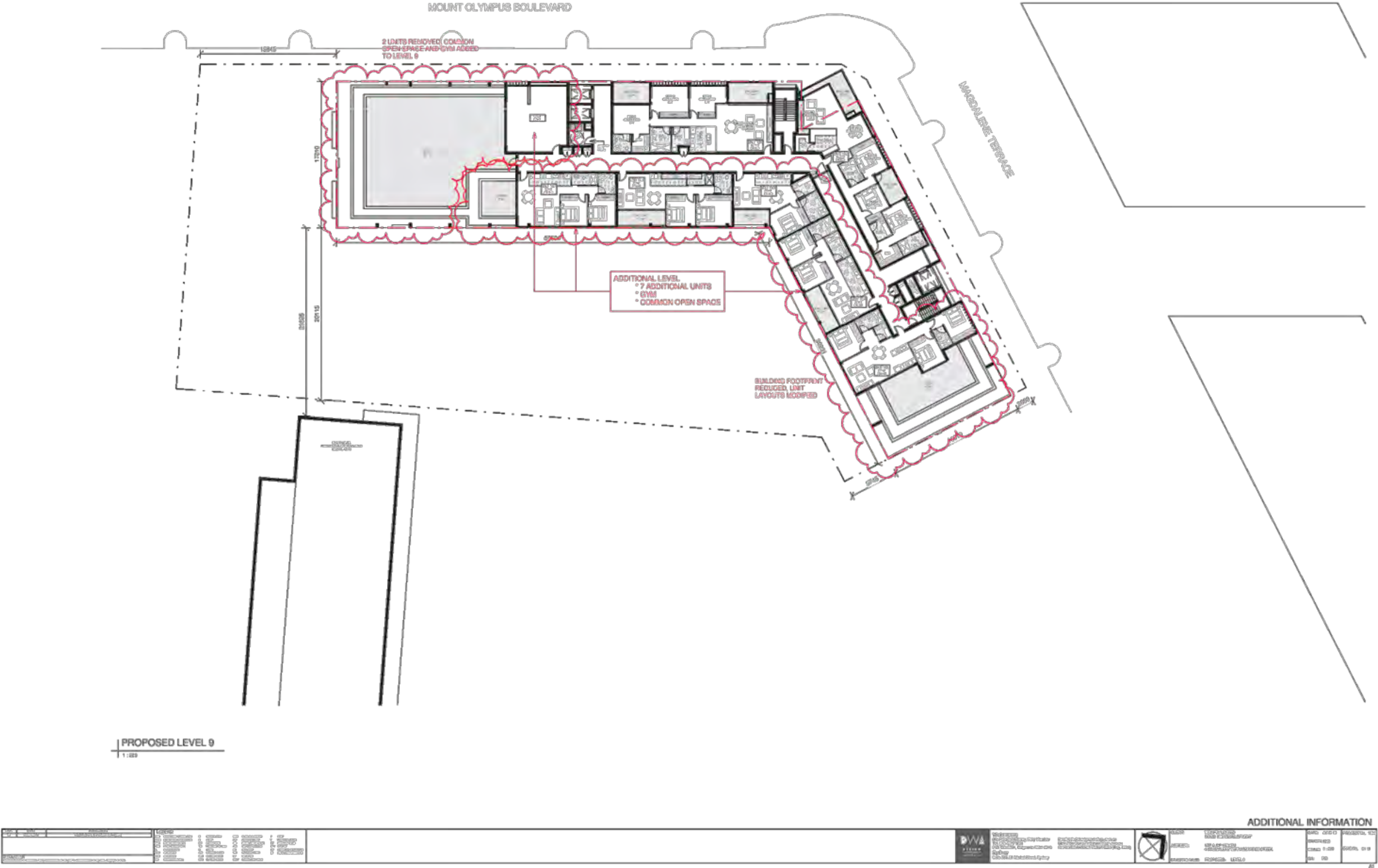
Should you have any further queries please contact Fiona Prodromou on 9562 1666













GENERAL INFORMATION		ADDITIONAL INFORMATION	
<b>NAME</b> <b>LAST</b> <b>FIRST</b> <b>MIDDLE</b>	<b>DATE OF BIRTH</b> <b>MONTH</b> <b>DAY</b> <b>YEAR</b>	<b>DATE OF DEATH</b> <b>MONTH</b> <b>DAY</b> <b>YEAR</b>	<b>DATE OF INTERVIEW</b> <b>MONTH</b> <b>DAY</b> <b>YEAR</b>
<b>SEX</b> <b>MALE</b> <b>FEMALE</b>	<b>EDUCATION</b> <b>LEVEL</b> <b>DEGREE</b> <b>FIELD</b>	<b>RELIGION</b> <b>NAME</b> <b>DATE OF BIRTH</b> <b>MONTH</b> <b>DAY</b> <b>YEAR</b>	<b>RELIGION</b> <b>NAME</b> <b>DATE OF BIRTH</b> <b>MONTH</b> <b>DAY</b> <b>YEAR</b>
<b>ADDRESS</b> <b>STREET</b> <b>CITY</b> <b>STATE</b> <b>ZIP</b>	<b>TELEPHONE</b> <b>HOME</b> <b>OFFICE</b> <b>CELL</b>	<b>EMAIL</b> <b>ADDRESS</b> <b>DOMAIN</b>	<b>WEBSITE</b> <b>ADDRESS</b> <b>DOMAIN</b>





CONTEXT VIEW ANALYSIS

1 : 1000

**DISCLAIMER**  
Subject to full city survey, measurements are preliminary, of boundaries and readings with authorities, approved from authorities.  
All content and information is for general information only. It is not intended to be used for any specific purpose.  
All content and information is for general information only. It is not intended to be used for any specific purpose.

NO.	DATE	DESCRIPTION
01	15/05/2018	PRELIMINARY SITE VISUALISATION

Legend:
1. PROPOSED DEVELOPMENT
2. EXISTING DEVELOPMENT
3. EXISTING DEVELOPMENT
4. EXISTING DEVELOPMENT
5. EXISTING DEVELOPMENT
6. EXISTING DEVELOPMENT
7. EXISTING DEVELOPMENT
8. EXISTING DEVELOPMENT
9. EXISTING DEVELOPMENT
10. EXISTING DEVELOPMENT
11. EXISTING DEVELOPMENT
12. EXISTING DEVELOPMENT
13. EXISTING DEVELOPMENT
14. EXISTING DEVELOPMENT
15. EXISTING DEVELOPMENT
16. EXISTING DEVELOPMENT
17. EXISTING DEVELOPMENT
18. EXISTING DEVELOPMENT
19. EXISTING DEVELOPMENT
20. EXISTING DEVELOPMENT
21. EXISTING DEVELOPMENT
22. EXISTING DEVELOPMENT
23. EXISTING DEVELOPMENT
24. EXISTING DEVELOPMENT
25. EXISTING DEVELOPMENT
26. EXISTING DEVELOPMENT
27. EXISTING DEVELOPMENT
28. EXISTING DEVELOPMENT
29. EXISTING DEVELOPMENT
30. EXISTING DEVELOPMENT
31. EXISTING DEVELOPMENT
32. EXISTING DEVELOPMENT
33. EXISTING DEVELOPMENT
34. EXISTING DEVELOPMENT
35. EXISTING DEVELOPMENT
36. EXISTING DEVELOPMENT
37. EXISTING DEVELOPMENT
38. EXISTING DEVELOPMENT
39. EXISTING DEVELOPMENT
40. EXISTING DEVELOPMENT
41. EXISTING DEVELOPMENT
42. EXISTING DEVELOPMENT
43. EXISTING DEVELOPMENT
44. EXISTING DEVELOPMENT
45. EXISTING DEVELOPMENT
46. EXISTING DEVELOPMENT
47. EXISTING DEVELOPMENT
48. EXISTING DEVELOPMENT
49. EXISTING DEVELOPMENT
50. EXISTING DEVELOPMENT
51. EXISTING DEVELOPMENT
52. EXISTING DEVELOPMENT
53. EXISTING DEVELOPMENT
54. EXISTING DEVELOPMENT
55. EXISTING DEVELOPMENT
56. EXISTING DEVELOPMENT
57. EXISTING DEVELOPMENT
58. EXISTING DEVELOPMENT
59. EXISTING DEVELOPMENT
60. EXISTING DEVELOPMENT
61. EXISTING DEVELOPMENT
62. EXISTING DEVELOPMENT
63. EXISTING DEVELOPMENT
64. EXISTING DEVELOPMENT
65. EXISTING DEVELOPMENT
66. EXISTING DEVELOPMENT
67. EXISTING DEVELOPMENT
68. EXISTING DEVELOPMENT
69. EXISTING DEVELOPMENT
70. EXISTING DEVELOPMENT
71. EXISTING DEVELOPMENT
72. EXISTING DEVELOPMENT
73. EXISTING DEVELOPMENT
74. EXISTING DEVELOPMENT
75. EXISTING DEVELOPMENT
76. EXISTING DEVELOPMENT
77. EXISTING DEVELOPMENT
78. EXISTING DEVELOPMENT
79. EXISTING DEVELOPMENT
80. EXISTING DEVELOPMENT
81. EXISTING DEVELOPMENT
82. EXISTING DEVELOPMENT
83. EXISTING DEVELOPMENT
84. EXISTING DEVELOPMENT
85. EXISTING DEVELOPMENT
86. EXISTING DEVELOPMENT
87. EXISTING DEVELOPMENT
88. EXISTING DEVELOPMENT
89. EXISTING DEVELOPMENT
90. EXISTING DEVELOPMENT
91. EXISTING DEVELOPMENT
92. EXISTING DEVELOPMENT
93. EXISTING DEVELOPMENT
94. EXISTING DEVELOPMENT
95. EXISTING DEVELOPMENT
96. EXISTING DEVELOPMENT
97. EXISTING DEVELOPMENT
98. EXISTING DEVELOPMENT
99. EXISTING DEVELOPMENT
100. EXISTING DEVELOPMENT



**DWA**  
DESIGN & ARCHITECTURE  
Sydney  
401 Pitt Street, Sydney NSW 2000  
P.O. Box 999, Sydney NSW 2000  
Sydney  
Suite 100, 101 Market Street, Sydney

Wellington  
City Planning & Design  
Tel: (06) 4667 1000  
Fax: (06) 4667 1001  
P.O. Box 999, Wellington 6140  
New Zealand  
Sydney  
Suite 100, 101 Market Street, Sydney

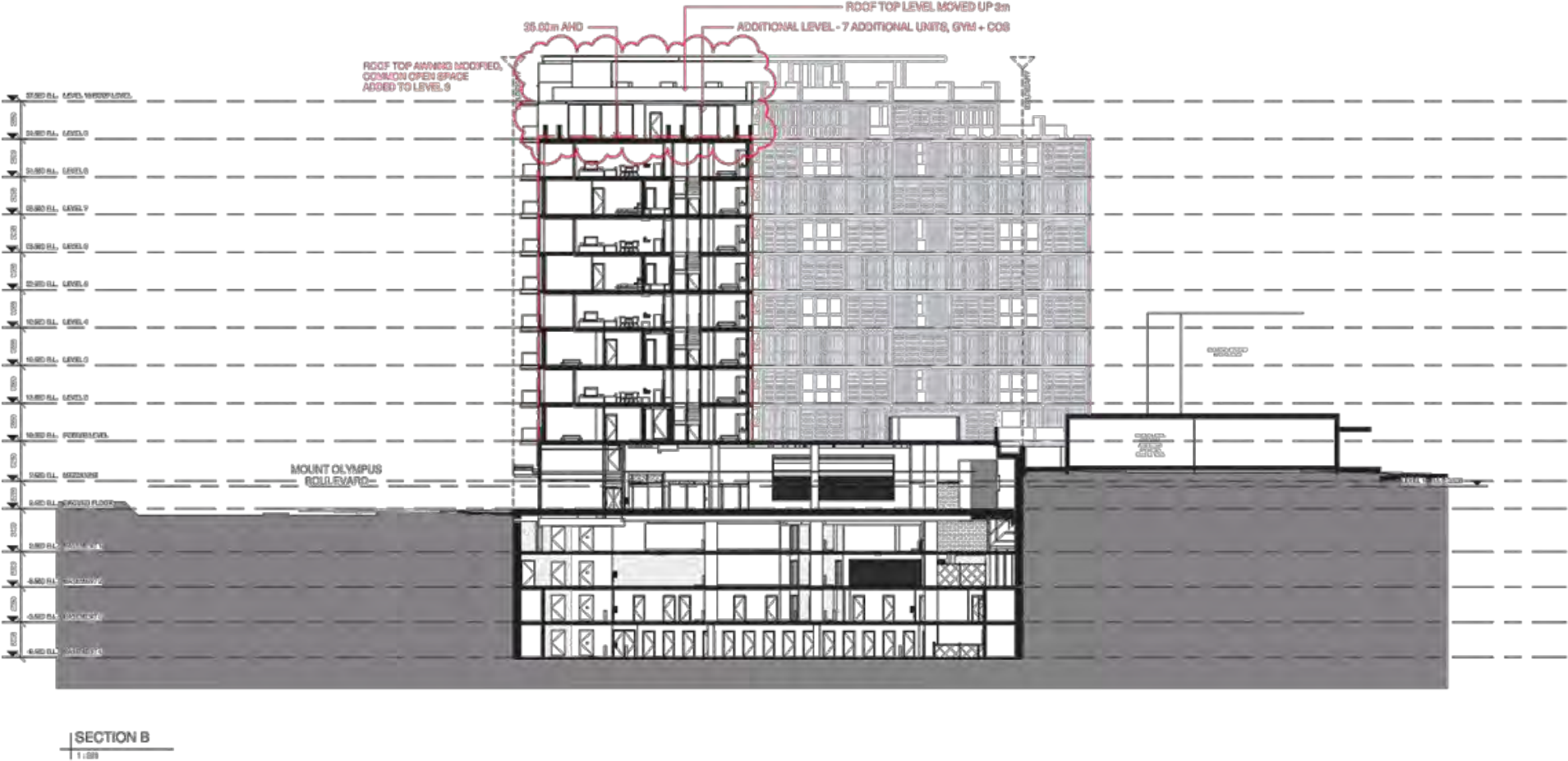
Email: [info@dwadesign.com.au](mailto:info@dwadesign.com.au)  
Web: <http://www.dwadesign.com.au>  
Mobile: 0800 000 000  
Fax: (06) 4667 1001



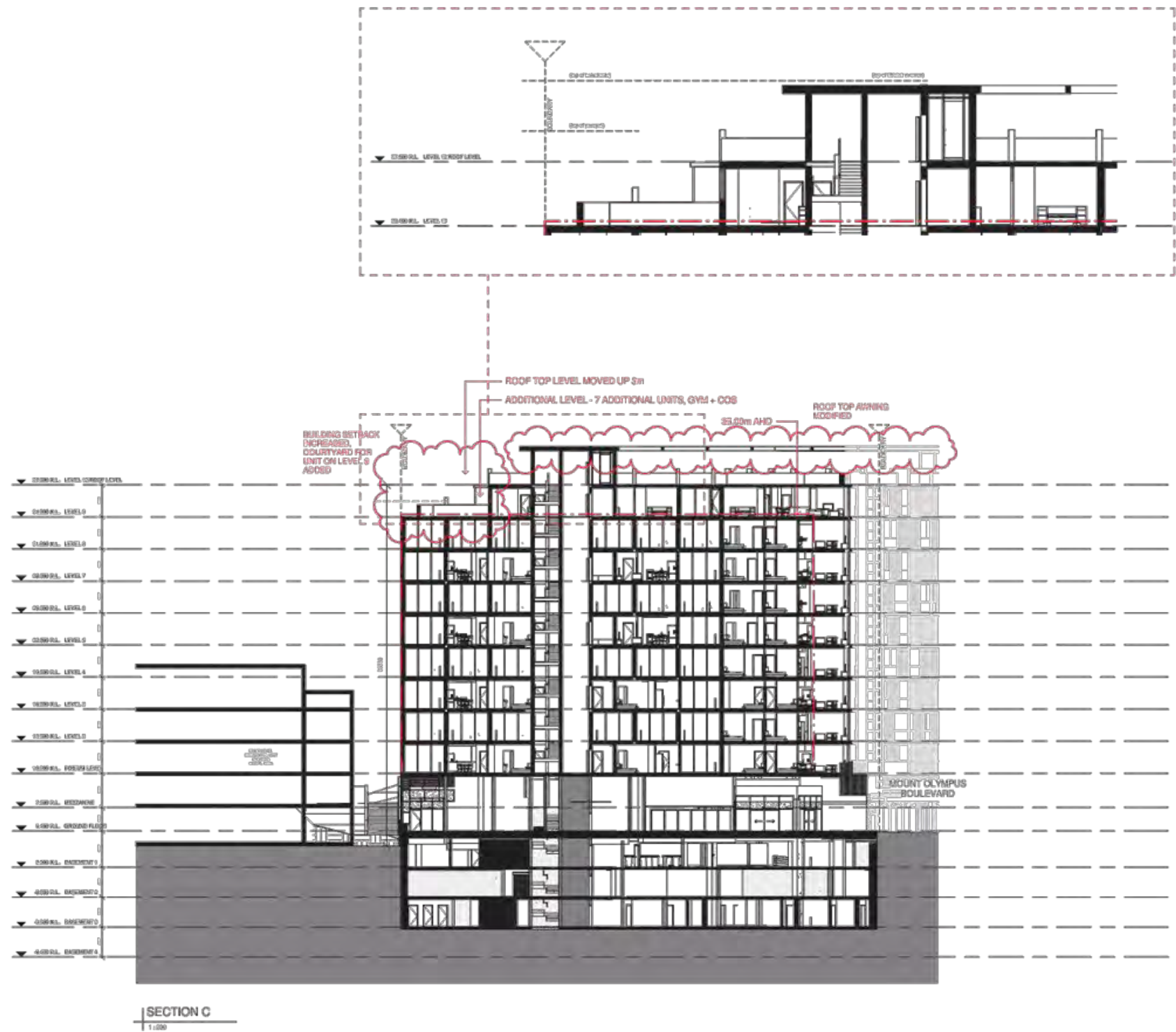
CLIENT:	TECHNIPOL LIMITED NORFOLK ISLAND DEVELOPMENT	DATE:	JUNE 18	PROJECT NO.:	1520
ADDRESS:	LOT 8, 8P 100/800 4 HERRINGBONE TERRACE WOLLACREE	DRAWN BY:	SPRINTA RT	SCALE:	1 : 1000
DESIGNED BY:	CONTEXT VIEW ANALYSIS	QA:	PG	NO.:	48 N



[illegible]



REVISIONS				ADDITIONAL INFORMATION			
NO.	DESCRIPTION	DATE	BY	NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	12/06/2018	WJ	1	ISSUED FOR PERMIT	12/06/2018	WJ
2	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	2	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
3	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	3	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
4	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	4	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
5	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	5	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
6	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	6	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
7	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	7	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
8	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	8	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
9	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	9	REVISED TO REFLECT COMMENTS	12/06/2018	WJ
10	REVISED TO REFLECT COMMENTS	12/06/2018	WJ	10	REVISED TO REFLECT COMMENTS	12/06/2018	WJ



ADDITIONAL INFORMATION									
PROJECT NAME	PROJECT NO.	CLIENT	DATE	SCALE	DESIGNER	CHECKER	APPROVER	REVISIONS	NOTES
Bayside Planning Panel	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018

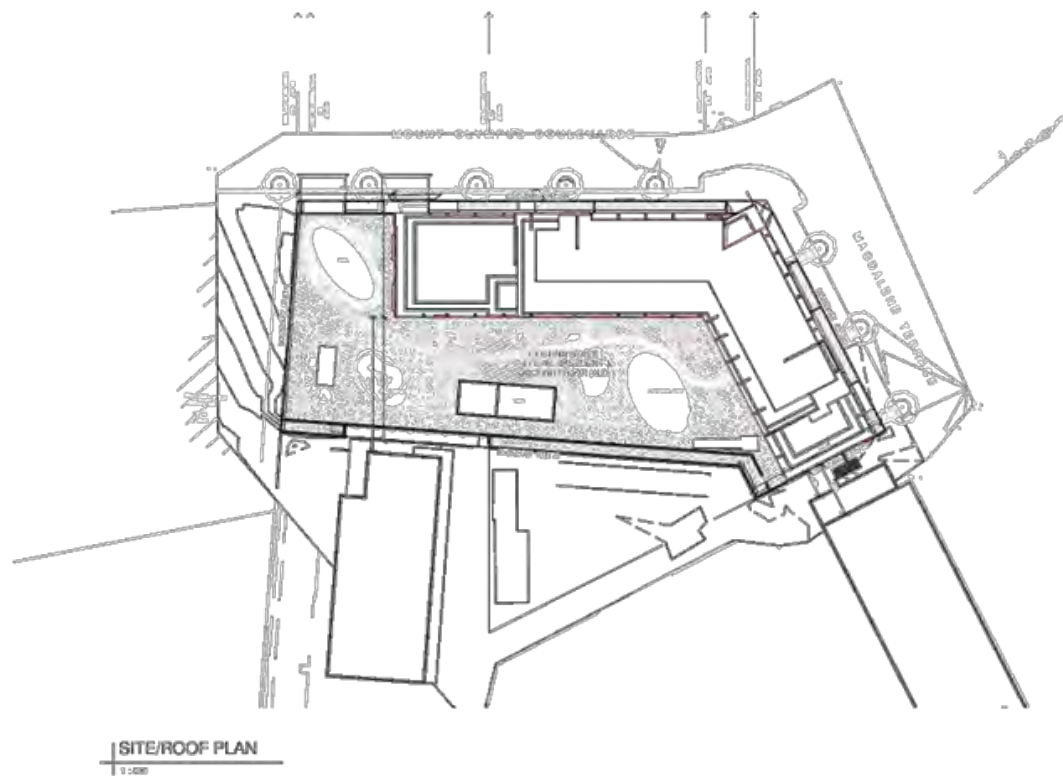




DRAWING LIST				CONSULTANTS LIST				
SHEET NO.	SHEET NAME		REV.	DISCIPLINE	CONSULTANT	CONTACT	PH.	EMAIL
01	CONCRETE	CONCRETE	01	ARCHITECT	ARCHITECT	ARCHITECT	01	ARCHITECT
02	STRUCTURAL	STRUCTURAL	02	MECHANICAL	MECHANICAL	MECHANICAL	02	MECHANICAL
03	ELECTRICAL	ELECTRICAL	03	CIVIL	CIVIL	CIVIL	03	CIVIL
04	MECHANICAL	MECHANICAL	04	MECHANICAL	MECHANICAL	MECHANICAL	04	MECHANICAL
05	MECHANICAL	MECHANICAL	05	MECHANICAL	MECHANICAL	MECHANICAL	05	MECHANICAL
06	MECHANICAL	MECHANICAL	06	MECHANICAL	MECHANICAL	MECHANICAL	06	MECHANICAL
07	MECHANICAL	MECHANICAL	07	MECHANICAL	MECHANICAL	MECHANICAL	07	MECHANICAL
08	MECHANICAL	MECHANICAL	08	MECHANICAL	MECHANICAL	MECHANICAL	08	MECHANICAL
09	MECHANICAL	MECHANICAL	09	MECHANICAL	MECHANICAL	MECHANICAL	09	MECHANICAL
10	MECHANICAL	MECHANICAL	10	MECHANICAL	MECHANICAL	MECHANICAL	10	MECHANICAL
11	MECHANICAL	MECHANICAL	11	MECHANICAL	MECHANICAL	MECHANICAL	11	MECHANICAL
12	MECHANICAL	MECHANICAL	12	MECHANICAL	MECHANICAL	MECHANICAL	12	MECHANICAL
13	MECHANICAL	MECHANICAL	13	MECHANICAL	MECHANICAL	MECHANICAL	13	MECHANICAL
14	MECHANICAL	MECHANICAL	14	MECHANICAL	MECHANICAL	MECHANICAL	14	MECHANICAL
15	MECHANICAL	MECHANICAL	15	MECHANICAL	MECHANICAL	MECHANICAL	15	MECHANICAL
16	MECHANICAL	MECHANICAL	16	MECHANICAL	MECHANICAL	MECHANICAL	16	MECHANICAL
17	MECHANICAL	MECHANICAL	17	MECHANICAL	MECHANICAL	MECHANICAL	17	MECHANICAL
18	MECHANICAL	MECHANICAL	18	MECHANICAL	MECHANICAL	MECHANICAL	18	MECHANICAL
19	MECHANICAL	MECHANICAL	19	MECHANICAL	MECHANICAL	MECHANICAL	19	MECHANICAL
20	MECHANICAL	MECHANICAL	20	MECHANICAL	MECHANICAL	MECHANICAL	20	MECHANICAL
21	MECHANICAL	MECHANICAL	21	MECHANICAL	MECHANICAL	MECHANICAL	21	MECHANICAL
22	MECHANICAL	MECHANICAL	22	MECHANICAL	MECHANICAL	MECHANICAL	22	MECHANICAL
23	MECHANICAL	MECHANICAL	23	MECHANICAL	MECHANICAL	MECHANICAL	23	MECHANICAL
24	MECHANICAL	MECHANICAL	24	MECHANICAL	MECHANICAL	MECHANICAL	24	MECHANICAL
25	MECHANICAL	MECHANICAL	25	MECHANICAL	MECHANICAL	MECHANICAL	25	MECHANICAL
26	MECHANICAL	MECHANICAL	26	MECHANICAL	MECHANICAL	MECHANICAL	26	MECHANICAL
27	MECHANICAL	MECHANICAL	27	MECHANICAL	MECHANICAL	MECHANICAL	27	MECHANICAL
28	MECHANICAL	MECHANICAL	28	MECHANICAL	MECHANICAL	MECHANICAL	28	MECHANICAL
29	MECHANICAL	MECHANICAL	29	MECHANICAL	MECHANICAL	MECHANICAL	29	MECHANICAL
30	MECHANICAL	MECHANICAL	30	MECHANICAL	MECHANICAL	MECHANICAL	30	MECHANICAL
31	MECHANICAL	MECHANICAL	31	MECHANICAL	MECHANICAL	MECHANICAL	31	MECHANICAL
32	MECHANICAL	MECHANICAL	32	MECHANICAL	MECHANICAL	MECHANICAL	32	MECHANICAL
33	MECHANICAL	MECHANICAL	33	MECHANICAL	MECHANICAL	MECHANICAL	33	MECHANICAL
34	MECHANICAL	MECHANICAL	34	MECHANICAL	MECHANICAL	MECHANICAL	34	MECHANICAL
35	MECHANICAL	MECHANICAL	35	MECHANICAL	MECHANICAL	MECHANICAL	35	MECHANICAL
36	MECHANICAL	MECHANICAL	36	MECHANICAL	MECHANICAL	MECHANICAL	36	MECHANICAL
37	MECHANICAL	MECHANICAL	37	MECHANICAL	MECHANICAL	MECHANICAL	37	MECHANICAL
38	MECHANICAL	MECHANICAL	38	MECHANICAL	MECHANICAL	MECHANICAL	38	MECHANICAL
39	MECHANICAL	MECHANICAL	39	MECHANICAL	MECHANICAL	MECHANICAL	39	MECHANICAL
40	MECHANICAL	MECHANICAL	40	MECHANICAL	MECHANICAL	MECHANICAL	40	MECHANICAL
41	MECHANICAL	MECHANICAL	41	MECHANICAL	MECHANICAL	MECHANICAL	41	MECHANICAL
42	MECHANICAL	MECHANICAL	42	MECHANICAL	MECHANICAL	MECHANICAL	42	MECHANICAL
43	MECHANICAL	MECHANICAL	43	MECHANICAL	MECHANICAL	MECHANICAL	43	MECHANICAL
44	MECHANICAL	MECHANICAL	44	MECHANICAL	MECHANICAL	MECHANICAL	44	MECHANICAL
45	MECHANICAL	MECHANICAL	45	MECHANICAL	MECHANICAL	MECHANICAL	45	MECHANICAL
46	MECHANICAL	MECHANICAL	46	MECHANICAL	MECHANICAL	MECHANICAL	46	MECHANICAL
47	MECHANICAL	MECHANICAL	47	MECHANICAL	MECHANICAL	MECHANICAL	47	MECHANICAL
48	MECHANICAL	MECHANICAL	48	MECHANICAL	MECHANICAL	MECHANICAL	48	MECHANICAL
49	MECHANICAL	MECHANICAL	49	MECHANICAL	MECHANICAL	MECHANICAL	49	MECHANICAL
50	MECHANICAL	MECHANICAL	50	MECHANICAL	MECHANICAL	MECHANICAL	50	MECHANICAL

[illegible]



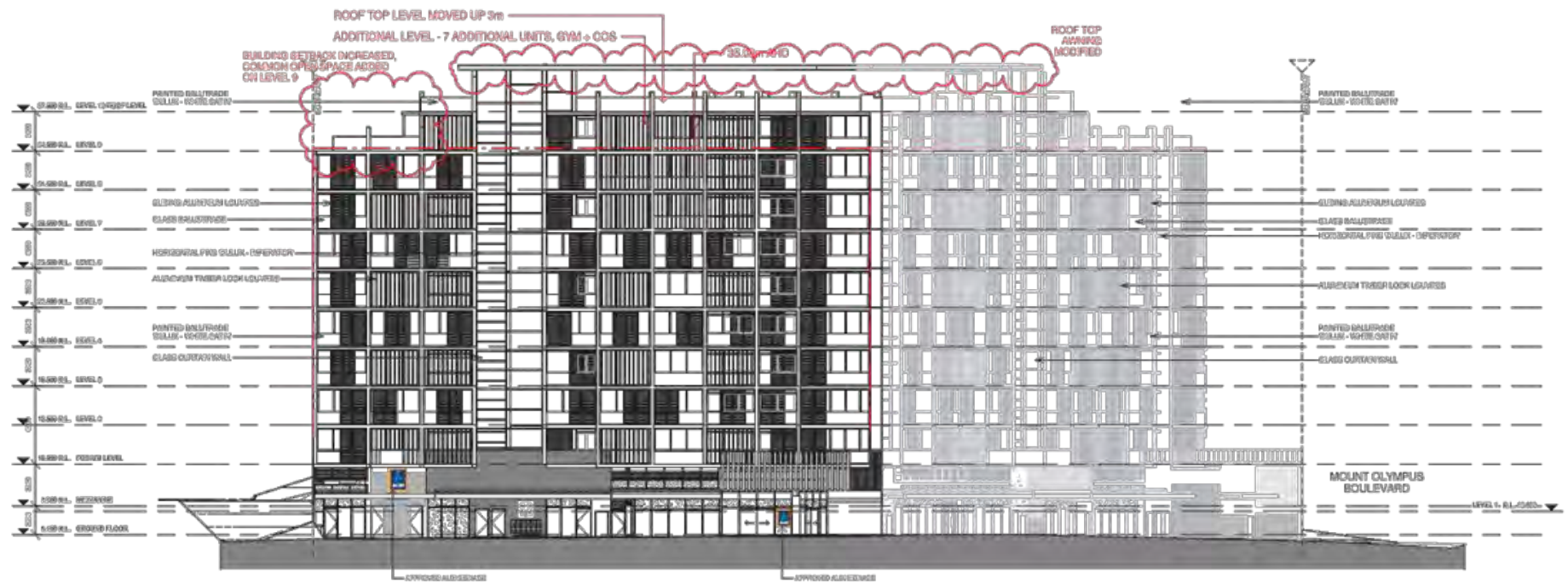
[illegible][illegible][illegible][illegible][illegible]

SITE AREA	3654.30 m <sup>2</sup>	
	AREA INCLUDED	AREA EXCLUDED
GROUND FLOOR	2005.00 m <sup>2</sup>	893.75 m <sup>2</sup>
TOTAL GF AREA	2005.00 m <sup>2</sup>	
PROPOSED RESIDENTIAL		
PODIUM / LEVEL 1	1266.00 m <sup>2</sup>	210.61 m <sup>2</sup>
LEVEL 2	1001.20 m <sup>2</sup>	419.45 m <sup>2</sup>
LEVEL 3	1207.00 m <sup>2</sup>	268.23 m <sup>2</sup>
LEVEL 4	994.00 m <sup>2</sup>	420.93 m <sup>2</sup>
LEVEL 5	1207.00 m <sup>2</sup>	202.43 m <sup>2</sup>
LEVEL 6	694.00 m <sup>2</sup>	420.93 m <sup>2</sup>
LEVEL 7	1207.00 m <sup>2</sup>	202.25 m <sup>2</sup>
LEVEL 8	994.00 m <sup>2</sup>	420.93 m <sup>2</sup>
LEVEL 9	708.00 m <sup>2</sup>	434.07 m <sup>2</sup>
TOTAL GF AREA	9573.00 m <sup>2</sup>	
TOTAL AREA	11583.00 m <sup>2</sup>	
PROPOSED FBR	3:10:1	

Thermal Comfort Specification															
<b>Wall Construction:</b> <div> <div>Units: All</div> <table border="1"> <thead> <tr> <th>Construction</th> <th>Additional Insulation required (R-value)</th> <th>Other Specifications</th> </tr> </thead> <tbody> <tr> <td>Unfinished wall</td> <td>None</td> <td>Check for air leakage</td> </tr> <tr> <td>Finished wall</td> <td>None</td> <td>Check for air leakage</td> </tr> <tr> <td>Other</td> <td>None</td> <td>Check for air leakage</td> </tr> </tbody> </table> </div>				Construction	Additional Insulation required (R-value)	Other Specifications	Unfinished wall	None	Check for air leakage	Finished wall	None	Check for air leakage	Other	None	Check for air leakage
Construction	Additional Insulation required (R-value)	Other Specifications													
Unfinished wall	None	Check for air leakage													
Finished wall	None	Check for air leakage													
Other	None	Check for air leakage													
<b>Floor Ceiling &amp; Roof Construction:</b> <div> <div>Units: All</div> <table border="1"> <thead> <tr> <th>Construction</th> <th>Additional Insulation required (R-value)</th> <th>Other Specifications</th> </tr> </thead> <tbody> <tr> <td>Unfinished floor</td> <td>None</td> <td>Check for air leakage</td> </tr> <tr> <td>Finished floor</td> <td>None</td> <td>Check for air leakage</td> </tr> <tr> <td>Other</td> <td>None</td> <td>Check for air leakage</td> </tr> </tbody> </table> </div>				Construction	Additional Insulation required (R-value)	Other Specifications	Unfinished floor	None	Check for air leakage	Finished floor	None	Check for air leakage	Other	None	Check for air leakage
Construction	Additional Insulation required (R-value)	Other Specifications													
Unfinished floor	None	Check for air leakage													
Finished floor	None	Check for air leakage													
Other	None	Check for air leakage													

<p>  <b>BLM</b>          Bureau of Land Management          U.S. Department of the Interior       </p>		<p>  <b>BUREAU OF RECLAMATION</b>          U.S. Department of the Interior       </p>		<p>  <b>U.S. ARMY CORPS OF ENGINEERS</b>          U.S. Army       </p>		<p>  <b>U.S. NAVY</b>          U.S. Navy       </p>		<p>  <b>U.S. COAST GUARD</b>          U.S. Coast Guard       </p>		<p>  <b>U.S. FISH AND WILDLIFE SERVICE</b>          U.S. Department of the Interior       </p>		<p>  <b>U.S. FOREST SERVICE</b>          U.S. Department of Agriculture       </p>		<p>  <b>U.S. GEOLOGICAL SURVEY</b>          U.S. Department of the Interior       </p>		<p>  <b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>          U.S. Environmental Protection Agency       </p>		<p>  <b>U.S. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION</b>          U.S. National Aeronautics and Space Administration       </p>	
---	--	--	--	--	--	--	--	--	--	---	--	---	--	---	--	--	--	--	--





PROPOSED NORTH ELEVATION.

1:150



PROPOSED SOUTH ELEVATION.

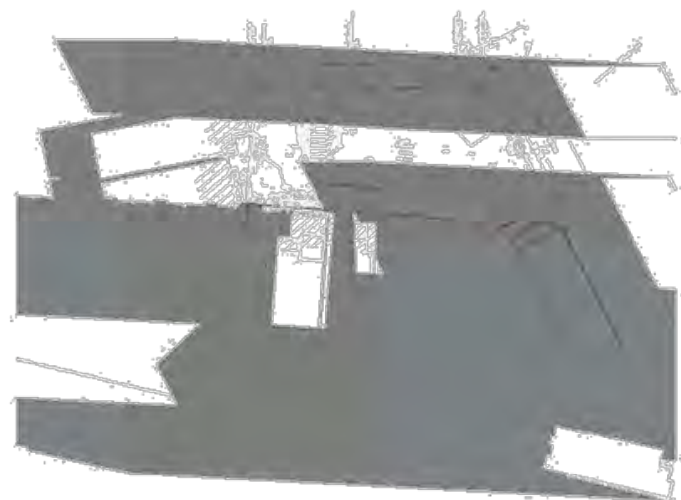
1:150

ADDITIONAL INFORMATION									
PROJECT NAME	PROJECT NO.	CLIENT	DATE	SCALE	BY	CHECKED	APPROVED	REVISIONS	NOTES
Bayside Planning Panel	12/06/2018	12/06/2018	12/06/2018	1:150	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018
12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018

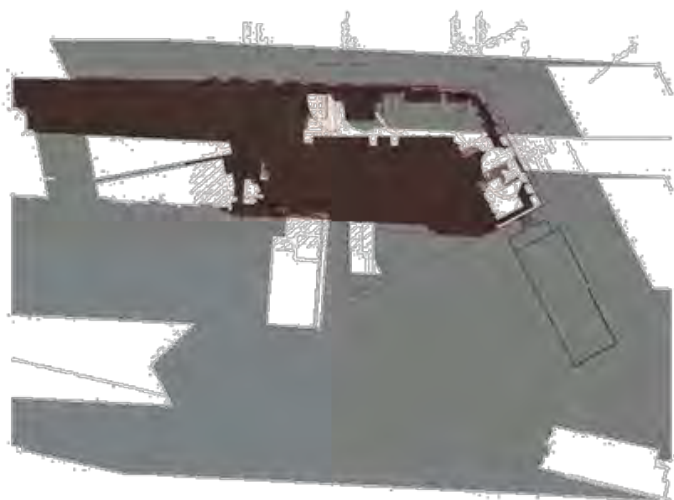


ADDITIONAL INFORMATION											
<div>PROJECT INFORMATION</div> <div>PROJECT NAME: [REDACTED]</div> <div>PROJECT NUMBER: [REDACTED]</div> <div>PROJECT LOCATION: [REDACTED]</div>		<div>CLIENT INFORMATION</div> <div>CLIENT NAME: [REDACTED]</div> <div>CLIENT ADDRESS: [REDACTED]</div> <div>CLIENT PHONE: [REDACTED]</div> <div>CLIENT EMAIL: [REDACTED]</div>		<div>PROJECT DESCRIPTION</div> <div>PROJECT TYPE: [REDACTED]</div> <div>PROJECT SCOPE: [REDACTED]</div> <div>PROJECT STATUS: [REDACTED]</div>		<div>PROJECT TEAM</div> <div>PROJECT MANAGER: [REDACTED]</div> <div>PROJECT COORDINATOR: [REDACTED]</div> <div>PROJECT ENGINEER: [REDACTED]</div>		<div>PROJECT SCHEDULE</div> <div>PROJECT START DATE: [REDACTED]</div> <div>PROJECT END DATE: [REDACTED]</div> <div>PROJECT DURATION: [REDACTED]</div>		<div>PROJECT BUDGET</div> <div>PROJECT BUDGET: [REDACTED]</div> <div>PROJECT COST: [REDACTED]</div> <div>PROJECT PROFIT: [REDACTED]</div>	

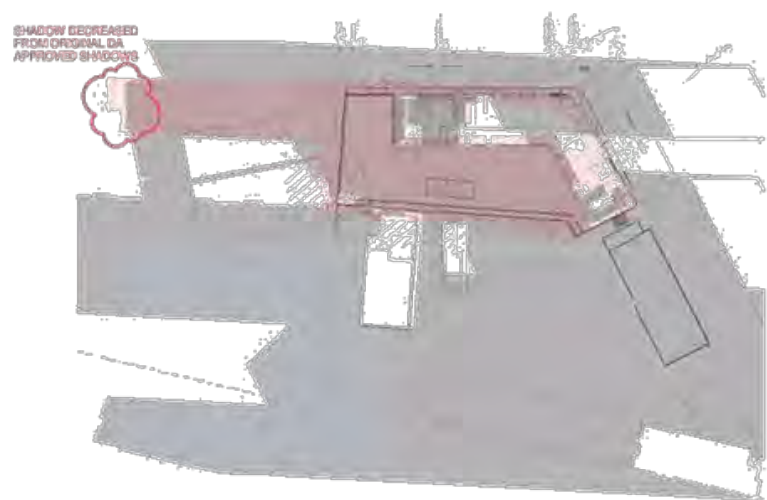




EXISTING SURROUNDING SHADOWS  
22nd JUNE 9am

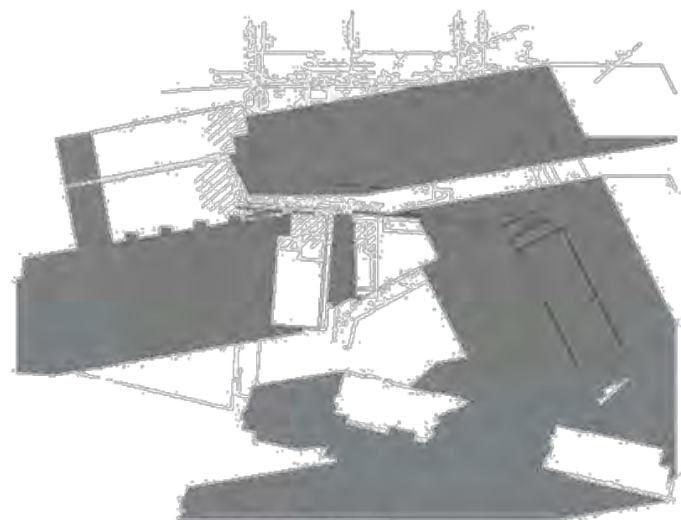


APPROVED SHADOWS  
22nd JUNE 9am

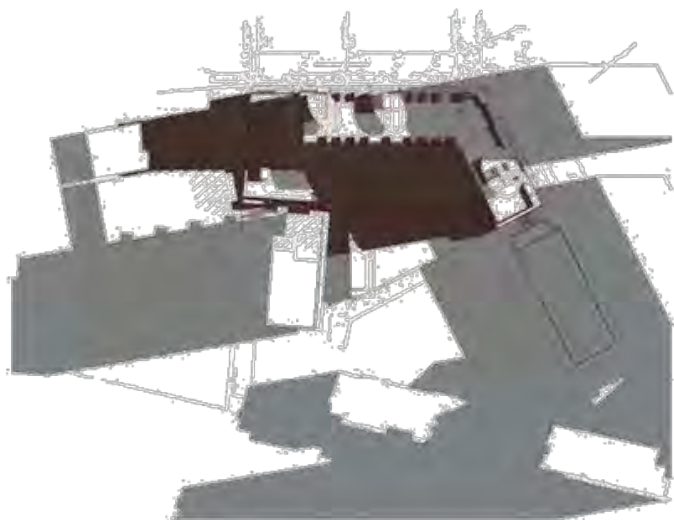


SHADOW DECREASED  
FROM ORIGINAL DA  
APPROVED SHADOWS

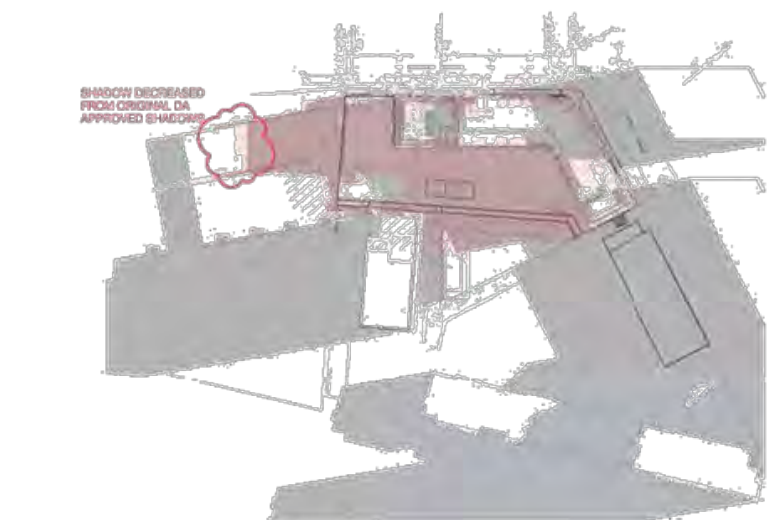
PROPOSED SHADOWS  
22nd JUNE 9am



EXISTING SURROUNDING SHADOWS  
22nd JUNE 10am



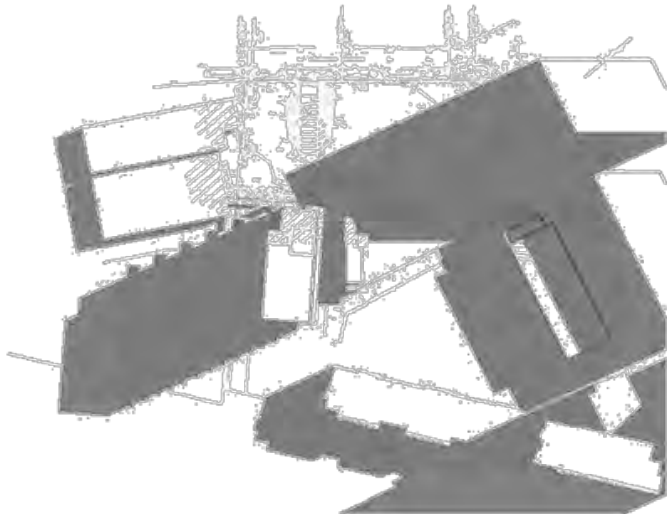
APPROVED SHADOWS  
22nd JUNE 10am



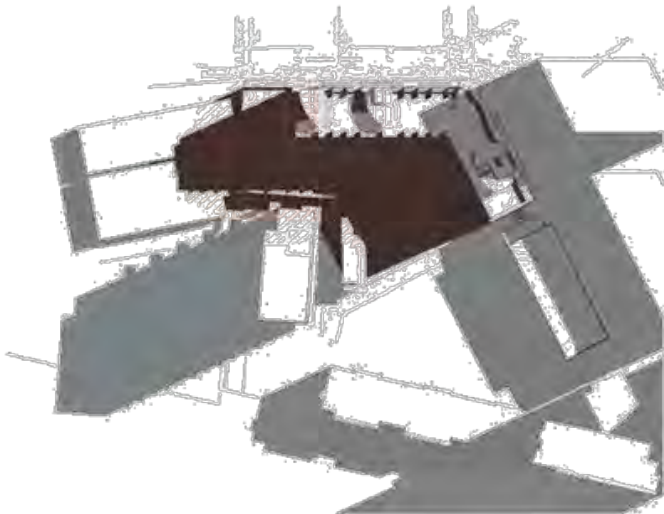
SHADOW DECREASED  
FROM ORIGINAL DA  
APPROVED SHADOWS

PROPOSED SHADOWS  
22nd JUNE 10am

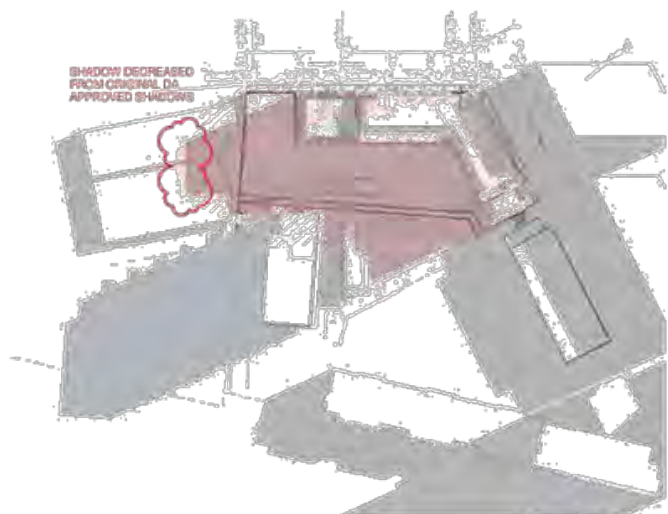
ADDITIONAL INFORMATION									
Project Name	Project Number	Project Location	Project Status	Project Date	Project Time	Project Author	Project Reviewer	Project Approver	Project Sign-off
Bayside Planning Panel	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018	12/06/2018



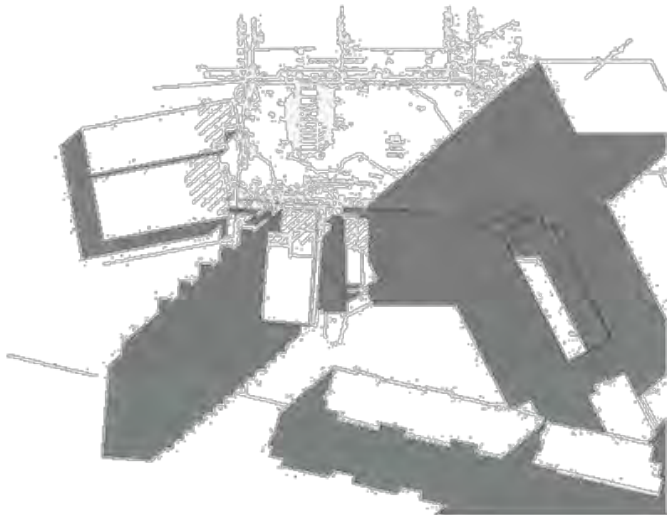
EXISTING SURROUNDING SHADOWS  
22nd JUNE 11am



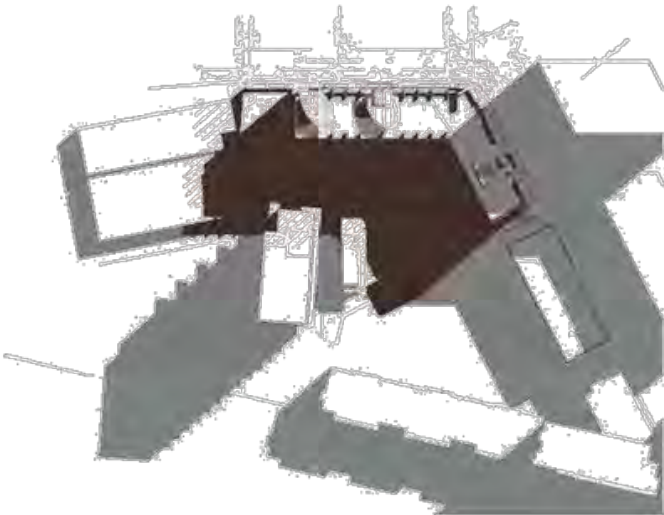
APPROVED SHADOWS  
22nd JUNE 11am



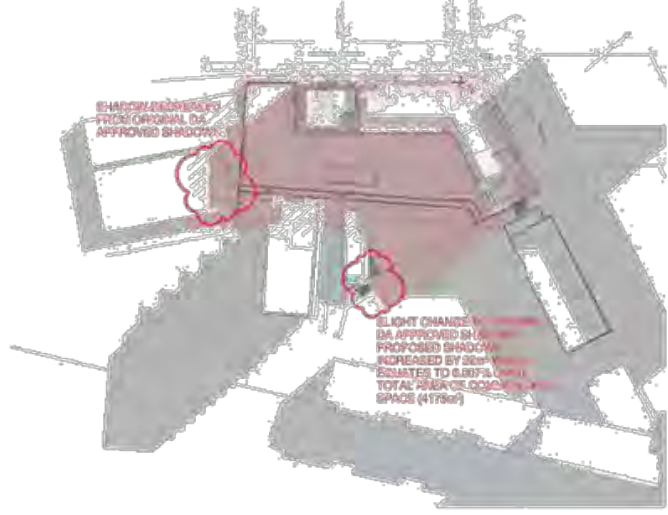
PROPOSED SHADOWS  
22nd JUNE 11am



EXISTING SURROUNDING SHADOWS  
22nd JUNE 12pm



APPROVED SHADOWS  
22nd JUNE 12pm



PROPOSED SHADOWS  
22nd JUNE 12pm

Project Name	Project Number	Project Date
Project Location	Project Status	Project Author
Project Manager	Project Engineer	Project Designer
Project Architect	Project Planner	Project Analyst
Project Surveyor	Project Inspector	Project Tester
Project Installer	Project Maintainer	Project Updater

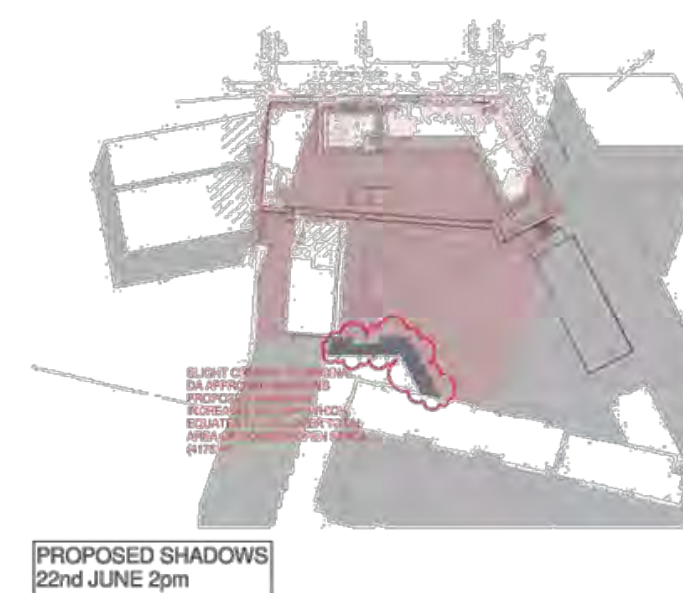
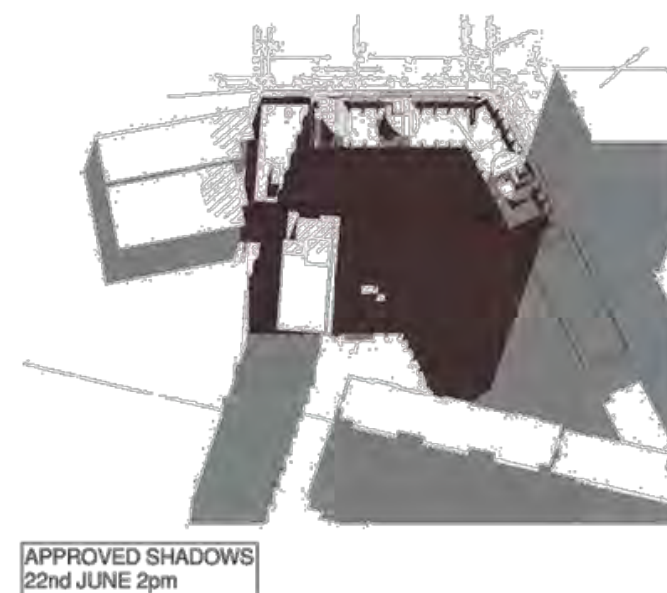
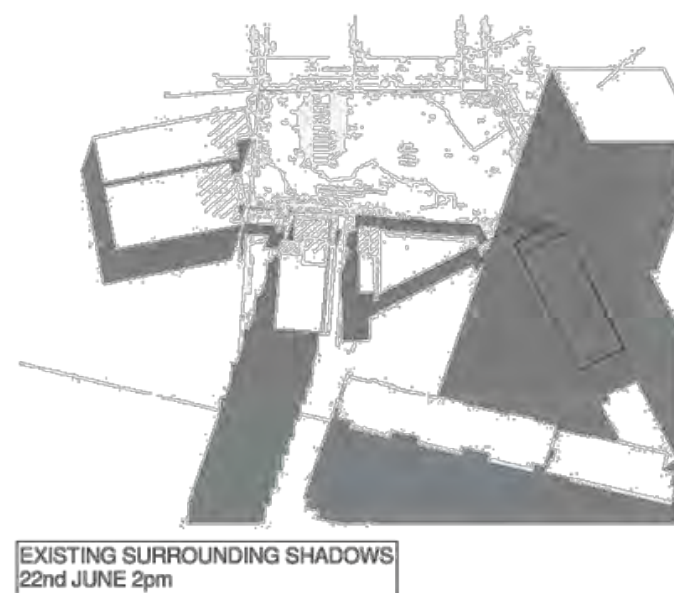
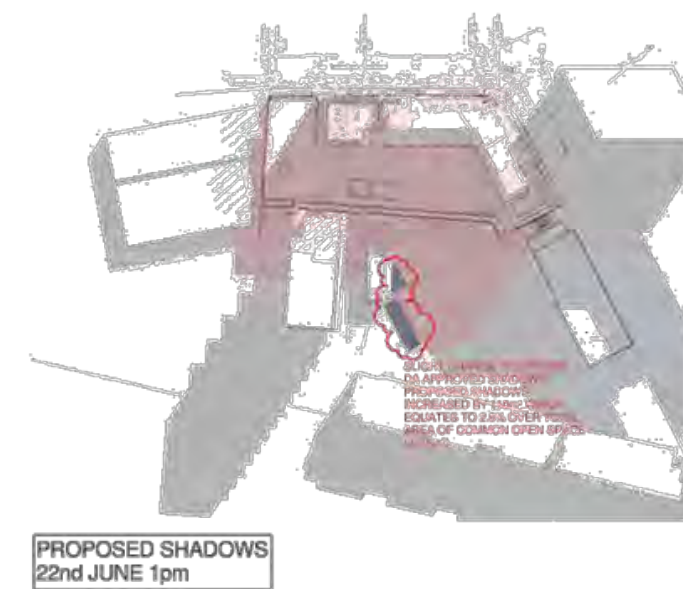
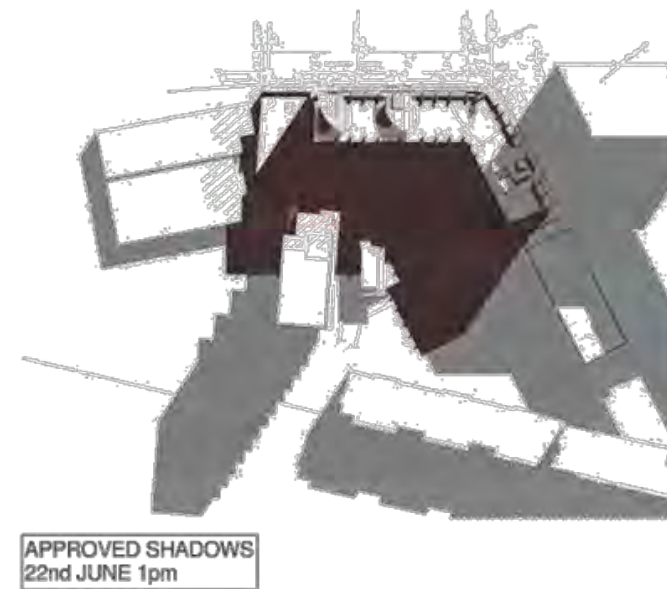
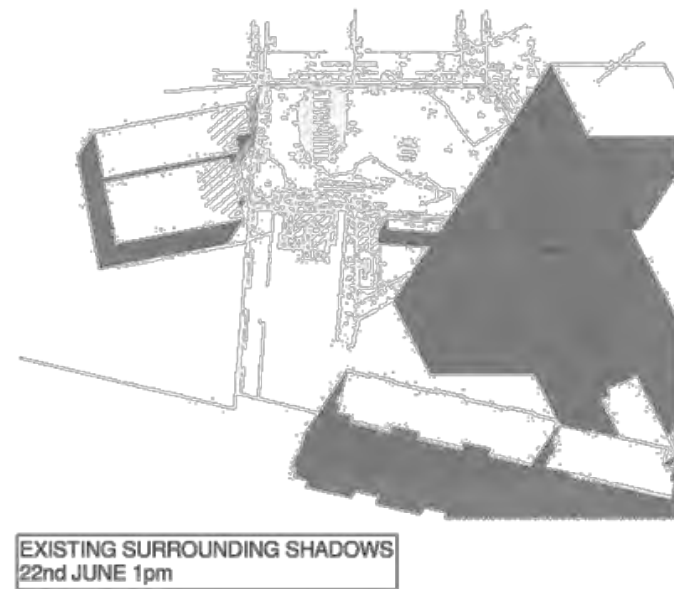
Project Name	Project Number	Project Date
Project Location	Project Status	Project Author
Project Manager	Project Engineer	Project Designer
Project Architect	Project Planner	Project Analyst
Project Surveyor	Project Inspector	Project Tester
Project Installer	Project Maintainer	Project Updater

Project Name	Project Number	Project Date
Project Location	Project Status	Project Author
Project Manager	Project Engineer	Project Designer
Project Architect	Project Planner	Project Analyst
Project Surveyor	Project Inspector	Project Tester
Project Installer	Project Maintainer	Project Updater

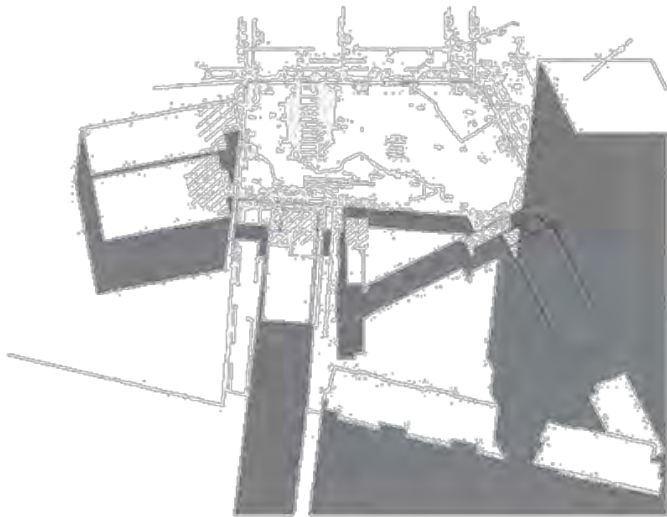
Project Name	Project Number	Project Date
Project Location	Project Status	Project Author
Project Manager	Project Engineer	Project Designer
Project Architect	Project Planner	Project Analyst
Project Surveyor	Project Inspector	Project Tester
Project Installer	Project Maintainer	Project Updater

ADDITIONAL INFORMATION

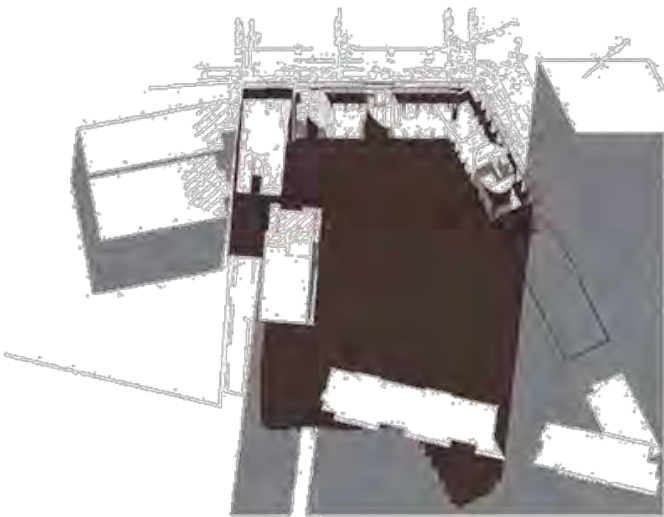


[illegible]

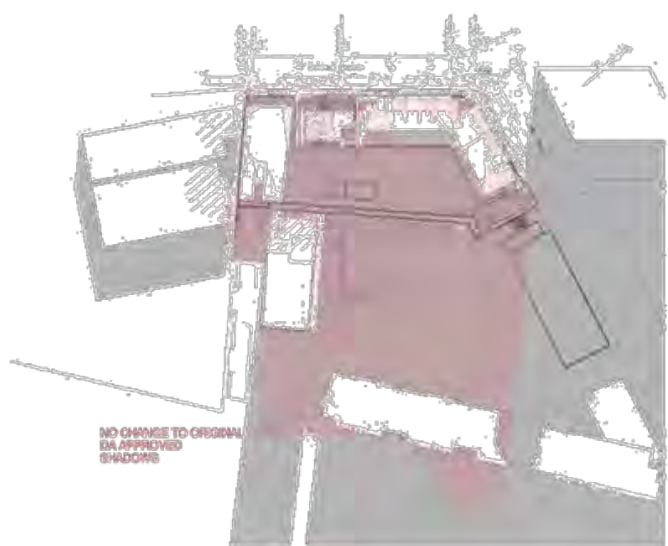




EXISTING SURROUNDING SHADOWS  
22nd JUNE 3pm



APPROVED SHADOWS  
22nd JUNE 3pm



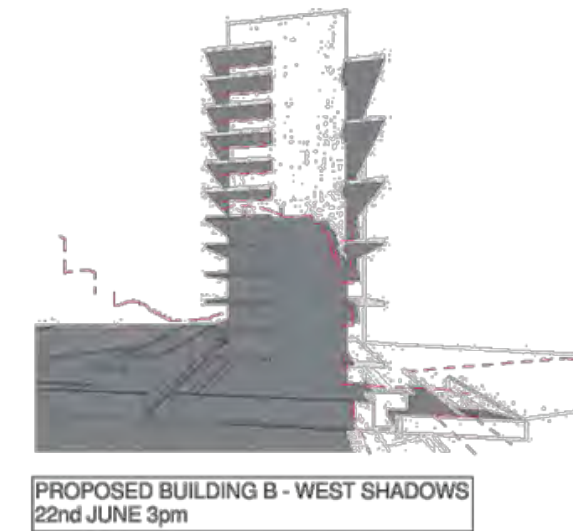
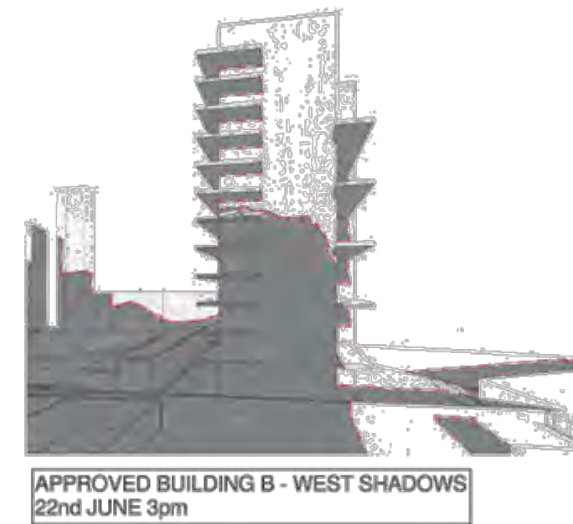
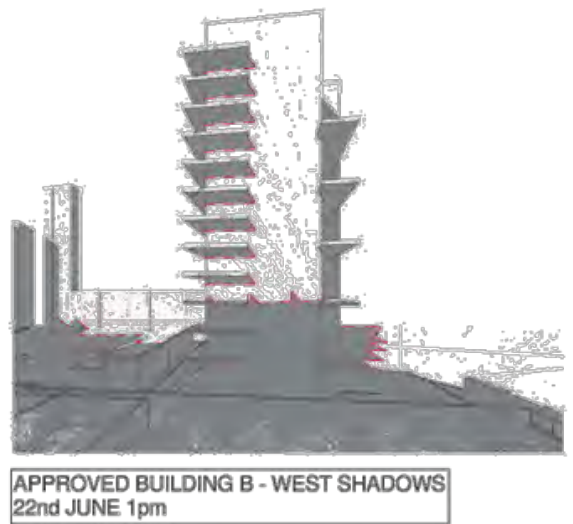
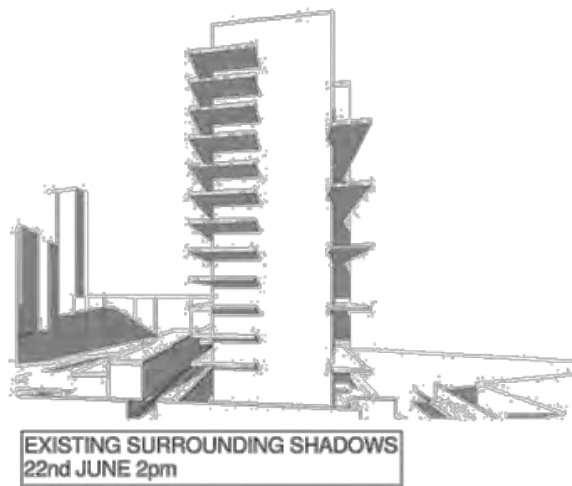
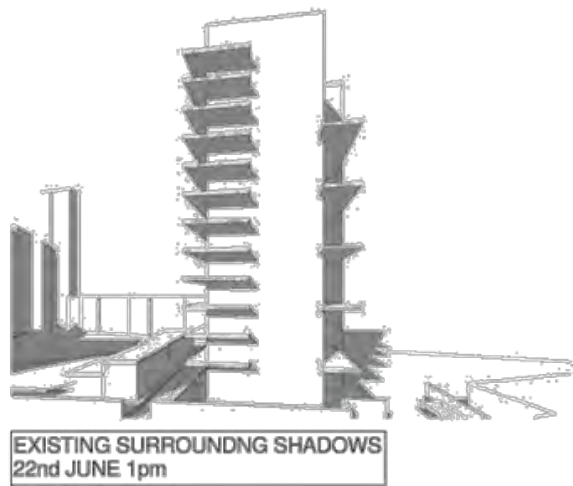
PROPOSED SHADOWS  
22nd JUNE 3pm

LEGEND  
ORIGINAL SHADOWS  
PROPOSED SHADOWS  
NO CHANGE TO ORIGINAL SHADOWS

ADDITIONAL INFORMATION									
PROJECT NAME		PROJECT LOCATION		PROJECT NUMBER		PROJECT STATUS		PROJECT DATE	
Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel	
Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel	
Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel		Bayside Planning Panel	

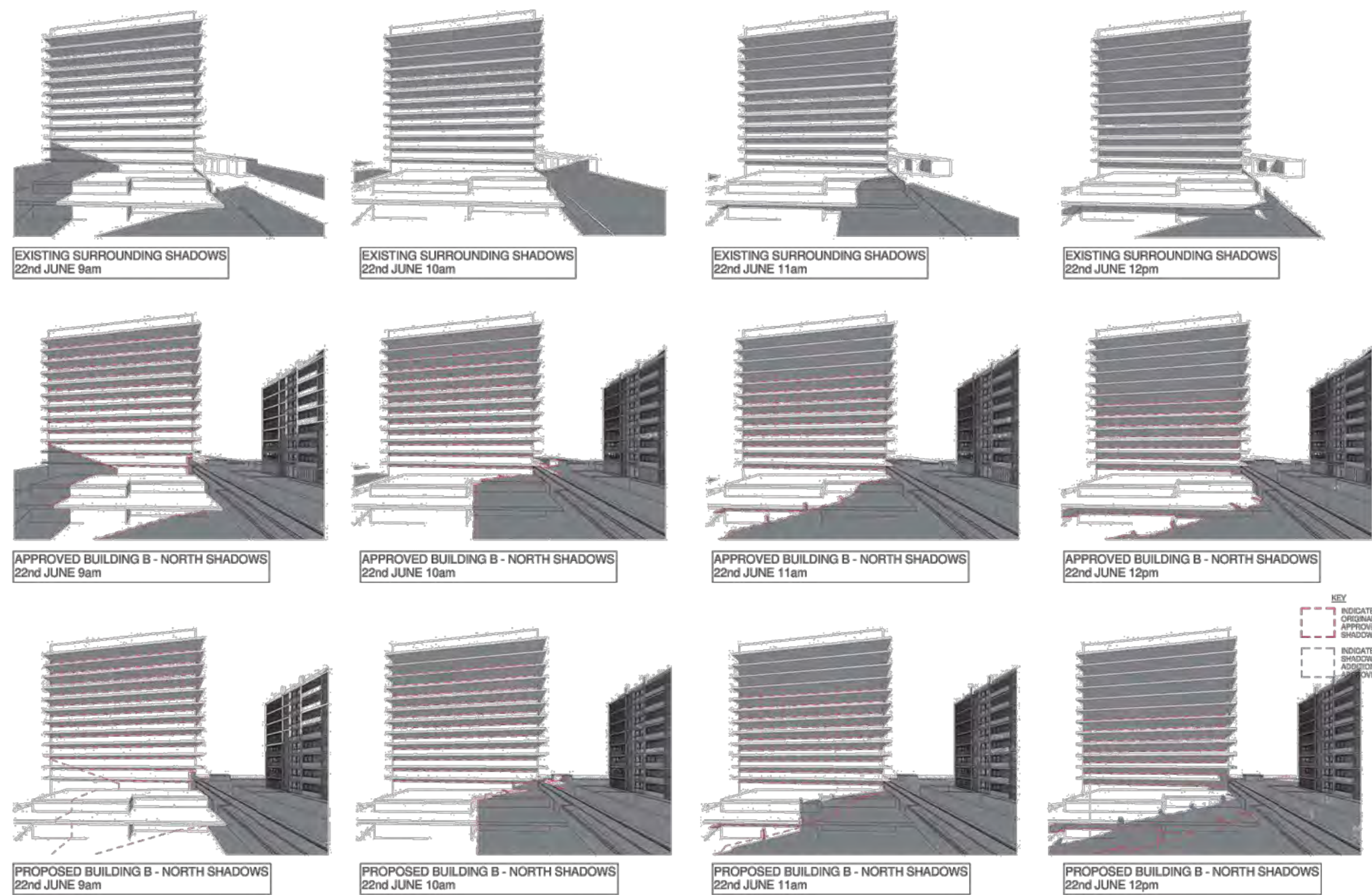






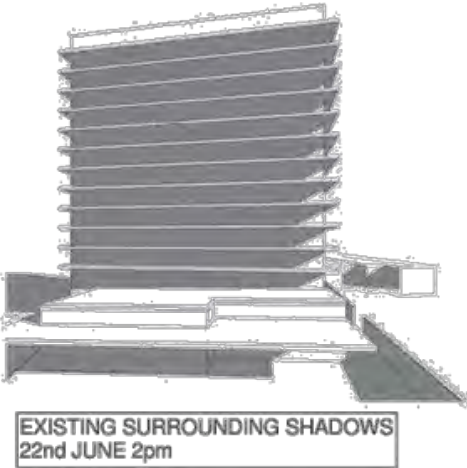
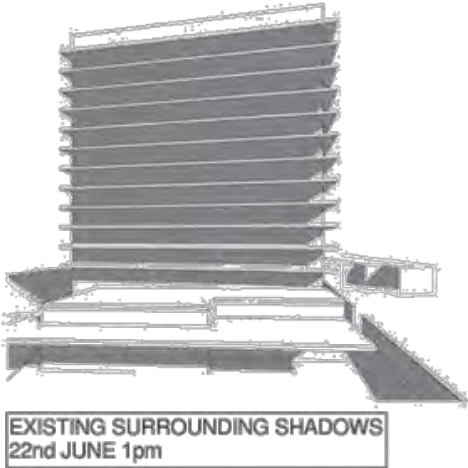
KEY  
INDICATES ORIGINAL DA  
APPROVED SHADOWS  
INDICATES PROPOSED SHADOWS  
ADDITIONAL TO APPROVED DA

ADDITIONAL INFORMATION			
DATE: 12/06/2018	BY: J. J. J.	FOR: J. J. J.	REV: 1.0
PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL
PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL
PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL	PROJECT: BAYSIDE PLANNING PANEL



ADDITIONAL INFORMATION			
PROJECT NAME	PROJECT NO.	DATE	BY
PROJECT LOCATION	PROJECT STATUS	PROJECT OWNER	PROJECT MANAGER
PROJECT DESCRIPTION	PROJECT PHASE	PROJECT BUDGET	PROJECT RISK
PROJECT TEAM	PROJECT CONTACT	PROJECT WEBSITE	PROJECT SOCIAL MEDIA





KEY  
INDICATES ORIGINAL DA  
APPROVED SHADOWS  
INDICATES PROPOSED  
SHADOWS  
ADDITIONAL TO  
APPROVED DA

ADDITIONAL INFORMATION									
PROJECT INFORMATION		CLIENT INFORMATION		DESIGNER INFORMATION		DATE		REVISIONS	
PROJECT NAME	PROJECT NO.	CLIENT NAME	CLIENT NO.	DESIGNER NAME	DESIGNER NO.	DATE	REVISION	DESCRIPTION	DATE
PROJECT NAME	PROJECT NO.	CLIENT NAME	CLIENT NO.	DESIGNER NAME	DESIGNER NO.	DATE	REVISION	DESCRIPTION	DATE

**Bayside Planning Panel****10/04/2018**

Item No	6.2
Application Type	Development Application
Application Number	DA-2016/66/A
Lodgement Date	09/03/2017
Property	4 Magdalene Terrace Wolli Creek
Owner	Maroun Pty Ltd
Applicant	Design Workshop Australia
Proposal	Modifications - Addition of 1 storey to previously approved development, including 9 additional residential units to create a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces
No. of Submissions	Nine (9)
Cost of Development	\$9,083,496.00
Report by	Fiona Prodromou, Senior Assessment Planner

**Officer Recommendation**

- 1 That the Bayside Planning Panel not support the variation to the height and FSR development standards, as contained in Clause 4.3 – Height of Building and Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011 as submitted by the applicant.
- 2 That the application under Section 96 of the Environmental Planning & Assessment Act, 1979 for the modification of Development Application DA-2016/66 for the addition of 1 storey to previously approved development, including 9 additional residential units, reconfiguration of basement 2 level to include additional parking spaces be REFUSED for the following reasons:
  - a Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is unsatisfactory with respect of State Environmental Planning Policy 65, in relation to Principle 1 - Context and Neighbourhood Character , Principle 2 - Built Form and Scale and Principle 3 - Density.
  - b Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.3 - Height of Buildings.
  - c Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.4 - Floor Space Ratio.
  - d Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development.

Item 6.2

Bayside Planning Panel 10/04/2018

- e Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal as modified is inconsistent with the provisions and objectives of the following parts of Rockdale DCP 2011;
  - Clause 4.1.1 - Views and Vistas,
  - Clause 4.4.2 - Solar Access,
  - Clause 7.1.7 Wolli Creek Built Form - Building Heights and Density.
- f Pursuant to the provisions of Section 79C(1)(d) & 79C(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the reasons noted above and the number of submissions received by Council against the proposed development, approval of the development application is not in the public interest.

3 That the objectors be advised of the Bayside Planning Panel's determination.

---

### **Attachments**

- 1 Planning Report
  - 2 Site Survey, Site Plan and Statistics
  - 3 Streetscape Analysis
  - 4 Proposed Elevations North and South
  - 5 Proposed Elevations West and East
  - 6 Proposed Roof Plan
  - 7 Proposed Sections 1
  - 8 Proposed Sections 2
  - 9 Proposed Sections 3
  - 10 Photomontage View 1
  - 11 Photomontage View 2
  - 12 Overlaid Shadows Midwinter 9am – 10am
  - 13 Overlaid Shadows Midwinter 11am – 12pm
  - 14 Overlaid Shadows Midwinter 1pm – 2pm
  - 15 Overlaid Shadows Midwinter 3pm
  - 16 Council meeting 06/07/2016 (Original Assessment Report)
-



**Location Plan**



Item 6.2

Bayside Planning Panel 10/04/2018

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/66/A
<b>Date of Receipt:</b>	9 March 2017
<b>Property:</b>	4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)
<b>Owner:</b>	Maroun Pty Ltd
<b>Applicant:</b>	Design Workshop Australia
<b>Proposal:</b>	Modifications - Addition of 1 storey to previously approved development, including 9 additional residential units, to create a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces
<b>Recommendation:</b>	Refused
<b>No. of submissions:</b>	Nine (9)
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	28 March 2018

### Key Issues

---

On 10th October 2001, Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4, which also allocated the floor space within the development site.

Under the provisions of the previously approved Masterplan, the future building to be constructed upon 'Block C', the subject site was to be entirely commercial.

Following the notification of Rockdale Local Environmental Plan in 2011, the subject site was zoned B4 Mixed Use. Residential flat buildings were permissible upon the subject site, with a height and FSR standard, based on the original Masterplan controls put in effect.

The subject site is located on the south western corner of Magdalene Terrace and Mount Olympus Boulevard. The site area is approximately 3,656sq.m, has been excavated and construction of basement levels has commenced on site. The site is surrounded by high rise developments with commercial at ground floor and residential above, ranging from 5 - 21 storeys in height.

The proposal as modified seeks to add an additional residential level to the previously approved 9

storey development, resulting in a 10 storey building and providing a further 9 residential units. The layout of the previously approved basement levels is to be modified in order to accommodate parking for the additional dwellings.

As a result of the proposed changes referred to above, the proposal as modified results in a further variation to the height limit on site, by an additional 3m overall. The proposal as modified further results in a breach to the previous compliant scheme. The FSR variation equates to 9.3% of the maximum permitted.

The proposal as modified results in a breach to the 3:1 maximum permitted FSR standard on site. The original application complied with the FSR standard with an approved FSR of 2.96:1. The proposal as modified proposes 1,159sq/m of surplus gross floor area which equates to a 9.3% variation to the FSR standard.

As a result of the proposed additional height and bulk, the proposal as modified obscures the regional westerly, north westerly views of Wolli Creek and Waterworth Park to units within Building B within the Proximity Development.

The proposal as modified has been publicly notified in accordance with the provisions of Rockdale DCP 2011. A total of nine (9) objections opposing the proposal have been received. The issues raised in the submissions are addressed in this report.

## Recommendation

---

1. That the Bayside Planning Panel not support the variation to the height and FSR development standards, as contained in Clause 4.3 – Height of Building and Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011 as submitted by the applicant.

2. That the application under Section 96 of the Environmental Planning & Assessment Act, 1979 for modification of Development Application DA-2016/66 for the addition of 1 storey to previously approved development, including 9 additional residential units, creating a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces be REFUSED for the following reasons:

a) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is unsatisfactory with respect of State Environmental Planning Policy 65, in relation to Principle 1 - Context and Neighbourhood Character, Principle 2 - Built Form and Scale and Principle 3 - Density.

b) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.3 - Height of Buildings.

c) Pursuant to the provisions of Section 79C(1)(a)(i) the proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.4 - Floor Space Ratio.

d) Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development.

e) Pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment

Act 1979, the proposal as modified is inconsistent with the provisions and objectives of the following parts of Rockdale DCP 2011;

- Clause 4.1.1 - Views and Vistas,
- Clause 4.4.2 - Solar Access,
- Clause 7.1.7 Wolli Creek Built Form - Building Heights and Density.

f) Pursuant to the provisions of Section 79C(1)(d) & 79C(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the reasons noted above and the number of submissions received by Council against the proposed development, approval of the development application is not in the public interest.

3. That the objectors be advised of the Bayside Planning Panel's determination.

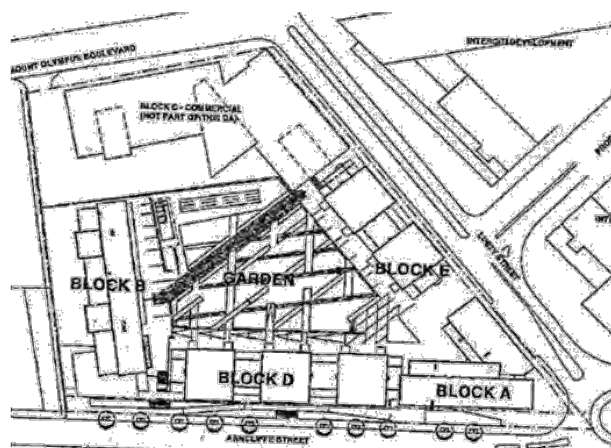
## Background

### History

10 October 2001

Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4. This condition also allocated the floor space within the development site. The below diagram is indicative of the approved master plan. Under the approved Master Plan the future building to be constructed upon 'Block C', the subject site was to be entirely commercial.



2 October 2002

DA-2002/1243 was approved by Council. This DA incorporated Stage 1 of the redevelopment of the

site within the diagram above and included the construction of four buildings to a height of 5-21 storeys to comprise a mixed use development known as "Proximity" being blocks A / B / D / E. Following October 2002, a number of various amendments were made to previously issued consents.

#### 2011

Following the notification of Rockdale Local Environmental Plan in 2011, the subject site was zoned B4 Mixed Use. Residential flat buildings were permissible upon the subject site, with a height and FSR standard, based on the original Masterplan controls put in effect.

#### 13 September 2012

Approved - DA-2011/461 -Stage 2 Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage.

#### 6 July 2016

Approved as Deferred Commencement - DA-2016/66 - Construction of 100 residential dwellings above the previously approved ground floor commercial premises and incorporated the addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area. The approved development complied with the FSR standard for the site and a variation to the height limit was approved, being a 0.8m - 4.6m height variation.

As a result of the approval of DA-2016/66, the applicant was required to surrender DA-2011/461. DA-2011/461 was surrendered by the applicant on 13 October 2017.

#### 15 August 2017

Activation of Deferred Commencement.

#### 9 March 2017

DA-2016/66/A - Submitted to Council - Addition of 1 storey to previously approved development, including 9 additional residential units, creating a total of 109 units and reconfiguration of basement 2 level to include additional parking spaces.

#### 22 March - 12 April 2017

Public notification of proposal as modified.

#### 6 April 2017

Consideration by the Design Review Panel.

### **Proposal**

The proposal as modified seeks to:

- a) Add a single storey to the approved building resulting in a 10 storey development.
- b) The single additional storey at level 10, includes a total of 9 additional units, resulting in a total of 109 units within the development.
- c) The 9 additional units proposed comprise 2 x 2 bed / 1 x 2 bed + study / 4 x 3 bed / 2 x 3 bed + study
- d) Alterations to the configuration of basement levels 2 - 4, including additional car parking spaces to



accommodate the additional apartments within the approved basement footprint.

e) Increase the height of the approved building from 35.6m to 38.6m.

f) Increase the FSR of the approved building from 2.96:1 (compliant) to 3.27:1, being 1159sq/m surplus gross floor area, equivalent to a 9.3% variation to the FSR control.



*View from junction of Magdalene Terrace & Mount Olympus Boulevard*



*View from Mount Olympus Boulevard*

### **Site location and context**

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard and originally formed part of the Proximity Development adjoining to the east, prior to its subdivision and subsequent change in ownership in 2006.

The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. Construction is occurring on site, with basement levels underway. A large tree is located adjacent to the site at 16 Guess Avenue, Wolli Creek.

The 'Proximity' development adjoins the subject property along its eastern boundary. Buildings within Proximity comprise shop top housing above ground level retail uses. A number of established building forms exist within the Proximity site as follows:



- Block E - directly adjoins the proposed development to the east and fronts Magdalene Terrace. Block E is 5 storeys in height with a maximum 21RL.
- Block A - is located at the junction of Magdalene Terrace and Arncliffe Street, it is the highest building within the Proximity Development, 21 storeys in height with a 66.25RL.
- Block D - fronts Arncliffe Street and is 5 storeys in height with a maximum 21RL.
- Block B - is oriented east / west within the Proximity site and is 14 storeys in height with a maximum 51.4RL.

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. There are three mixed use buildings, 10, 18 and 22 storeys in height opposite the site. On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.



*Aerial Context*

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. This site is zoned RE1 – Public recreation under RLEP 2011 and is earmarked for a future park.



Subject Site and eastern neighbour 'Proximity'

## Statutory Considerations

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

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

#### **S.91A - Development that is Integrated Development**

The original development constituted Integrated Development and required approval from the NSW Office of Water. The proposal as modified does not modify previously approved basement depths and as such the general terms of approval (GTA) previously imposed remain, should the proposal as modified have been supported for approval.

#### **S.96(2) - Modification**

S96(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S96(2) states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:*

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

Comments: In determining whether the proposal is 'substantially the same development' consideration has been given to the Land & Environment Court Case 'Moto Projects No.2 Pty Limited v North Sydney Council [1999] NSWLEC 280', which at paragraphs 55 and 56, Commissioner Bignold described the process for consideration of a proposed modification of development as follows:

*"55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development."*

Comment: The approved development constitutes a 9 storey mixed commercial / residential building with basement parking levels, podium and rooftop communal open space areas. The proposal as modified does not include changes to the footprint of the building or basement, and the building envelope for the approved levels remain largely unchanged. The proposal as modified seeks to add a further 1 storey of residential dwellings within the development, resulting in a 10 storey building on site.

Given the above the proposal as modified remains essentially and materially the same as the approved development. As such, it is the opinion of the planning officer that the proposal as modified is substantially the same development.

*b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comments: The proposal as modified was referred to relevant authorities.

*c) it has notified the application in accordance with:*  
*(i) the regulations, if the regulations so require, or*  
*(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comments: The application has been notified in accordance with the provisions of Rockdale DCP 2011.

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

Comments: A total of nine (9) objections have been received.

#### S96(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S96(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of Section 79(C) of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 79C (1) of the Environmental and Planning Assessment Act.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant submitted a revised BASIX Certificate for the proposal as modified. The Certificate number is 641848M\_05. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption	20
Reduction in Water Consumption	40
Thermal Comfort	Pass

The proposal as modified is consistent with the provisions and objectives of the SEPP.

##### **State Environmental Planning Policy (Infrastructure) 2007**

*Division 15 - Development in or adjacent to Railway Corridors*

*Clause 86 - Excavation in, above or adjacent to rail corridors*

*Proposed development that involves ground penetration at least 2m depth that is within 25m of a rail corridor, requires concurrence from Sydney Trains.*

Comment: The original proposal involved excavation within 25 metres of the East Hills rail corridor and was referred to Sydney Trains who raised no objection in relation to the proposed development, subject to the imposition of deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations.

The proposal as modified does not alter the aforementioned and should the modification have been supported, the previously imposed conditions of Sydney Trains were to remain.

*Clause 87 - Impact of rail noise or vibration on non-rail development*

*A building for residential use adjacent to a rail corridor requires that measures are taken to limit LAeq (equivalent continuous noise levels) and they are not exceeded:*

*(3)(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,  
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

Comment: An Acoustic Report prepared by "Harwood Acoustics" dated 28/02/2017 was submitted with the proposal as modified. The report considered the potential impact of railway noise to residential dwellings and recommends amelioration measures to ensure that these levels are not exceeded. Should the proposal as modified have been supported, conditions requiring compliance

with the aforementioned report can be imposed to ensure the proposal complies with the provisions of this clause.

**State Environmental Planning Policy No 55—Remediation of Land**

The matter of site contamination and remediation was addressed as part of the assessment of the original application. The site was deemed suitable for the development, with conditions of consent being imposed accordingly. The proposal as modified does not seek to undertake further excavation on site greater than that previously approved. In this regard the proposal as modified remains consistent with the provisions of SEPP 55.

**State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

The proposal as modified was referred to the Design Review Panel on 6 April 2017. The Panel supported the proposal as modified as discussed below.

*b. The design quality of the development when evaluated in accordance with the design quality principles.*

The design quality principles of the SEPP have been considered in the assessment of the proposal as modified. The comments of the Design Review Panel are as follows in *italics* below.

Notwithstanding the support of the DRP, it is the view of the assessing officer that the proposal as modified is excessive and inconsistent with Principles 1, 2 and 3 of the SEPP, for the reasons discussed below and as further expanded upon within this report.

Principle 1 – Context and Neighbourhood Character

*The Panel was provided with advice that the Wollie Creek development area has been subject to a number of section 4.6 and S96 applications seeking to increase the density of the development. The Panel was also advised that the Discovery Point Project which was previously approved under Part 3A Concept Plan had been increased in density by approximately 7%. In this context the Panel considered that the proposed increase under S96 application of around 9% was appropriate subject to an appreciation of the environmental and social benefits that would accrue.*

Comment: Development approvals upon neighbouring sites as referred to by the applicant to the Design Review Panel pre date the development standards of Rockdale LEP 2011. As such these approvals have no correlation to the site or development specific circumstances of the proposal as modified and as such should not be levied as justification for the proposed breach to the height standard.

The applicant further refers to and seeks to rely upon the previously approved Section 75W application approved by the NSW Department of Planning and Environment in 2015 (MP10\_0003 Mod 4 dated May 2015) which modified the previously approved concept plan for the Discovery Point Precinct to the north of the site, permitting an increase in the gross floor area of buildings 11 / 12 / 13 within this

precinct. These buildings are located directly adjoining Wolli Creek Railway Station and are 145m north of the subject site. Council objected to the proposed increase in GFA by the proponent at the time.

Council continues to raise concern with further proposed increases in density above and beyond the standards established by relevant planning controls within the Wolli Creek precinct.

The proposal as modified is contrary to the height and FSR standards for the site, which are intended to establish the future desired and intended streetscape character and context of the locality. The additional level unnecessarily exacerbates the height, bulk and scale of the previously approved development on site.

The density of the locality is established. The mix of building heights and massing surrounding and adjoining the site are at capacity, as is the subject site. The additional level proposed is not setback from the street edge which results in further overshadowing to the existing public domain, future planned neighbouring public open space area and contributes to a sense of enclosure within this portion of Wolli Creek.

The proposal as modified does not enhance the character of the area or neighbourhood and is not considered to satisfy this principle.

#### Principle 2 – Built Form and Scale

*The Panel considered that the proposed additional floor level (level 10) represented an acceptable built form outcome that benefited from the existing approved design.*

Comment: The proposed additional level is not recessed from the street edge and as a result further exacerbates the bulk, height and scale of the development. The proposal as modified does not achieve the overall height, bulk and scale of development envisaged by the planning controls for the subject site, which are intended to establish the desired future character of the street and locality. The proposal as modified is unsatisfactory in this regard.

#### Principle 3 – Density

*The Panel acknowledged that the proposed increase in density from 2.96:1 to 3.27:1 exceeded the permissible maximum of 3.0:1 but considered that the potential benefits such as increasing housing supply and diversity, and close proximity to a transport node warrant acceptance of the increase subject to the application of an additional negotiated development contribution which would be directed toward broader public realm improvements.*

Comment: The additional 1,159sq/m gross floor area proposed breaches the FSR development standard. The density of the locality in this area is primarily established. The mix of building heights and massing surrounding and adjoining the site are at capacity, as is the subject site. The proposal is unsatisfactory with respect of this principle.

#### Principle 4 - Sustainability

*Acceptable.*

Comment: The proposal as modified does not seek to remove previously approved sustainability



measures on site. The proposal as modified was accompanied by a revised BASIX certificate which confirms energy efficiency measures. The proposal as modified is satisfactory with respect to this principle.

#### Principle 5 – Landscape

*Acceptable.*

Comment: The previously approved rooftop communal open space area is provided with appropriate facilities and shade structures as recommended by the DRP during the assessment of the original application. The proposal as modified remains consistent with this principle.

#### Principle 6 – Amenity

*The Panel acknowledged that the increased height of the building does not adversely affect the amenity of the proposed development or the amenity of the adjacent buildings and surrounds.*

Comment: As discussed further in this report, the proposal as modified results in adverse view loss impacts and unnecessary additional overshadowing to the dwellings and the communal open space areas of the adjoining Proximity development. A further reduction to the amenity of neighbouring properties as a result of the proposed FSR breach and further height variation, is unwarranted, unreasonable and beyond that anticipated by the relevant planning controls for the site. The proposal is unsatisfactory in this regard.

#### Principle 7 - Safety

*Acceptable*

Comment: The proposal as modified retains previously approved safety and security measures on site. The development is provided with two prominent and clearly identifiable residential building entries to both Magdalene Terrace and Mount Olympus Boulevard, which comprise direct pedestrian access, generous lobbies and provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas are accessible via a secure electronic system. Common areas are to be well lit with clearly defined pathways.

The original consent incorporates conditions with respect of the provision of CCTV security cameras at residential entries and basement levels and the incorporation of clear directional signage on site to advise users of security measures in place. The proposal as modified is satisfactory in regards to the requirements of this principle.

#### Principle 8 - Housing Diversity and Social Interaction

*Acceptable. The Panel acknowledges that the proposed S96 variation will increase the diversity of housing within the overall complex.*

Comment: The proposal as modified increases the number of larger unit types within the development, catering to a mix of household types. The design of additional units provides for varied housing choice. The proposal as modified retains the two previously approved communal facilities at podium and rooftop level with various spaces including bbq, lawn and childrens playground area, which will

encourage and provide opportunities for social interaction between future occupants.

#### Principle 9 – Aesthetics

*Acceptable.*

Comment: The proposal as modified does not seek to alter the previously approved colours, finishes or materials. Materials and colours are retained as per the approved schedule of colours and finishes below. The proposal is satisfactory with respect of this principle.



#### *c. the Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA			COMMENTS	COMPLIES
3D - Communal Open Space	25% (913.5sq/m) Site Area 50% Direct sunlight to principle useable part of COS for minimum 2 hours between 9am - 3pm in midwinter			See discussion below.	Partial
3F Visual Privacy	Building height	Habitable rooms & balconies	Non habitable	21.8m building separation from eastern facade of development to western wall of Building B within the Proximity Development.	Yes
	> 25m (9+storeys)	12m	6m		
3J - Bicycle and car parking	Min parking requirements are set out by the ADG. Max parking requirements are set out by Rockdale DCP 2011. The applicant has chosen to provide the maximum car parking permitted on the site in accordance with the rates set out in Rockdale DCP 2011.			Refer to Part 4.6 - Parking Rates of this report.	Yes

4A – Solar and daylight access	Living rooms + POS of at least 70% (77 of 109) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter Max 15% (17 of 109) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			96% (101 of 109) units receive 2 hours solar access in midwinter. 5.5% (6 of 109) receive nil solar in midwinter	Yes Yes									
4B – Natural ventilation	Min 60% (66 of 109) of apartments are naturally cross ventilated in the first nine storeys of the building. < 18m, glass line to glass line.			74.3% (81 of 109) units cross ventilated  17m maximum depth glass line to glass line	Yes Yes									
4C – Ceiling heights	<table><tr><td colspan="2">Min ceiling heights:</td></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>			Min ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	2.7m / 2.4m floor to ceiling	Yes			
Min ceiling heights:														
Habitable	2.7m													
Non-habitable	2.4m													
4D – Apartment size and layout	<table><tr><td>Apartment type</td><td>Min area</td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>			Apartment type	Min area	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	2 bed – 75sq/m - 93sq/m 3 bed – 105sq/m - 122sq/m	Yes Yes			
Apartment type	Min area													
2 bedroom	70m <sup>2</sup>													
3 bedroom	90m <sup>2</sup>													
4E – Private open space and balconies	<table><tr><td>Type</td><td>Min area</td><td>Min depth</td></tr><tr><td>2 bed</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3 bed</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> Min balcony depth contributing to the balcony area is 1m.			Type	Min area	Min depth	2 bed	10m <sup>2</sup>	2m	3 bed	12m <sup>2</sup>	2.4m	2 bed - 10sq/m 3 bed - 12sq/m-15sq/m Balcony depth > 1m	Yes Yes
Type	Min area	Min depth												
2 bed	10m <sup>2</sup>	2m												
3 bed	12m <sup>2</sup>	2.4m												
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.			> 8 units off single circulation core	No - see discussion below.									
4G – Storage	<table><tr><td>Dwelling</td><td>Volume</td></tr><tr><td>2 bed</td><td>8m<sup>2</sup></td></tr><tr><td>3 bed</td><td>10m<sup>2</sup></td></tr></table>			Dwelling	Volume	2 bed	8m <sup>2</sup>	3 bed	10m <sup>2</sup>	Appropriate fixed storage provided within units and supplementary at basement level for future occupants.	Yes			
Dwelling	Volume													
2 bed	8m <sup>2</sup>													
3 bed	10m <sup>2</sup>													

## 3D - Communal Open Space

The proposal as modified comprises a total of 2805sq/m communal open space provided in the form of two separate areas. i.e. Podium 1692sq/m / Rooftop 1113sq/m. Communal open space areas on site are well designed, provided with facilities, seating, equitable access and varied spaces for interaction and play.

Solar access to podium communal open space is restricted, given its orientation to the south and south east behind the proposed development. Solar access in midwinter is achieved to the proposed pool at podium level from 12pm onwards in midwinter, yet the majority of the podium communal areas are in shadow in midwinter as a result of the proposed development and adjoining neighbouring high rise developments.

Notwithstanding, the proposed rooftop communal area receives in excess of 2 hours solar access in midwinter given its location. The communal open space areas proposed will provide for appropriate on site amenity for future occupants and the proposed development is considered to satisfy the objectives of 3D - Communal Open Space.

#### *4F - Common Circulation and Spaces*

The proposal as modified seeks to provide in excess of 8 apartments off a single circulation core. The proposal as modified indicates a maximum of 9 units off a single corridor to the new level as proposed.

It is noted that lift lobbies within the development are designed as double height spaces with full height glazing to enable solar access to internal circulation areas. Additionally both ends of the common corridors are provided with fire rated windows, which will provide for additional daylight. The proposed circulation spaces as proposed do not differ from those previously approved and are considered to provide reasonable amenity for future occupants.

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio	No - see discussion	No - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified is defined as shop top housing, which constitutes a permissible development only with development consent. The proposal as modified is consistent with the objectives of the zone, providing residential accommodation within an accessible location.

#### 4.3 Height of buildings

A maximum height of 31m applies to the subject site. The table below illustrates the approved height of the development, variations inclusive, as compared to the proposal as modified:

Location	As Approved	Proposed	Complies	Difference
Roof of building	31.8m (34.8RL) (2.5% variation)	34.8m (37.8RL) (12.2% variation)	No	+9.7% overall increase in height variation to that previously approved
Top of balustrade	32.92m (35.92RL) (6.1% variation)	35.92m (38.92RL) 15.8%	No	
Top of vertical facades elements	33.25m (36.25RL) (7.2% variation)	36.25m (39.25RL) 16.9%	No	
Top of lift/stair overrun, toilet & pergola	35.6m (38.6RL) (14.8% variation)	38.6m (41.6RL) 24.5%	No	

As can be seen above, the proposal increases the overall building height by a total of 3m. This results in a height variation of 3.8m - 7.6m, being an overall additional variation of 9.7% to the height standard.

As the proposal is a S96 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the additional variation to the height limit as sought by the applicant has been assessed against the objectives of Clause 4.3 - Height of Buildings and the objectives of Clause 4.6 below.

#### Applicants Justification

- a) The proposed modification is consistent with the height objectives of Clause 4.3(1) of the RLEP as noted in the previous Clause 4.6 Variation;
- b) The proposed development is consistent and compatible with the desired future character of the land which is for high density mixed use development as established by the existing built form in the surrounding area (notably the 5-21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) and the 46m height zone to the north;
- c) The proposed development is consistent with the objectives of the B4 Mixed Use Zone;
- d) Amenity is not compromised for the public domain or adjacent residential sites as a result of the non-compliance with the height standard;
- e) The departures from the height control within the RLEP 2011 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls;
- f) Council has virtually abandoned their controls in the vicinity of the site relative to additional height as via the height variation of the "Proximity" development.
- g) The proposed area of height non-compliance is considered to result in a size and scale of development that is compatible with the desired future character of the locality. In particular, adjacent buildings (notably the 21 storey "Proximity" development adjoining the site and the 10-18 storey "Building 5" and "Building 3" development located at 1-7 Magdalene Terrace) breach the height standard of by up to 32m. In this regard, the 'Proximity' building is 11 storeys taller than the proposed development when measured from Arncliffe Street. Seen within the context of the surrounding development, the proposed modification remains compatible with the desired future character of the locality.

- h) The proposed modification does not contribute to adverse overshadowing or overlooking of the habitable and or private open space areas of neighbouring properties.*
- i) Given the varying building height of surrounding development, which is generally much higher than the approved development, the additional single storey will assist to improve the visual relationship with surrounding development.*
- j) The increase in height provides for a suitably articulated and interesting roof form that provides a high level of residential amenity. The proposed rooftop structures are also directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development. The structures service the rooftop communal open space area which has been provided to benefit the future occupants of the site. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.*
- k) The proposed height is considered appropriate in respect of its impact on wind, design and amenity improvements, views, shadows, and privacy.*

#### Assessment

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is however considered that the height variation as proposed is inappropriate for the following reasons:

- a) In assessing the height of the original application, specific consideration was given to existing site and footpath levels surrounding the site, in addition to the flood affectation of the site. The following excerpt from the original planning report details the contextual and site considerations applied in the assessment of height as part of the original application DA-2016/66.

*"The natural ground level of the site prior to excavation was generally 3RL. As a result of the flooding constraints of the site a minimum floor level of 3.3RL was required. Notwithstanding existing footpath levels adjoining the site to Magdalene Terrace and Mount Olympus Boulevard range from 5.05RL to 5.29RL. As a result the natural ground level of the subject site is therefore up to 2.05m 2.29m below footpath level. The original approval for the site was consented to with a raised floor level of 5RL in order to ensure the development remained directly level with and accessible from the public footpath. The aforementioned are site circumstances which directly correlate to the overall height of the proposed development and result in a minor variation (0.8m) to the height of the building to the rooftop."*

As demonstrated above, the circumstances of the site at the time, were directly correlated to the overall height of the approved original development. Flexibility was applied in the original assessment and a minor variation to the height standard had been supported at that time. There are no new or additional circumstances of which warrant additional height upon the subject site.

- b) Development approvals upon neighbouring sites as referred to by the applicant, pre date the development standards of Rockdale LEP 2011. As such these approvals have no correlation to the site or development specific circumstances of the proposal as modified and as such should not be levied as justification for the proposed breach to the height standard as sought by the applicant.
- c) The proposal as modified results in additional unnecessary overshadowing to the northern / western façade of residential units within Building B of the Proximity development and the central podium communal open space of this neighbouring established development. The proposal as modified further results in unnecessary additional overshadowing to the future public park which is to be located



adjoining the subject site. This park is intended to form a key feature and social hub within the future desired character of Wolli Creek.

d) The proposal as modified is contrary to the principles of SEPP 65 with respect of future desired neighbourhood character and building height.

e) The proposal as modified is contrary to the aims and objectives of the Apartment Design Guide with respect of building height.

f) The additional adverse view loss impacts arising from the proposal as modified and detailed within this report are directly correlated to the additional height proposed in this application. A reduction of the regional westerly, north westerly views of Wolli Creek and Waterworth Park to a further level of units within Building B of the adjoining Proximity development is unreasonable and unnecessary.

g) The maximum height for this site is established by the current height standard which is based on the original Masterplan for the subject site. Whilst the Masterplan no longer applies, the height standard is applicable and the maximum building height upon this site has been achieved upon this site in the form of the original development. The proposal as modified is an overdevelopment of the subject site. There are no development or site specific circumstances which warrant the additional height as proposed. The height standard in this instance is reasonable and necessary in order to ensure Bayside Council's vision for the future desired character of Wolli Creek is achieved.

h) The proposal as modified is contrary to the objectives of Clause 4.3 - Height of Buildings, resulting in adverse environmental effects upon the use or enjoyment of adjoining properties, by virtue of unnecessary additional overshadowing and view loss impacts generated.

i) The proposal as modified does not result in an improved outcome upon the subject site than the current approved development, of which flexibility to the height standard had been previously applied.

j) The scale and nature of the non compliance is not in the public interest and has the potential to set a significant undesirable precedent. Council has not 'abandoned' its planning controls in relation to height, as suggested by the applicant, rather has accepted variations to specific sites >100m to the south west of the subject site, within Willis Street. Variations in this location have occurred in order to provide consistency in building forms within this small pocket of Willis Street, following the removal of an isolated site.

k) The proposal as modified is inconsistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.

l) The proposal as modified is inconsistent with the requirements and objectives of Rockdale DCP with respect of Views and Vistas.

m) The applicants written request to vary the height standard has not adequately provided appropriate justification as to why the current height standard is unreasonable or unnecessary in the circumstances of the development or subject site.

n) The applicant has not provided sufficient environmental planning grounds particular to the proposal as modified and the site, which demonstrate that the height standard is unreasonable or unnecessary.

It is reiterated that given the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, the applicant has been unable to establish the site and development specific circumstances which could otherwise warrant the proposed additional height upon the subject site.

It is important to note that prior to the establishment of the judgement for the aforementioned court case, variations to development standards could have been supported on the basis of compliance with objectives and nil environmental planning impacts. Given the establishment of this judgement, varying the height limit applicable to a site must be correlated to the particular circumstances of the site or development. This has not been demonstrated in this instance by the applicant.

Given the above, it is not considered that the proposed additional height should be supported. It is reiterated that there are insufficient environmental planning grounds particular to the site and development presented by the applicant of which to justify a further contravention of the height standard.

#### 4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10 962.9sq/m.

The table below illustrates the FSR and gross floor area of the development as approved and proposed:

<i>As Approved</i>	<i>Proposed</i>	<i>Complies</i>	<i>Variation</i>
2.96:1 10,825sq/m GFA	3.27:1 (1,159m <sup>2</sup> surplus GFA)	No	9.3% variation to FSR standard

As the proposal is a S96 application, a Clause 4.6 - Exception to Development Standards is not required. Notwithstanding the variation to the FSR control as sought by the applicant has been assessed against the objectives of Clause 4.4 - Floor Space Ratio and the objectives of Clause 4.6 below.

This assessment further considers the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, where it was established that justification was required in order to determine whether a development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of standard. Consideration is to be given to the particular site circumstances of the site and development.

#### Applicants Justification

A summary of the applicants key arguments supporting the additional FSR are as follows:

- *The proposal is consistent with the objectives of Clause 4.4, the increased density of development is considered appropriate within the context of the site. Specifically, the proposed additional nine (9) units can be sustained by the existing infrastructure, public transport, access to jobs, community facilities, public open space and the environment. It follows that the proposed modification will therefore allow the development of the site in accordance with its environmental capacity. Consequently, the development and intensity of land use is in accordance with the infrastructure capacity and desired future character of the locality.*
- *The proposed modification would not result in an unreasonable impact on surrounding properties.*

*The modifications will have minimal (if any) potential amenity impacts (in terms of wind, design, views and privacy), and the additional parking requirements are fully accommodated within the approved basement levels.*

- The development will remain compliant with SEPP 65 and the Apartment Design Guidelines (ADG). It is therefore considered that the modification will have minimal impact on the use or enjoyment of adjoining properties.*
- The modified development will retain an appropriate visual relationship with the surrounding area, which is undergoing significant transformation.*
- The development is located in a highly accessible location, with direct access to public transport, employment, community facilities and public open space. The proposed nine additional units seek to maximise the sites potential, particularly in relation to the use of Wolli Creek Railway Station. It is also noted that the modified development will provide for 30 bicycle parking spaces, which is 19 more than required by the Rockdale Development Control Plan 2011 (RDCP). In this respect, the proposed modification provides for suitably integrated land uses that will maximise public transport patronage and encourage walking and cycling.*
- The proposed building is a high quality building that will add architectural value to the existing streetscape. The proposal has been designed with appropriate modulation and building depth which allows for the proposed residential units to obtain appropriate solar access and ventilation. The proposed development also provides for an appropriate correlation between the maximum building height, density and ground floor activation of a prominent corner location.*
- The proposal will therefore allow the development of the site in accordance with its environmental capacity.*
- There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the breach of the floor space ratio standard. In the circumstances of this particular site and its current approval, we therefore consider it more appropriate to allow a variation in FSR that achieves an improved outcome rather than to strictly apply the FSR standard.*

#### Assessment

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is however considered that the FSR variation as proposed is inappropriate for the following reasons:

- a) The scale and nature of the proposed additional gross floor area is not in the public interest and has the potential to set a significant undesirable precedent. Council has not 'abandoned' its planning controls in relation to FSR.
- b) The maximum development density for this site is established by the current FSR standard. The maximum residential yield has been achieved upon this site in the form of the original development. The proposal as modified is an overdevelopment of the subject site. There are nil development or site specific circumstances which warrant the additional floor space as proposed. The FSR control in this instance is reasonable and necessary in order to ensure Bayside Council's vision for the future desired character of Wolli Creek is achieved.
- c) The proposal as modified is contrary to the principles of SEPP 65 with respect of future desired neighbourhood character and density.
- d) The proposal as modified is contrary to the aims and objectives of the Apartment Design Guide with

respect of FSR.

e) The proposed additional FSR results in additional adverse view loss impacts to units within Building B of the adjoining Proximity development. A further level of residential units will obscure the regional westerly, north westerly views of Wolli Creek and Waterworth Park to units within Building B. The proposal as modified is inconsistent with the requirements and objectives of Rockdale DCP 2011 with respect of Views and Vistas.

f) The proposal as modified results in additional unnecessary overshadowing to Proximity Development, its podium communal open space and the future public park which is to be located adjoining the subject site. The future park is intended to form a key feature and social hub within the future desired character of Wolli Creek.

g) The proposal as modified is contrary to the objectives of Clause 4.4 - FSR, resulting in adverse environmental effects upon the use or enjoyment of adjoining properties, by virtue of unnecessary additional overshadowing and view loss impacts generated.

h) The proposal as modified does not result in a better outcome upon the subject site than the current approved development which complies with the FSR standard.

i) The proposal as modified is inconsistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.

j) The applicants written request to vary the FSR standard has not adequately provided appropriate justification as to why the current FSR standard is unreasonable or unnecessary in the circumstances of the development or subject site.

k) The applicant has not provided sufficient environmental planning grounds particular to the proposal as modified and the site, which demonstrate that the FSR standard is unreasonable or unnecessary.

It is reiterated that given the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, the applicant has been unable to establish the site and development specific circumstances which could otherwise warrant the proposed additional FSR upon the subject site.

It is important to note that prior to the establishment of the judgement for the aforementioned court case, variations to development standards could have been supported on the basis of compliance with objectives and nil environmental planning impacts. Given the establishment of this judgement, varying the FSR of a site must be correlated to the particular circumstances of the site or development. This has not been demonstrated in this instance by the applicant.

Further to the above, it is reiterated that the Section 75W application within the Discovery Point Precinct in Wolli Creek as discussed previously in this report, should not be used as leverage by the applicant in order to seek or obtain additional floor space beyond that permissible on the site.

Given the above, it is not considered that the proposed additional FSR should be supported. It is reiterated that there are insufficient environmental planning grounds particular to the site and development presented by the applicant of which to justify the contravention of the FSR standard.

#### 6.6 Flood Planning Land

The subject site is identified in council records as being flood affected. The proposal as modified does not seek to alter previously approved ground floor levels which are to be constructed above the flood threshold. As such the modified proposal maintains compliance with the provisions of this clause.

#### 6.7 Stormwater

The proposal as modified does not seek to alter previously issued conditions of consent relating to the disposal of stormwater from the subject site. The proposal as modified remains consistent with the provisions of this clause.

#### 6.11 Active Street Frontages

The proposal as modified does not seek to reduce or alter the previously approved commercial tenancies at ground level which facilitate the provision of an active street frontage to both Mount Olympus Boulevard and Magdalene Terrace. The proposal as modified remains consistent with the requirements of this clause.

#### 6.12 Essential services

Services are generally be available on the site, and standard conditions of consent were generally imposed upon the original DA. The proposal as modified does not alter the aforementioned and the proposal as modified remains consistent with the provisions of this clause.

### **S4.15(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	No - see discussion	No - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	No - see discussion	No - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Access to Parking	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Servicing - Wolli Creek and Bonar Street	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Visual Connections	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes - see discussion
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes	Yes
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and Density	No - see discussion	No - see discussion
7.1.8 Wolli Creek Street Character and Setbacks	Yes	No - see discussion
7.1.9 Wolli Creek - Environmental Management	Yes	Yes

#### 4.1.1 Views and Vista

The proposal as modified provides an additional 1 storey, 3m in overall building height, to the previously approved building form on site. The additional storey has a proposed finished floor level of 34.8RL and roof level of 37.8RL. Rooftop structures above, further exceed these heights.

The proposal as modified will result in the loss of views to an additional level of residential units within Building B of the Proximity Development as follows:

a) Block B - Loss of distant westerly / north westerly regional views of Wolli Creek and Waterworth Park.

These units previously retained these views given the approved height of the original development, which comprised a minor variation only to rooftop structures which were minimised in area, scale and location at rooftop level.

The proposal as modified results in further view loss impacts, which are above and beyond those anticipated by the planning controls for the subject site. In this regard, the proposal as modified is considered to be unreasonable and inconsistent with the requirements and objectives of this clause.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing



Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter. This clause further requires that development be designed and sited to minimise the extent of shadows that it casts on private and communal open space of adjoining dwellings. Whilst the provisions of this clause require a minimum of 3 hours of solar access, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause. Notwithstanding, a merit assessment has been undertaken below against the objectives of this clause.

The subject site, approved development and proposal as modified are primarily located to the north, west and north west of the adjoining 'Proximity' development, which comprises shop top housing in residential towers 5 - 21 storeys in height. Given the orientation of the subject site, position of the approved development and the additional level as sought by this application, it is inevitable that some degree of overshadowing impacts will result to the existing 'Proximity' development (including its podium level communal open space and pool).

Further to the above, to the north of the subject site and the 'Proximity' development, at 1-7 Magdalene Terrace, are three existing buildings within the 'Discovery Point' development, which are 10, 18 and 22 storeys in height overall. Given the height and location of these buildings directly north of the subject site and 'Proximity' development, some overshadowing impacts already occur to the subject site and 'Proximity' development.

Notwithstanding the above, an assessment has been undertaken below of the overshadowing impacts of the proposal as modified, being the resultant additional shadow of the proposed additional storey.

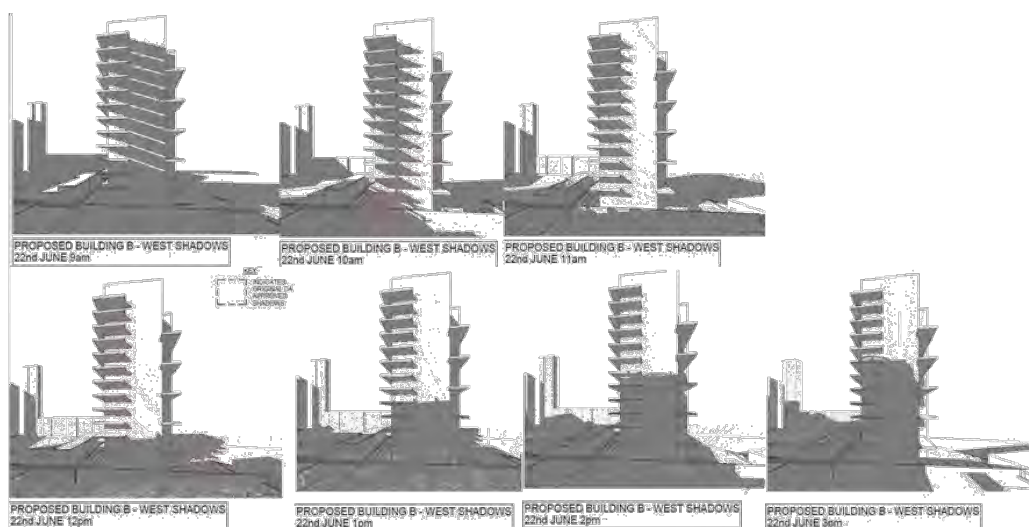
#### Proximity Building B

Elevational shadow diagrams illustrating the approved and proposed shadows onto the western and northern facades of Building B were submitted with the application. These diagrams illustrate the additional overshadowing that arise to the northern and western facades of Building B, with the central podium communal courtyard of the Proximity development as a result of the proposed additional level.

Further to the above, it is noted that submitted elevational shadow diagrams depicting the northern and western façades of building B do not accurately illustrate window openings and balcony locations, as can be seen below.



Notwithstanding the above, elevational shadows to the western façade of Building B illustrate as follows, with the red outline depicting the original approved shadows.



The above shadows demonstrate that a minimum of 2 hours of solar access is achieved in midwinter between 10am - 12pm to the west facing window / balcony openings to units within Building B of Proximity. This complies with the requirements of the Apartment Design Guide (ADG). The proposal as modified will however result in further overshadowing of an additional lower level of Proximity Building

B (western windows / openings) from midday onwards in midwinter.

With respect to the northern façade of Building B, the proposed modification will have no impact on solar access to the northern façade of Proximity Building B before 1pm in mid-winter. This elevation will retain current levels of solar access in midwinter until 1pm, whereby minor additional overshadowing occurs as a result of the proposed additional level.

Notwithstanding the above, the additional shadow cast upon the northern / western facades of Building B as a result of the proposal as modified is considered to unreasonably diminish sunlight to neighbouring properties and is thus inconsistent with the objectives of this clause.

#### Proximity Pool

The communal pool located at podium level within the Proximity development is positioned along the western side boundary of the property with the subject site. At 9am in midwinter the entire pool is in shade as a direct result of the shadow generated by buildings 3 and 5 at 1-7 Magdalene Terrace. The proposed development generates shadows to this pool at 9am, yet it is reiterated that the pool is already in complete shade given the shadow caused by Buildings 3 and 5 within Discovery Point located on the northern side of Magdalene Terrace.

Prior to the approval of the original DA, half of the Proximity pool was in sunlight at 10am in midwinter. The approved development, overshadowed the pool entirely at 10am. At 11am - 12pm in midwinter this pool is overshadowed completely by the shadow generated by Buildings 3 and 5 at 1-7 Magdalene Terrace. The shadow onto the pool as caused by the approved development was no greater than this shadow and the pool remained in shade at this time. At 1pm - 3pm in midwinter, the pool is overshadowed by the previously approved development.

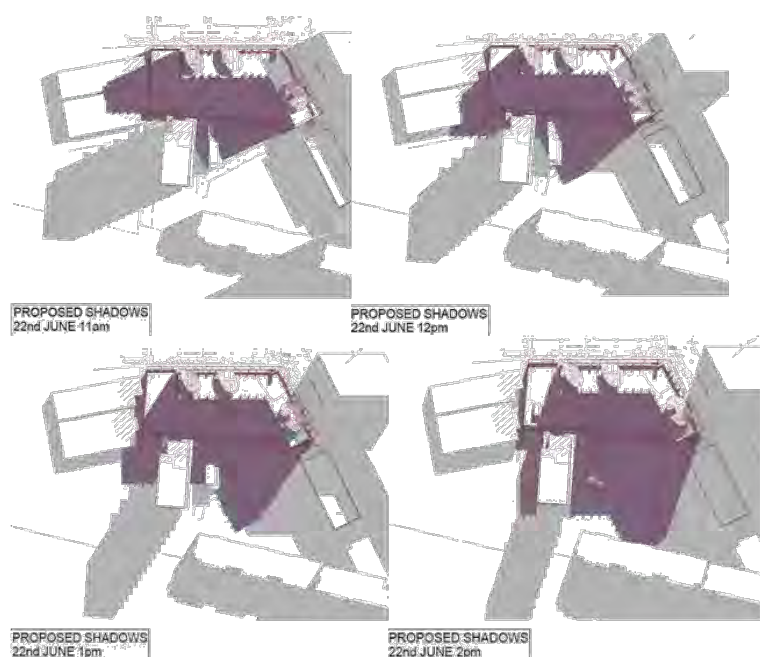
Given the above, it is evident that as a result of the location of the proximity pool, the approved development and existing shadows caused by neighbouring buildings to the north, the pool at podium level will receive nil sun in midwinter.

The proposal as modified does not result in further overshadowing to the pool area, given the aforementioned.

#### Proximity Communal Open Space

At 9am in midwinter the garden podium communal open space area within Proximity is entirely overshadowed by the existing Proximity buildings and developments on the northern side of Magdalene Terrace. At 10am 1/3 of the communal area is in sunlight, this area will remain in sunlight at 10am with the proposal as modified.

The proposal as modified results in further overshadowing of this area as shown in blue below.



At 11am -12pm as approved, approximately half the communal area is in sunlight. At 1pm and 2pm the proposal as modified results in further additional shadow to the communal area, above and beyond that cast by neighbouring existing buildings and the previously approved development. The additional shadow cast at this time results in a smaller portion of the communal area receiving solar access in midwinter.

The objectives of this clause require that development does not unreasonably diminish sunlight to neighbouring properties. The provisions of this clause further require that buildings be sited to reduce overshadowing on adjoining properties by increasing setbacks, staggering of design, variations in roof form and/or reducing building bulk and height.

Given the proposal as modified does not recess the proposed additional level, seeks to breach the FSR standard and further vary the height control on the site, the additional shadow impacts to this central communal area are not considered to be reasonable.

Given the above the proposal is not considered to satisfy the objectives or provisions of this requirement.

#### 4.4.4 Glazing - General Controls

Plans indicate the provision of louvered and sliding screens to residential balconies to the eastern, western and northern elevations. This will aid in reducing the necessity for mechanical heating and cooling to habitable areas and provide appropriate weather protection. The proposal as modified complies with the requirements of this clause.

#### 4.4.5 Acoustic privacy

The original development was conditioned to adhere to the recommendations of the Acoustic Report

prepared by the Acoustic Group dated 24 July 2015, which incorporated noise amelioration measures to mitigate against traffic, rail and internal noise transmission, ensuring appropriate internal acoustic amenity is achieved.

The proposal as modified was accompanied by an acoustic report prepared by Harwood Acoustics, which considered road and rail noise, along with internal noise transmission for the proposal as modified. The report recommended measures to be incorporated during construction to ensure appropriate amenity is retained within the proposal as modified.

Subject to the incorporation of the recommendations of these reports, the proposal as modified is satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

#### 4.4.7 Wind Impact

The proposal as modified was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 22 February 2017 ref 2015-341 Rev.3. The report stipulates that the most critical annual limiting gust wind speeds are expected in the following open areas:

- Communal Area at Podium Level;
- Podium Balconies;
- Level 2 – 9 Balconies; and
- Level 10 - Roof Terrace.

The report provides recommendations as follows in order to mitigate wind impacts on site given the height of the development.

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

The proposal as modified complies with the requirements of this clause, subject to the implementation of the recommendations of the report referred to above.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The development is required to comply with the following unit mix:

<i>DCP Requirement</i>	<i>Approved</i>	<i>Proposed</i>	<i>Complies</i>
1 bed / Studio 10% (11) - 20% (22)	2 x studio / 13 x 1 bed 14 x 1 bed + study 29 of 100 (9 surplus)	Nil increase of studio / 1 bed units from those previously approved.	
2 bed 50% (55) - 75% (82)	56 x 2 bed 1 x 2 bed + study 57 of 100	58 x 2 bed 2 x 2 bed + study	Yes – 60 of 109 (55%)

3 bed 10% (11) - 30% (33)	7 x 3 bed 7 x 3 bed + study 14 of 100	11 x 3 bed 9 x 3 bed + study	Yes – 20 of 109 (18.3%)
------------------------------	---	------------------------------------	----------------------------

As demonstrated above, the proposal as modified does not alter the previously approved number of studio / 1 bedroom units and complies with the minimum required number of 2 - 3 bedroom units sought to be achieved by the provisions of this clause.

The proposal is therefore consistent with the objectives and requirements of this clause.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (11) of residential units within the development are required to be provided as adaptable units. A total of 18 units (2, 4, 6, 7, 8, 14, 31, 32, 33, 41, 56, 57, 58, 66, 81, 82, 83, 91) were previously approved as adaptable units within the development. There are no new adaptable units provided within the proposed addition. The proposal as modified thus retains compliance with the minimum number of adaptable dwellings required within the development.

Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels and communal open space areas allowing equitable access for persons with a disability / mobility impairment.

An Access Report prepared by Accessible Building Solutions, dated 15 February 2017 confirms compliance with relevant disability legislation. The proposal as modified is consistent with the requirements and objectives of this clause.

#### 4.6 Parking Rates - Shop-top Housing

The car parking rates of Rockdale DCP 2011 apply to the development. These rates were applied in the assessment of the original application and are sought by the applicant as part of the proposal as modified.

As per the provisions of this clause, parking provision is to be provided as follows on site.

- 1 space per studio, 1 and 2 bedroom (89 spaces required)
- 2 spaces per 3 bedroom (40 spaces required)
- 1 visitor space per 5 dwellings (22 visitor spaces required)
- 1 x dedicated car wash bay
- 58 commercial spaces
- 42 bike spaces
- 18 motorbike spaces

Given the above, a total of 210 car parking, 42 bike and 18 motorbike spaces are required for the proposal as modified.

Plans illustrate a total of 211 car, 42 bike and 18 motorbike spaces provided as follows:

Basement 1 - 58 commercial car spaces / 6 bike / 2 motorbike

Basement 2 - 55 car spaces (22 visitor / 31 residential / 2 car wash bays) / 12 bike / 6 motorbike



Basement 3 - 65 residential spaces / 12 bike / 4 motorbike

Basement 4 - 33 residential spaces / 12 bike spaces / 6 motorbike

The proposal as modified complies with the requirements of this clause.

#### 4.6 Car Wash Facilities

Two (2) appropriately dimensioned car wash bays are proposed within basement level 2. The proposal as modified satisfies the requirements of this clause.

#### 4.6 Pedestrian Access and Sustainable Transport

Plans indicate the provision of 36 bicycle spaces within basement levels 2-4. These areas are secure and enclosed with mesh fencing. The proposal as modified provides in excess of the minimum number of bicycle spaces required by DCP 2011. The proposal as modified is therefore considered to positively encourage future occupants to adopt alternative modes of transport. The proposal as modified is consistent with the requirements and objectives of this clause.

#### 4.7 Air Conditioning and Communication Structures

Plans indicate the provision of air conditioning units upon the balconies of residential units. Balconies are provided with either masonry or glazed balustrades to both street frontages of the property. The existing consent comprises a condition requiring that glass balustrades be opaque to ensure that air conditioning units are not visible from the public domain. This existing condition ensures that the proposal as modified is also satisfactory in relation to the requirements of this clause.

#### 4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of two (2) waste chutes within the development, being one chute adjoining each lift core within the building. Waste is to be discharged into 1100L residential and 660L commercial bins on site. Waste is to be compacted and discharged into waste holding rooms within basement level 2 which is of sufficient dimension and area to accommodate the proposal as modified. Separate previously approved garbage storage areas are provided at ground level adjoining the loading dock for use by commercial tenancies on site.

Recycling bins are provided within a waste compartment on each residential level for the north core and levels 3, 5, 7 and podium for the dual level cross over apartments in the northwest core. Full waste and recycling bins will be transferred to the bin enclosure on basement 2. Bins will then be transferred to the ground floor loading bay via the goods lift on the day of collection and serviced by Council within the loading dock.

The proposal as modified provides appropriate on site waste management and satisfies the provisions of this clause.

#### 4.7 Servicing - Wolli Creek and Bonar Street

The existing consent comprises a condition, which requires the developer to relocate underground electricity cables on the frontages of the site at no cost to Council. The proposal as modified is therefore consistent with the provisions of this clause.

#### 4.7 Laundry Facilities and Drying Areas

Residential units are provided with appropriate internal laundry facilities. The proposal as modified satisfies the provisions of this clause.

#### 4.7 Letterboxes

Residential mail boxes were previously approved adjoining the main entry foyers to the upper residential levels. The proposal as modified complies with the requirements of this clause.

#### 4.7 Hot Water Systems

Nil details are provided in relation to the location of hot water units to residential dwellings. Notwithstanding the original consent incorporates conditions to ensure that all hot water systems/units located on the balcony of dwellings are encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work concealed. The proposal as modified is satisfactory with respect of the provisions of this clause.

#### 5.2 RFB - Building Entry

As approved the development comprises individual residential building entries to both frontages of the site at Magdalene Terrace and Mount Olympus Boulevard. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street and development. The proposal as modified does not alter previously approved building entries and thus remains compliant with the requirements and objectives of this clause.

#### 5.2 RFB - Lift Size and Access

Three lifts, as previously approved, are provided within the proposal as modified. A single lift core is provided to the portion of the building fronting Magdalene Terrace and a dual lift core to the portion of the building fronting Mount Olympus Boulevard. Each lift provides access from basement levels to the uppermost storey of each building on site. Cross over between lifts is provided at levels 3 / 5 / 7 via a common corridor and the rooftop communal open space area, enabling future occupants access to three lifts within the building. Lifts are appropriately dimensioned. The proposal as modified complies with the requirements and objectives of this clause.

#### 5.3 Mixed Use - Visual Connections

The proposal as modified retains the previously approved glazed ground floor retail spaces to both street frontages with clearly identifiable residential lobbies. Upper levels of the approved development, including the proposal as modified incorporate residential balconies and windows, which overlook the public domain and provide passive surveillance from the site. The proposal as modified is satisfactory in this regard.

#### 5.3 Mixed Use - Secured Access to Parking

This clause requires that where a building contains residential and non-residential uses, separate lift access be provided from basement car parking to the residential and non-residential areas. Additionally that residential parking spaces be secure and separate from non-residential vehicle parking and servicing areas.

As approved plans detail the provision of secure residential car parking at separate levels from commercial car parking on site. Additionally, approved plans illustrate the provision of a separate goods / customer lift and ramp provided within the development for the future commercial uses, enabling future customers to access the ground level retail uses via a separate lift from those intended for the upper level residential uses.

The proposal as modified does not alter the aforementioned and remains consistent with the objectives and requirements of this clause.

#### 7.1.7 Wolli Creek Built Form: Building Heights and Density

The building height diagram within Part 7.17 of DCP 2011 illustrates a height of up to 8 storeys being permitted upon the subject site. The development as approved comprised a total of 9 storeys with rooftop elements atop the building. Whilst the 9th storey was a variation to this control, the development as approved, to the rooftop level complied with the LEP height requirements. The proposal as modified further seeks to add an additional level to the approved development, resulting in a 10 storey building with associated rooftop structures on site.

The requirements of this control further require that solar access to public parks be retained between 12pm - 2pm on June 21. Plans illustrate additional and unnecessary overshadowing to the future public park to the south between 11am - 2pm in midwinter.

The proposal as modified seeks to vary the LEP height standard, results in greater overshadowing impacts to neighbouring buildings and the future anticipated public parkland to the south. The proposal as modified is inconsistent with the height, density and mass of development anticipated upon the subject site, as per the provisions and objectives of this clause.

As such the proposal as modified is unsatisfactory with respect of the provisions and objectives of this clause.

#### 7.1.8 Wolli Creek Street Character and Setbacks

The Magdalene Terrace frontage of the site is identified as 'Retail Street Frontage' with the Mount Olympus Boulevard frontage of the site identified as 'Mixed Use Street Frontage' within the street character diagrams depicted within this clause.

Accordingly, a 2m building setback is required to both frontages of the site, of which a further 2.5m articulation zone is also required. The articulation zone is intended to comprise only balcony elements.

The development as approved complies with the 2m building setback to both frontages, with building elements protruding into the articulation zones at both site frontages as can be seen in yellow below.

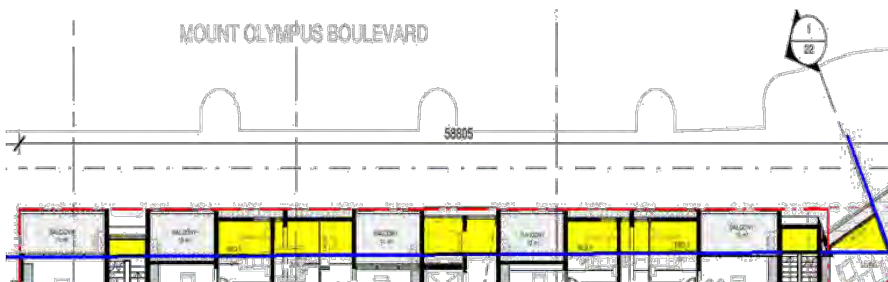
As approved, the design of the development alternates on each level, with balconies proposed within the articulation zone on Levels 2, 4, 6 and 8 and a mix of floor space and balconies on Levels 3, 5, 7 and 9. The proposal as modified remains consistent with the aforementioned and illustrates partial protrusions within the articulation zone.



#### *Building element protrusions to Magdalene Terrace*

Building E adjoining the approved development to the east is positioned closer to Magdalene Terrace than the approved development and the proposal as modified. Building E comprises solid balcony elements which protrude forward of the building line of the approved development and proposal as modified.

The additional level proposes building line protrusions akin to those previously approved. Given the established building line and balcony elements of Building E to the east, and the consistency of protrusions with those previously approved, the variation in this instance is not unreasonable.



#### *Building element protrusions to Mount Olympus Boulevard*

With respect to building protrusions to the Mount Olympus Boulevard frontage of the site, it is reiterated that the level 10 protrusions are akin to those previously approved at levels below. Further, the proposal as modified shall be the only building directly fronting Mount Olympus Boulevard.

Given the above, the proposal as modified is satisfactory with respect of the objectives of this clause.

#### **S4.15C(1)(a)(iv) - Provisions of regulations**

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

#### **4.15C(1)(b) - Likely Impacts of Development**

*Sydney Trains*

The subject site is positioned opposite the railway line. The original proposal was referred to Sydney Trains for comment and deferred commencement conditions were imposed, to ensure the construction of the development did not adversely impact upon the nearby train line or its operations. The Deferred Commencement conditions remain applicable with respect of the proposal as modified.

*Safety & Security*

The development was previously approved with clearly identifiable and legible residential building entries to both Magdalene Terrace and Mount Olympus Boulevards. Residential lobbies comprise direct pedestrian access and are glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal as modified remains consistent with the aforementioned and is satisfactory in this regard.

*Social Impact*

The proposal as modified provides a greater number of larger residential dwellings within the previously approved development. The larger unit types and mix will cater to and accommodate a range of housing types.

**S4.15(1)(c) - Suitability of the site**

The original proposal, as approved, maximised the achievable yield upon the subject site and complied with the FSR standard. The proposal as modified results in a substantial breach (1159sq/m) to the FSR standard and is deemed to be an overdevelopment of the site.

Whilst a minor height variation was originally approved, the extent and scale of this variation was limited. i.e. 0.8m variation to roof of building to 4.6m to top of lift overrun. The additional height sought by the applicant (3.8m - 7.6m) results in adverse and unreasonable amenity impacts to neighbouring properties including loss of views / vistas and additional overshadowing. The additional height as sought by the applicant is unnecessary and contrary to the planning controls envisaged for the subject site.

Given the above, the subject site is not deemed to be suitable for the proposal as modified.

**S4.15(1)(d) - Public submissions**

The proposal as modified has been notified in accordance with the provisions of Rockdale DCP 2011 and 9 submissions were received. The issues raised in the submissions received by Council are discussed below:

*Further overshadowing to south facing apartments at 1 Magdalene Terrace*

Comment: The proposal as modified does not overshadow the objectors unit at 1 Magdalene Terrace. The objectors building is positioned north of the subject site, on the northern side of Magdalene Terrace, within Discovery Point. The objectors building overshadows itself given its orientation and location.

*Privacy impacts to units in 1 Magdalene Terrace*

Comment: The proposal as modified is positioned in excess of 25m away from the objectors property.

Given the aforementioned building separation, privacy impacts are not anticipated.

*Contrary to Master Plan for the site / Development is not commercial as required by Master Plan*

Comment: The provisions of the MP no longer apply.

*Further overshadowing of Proximity pool and gardens by extra storey*

Comment: The matter of overshadowing has been discussed previously within this report.

*View loss impacts from units within Proximity Development*

Comment: The matter of view loss has been previously discussed in this report. The proposal as modified results in view loss impacts.

*Increased Traffic / Mount Olympus Boulevard is too narrow for service vehicles to enter the site i.e. Woolworths trucks / Service trucks*

Comment: The proposal as modified complies with the car parking requirements of DCP 2011. The previously approved vehicle entry, exits and turning areas, particularly with respect of trucks, loading and unloading are not proposed to be modified. The width of Mount Olympus Boulevard is sufficient to accommodate vehicular movements anticipated for the approved development.

*Visual privacy impacts to Proximity pool / Visual privacy impacts to units within Proximity Building B*

Comment: The podium level of the proposed development and the adjoining Proximity development are not aligned, with substantial shrub and tree terraced planting provided at podium level of the proposed development along the common eastern boundary of the site with Proximity. Also, given the approved landscaping at the common boundary and level difference of 2.4m, it is unlikely that the proposal will result in adverse overlooking of the Proximity Pool.

Further to the above, the rooftop communal open space is recessed from the edge of the building, with periphery shrub and tree planting provided. Additionally the proposal as modified comprises a building separation of greater than 20m from Building B within the Proximity development. The building separation as proposed and previously approved as aforementioned is considered to be satisfactory in order to avoid adverse visual privacy impacts between neighbours.

*Traffic & Car Parking impacts*

Comment: Councils Engineer considered the matters of car parking, maneuverability and traffic and was satisfied that the proposal was unlikely to result in adverse traffic or car parking impacts within the surrounding road network. It is reiterated that the proposal complies with relevant car parking requirements and provides an on site loading / unloading bay.

*Devaluation of property.*

Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.



*Acoustic impact of rooftop communal open space to residents in Building B*

Comment: The rooftop communal open space area is located in excess of 20m away from Building B within Proximity. The rooftop area is intended to be provided as a secondary 'passive' communal open space area, with the swimming pool and children's play equipment located within the 'active' communal open space area at podium level. Given the distance of the rooftop communal open space area from Building B and the high density residential context of the area, it is not considered likely that the rooftop communal open space area will result in adverse acoustic impacts to neighbours.

*Loss of solar access to building B within Proximity development.*

Comment: The matter of solar access has been previously discussed within this report.

**S4.15C(1)(e) - Public interest**

The proposal as modified is considered to be unsatisfactory for the reasons previously outlined within this report. The proposed additional height results in adverse impacts relating to overshadowing and view loss and the resultant building form is inconsistent with the future desired character and anticipated density envisaged for the subject site. The proposal as modified in this regard is not in the public interest.

**S7.11 Contribution towards provision or improvement of amenities or services**

Should the proposal as modified be supported for approval, additional S94 contributions can be levied for the further increase in density on the site.

**Schedule 1 - Draft Conditions of consent**

---

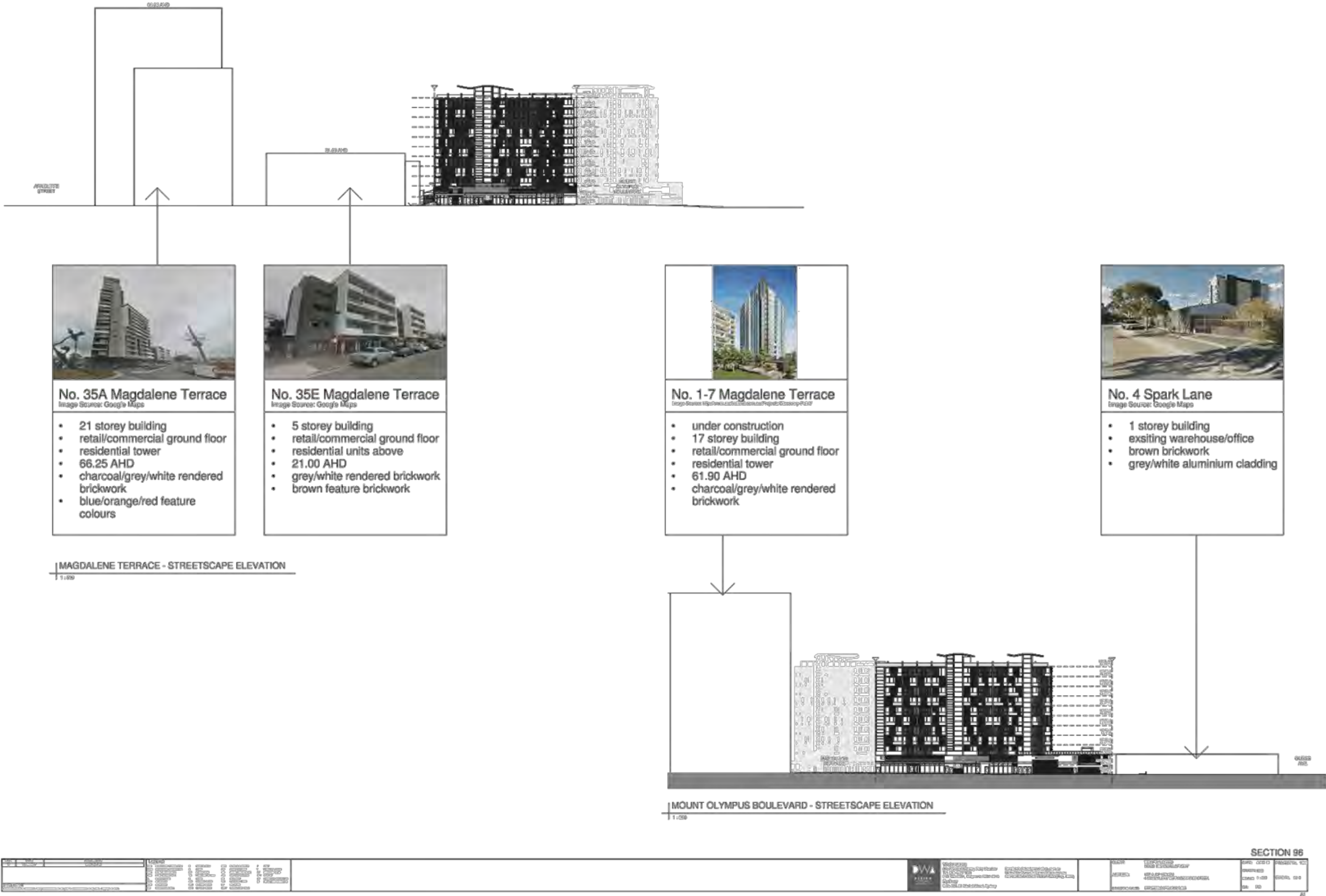
[illegible][illegible]

	NAME	1000' (1000)	2000' (2000)	3000' (3000)	4000' (4000)	5000' (5000)	6000' (6000)	7000' (7000)	8000' (8000)	9000' (9000)	10000' (10000)	11000' (11000)	12000' (12000)	13000' (13000)	14000' (14000)	15000' (15000)	16000' (16000)	17000' (17000)	18000' (18000)	19000' (19000)	20000' (20000)	21000' (21000)	22000' (22000)	23000' (23000)	24000' (24000)	25000' (25000)	26000' (26000)	27000' (27000)	28000' (28000)	29000' (29000)	30000' (30000)	31000' (31000)	32000' (32000)	33000' (33000)	34000' (34000)	35000' (35000)	36000' (36000)	37000' (37000)	38000' (38000)	39000' (39000)	40000' (40000)	41000' (41000)	42000' (42000)	43000' (43000)	44000' (44000)	45000' (45000)	46000' (46000)	47000' (47000)	48000' (48000)	49000' (49000)	50000' (50000)	51000' (51000)	52000' (52000)	53000' (53000)	54000' (54000)	55000' (55000)	56000' (56000)	57000' (57000)	58000' (58000)	59000' (59000)	60000' (60000)	61000' (61000)	62000' (62000)	63000' (63000)	64000' (64000)	65000' (65000)	66000' (66000)	67000' (67000)	68000' (68000)	69000' (69000)	70000' (70000)	71000' (71000)	72000' (72000)	73000' (73000)	74000' (74000)	75000' (75000)	76000' (76000)	77000' (77000)	78000' (78000)	79000' (79000)	80000' (80000)	81000' (81000)	82000' (82000)	83000' (83000)	84000' (84000)	85000' (85000)	86000' (86000)	87000' (87000)	88000' (88000)	89000' (89000)	90000' (90000)	91000' (91000)	92000' (92000)	93000' (93000)	94000' (94000)	95000' (95000)	96000' (96000)	97000' (97000)	98000' (98000)	99000' (99000)	100000' (100000)	101000' (101000)	102000' (102000)	103000' (103000)	104000' (104000)	105000' (105000)	106000' (106000)	107000' (107000)	108000' (108000)	109000' (109000)	110000' (110000)	111000' (111000)	112000' (112000)	113000' (113000)	114000' (114000)	115000' (115000)	116000' (116000)	117000' (117000)	118000' (118000)	119000' (119000)	120000' (120000)	121000' (121000)	122000' (122000)	123000' (123000)	124000' (124000)	125000' (125000)	126000' (126000)	127000' (127000)	128000' (128000)	129000' (129000)	130000' (130000)	131000' (131000)	132000' (132000)	133000' (133000)	134000' (134000)	135000' (135000)	136000' (136000)	137000' (137000)	138000' (138000)	139000' (139000)	140000' (140000)	141000' (141000)	142000' (142000)	143000' (143000)	144000' (144000)	145000' (145000)	146000' (146000)	147000' (147000)	148000' (148000)	149000' (149000)	150000' (150000)	151000' (151000)	152000' (152000)	153000' (153000)	154000' (154000)	155000' (155000)	156000' (156000)	157000' (157000)	158000' (158000)	159000' (159000)	160000' (160000)	161000' (161000)	162000' (162000)	163000' (163000)	164000' (164000)	165000' (165000)	166000' (166000)	167000' (167000)	168000' (168000)	169000' (169000)	170000' (170000)	171000' (171000)	172000' (172000)	173000' (173000)	174000' (174000)	175000' (175000)	176000' (176000)	177000' (177000)	178000' (178000)	179000' (179000)	180000' (180000)	181000' (181000)	182000' (182000)	183000' (183000)	184000' (184000)	185000' (185000)	186000' (186000)	187000' (187000)	188000' (188000)	189000' (189000)	190000' (190000)	191000' (191000)	192000' (192000)	193000' (193000)	194000' (194000)	195000' (195000)	196000' (196000)	197000' (197000)	198000' (198000)	199000' (199000)	200000' (200000)	201000' (201000)	202000' (202000)	203000' (203000)	204000' (204000)	205000' (205000)	206000' (206000)	207000' (207000)	208000' (208000)	209000' (209000)	210000' (210000)	211000' (211000)	212000' (212000)	213000' (213000)	214000' (214000)	215000' (215000)	216000' (216000)	217000' (217000)	218000' (218000)	219000' (219000)	220000' (220000)	221000' (221000)	222000' (222000)	223000' (223000)	224000' (224000)	225000' (225000)	226000' (22600
--	------	--------------	--------------	--------------	--------------	--------------	--------------	--------------	--------------	--------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	----------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	----------------

[illegible][illegible]

SITE AREA	3654.30 m <sup>2</sup>	
	AREA INCLUDED	AREA EXCLUDED
GROUND FLOOR	2605.00 m <sup>2</sup>	693.78 m <sup>2</sup>
TOTAL GF AREA	2605.00 m <sup>2</sup>	
PROPOSED RESIDENTIAL		
PODIUM / LEVEL 1	1206.00 m <sup>2</sup>	210.61 m <sup>2</sup>
LEVEL 2	1001.00 m <sup>2</sup>	419.48 m <sup>2</sup>
LEVEL 3	1207.00 m <sup>2</sup>	208.23 m <sup>2</sup>
LEVEL 4	894.00m <sup>2</sup>	420.89 m <sup>2</sup>
LEVEL 5	1207.00 m <sup>2</sup>	202.23 m <sup>2</sup>
LEVEL 6	694.00m <sup>2</sup>	420.89 m <sup>2</sup>
LEVEL 7	1207.00 m <sup>2</sup>	202.23 m <sup>2</sup>
LEVEL 8	894.00m <sup>2</sup>	420.89 m <sup>2</sup>
LEVEL 9	1193.00m <sup>2</sup>	109.61 m <sup>2</sup>
TOTAL GF AREA	9969.00 m <sup>2</sup>	
TOTAL AREA	11974.00 m <sup>2</sup>	
PROPOSED FSR	3.27 : 1	

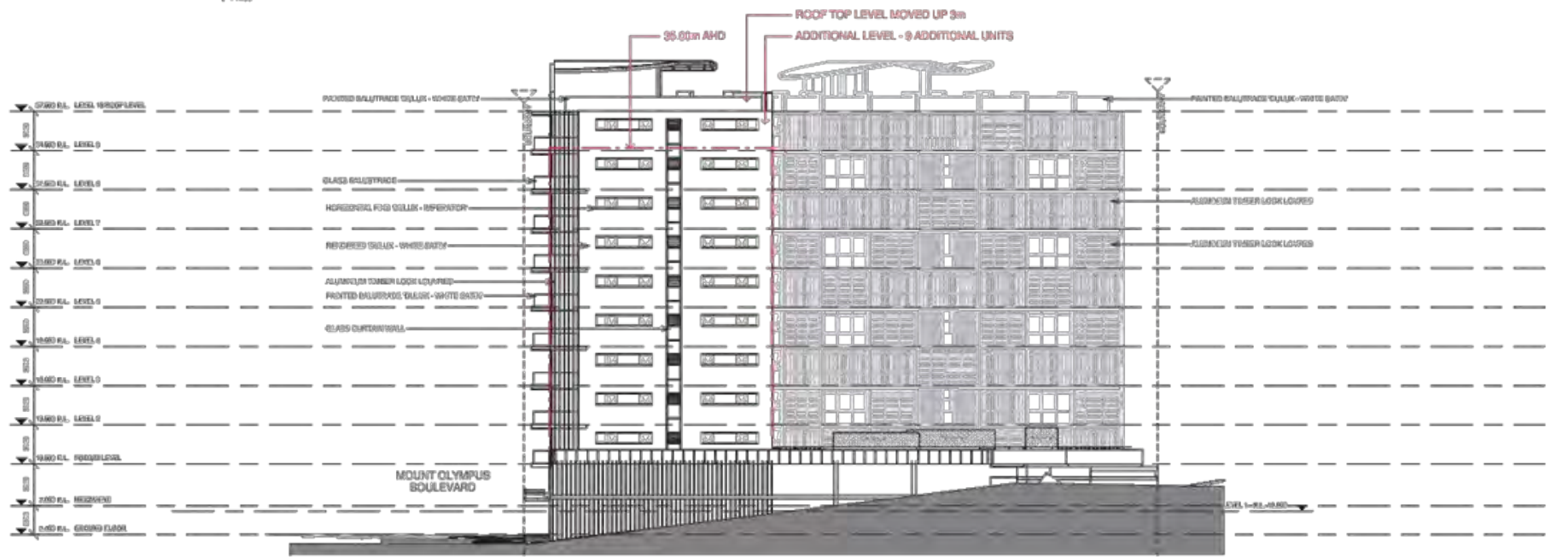
Thermal Comfort Specification				
<b>Wall Construction</b>				
<b>Unit 1 - All</b>				
Construction	Additional insulation required (R-value)	Other Specifications		
1st floor	2nd floor	3rd floor		
4th floor	5th floor	6th floor		
7th floor	8th floor	9th floor		
10th floor	11th floor	12th floor		
13th floor	14th floor	15th floor		
16th floor	17th floor	18th floor		
19th floor	20th floor	21st floor		
22nd floor	23rd floor	24th floor		
25th floor	26th floor	27th floor		
28th floor	29th floor	30th floor		
31st floor	32nd floor	33rd floor		
34th floor	35th floor	36th floor		
37th floor	38th floor	39th floor		
40th floor	41st floor	42nd floor		
43rd floor	44th floor	45th floor		
46th floor	47th floor	48th floor		
49th floor	50th floor	51st floor		
52nd floor	53rd floor	54th floor		
55th floor	56th floor	57th floor		
58th floor	59th floor	60th floor		
61st floor	62nd floor	63rd floor		
64th floor	65th floor	66th floor		
67th floor	68th floor	69th floor		
70th floor	71st floor	72nd floor		
73rd floor	74th floor	75th floor		
76th floor	77th floor	78th floor		
79th floor	80th floor	81st floor		
82nd floor	83rd floor	84th floor		
85th floor	86th floor	87th floor		
88th floor	89th floor	90th floor		
91st floor	92nd floor	93rd floor		
94th floor	95th floor	96th floor		
97th floor	98th floor	99th floor		
100th floor	101st floor	102nd floor		
103rd floor	104th floor	105th floor		
106th floor	107th floor	108th floor		
109th floor	110th floor	111th floor		
112th floor	113th floor	114th floor		
115th floor	116th floor	117th floor		
118th floor	119th floor	120th floor		
121st floor	122nd floor	123rd floor		
124th floor	125th floor	126th floor		
127th floor	128th floor	129th floor		
130th floor	131st floor	132nd floor		
133rd floor	134th floor	135th floor		
136th floor	137th floor	138th floor		
139th floor	140th floor	141st floor		
142nd floor	143rd floor	144th floor		
145th floor	146th floor	147th floor		
148th floor	149th floor	150th floor		
151st floor	152nd floor	153rd floor		
154th floor	155th floor	156th floor		
157th floor	158th floor	159th floor		
160th floor	161st floor	162nd floor		
163rd floor	164th floor	165th floor		
166th floor	167th floor	168th floor		
169th floor	170th floor	171st floor		
172nd floor	173rd floor	174th floor		
175th floor	176th floor	177th floor		
178th floor	179th floor	180th floor		
181st floor	182nd floor	183rd floor		
184th floor	185th floor	186th floor		
187th floor	188th floor	189th floor		
190th floor	191st floor	192nd floor		
193rd floor	194th floor	195th floor		
196th floor	197th floor	198th floor		
199th floor	200th floor	201st floor		
202nd floor	203rd floor	204th floor		
205th floor	206th floor	207th floor		
208th floor	209th floor	210th floor		
211st floor	212nd floor	213rd floor		
214th floor	215th floor	216th floor		
217th floor	218th floor	219th floor		
220th floor	221st floor	222nd floor		
223rd floor	224th floor	225th floor		
226th floor	227th floor	228th floor		
229th floor	230th floor	231st floor		
232nd floor	233rd floor	234th floor		
235th floor	236th floor	237th floor		
238th floor	239th floor	240th floor		
241st floor	242nd floor	243rd floor		
244th floor	245th floor	246th floor		
247th floor	248th floor	249th floor		
250th floor	251st floor	252nd floor		
253rd floor	254th floor	255th floor		







PROPOSED NORTH ELEVATION.  
1:100



PROPOSED SOUTH ELEVATION.  
1:100

SECTION 96			
NO. 1	NO. 2	NO. 3	NO. 4
NO. 5	NO. 6	NO. 7	NO. 8
NO. 9	NO. 10	NO. 11	NO. 12
NO. 13	NO. 14	NO. 15	NO. 16
NO. 17	NO. 18	NO. 19	NO. 20
NO. 21	NO. 22	NO. 23	NO. 24
NO. 25	NO. 26	NO. 27	NO. 28
NO. 29	NO. 30	NO. 31	NO. 32
NO. 33	NO. 34	NO. 35	NO. 36
NO. 37	NO. 38	NO. 39	NO. 40
NO. 41	NO. 42	NO. 43	NO. 44
NO. 45	NO. 46	NO. 47	NO. 48
NO. 49	NO. 50	NO. 51	NO. 52
NO. 53	NO. 54	NO. 55	NO. 56
NO. 57	NO. 58	NO. 59	NO. 60
NO. 61	NO. 62	NO. 63	NO. 64
NO. 65	NO. 66	NO. 67	NO. 68
NO. 69	NO. 70	NO. 71	NO. 72
NO. 73	NO. 74	NO. 75	NO. 76
NO. 77	NO. 78	NO. 79	NO. 80
NO. 81	NO. 82	NO. 83	NO. 84
NO. 85	NO. 86	NO. 87	NO. 88
NO. 89	NO. 90	NO. 91	NO. 92
NO. 93	NO. 94	NO. 95	NO. 96
NO. 97	NO. 98	NO. 99	NO. 100

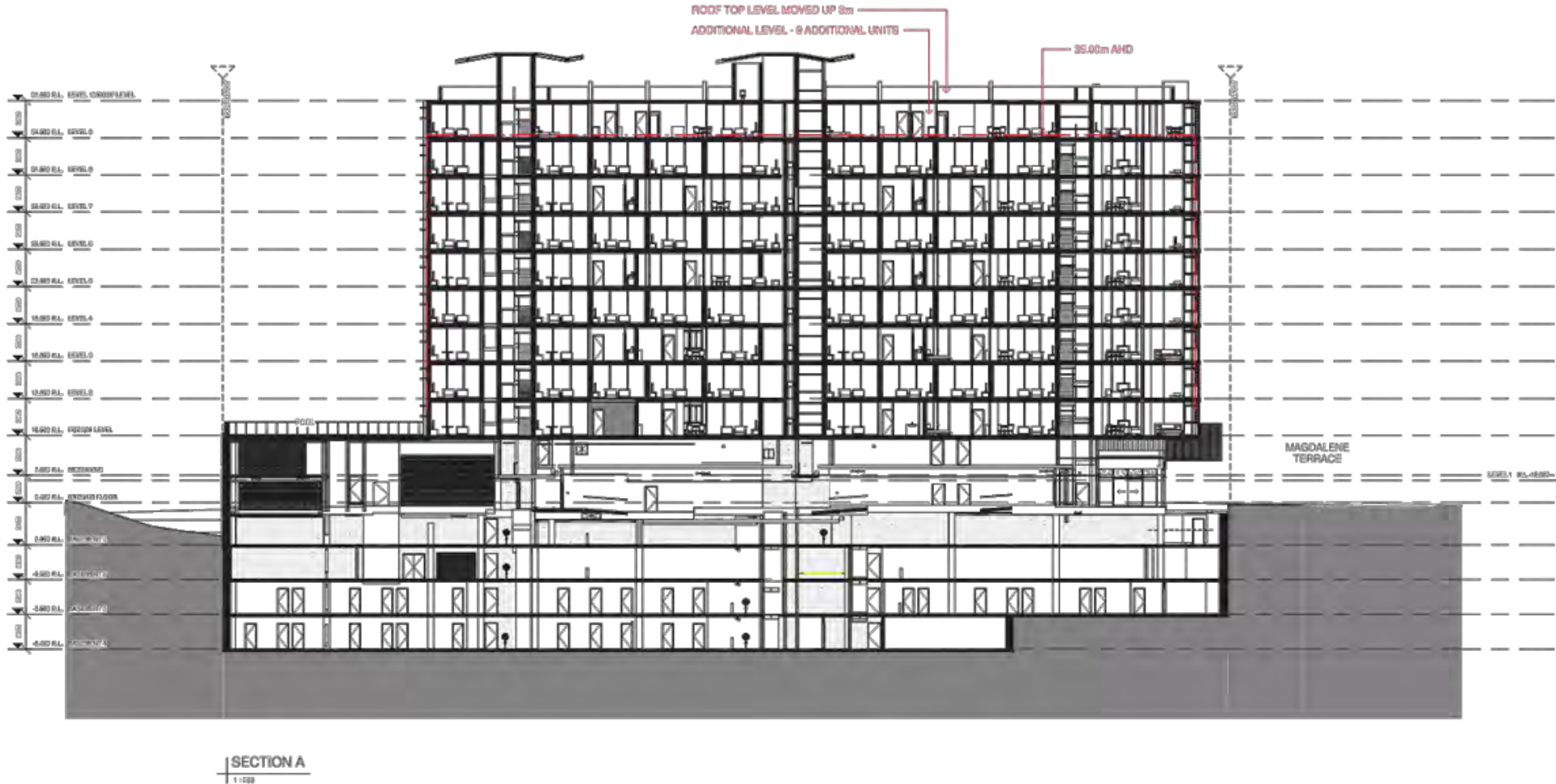
[illegible]



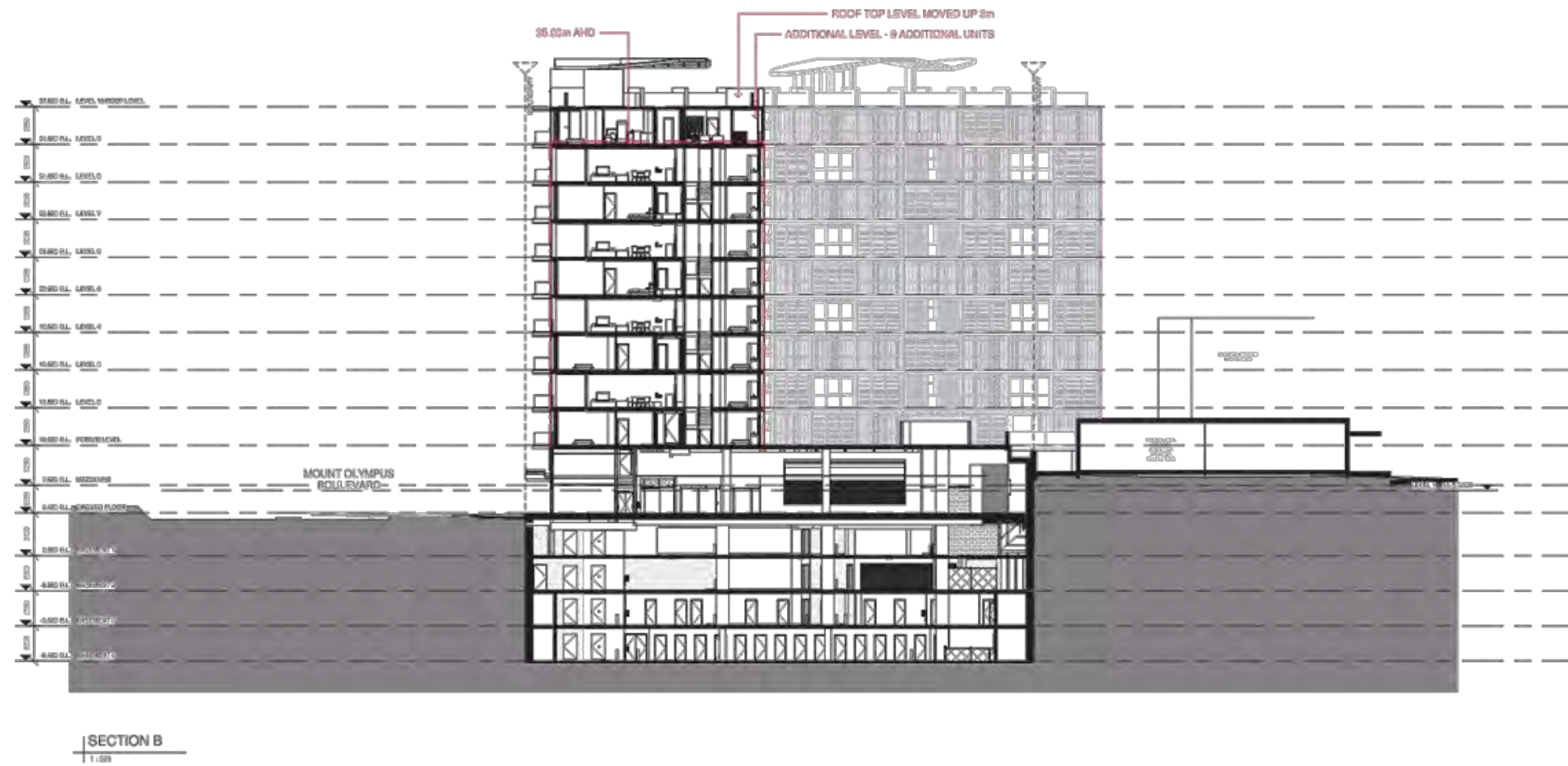


1. <b>GENERAL</b> 1.1. <b>SECTION</b> 1.2. <b>DESCRIPTION</b> 1.3. <b>QUANTITY</b> 1.4. <b>UNIT</b> 1.5. <b>REMARKS</b> 1.6. <b>DATE</b> 1.7. <b>SIGNATURE</b> 1.8. <b>PROJECT</b> 1.9. <b>CLIENT</b> 1.10. <b>LOCATION</b> 1.11. <b>SCALE</b> 1.12. <b>DATE</b> 1.13. <b>SIGNATURE</b> 1.14. <b>PROJECT</b> 1.15. <b>CLIENT</b> 1.16. <b>LOCATION</b> 1.17. <b>SCALE</b> 1.18. <b>DATE</b> 1.19. <b>SIGNATURE</b> 1.20. <b>PROJECT</b> 1.21. <b>CLIENT</b> 1.22. <b>LOCATION</b> 1.23. <b>SCALE</b> 1.24. <b>DATE</b> 1.25. <b>SIGNATURE</b> 1.26. <b>PROJECT</b> 1.27. <b>CLIENT</b> 1.28. <b>LOCATION</b> 1.29. <b>SCALE</b> 1.30. <b>DATE</b> 1.31. <b>SIGNATURE</b> 1.32. <b>PROJECT</b> 1.33. <b>CLIENT</b> 1.34. <b>LOCATION</b> 1.35. <b>SCALE</b> 1.36. <b>DATE</b> 1.37. <b>SIGNATURE</b> 1.38. <b>PROJECT</b> 1.39. <b>CLIENT</b> 1.40. <b>LOCATION</b> 1.41. <b>SCALE</b> 1.42. <b>DATE</b> 1.43. <b>SIGNATURE</b> 1.44. <b>PROJECT</b> 1.45. <b>CLIENT</b> 1.46. <b>LOCATION</b> 1.47. <b>SCALE</b> 1.48. <b>DATE</b> 1.49. <b>SIGNATURE</b> 1.50. <b>PROJECT</b> 1.51. <b>CLIENT</b> 1.52. <b>LOCATION</b> 1.53. <b>SCALE</b> 1.54. <b>DATE</b> 1.55. <b>SIGNATURE</b> 1.56. <b>PROJECT</b> 1.57. <b>CLIENT</b> 1.58. <b>LOCATION</b> 1.59. <b>SCALE</b> 1.60. <b>DATE</b> 1.61. <b>SIGNATURE</b> 1.62. <b>PROJECT</b> 1.63. <b>CLIENT</b> 1.64. <b>LOCATION</b> 1.65. <b>SCALE</b> 1.66. <b>DATE</b> 1.67. <b>SIGNATURE</b> 1.68. <b>PROJECT</b> 1.69. <b>CLIENT</b> 1.70. <b>LOCATION</b> 1.71. <b>SCALE</b> 1.72. <b>DATE</b> 1.73. <b>SIGNATURE</b> 1.74. <b>PROJECT</b> 1.75. <b>CLIENT</b> 1.76. <b>LOCATION</b> 1.77. <b>SCALE</b> 1.78. <b>DATE</b> 1.79. <b>SIGNATURE</b> 1.80. <b>PROJECT</b> 1.81. <b>CLIENT</b> 1.82. <b>LOCATION</b> 1.83. <b>SCALE</b> 1.84. <b>DATE</b> 1.85. <b>SIGNATURE</b> 1.86. <b>PROJECT</b> 1.87. <b>CLIENT</b> 1.88. <b>LOCATION</b> 1.89. <b>SCALE</b> 1.90. <b>DATE</b> 1.91. <b>SIGNATURE</b> 1.92. <b>PROJECT</b> 1.93. <b>CLIENT</b> 1.94. <b>LOCATION</b> 1.95. <b>SCALE</b> 1.96. <b>DATE</b> 1.97. <b>SIGNATURE</b> 1.98. <b>PROJECT</b> 1.99. <b>CLIENT</b> 2.00. <b>LOCATION</b> 2.01. <b>SCALE</b> 2.02. <b>DATE</b> 2.03. <b>SIGNATURE</b> 2.04. <b>PROJECT</b> 2.05. <b>CLIENT</b> 2.06. <b>LOCATION</b> 2.07. <b>SCALE</b> 2.08. <b>DATE</b> 2.09. <b>SIGNATURE</b> 2.10. <b>PROJECT</b> 2.11. <b>CLIENT</b> 2.12. <b>LOCATION</b> 2.13. <b>SCALE</b> 2.14. <b>DATE</b> 2.15. <b>SIGNATURE</b> 2.16. <b>PROJECT</b> 2.17. <b>CLIENT</b> 2.18. <b>LOCATION</b> 2.19. <b>SCALE</b> 2.20. <b>DATE</b> 2.21. <b>SIGNATURE</b> 2.22. <b>PROJECT</b> 2.23. <b>CLIENT</b> 2.24. <b>LOCATION</b> 2.25. <b>SCALE</b> 2.26. <b>DATE</b> 2.27. <b>SIGNATURE</b> 2.28. <b>PROJECT</b> 2.29. <b>CLIENT</b> 2.30. <b>LOCATION</b> 2.31. <b>SCALE</b> 2.32. <b>DATE</b> 2.33. <b>SIGNATURE</b> 2.34. <b>PROJECT</b> 2.35. <b>CLIENT</b> 2.36. <b>LOCATION</b> 2.37. <b>SCALE</b> 2.38. <b>DATE</b> 2.39. <b>SIGNATURE</b> 2.40. <b>PROJECT</b> 2.41. <b>CLIENT</b> 2.42. <b>LOCATION</b> 2.43. <b>SCALE</b> 2.44. <b>DATE</b> 2.45. <b>SIGNATURE</b> 2.46. <b>PROJECT</b> 2.47. <b>CLIENT</b> 2.48. <b>LOCATION</b> 2.49. <b>SCALE</b> 2.50. <b>DATE</b> 2.51. <b>SIGNATURE</b> 2.52. <b>PROJECT</b> 2.53. <b>CLIENT</b> 2.54. <b>LOCATION</b> 2.55. <b>SCALE</b> 2.56. <b>DATE</b> 2.57. <b>SIGNATURE</b> 2.58. <b>PROJECT</b> 2.59. <b>CLIENT</b> 2.60. <b>LOCATION</b> 2.61. <b>SCALE</b> 2.62. <b>DATE</b> 2.63. <b>SIGNATURE</b> 2.64. <b>PROJECT</b> 2.65. <b>CLIENT</b> 2.66. <b>LOCATION</b> 2.67. <b>SCALE</b> 2.68. <b>DATE</b> 2.69. <b>SIGNATURE</b> 2.70. <b>PROJECT</b> 2.71. <b>CLIENT</b> 2.72. <b>LOCATION</b> 2.73. <b>SCALE</b> 2.74. <b>DATE</b> 2.75. <b>SIGNATURE</b> 2.76. <b>PROJECT</b> 2.77. <b>CLIENT</b> 2.78. <b>LOCATION</b> 2.79. <b>SCALE</b> 2.80. <b>DATE</b> 2.81. <b>SIGNATURE</b> 2.82. <b>PROJECT</b> 2.83. <b>CLIENT</b> 2.84. <b>LOCATION</b> 2.85. <b>SCALE</b> 2.86. <b>DATE</b> 2.87. <b>SIGNATURE</b> 2.88. <b>PROJECT</b> 2.89. <b>CLIENT</b> 2.90. <b>LOCATION</b> 2.91. <b>SCALE</b> 2.92. <b>DATE</b> 2.93. <b>SIGNATURE</b> 2.94. <b>PROJECT</b> 2.95. <b>CLIENT</b> 2.96. <b>LOCATION</b> 2.97. <b>SCALE</b> 2.98. <b>DATE</b> 2.99. <b>SIGNATURE</b> 3.00. <b>PROJECT</b> 3.01. <b>CLIENT</b> 3.02. <b>LOCATION</b> 3.03. <b>SCALE</b> 3.04. <b>DATE</b> 3.05. <b>SIGNATURE</b> 3.06. <b>PROJECT</b> 3.07. <b>CLIENT</b> 3.08. <b>LOCATION</b> 3.09. <b>SCALE</b> 3.10. <b>DATE</b> 3.11. <b>SIGNATURE</b> 3.12. <b>PROJECT</b> 3.13. <b>CLIENT</b> 3.14. <b>LOCATION</b> 3.15. <b>SCALE</b> 3.16. <b>DATE</b> 3.17. <b>SIGNATURE</b> 3.18. <b>PROJECT</b> 3.19. <b>CLIENT</b> 3.20. <b>LOCATION</b> 3.21. <b>SCALE</b> 3.22. <b>DATE</b> 3.23. <b>SIGNATURE</b> 3.24. <b>PROJECT</b> 3.25. <b>CLIENT</b> 3.26. <b>LOCATION</b> 3.27. <b>SCALE</b> 3.28. <b>DATE</b> 3.29. <b>SIGNATURE</b> 3.30. <b>PROJECT</b> 3.31. <b>CLIENT</b> 3.32. <b>LOCATION</b> 3.33. <b>SCALE</b> 3.34. <b>DATE</b> 3.35. <b>SIGNATURE</b> 3.36. <b>PROJECT</b> 3.37. <b>CLIENT</b> 3.3	
---	--

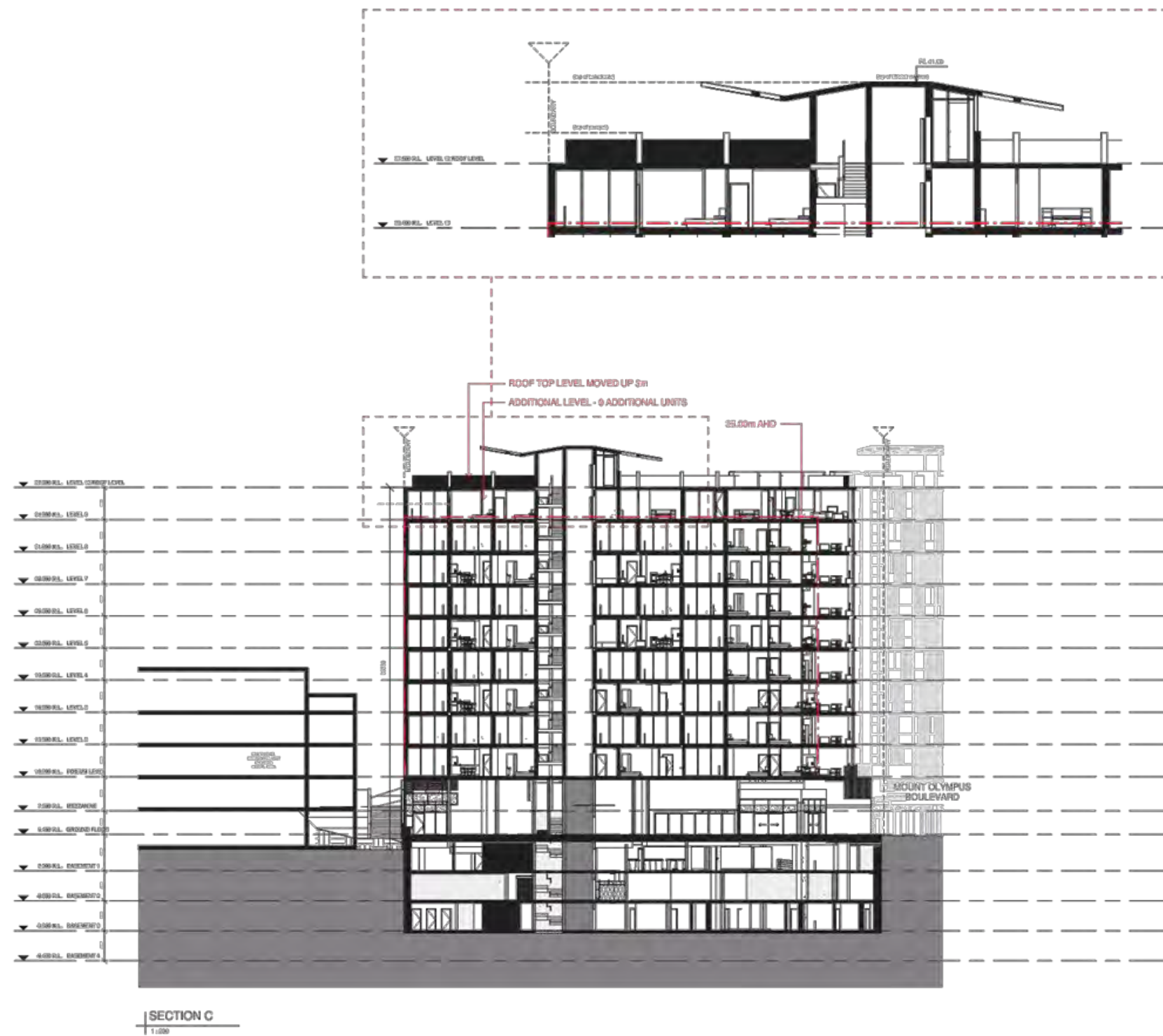




SECTION 96			
NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	12/06/2018	AW
2	REVISED	12/06/2018	AW
3	REVISED	12/06/2018	AW
4	REVISED	12/06/2018	AW
5	REVISED	12/06/2018	AW
6	REVISED	12/06/2018	AW
7	REVISED	12/06/2018	AW
8	REVISED	12/06/2018	AW
9	REVISED	12/06/2018	AW
10	REVISED	12/06/2018	AW
11	REVISED	12/06/2018	AW
12	REVISED	12/06/2018	AW
13	REVISED	12/06/2018	AW
14	REVISED	12/06/2018	AW
15	REVISED	12/06/2018	AW
16	REVISED	12/06/2018	AW
17	REVISED	12/06/2018	AW
18	REVISED	12/06/2018	AW
19	REVISED	12/06/2018	AW
20	REVISED	12/06/2018	AW
21	REVISED	12/06/2018	AW
22	REVISED	12/06/2018	AW
23	REVISED	12/06/2018	AW
24	REVISED	12/06/2018	AW
25	REVISED	12/06/2018	AW
26	REVISED	12/06/2018	AW
27	REVISED	12/06/2018	AW
28	REVISED	12/06/2018	AW
29	REVISED	12/06/2018	AW
30	REVISED	12/06/2018	AW
31	REVISED	12/06/2018	AW
32	REVISED	12/06/2018	AW
33	REVISED	12/06/2018	AW
34	REVISED	12/06/2018	AW
35	REVISED	12/06/2018	AW
36	REVISED	12/06/2018	AW
37	REVISED	12/06/2018	AW
38	REVISED	12/06/2018	AW
39	REVISED	12/06/2018	AW
40	REVISED	12/06/2018	AW
41	REVISED	12/06/2018	AW
42	REVISED	12/06/2018	AW
43	REVISED	12/06/2018	AW
44	REVISED	12/06/2018	AW
45	REVISED	12/06/2018	AW
46	REVISED	12/06/2018	AW
47	REVISED	12/06/2018	AW
48	REVISED	12/06/2018	AW
49	REVISED	12/06/2018	AW
50	REVISED	12/06/2018	AW
51	REVISED	12/06/2018	AW
52	REVISED	12/06/2018	AW
53	REVISED	12/06/2018	AW
54	REVISED	12/06/2018	AW
55	REVISED	12/06/2018	AW
56	REVISED	12/06/2018	AW
57	REVISED	12/06/2018	AW
58	REVISED	12/06/2018	AW
59	REVISED	12/06/2018	AW
60	REVISED	12/06/2018	AW
61	REVISED	12/06/2018	AW
62	REVISED	12/06/2018	AW
63	REVISED	12/06/2018	AW
64	REVISED	12/06/2018	AW
65	REVISED	12/06/2018	AW
66	REVISED	12/06/2018	AW
67	REVISED	12/06/2018	AW
68	REVISED	12/06/2018	AW
69	REVISED	12/06/2018	AW
70	REVISED	12/06/2018	AW
71	REVISED	12/06/2018	AW
72	REVISED	12/06/2018	AW
73	REVISED	12/06/2018	AW
74	REVISED	12/06/2018	AW
75	REVISED	12/06/2018	AW
76	REVISED	12/06/2018	AW
77	REVISED	12/06/2018	AW
78	REVISED	12/06/2018	AW
79	REVISED	12/06/2018	AW
80	REVISED	12/06/2018	AW
81	REVISED	12/06/2018	AW
82	REVISED	12/06/2018	AW
83	REVISED	12/06/2018	AW
84	REVISED	12/06/2018	AW
85	REVISED	12/06/2018	AW
86	REVISED	12/06/2018	AW
87	REVISED	12/06/2018	AW
88	REVISED	12/06/2018	AW
89	REVISED	12/06/2018	AW
90	REVISED	12/06/2018	AW
91	REVISED	12/06/2018	AW
92	REVISED	12/06/2018	AW
93	REVISED	12/06/2018	AW
94	REVISED	12/06/2018	AW
95	REVISED	12/06/2018	AW
96	REVISED	12/06/2018	AW
97	REVISED	12/06/2018	AW
98	REVISED	12/06/2018	AW
99	REVISED	12/06/2018	AW
100	REVISED	12/06/2018	AW



1. <b>Project Name:</b> _____ 2. <b>Project Number:</b> _____ 3. <b>Project Location:</b> _____ 4. <b>Project Date:</b> _____ 5. <b>Project Status:</b> _____ 6. <b>Project Manager:</b> _____ 7. <b>Project Engineer:</b> _____ 8. <b>Project Designer:</b> _____ 9. <b>Project Checker:</b> _____ 10. <b>Project Approver:</b> _____ 11. <b>Project Reviewer:</b> _____ 12. <b>Project Auditor:</b> _____ 13. <b>Project Signatory:</b> _____ 14. <b>Project Seal:</b> _____ 15. <b>Project Stamp:</b> _____ 16. <b>Project Mark:</b> _____ 17. <b>Project Note:</b> _____ 18. <b>Project Comment:</b> _____ 19. <b>Project Remark:</b> _____ 20. <b>Project Observation:</b> _____ 21. <b>Project Finding:</b> _____ 22. <b>Project Conclusion:</b> _____ 23. <b>Project Recommendation:</b> _____ 24. <b>Project Action:</b> _____ 25. <b>Project Result:</b> _____ 26. <b>Project Outcome:</b> _____ 27. <b>Project Impact:</b> _____ 28. <b>Project Benefit:</b> _____ 29. <b>Project Advantage:</b> _____ 30. <b>Project Disadvantage:</b> _____ 31. <b>Project Risk:</b> _____ 32. <b>Project Opportunity:</b> _____ 33. <b>Project Challenge:</b> _____ 34. <b>Project Threat:</b> _____ 35. <b>Project Weakness:</b> _____ 36. <b>Project Strength:</b> _____ 37. <b>Project Quality:</b> _____ 38. <b>Project Quantity:</b> _____ 39. <b>Project Value:</b> _____ 40. <b>Project Cost:</b> _____ 41. <b>Project Price:</b> _____ 42. <b>Project Rate:</b> _____ 43. <b>Project Fee:</b> _____ 44. <b>Project Charge:</b> _____ 45. <b>Project Tax:</b> _____ 46. <b>Project Duty:</b> _____ 47. <b>Project License:</b> _____ 48. <b>Project Permit:</b> _____ 49. <b>Project Certificate:</b> _____ 50. <b>Project License:</b> _____ 51. <b>Project Permit:</b> _____ 52. <b>Project Certificate:</b> _____ 53. <b>Project License:</b> _____ 54. <b>Project Permit:</b> _____ 55. <b>Project Certificate:</b> _____ 56. <b>Project License:</b> _____ 57. <b>Project Permit:</b> _____ 58. <b>Project Certificate:</b> _____ 59. <b>Project License:</b> _____ 60. <b>Project Permit:</b> _____ 61. <b>Project Certificate:</b> _____ 62. <b>Project License:</b> _____ 63. <b>Project Permit:</b> _____ 64. <b>Project Certificate:</b> _____ 65. <b>Project License:</b> _____ 66. <b>Project Permit:</b> _____ 67. <b>Project Certificate:</b> _____ 68. <b>Project License:</b> _____ 69. <b>Project Permit:</b> _____ 70. <b>Project Certificate:</b> _____ 71. <b>Project License:</b> _____ 72. <b>Project Permit:</b> _____ 73. <b>Project Certificate:</b> _____ 74. <b>Project License:</b> _____ 75. <b>Project Permit:</b> _____ 76. <b>Project Certificate:</b> _____ 77. <b>Project License:</b> _____ 78. <b>Project Permit:</b> _____ 79. <b>Project Certificate:</b> _____ 80. <b>Project License:</b> _____ 81. <b>Project Permit:</b> _____ 82. <b>Project Certificate:</b> _____ 83. <b>Project License:</b> _____ 84. <b>Project Permit:</b> _____ 85. <b>Project Certificate:</b> _____ 86. <b>Project License:</b> _____ 87. <b>Project Permit:</b> _____ 88. <b>Project Certificate:</b> _____ 89. <b>Project License:</b> _____ 90. <b>Project Permit:</b> _____ 91. <b>Project Certificate:</b> _____ 92. <b>Project License:</b> _____ 93. <b>Project Permit:</b> _____ 94. <b>Project Certificate:</b> _____ 95. <b>Project License:</b> _____ 96. <b>Project Permit:</b> _____ 97. <b>Project Certificate:</b> _____ 98. <b>Project License:</b> _____ 99. <b>Project Permit:</b> _____ 100. <b>Project Certificate:</b> _____ 101. <b>Project License:</b> _____ 102. <b>Project Permit:</b> _____ 103. <b>Project Certificate:</b> _____ 104. <b>Project License:</b> _____ 105. <b>Project Permit:</b> _____ 106. <b>Project Certificate:</b> _____ 107. <b>Project License:</b> _____ 108. <b>Project Permit:</b> _____ 109. <b>Project Certificate:</b> _____ 110. <b>Project License:</b> _____ 111. <b>Project Permit:</b> _____ 112. <b>Project Certificate:</b> _____ 113. <b>Project License:</b> _____ 114. <b>Project Permit:</b> _____ 115. <b>Project Certificate:</b> _____ 116. <b>Project License:</b> _____ 117. <b>Project Permit:</b> _____ 118. <b>Project Certificate:</b> _____ 119. <b>Project License:</b> _____ 120. <b>Project Permit:</b> _____ 121. <b>Project Certificate:</b> _____ 122. <b>Project License:</b> _____ 123. <b>Project Permit:</b> _____ 124. <b>Project Certificate:</b> _____ 125. <b>Project License:</b> _____ 126. <b>Project Permit:</b> _____ 127. <b>Project Certificate:</b> _____ 128. <b>Project License:</b> _____ 129. <b>Project Permit:</b> _____ 130. <b>Project Certificate:</b> _____ 131. <b>Project License:</b> _____ 132. <b>Project Permit:</b> _____ 133. <b>Project Certificate:</b> _____ 134. <b>Project License:</b> _____ 135. <b>Project Permit:</b> _____ 136. <b>Project Certificate:</b> _____ 137. <b>Project License:</b> _____ 138. <b>Project Permit:</b> _____ 139. <b>Project Certificate:</b> _____ 140. <b>Project License:</b> _____ 141. <b>Project Permit:</b> _____ 142. <b>Project Certificate:</b> _____ 143. <b>Project License:</b> _____ 144. <b>Project Permit:</b> _____ 145. <b>Project Certificate:</b> _____ 146. <b>Project License:</b> _____ 147. <b>Project Permit:</b> _____ 148. <b>Project Certificate:</b> _____ 149. <b>Project License:</b> _____ 150. <b>Project Permit:</b> _____ 151. <b>Project Certificate:</b> _____ 152. <b>Project License:</b> _____ 153. <b>Project Permit:</b> _____ 154. <b>Project Certificate:</b> _____ 155. <b>Project License:</b> _____ 156. <b>Project Permit:</b> _____ 157. <b>Project Certificate:</b> _____ 158. <b>Project License:</b> _____ 159. <b>Project Permit:</b> _____ 160. <b>Project Certificate:</b> _____ 161. <b>Project License:</b> _____ 162. <b>Project Permit:</b> _____ 163. <b>Project Certificate:</b> _____ 164. <b>Project License:</b> _____ 165. <b>Project Permit:</b> _____ 166. <b>Project Certificate:</b> _____ 167. <b>Project License:</b> _____ 168. <b>Project Permit:</b> _____ 169. <b>Project Certificate:</b> _____ 170. <b>Project License:</b> _____ 171. <b>Project Permit:</b> _____ 172. <b>Project Certificate:</b> _____ 173. <b>Project License:</b> _____ 174. <b>Project Permit:</b> _____ 175. <b>Project Certificate:</b> _____ 176. <b>Project License:</b> _____ 177. <b>Project Permit:</b> _____ 178. <b>Project Certificate:</b> _____ 179. <b>Project License:</b> _____ 180. <b>Project Permit:</b> _____ 181. <b>Project Certificate:</b> _____ 182. <b>Project License:</b> _____ 183. <b>Project Permit:</b> _____ 184. <b>Project Certificate:</b> _____ 185. <b>Project License:</b> _____ 186. <b>Project Permit:</b> _____ 187. <b>Project Certificate:</b> _____ 188. <b>Project License:</b> _____ 189. <b>Project Permit:</b> _____ 190. <b>Project Certificate:</b> _____ 191. <b>Project License:</b> _____ 192. <b>Project Permit:</b> _____ 193. <b>Project Certificate:</b> _____ 194. <b>Project License:</b> _____ 195. <b>Project Permit:</b> _____ 196. <b>Project Certificate:</b> _____ 197. <b>Project License:</b> _____ 198. <b>Project Permit:</b> _____ 199. <b>Project Certificate:</b> _____ 200. <b>Project License:</b> _____ 201. <b>Project Permit:</b> _____ 202. <b>Project Certificate:</b> _____ 203. <b>Project License:</b> _____ 204. <b>Project Permit:</b> _____ 205. <b>Project Certificate:</b> _____ 206. <b>Project License:</b> _____ 207. <b>Project Permit:</b> _____ 208. <b>Project Certificate:</b> _____ 209. <b>Project License:</b> _____ 210. <b>Project Permit:</b> _____ 211. <b>Project Certificate:</b> _____ 212. <b>Project License:</b> _____ 213. <b>Project Permit:</b> _____ 214. <b>Project Certificate:</b> _____ 215. <b>Project License:</b> _____ 216. <b>Project Permit:</b> _____ 217. <b>Project Certificate:</b> _____ 218. <b>Project License:</b> _____ 219. <b>Project Permit:</b> _____ 220. <b>Project Certificate:</b> _____ 2	
---	--

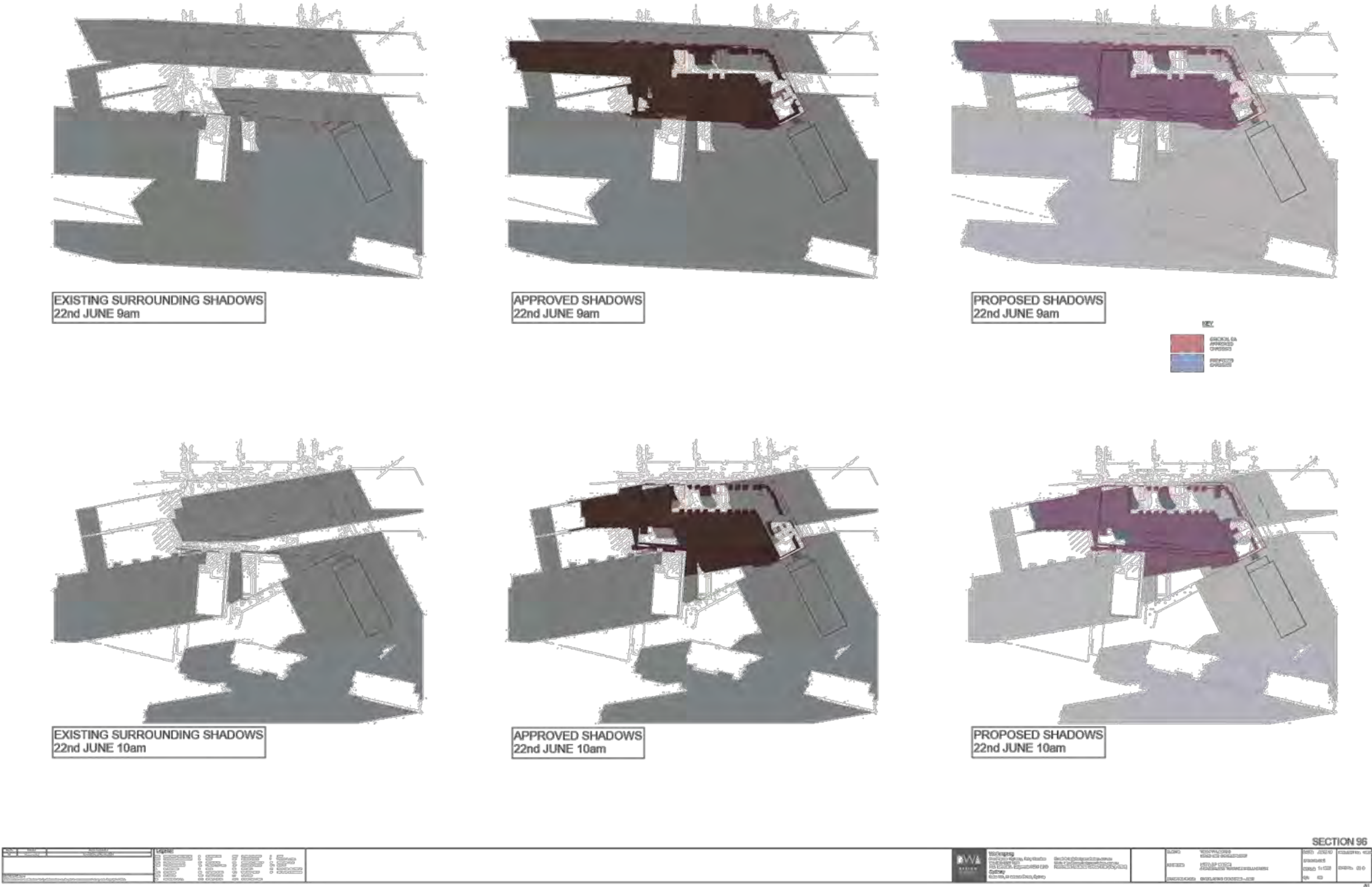
[illegible]



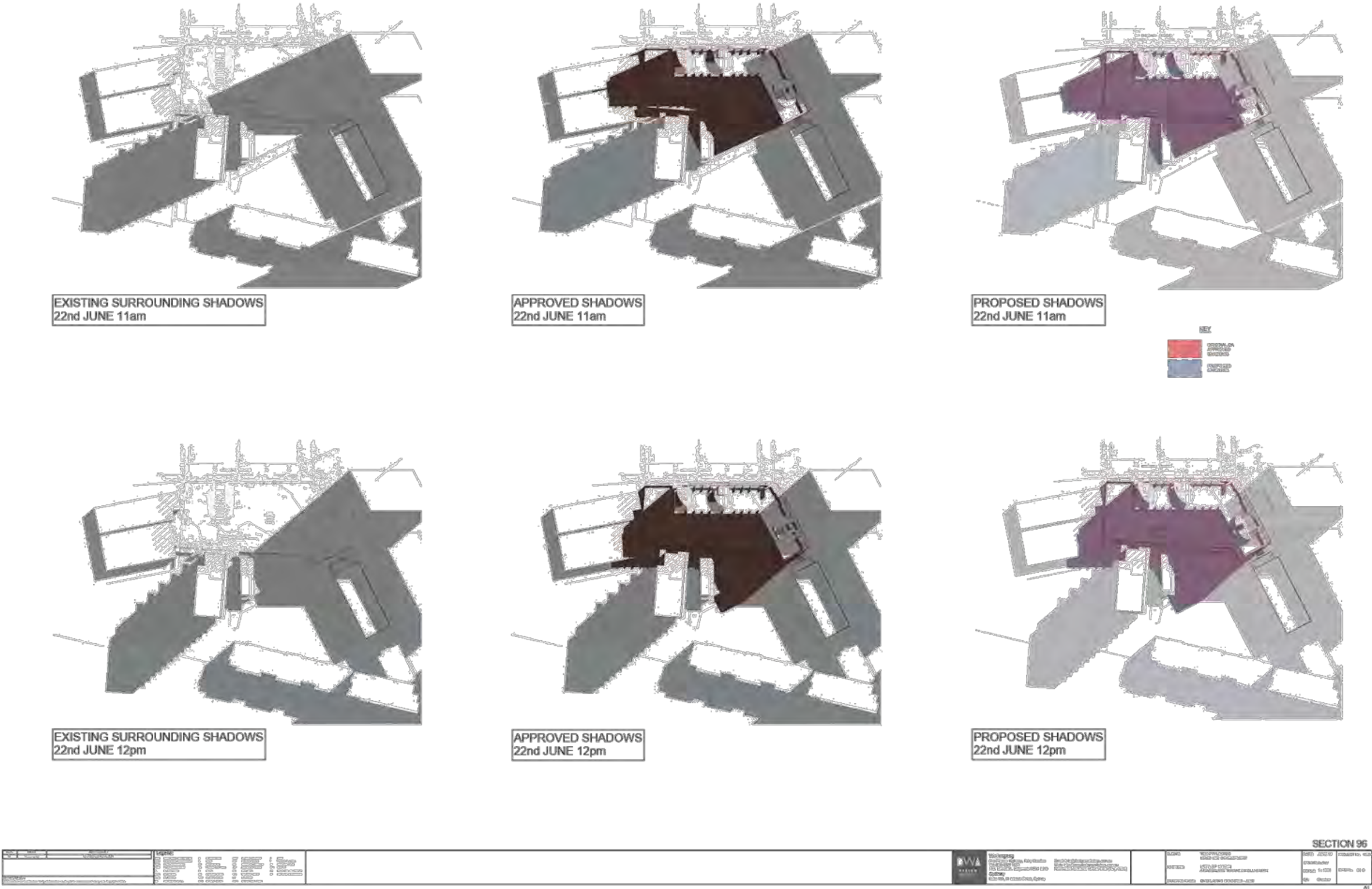


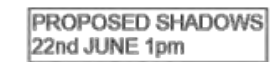
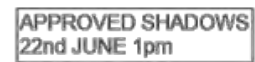


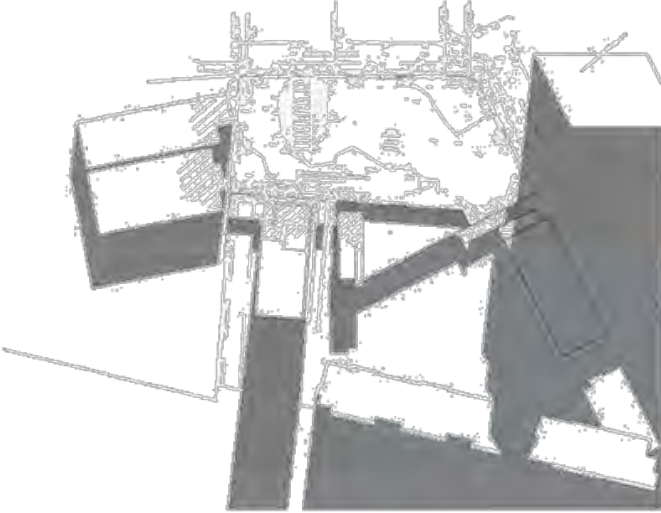




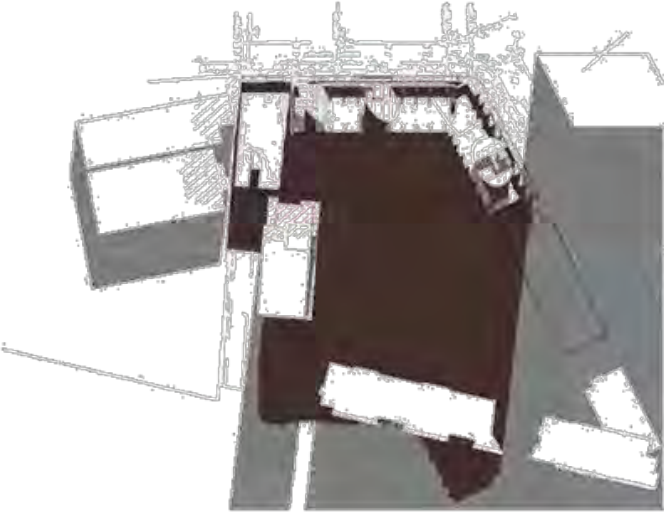




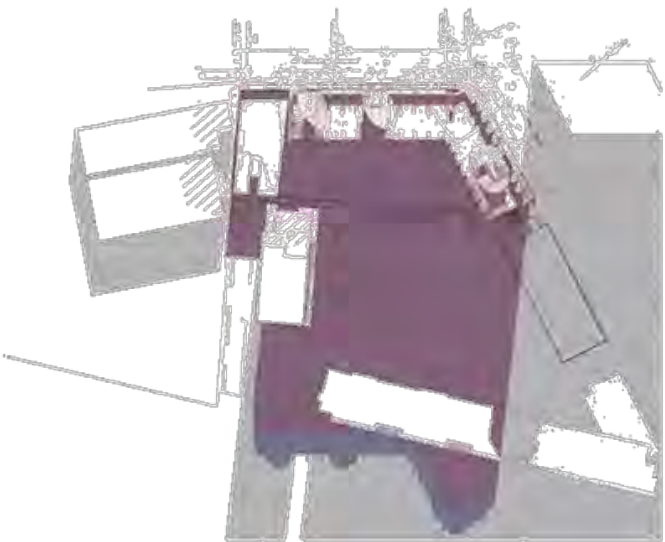
[illegible]



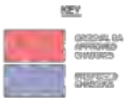
EXISTING SURROUNDING SHADOWS  
22nd JUNE 3pm



APPROVED SHADOWS  
22nd JUNE 3pm



PROPOSED SHADOWS  
22nd JUNE 3pm



SECTION 96		SECTION 96	
Project Name	Project Number	Project Name	Project Number
Project Location	Project Date	Project Location	Project Date
Project Owner	Project Manager	Project Owner	Project Manager
Project Engineer	Project Architect	Project Engineer	Project Architect
Project Planner	Project Designer	Project Planner	Project Designer
Project Surveyor	Project Photographer	Project Surveyor	Project Photographer
Project Writer	Project Editor	Project Writer	Project Editor
Project Reviewer	Project Approver	Project Reviewer	Project Approver
Project Signatory	Project Seal	Project Signatory	Project Seal





# ROCKDALE CITY COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/66
<b>Date of Receipt:</b>	18 August 2015
<b>Property:</b>	4 Magdalene Terrace, WOLLI CREEK NSW 2205 Lot 2 DP 1064374
<b>Owner:</b>	Maroun Pty Ltd
<b>Applicant:</b>	Design Workshop Australia
<b>Proposal:</b>	Integrated Development - Construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area
<b>Recommendation:</b>	Deferred commencement
<b>No. of submissions:</b>	19
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	14 June 2016

### Key Issues

---

The subject site is located within the Wolli Creek Town Centre and is zoned B4 - Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011).

The property is subject to an existing approval (DA-2011/461) for the '*construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage*'. The subject application has been conditioned to incorporate relevant conditions from the previous approval and incorporates conditions relating to the approved Aldi i.e. trolleys, car parking allocation, signage etc. The proposal has further been conditioned to require the surrender of this previous approval.

The proposal seeks to undertake modifications to the ground level retail component of the approved development to facilitate access to proposed upper levels, provide additional basement levels and carparking for the proposed residential use and construct residential units and associated communal spaces above. The proposed shop top housing is permissible within the subject zone with the consent of Council.

The site is located on the south western corner of Magdalene Terrace and Mount Olympus Boulevard. The site area is approximately 3,656 sq.m, has been excavated and is currently vacant albeit for site sheds and construction machinery. The site is surrounded by high rise developments with commercial at ground floor and residential above, ranging from 5 - 21 storeys in height.

The existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3.0RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below the constructed footpath level.

The proposal seeks to vary the required building separation requirements of the Apartment Design Guide with respect to Building E of the Proximity Development and provide in excess of 8 units off a single corridor. The proposed separation distance with Building E and circulation spaces however have been assessed on their merits and deemed acceptable for the reasons outlined within this report.

The proposal seeks to vary the maximum 31m height limit on site by between 0.8m - 4.6m. A Clause 4.6 - Exceptions to Development Standards has been submitted by the applicant and is supported in this instance for the reasons discussed within this report. The overall bulk, scale and massing of the development is deemed to be satisfactory.

The proposal indicates variations to the requirements of DCP 2011 with respect to unit mix, number of storeys and building elements protruding into the articulation zone. These matters have been discussed further and supported within the planning report.

The development application was notified on one occasion in accordance with Council's Development Control Plan 2011. A total of 13 submissions were received opposing the proposal following the public notification period.

Following the receipt of amended plans, these were not re notified in accordance with DCP 2011 but were publicly available on Council's website and an additional 6 submissions were received. Accordingly a total of 19 submissions opposing the application were received by Council. The issues raised in the submissions received by Council include but are not limited to non compliance with the master-plan for the site, missing car parking spaces for the Proximity development, overshadowing, privacy impacts, alleged unauthorized works, alleged damage to proximity development, inadequate building separation, traffic impacts etc. These issues have been further explained in the body of this report.

The proposal is recommended for a Deferred Commencement approval subject to compliance with the requirements of Sydney Trains.

## Recommendation

---

1. That Council support the variation to the height development standard, as contained in Clause 4.3 – Height of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.

2. That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 80(1)(3) of the Environmental Planning and Assessment Act 1979, and subject to the conditions of consent attached to this report.

This consent is not to operate until the Applicant provides Council with proof of the following:

Approval / certification is to be obtained from Sydney Trains on the following items:

- a. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
- b. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- c. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- d. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- e. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

3. That the NSW Department of Planning and Environment be advised of Council's decision.

4. That the objectors be notified of Council's decision.

## Background

---

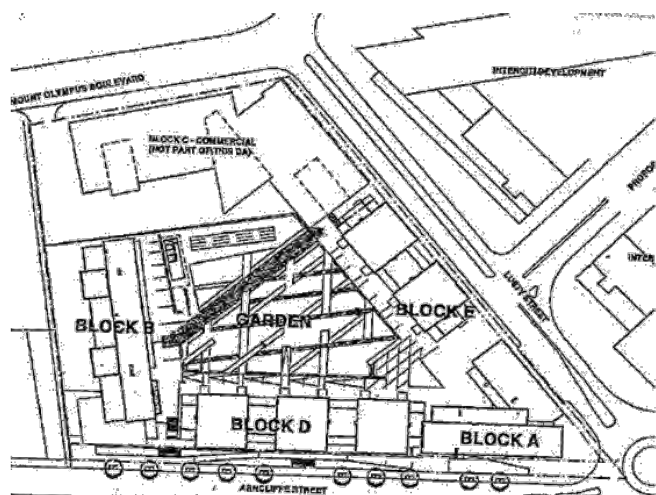
### History

On the 10th October 2001, Council approved a Master Plan (MP) for the site (DA-2001/1026) which at the time was known as 35 Arncliffe Street, North Arncliffe and was bound by Mount Olympus Boulevard to the west, Lusty Street (alternatively known as Magdalene Terrace) to the north and Arncliffe Street to the east.

The MP consented to the redevelopment of the property in two stages and established building envelopes, circulation patterns, parking and landscaping on site. The Master Plan consent restricted the total floor space on the site to 42,720 sq.m. under condition 4. This condition also allocates the floor space within the development site.

The below diagram is indicative of the approved master plan. Under the approved Master Plan the future building to be constructed upon 'Block C' (the subject site) within figure 1 was to be entirely commercial.





**Figure 1 - 2001 approved Master Plan**

On the 2nd October 2002, DA-2002/1243 was approved by Council. This DA incorporated Stage 1 of the redevelopment of the site within the diagram above and included the construction of four buildings to a height of 5 - 21 storeys to comprise a mixed use development known as "Proximity" being blocks A / B / D / E.

An application to modify the Stage 1 consent (DA-2002/1243) under S96 of the Act was lodged with Council on 19 December 2003. This application (DA-2004/681) requested amongst other amendments, the deletion of condition 26 which related to a requirement for 31 additional visitor car spaces for stage 1 to be provided in the construction of Stage 2 of the development. This S96 application was approved on 23 January 2004 under Delegated Authority.

To allow access from Block B to Block C, in order to access the visitor car spaces to be provided in the redevelopment of Block C, there was an easement in favour of site C, over building B, and a temporary wall was constructed on the south western corner of Building B, where it interfaces with the south eastern corner of Site C, which could later be removed upon the construction of the podium level to site C.

DA-2004/681 to modify conditions 2/26/27 of DA-2002/1243. Approved under delegated authority on 7 May 2004.

DA-2001/1026/A - amendment to master plan consent, being the relocation of single retail tenancy was approved 29 July 2004.

DA-2001/1026/B - amendment to master plan consent, amended plans for the site were approved on 16 October 2001.

DA-2001/1026/C — amendment to master plan consent, variation of floor space allocated to commercial and retail uses to facilitate the use of part of the ground floor for an ALDI supermarket. Approved 16 June 2010. The allocation of floor space is as follows:

Residential 25,632

Commercial 9,730  
Retail 3,837  
Flexible floor space 2,990

DA-2010/216 – Temporary use of site for storage of building materials approved by Council 21 January 2010.

DA-2011/461 - Stage 2 - Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage. Approved 13 September 2012. This DA approved the podium levels of the development at 10.8RL, this is 2.4m higher than the garden / pool level of the adjoining Proximity development.

It is noted that in order to mitigate the extend of the variation in levels between the two developments, DA-2011/461 was approved with a stepped landscaped planter at 9.8RL running along the eastern boundary of the subject site, spanning the length of the garden / pool area of the Proximity Development. The approved podium on the subject site comprised a level of 10.8RL. This level is retained as previously approved in the current application.

Pre DA for subject site was reviewed by the Design Review Panel on 9 April 2015.

DA-2016/66 - Integrated Development - Construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey with roof top communal area mixed use development, submitted to Council on 18 August 2015.

DA-2016/66 was publicly notified from 9th September - 9th October 2015.

Final amended plans submitted to Council 21 March 2016.

## Proposal

The proposal seeks to undertake the construction of 100 residential dwellings (2 x studio / 13 x 1 bed / 14 x 1 bed + study / 56 x 2 bed / 1 x 2 bed + study / 7 x 3 bed / 7 x 3 bed + study) above previously approved ground floor retail / commercial premises and incorporates the addition of one and a half basement levels and a roof top communal open space area to create a nine (9) storey with mixed use development on site.

The proposal undertakes minor internal reconfiguration of the previously approved basement car parking levels, incorporates a dual lift core and incorporates as follows:

### *Basement 1 (Approved level 1.8RL) (Commercial Car Parking)*

Proposed level of 2RL, 58 commercial car spaces (for approved retail / commercial development DA-2011/461) incorporating 9 accessible spaces, 6 bicycle spaces 2 motorbike spaces, pedestrian and vehicular circulation, good lift, lift access, trolley bays, services, plant rooms, commercial store rooms, fire exits and associated loading / unloading zones.

### *Basement 2 (Approved Level 1.2RL) (Visitor Car Parking)*

Proposed level of -0.8RL, 52 visitor car spaces incorporating 9 accessible spaces, 1 designated car wash bay, 12 bicycle spaces, 6 motorbike spaces, pedestrian and vehicular circulation, good lift, lift access, fire exits, two loading / unloading zones, garbage compactors, bin enclosures, services and plant rooms.

*Basement 3 (Approved Level -4.2RL) Residential Car Parking*

Proposed level -3.6RL, 59 residential car spaces incorporating 9 accessible, 12 bicycle spaces, 6 motorbike spaces, residential store rooms, pedestrian and vehicular circulation, lift access, fire exits, two loading / unloading zones, garbage compactors, bin enclosures, services and plant rooms.

*Proposed Basement 4 (-6.4RL) (Residential Car Parking)*

24 residential car spaces, 12 bicycle spaces, 6 motorbike spaces, residential store rooms, pedestrian and vehicular circulation, lift access, fire exits, loading / unloading zone, services and plant rooms.

*Ground Level (4.9RL - 5.4RL Approved levels)*

Aldi supermarket tenancy, 5 x retail tenancies with service corridor behind shops, direct vehicular access to loading dock from Mount Olympus Boulevard, vehicular access to basement, hydrants / boosters to Mount Olympus Boulevard frontage, substation / kiosk to Magdalene Terrace frontage, associated ramp to basement level car park, goods and trolley lift, retail garbage room and plant.

Proposed works at ground level include two newly proposed residential lobbies one to Mount Olympus Boulevard with a dual lift core. A residential lobby is proposed to the Magdalene Terrace frontage of the site with provision for a single lift.

*Mezzanine (Approved level 7.6RL)*

Proposed level 7.6RL, incorporating fire services tank, hydrant and sprinkler pump room. Void space above supermarket tenancy.

*Level 1 (Podium) (Approved level 10.8RL)*

Previously approved exhaust duct, supermarket plant and service riser. Proposed level 10.8RL. 23 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes, internal communal meeting room, corridor to communal open space.

Communal open space at podium level incorporates a range of natural planting trees and ground covers, portions of artificial turf, paving, timber walkways, green walls to previously approved exhausts/services risers, childrens play area with rubber soft fall, swimming pool, steel/timber pergola structures and seating areas.

*Level 2 (Proposed Level 13.8RL)*

2 studio units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes. Associated habitable areas linked to 23 units below at Level 1.

*Levels 3 - 4 (Proposed Level 16.8RL / 19.8RL)*

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

*Levels 5 - 6 (Proposed Level 22.8RL / 25.8RL)*

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

*Levels 7-8 (Proposed Level 28.8RL / 31.8RL)*

25 cross over residential units, centralized communal corridor, fire stairs, services, waste room, bin store and associated waste chutes

Rooftop (Proposed level 34.8RL)

Communal open space, recessed in from building edges, incorporating a range of planting, seating, toilet, kitchen and bbq facilities and pergola structures for use by future occupants.



*Figure 2 - Photo montage of proposed development from junction of Magdalene Terrace and Mount Olympus Boulevard*



*Figure 3 - Perspective of podium communal open space area*



*Figure 4 - Perspective of rooftop communal open space area*

**Site location and context**

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard. The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. The site has been excavated and is currently vacant albeit for site sheds and construction machinery. There are no significant trees on the site, however a large tree is located adjacent to the site at 16 Guess Avenue, Wolli Creek.

It is noted that the existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below constructed footpath level.

The 'Proximity' development adjoins the subject property along its eastern boundary. Buildings within Proximity comprise shop top housing above ground level retail uses. A number of established building forms exist within the Proximity site as follows:

- Block E - directly adjoins the proposed development to the east and fronts Magdalene Terrace. Block E is 5 storeys in height with a maximum 21RL.
- Block A - is located at the junction of Magdalene Terrace and Arncliffe Street, it is the highest building within the Proximity Development, 21 storeys in height with a 66.25RL.
- Block D - fronts Arncliffe Street and is 5 storeys in height with a maximum 21RL.
- Block B - is oriented east / west within the Proximity site and is 14 storeys in height with a maximum 51.4RL.

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. Two mixed use buildings are nearing completion directly opposite the subject site and Block E within the 'Proximity' development, being Building 5 which is 18 storeys with a maximum 61.10RL and Building 3 which is 10 storeys with a maximum 36.95RL.

On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.



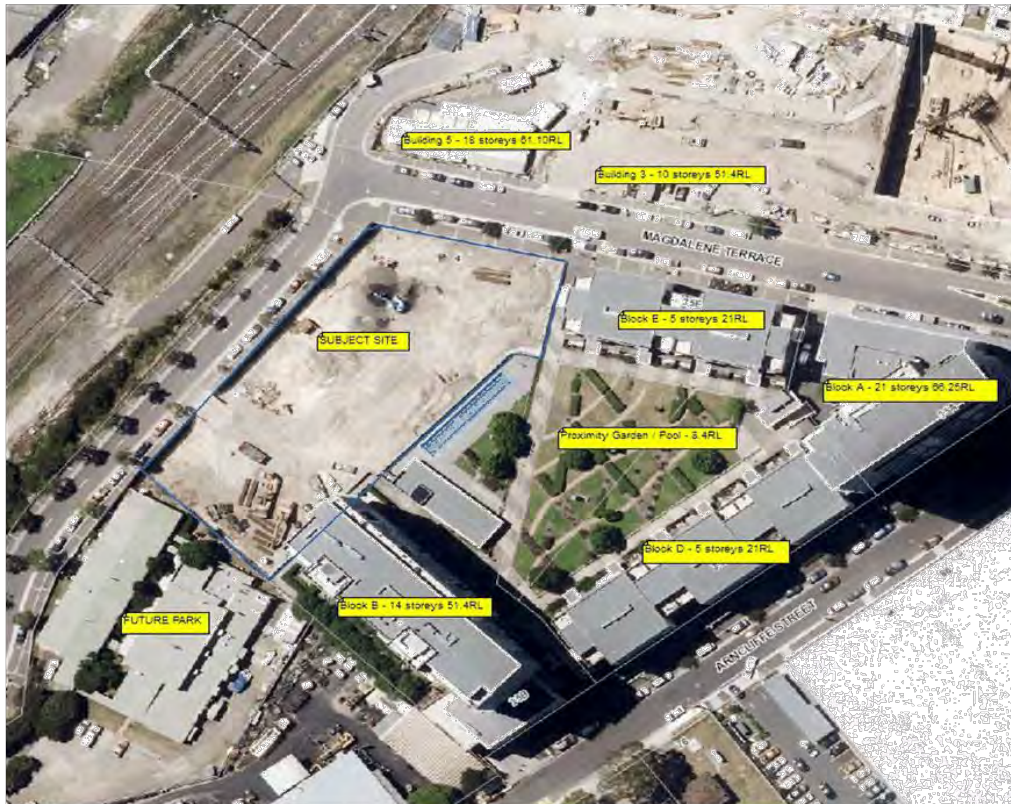


Figure 5 - Aerial Context

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. However, this site has been rezoned under RLEP2011 as RE1 – Public recreation.





Figure 6 - Subject Site and eastern neighbour 'Proximity'

## Statutory Considerations

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

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

#### **S.91A - Development that is Integrated Development**

The proposed development constitutes Integrated Development and requires approval from the NSW Office of Water. The proposal has been referred to the aforementioned agency and general terms of approval (GTA) have been granted. The conditions of the GTA have been incorporated in the draft Notice of Determination.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 641848M\_03. The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 20  
 Reduction in Water Consumption 40  
 Thermal Comfort Pass

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

**State Environmental Planning Policy (Infrastructure) 2007**

*Division 15 - Development in or adjacent to Railway Corridors*

*Clause 86 - Excavation in, above or adjacent to rail corridors*

Proposed development that involves ground penetration at least 2m depth that is within 25m of a rail corridor, requires concurrence from Sydney Trains.

Comment: The proposal involves excavation within 25 metres of the East Hills rail corridor. The proposal was referred to Sydney Trains who raised no objection in relation to the proposed development, yet imposed deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations.

*Clause 87 - Impact of rail noise or vibration on non-rail development*

*A building for residential use adjacent to a rail corridor requires that measures are taken to limit LAeq (equivalent continuous noise levels) and they are not exceeded:*

*(3)(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,  
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.*

Comment: An Acoustic Report has been prepared by "The Acoustic Group" dated 24/07/2015 and submitted with the application. The report considers the potential impact of railway noise to residential dwellings and recommends measures to ensure that these levels are not exceeded. In this regard the proposal is considered satisfactory and the proposal has been conditioned accordingly.

**State Environmental Planning Policy No 55—Remediation of Land**

A site validation report prepared by Environmental Investigations dated January 2014 ref. E22471 AB was submitted to Council with the application. The findings of the report confirmed that tested samples from the excavation level comprised natural sandy clays. Based on the findings of the report E22471 AB, Environmental Investigations concluded that the human health and environmental risks at the site are low and that the soils and groundwater are suitable for proposed use of the site for commercial and residential purposes. The proposal has been conditioned to include the recommendations of the above stated report which required the preparation of a remediation action plan. The proposal satisfies the requirements of SEPP 55.

**State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

Prior to the lodgement of the application as a formal DA, the preliminary scheme was reviewed by the Design Review Panel on 9th April 2015. The development application was subsequently reviewed by the Design Review Panel on 1st October 2015. The DRP raised concerns in relation to bare walled service structures at podium level, lack of lifts to residential levels, mix of adaptable units, amenity to

snorkel bedrooms, visual privacy impacts on site, and appearance of the development. The DRP further recommended the addition of a rooftop communal open space area on site. These matters have been discussed in detail below.

*b. The design quality of the development when evaluated in accordance with the design quality principles.*

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

#### Principle 1 – Context and Neighborhood Character

The DRP noted that the site is within the Wolli Creek precinct and *'includes a supermarket - already approved and under construction and an approved envelope above. To the south will be a new park, to its east and south are existing mixed use buildings and to its west is the railway line.'*

Comment: The proposal has been designed to fit comfortably within the approved streetscape and surrounding context of development which range in height from 5-21 storeys. The proposal is consistent with the nature of approvals and overall building heights contextually surrounding the site. The immediately surrounding area is undergoing change from a relatively low density industrial area to a high density residential area to take advantage of the proximity to Wolli Creek railway station. The proposal relates satisfactorily to the existing and emerging context in addition to the approved and future desired neighborhood character of Wolli Creek.

#### Principle 2 – Built Form and Scale

The DRP considered that the proposed scale of the development was acceptable. It was stated that the *"introduction of vertical connections to the rooftop garden has improved the façade articulation and assisted in breaking up the long horizontal mass"*

Comment: The scale and massing of the development fits appropriately with established and emerging developments to the north and east of the subject site. The proposed development is consistent with the scale of existing and emerging contextual development and is generally consistent with the desired bulk and scale of development for the Wolli Creek precinct.

The DRP noted that *"while the retail shop has been amended to turn the corner, the existing up-stand wall to the adjacent property interrupts the shop front entry circulation space. The substation has remained and significantly constrains the retail frontage. The reconfiguration of this corner is required to improve visual access to the retail tenancy. This would also improve its viability as a retail space. There are numerous other examples of elements appearing not to have been resolved in detail, especially at podium level where plant, exhaust duct and service riser appear to clash with landscape proposals. This still remains an issue. It is recommended that a garden bed and green wall planting be located adjacent to the proposed vent to hide the exhaust duct and service riser where possible."*

Comment: Plans have been amended to provide for full height glazing to the eastern wall of Retail shop A, adjoining the Proximity stairwell to Magdalene Terrace. The provision of floor to ceiling glazing will ensure visibility is retained and a safe environment is provided in vicinity of this premises. The substation has been retained in the original location as initially approved.

Revised plans have resolved clashes between landscaping and services as noted by the DRP with green walls proposed to previously approved bare walled service structures at podium level. This will ensure visual amenity from the neighbouring Proximity communal garden area is maximized and services are obscured.

The Panel reiterated *"concerns about the lack of lifts for a building of this size. Two lifts per core would be expected for a building of this size if the previous supermarket approval were not in place. The change in use from a commercial building to a residential building warrants the additional lifts."*

Comment: Revised plans indicate that an additional lift is proposed within the development. A total of three lifts are now proposed, this is considered to be satisfactory.

The Panel recommended that the *"communal open space access and communal meeting room be aligned with the lift lobbies to provide direct visual and physical access"*.

Comment: Revised plans illustrate that the communal room at podium level is now aligned with the lift lobby and provides direct visual and physical access to the podium level communal open space as recommended by the DRP.

#### Principle 3 – Density

The DRP considered that the *'proposed density of the development was acceptable subject to compliance with the FSR control'*.

Comment: The proposed development complies with the FSR controls for the subject site. The proposal has been designed with appropriate modulation and building depth which allows for proposed residential units to obtain appropriate solar access and ventilation. The proposed density is capable of being accommodated upon the subject site without resulting in adverse environmental planning impacts within the site or to neighbours. The proposed development has been designed to respond to its existing and emerging context and satisfies this principle.

#### Principle 4 - Sustainability

The DRP stated that *'no other notable sustainability features appear to have been incorporated beyond plumbing fittings etc.'*

Comment: The proposed development provides optimal solar access and cross ventilation to units, with generous landscaped areas on site. The proposal was accompanied by a BASIX certificate which confirms energy efficiency measures proposed to be implemented on site. Additionally plans have been revised to provide and illustrate the location of a 50 000 litre rainwater tank on site. The proposal is satisfactory with respect to this principle.

#### Principle 5 – Landscape

The DRP noted that *"exhaust plant enclosure at podium level should be screened, with a rooftop communal open space area provided on site, with appropriate facilities including kitchen, toilet, bbq and shade structures"*.

Comment: It is reiterated that revised plans illustrate green walls to previously approved bare walled service structures at podium level. This will obscure and screen these aspects of the development and maximize visual amenity from the neighbouring Proximity communal garden area. Plans have further been revised to incorporate a rooftop communal open space area with appropriate facilities and shade structures as recommended by the DRP. The proposal is satisfactory with respect of this principle.

#### Principle 6 – Amenity

The DRP notes that *'Snorkel bedrooms in units 3 and 5 have poor amenity and are to be reconfigured and that overlooking from the elevated pool to adjacent bedroom windows should be reviewed.'*

Comment: Plans have been revised to delete the majority of snorkel bedrooms. Where these have been retained, the area of the 'snorkel' has been widened and incorporates floor to ceiling glazing and a study nook in order to maximize the use of this space and provide for appropriate solar access and outlook to the subject bedroom as can be seen below.

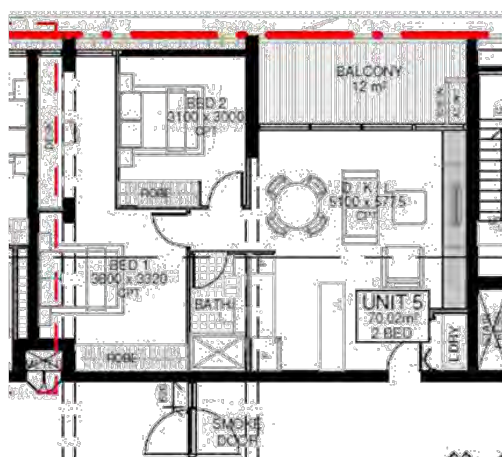


Figure 7 - Example of revised snorkel bedroom

Further to the above it is noted that the proposed development satisfies the solar access and cross ventilation requirements of the SEPP and ADG. Units, habitable rooms and balconies are of adequate size and dimensions and appropriate storage has been provided within dwellings. Two communal open space areas are provided on site, at podium and rooftop levels, with varied outdoor spaces which will encourage social interaction between future occupants. The proposal as designed will ensure that a satisfactory level of amenity is afforded to future residents, in addition to the future residents of adjoining sites.

#### Principle 7 - Safety

The development provides two prominent and clearly identifiable residential building entries to both Magdalene Terrace and Mount Olympus Boulevard, which comprise direct pedestrian access, generous lobbies and provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are

proposed to be well lit with clearly defined pathways.

The proposal will be conditioned to require the provision of CCTV security cameras at residential entries and basement levels, with clear directional signage to be provided on site to advise users of security measures in place. The proposal is satisfactory in regards to the requirements of this principle and was supported by the DRP in this regard.

#### Principle 8 - Housing Diversity and Social Interaction

The DRP noted that all adaptable units within the development were 1 bedroom. The DRP recommended that the *'provision of adaptable units should match the unit mix across the building.'*

Comment: Revised plans have incorporated a mix of adaptable units within the development, ranging from 1 - 3 bedroom adaptable dwellings. The design of the development and proposed unit mix provides for varied housing choice for a variety of household types. The development is designed to provide two appropriate communal facilities at podium and rooftop level with various spaces including bbq, lawn and childrens playground area, which will encourage and provide opportunities for social interaction between future occupants.

#### Principle 9 – Aesthetics

The Panel supported the *'orthogonal façade approach but is concerned about the quality of outlook from rooms behind vertical screens and the over-reliance on movable screen elements. Vertical screen elements should ideally be limited to bedrooms and respond to orientation.'*

Comment: Aluminium and timber louvres as proposed to balconies upon the facades of the proposed development are designed to be fully adjustable and stackable. This allows future occupants to adjust screening elements as necessary in response to their preference and in line with the orientation of the dwellings. The proposed screening varies between timber and aluminium to provide visual interest and is not deemed to be unreasonable.

The DRP further noted that *'the materials proposed for the podium should be reviewed to better integrate with the residential component of the building.'*

Comment: Materials and colours at podium level are provided as per the submitted schedule of colours and finishes below, these are satisfactory and will ensure the entire development presents as a unified building form. To ensure the finishes and materials of the podium facade to the future park are appropriate, the proposal has been conditioned to require the submission and approval by Council of the final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building are required to be included.





Figure 8 - Schedule colours and finishes

The DRP further noted that the 'street awning should continue across the entry to the supermarket and connect between Magdalene Terrace and Mt Olympus Boulevard. The podium façade to the future park should be amended to provide material variation and/or colour variation to provide interest as this will be highly visible in the short and long term'.

Comment: Plans have been amended to provide a continuous awning where possible across the frontage of the site. The awning is not provided above the substation at the Magdalene Terrace frontage and loading / unloading bay to Mount Olympus Boulevard, as a result of limitations with respect to relevant access requirements to these locations.

*c. the Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLI
3D - Communal Open Space	25% (913.5sq/m) Site Area 50% Direct sunlight to principle useable part of COS for minimum 2 hours between 9am - 3pm in midwinter	See discussion below.	Partial
3J - Bicycle and car parking	Minimum carparking requirements are set out by the ADG. Maximum car parking requirements are set out by Rockdale DCP 2011.  The applicant has chosen to provide the maximum car parking permitted on the site in accordance with the rates set out in Rockdale DCP 2011.	Refer to Part 4.6 - Parking Rates of this report.	Yes

4D – Apartment size and layout	<b>Apartment type</b>		<b>Minimum internal area</b>	Studio – 40sq/m 1 bed – 50sq/m - 62sq/m 2 bed – 70sq/m - 84sq/m 3 bed – 96sq/m -140sq/m	Yes Yes Yes Yes
	Studio		35m <sup>2</sup>		
	1 bedroom		50m <sup>2</sup>		
	2 bedroom		70m <sup>2</sup>		
	3 bedroom		90m <sup>2</sup>		
4C – Ceiling heights	<b>Minimum ceiling heights:</b>			2.7m floor to ceiling to all residential levels including Level 1. This is deemed to be satisfactory at level 1, given the provision of substantial commercial floor space at ground level and the unlikely use of the first floor for commercial purposes following any strata subdivision of the development.	<b>Yes -</b> excluding level 1.
	Habitable		2.7m		
	Non-habitable		2.4m		
	Two storey apartments		2.7m main living 2.4m first floor, area < 50% of apartment area		
	Mixed use area		3.3m for ground and first floor		
3F Visual Privacy	<b>Building height</b>	<b>Habitable rooms and balconies</b>	<b>Non habitable rooms</b>	4.5m separation with Levels 1 - 4 of Building E of Proximity Development fronting Magdalene Terrace.  9m separation with Level 5 of Building E of Proximity Development fronting Magdalene Terrace.  21.8m building separation from eastern facade of development to western wall of Building B within Proximity Development.	<b>No - see discussion below.</b>  Yes  Yes
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 Storeys)	9m	4.5m		
	Over 25m (9+storeys)	12m	6m		
4A – Solar and daylight access	Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			96% (96/100) units receive 2 hours solar access in midwinter.	Yes
	Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter			4% (4/100) units receive nil solar access in midwinter	Yes
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.			> 8 units off single circulation core	<b>No - see discussion below.</b>

4E – Private open space and balconies	Primary balconies as follows:			1 bed - 10sq/m - 12sq/m 2 bed - 11sq/m - 15sq/m 3 bed - 11sq/m - 15sq/m  Balcony depth > 1m	Yes
	Dwelling type	Minimum area	Minimum depth		
	Studio	4m <sup>2</sup>	-		
	1 bed	8m <sup>2</sup>	2m		
	2 bed	10m <sup>2</sup>	2m		
	3+ bed	12m <sup>2</sup>	2.4m		
	Min balcony depth contributing to the balcony area is 1m.				
4B – Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.			75% (75/100) units are cross ventilated	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			17m maximum depth glass line to glass line	Yes
4G – Storage	At least 50% of the required storage is located within apartment			Appropriate fixed storage provided within units and supplementary at basement level for future occupants.	Yes
	Dwelling type	Storage size volume			
	Studio	4m <sup>2</sup>			
	1 bed	6M <sup>2</sup>			
	2 bed	8m <sup>2</sup>			
	3 bed	10m <sup>2</sup>			

### 3D - Communal Open Space

The proposal comprises a total of 2805sq/m communal open space provided in the form of two separate areas. i.e. Podium 1692sq/m / Rooftop 1113sq/m. Communal open space areas on site are well designed, provided with facilities, seating, equitable access and varied spaces for interaction and play.

Solar access to podium communal open space is restricted, given its orientation to the south and south east behind the proposed development. Solar access in midwinter is achieved to the proposed pool at podium level from 12pm onwards in midwinter, yet the majority of the podium communal areas are in shadow in midwinter as a result of the proposed development and adjoining neighbouring high rise developments.

Notwithstanding, the proposed rooftop communal area receives in excess of 2 hours solar access in midwinter given its location. The communal open space areas proposed will provide for appropriate on site amenity for future occupants and the proposed development is considered to satisfy the objectives of 3D - Communal Open Space.

### 3F - Visual Privacy

As noted in the table above, the proposed development departs from the design criteria of the ADG which recommends a 6m minimum separation between the proposed development and Building E of

the Proximity development fronting Magdalene Terrace. A 1.44m deficiency in building separation exists as proposed. The objective of this part of the ADG is to achieve reasonable levels of external and internal visual privacy between neighbours.



Figure 9 - Building separation with Building E of Proximity Development

A review of the approved floor plans for Building E within the Proximity development illustrates living room, kitchen and bathroom windows to the north western facade of this building at levels 1- 5. Proposed plans indicate the provision of 4 kitchen windows at levels 2/4/6/8 upon the eastern facade of the proposed development, these windows comprise fixed obscure glazing. Additionally full height obscure glazed windows are also proposed to levels 3/5/7, these windows are located at the end of communal corridors within the development.



Figure 10 - NW wall of Building E of Proximity development.

Despite the proposed variation to the building separation design criteria of the ADG, given the above, it is considered that reasonable levels of privacy will be retained between the proposed development and its neighbour Building E. As such the proposal complies with the objectives of this requirement.

#### 4F - Common Circulation and Spaces

The proposal seeks to provide in excess of 8 apartments off a single circulation core to upper residential levels. The proposal indicates a maximum of 15 units off a single corridor to the Mount

Olympus Boulevard portion of the building and 10 units off a single corridor to the Magdalene Terrace portion of the development.

It is noted that lift lobbies within the development are designed as double height spaces with full height glazing to enable solar access to internal circulation areas. Additionally both ends of the common corridors are provided with fire rated windows, which will provide for additional daylight. The proposed circulation spaces within the development are considered to provide reasonable amenity for future occupants and the proposed development satisfies the objectives of this requirement.

#### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 3	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as shop top housing, which constitutes a permissible development only with development consent. The proposal is consistent with the objectives of the zone, providing an appropriate residential component to the site, which is within an accessible location.

#### 4.3 Height of buildings

The existing footpath level adjoining the site to Magdalene Terrace and Mount Olympus Boulevard ranges from 5.05RL to 5.29RL, with the existing natural ground level of the site being approximately 3RL prior to excavation occurring on the site. Accordingly, the natural ground level of the subject site is therefore up to 2.05m - 2.29m below footpath level. The effect of this is that it penalizes the subject site when height is to be measured in accordance with the definition of building height as per Rockdale LEP.

If the height limit was taken from the surrounding footpath levels, the 31m LEP height control would be approximately RL36. The proposed parapet height of the development is 34.8RL which is slightly less than the RL35 approved under the masterplan for the subject site. For the purposes of this assessment the height of the development is assessed against the provisions of Rockdale LEP 2011.

The proposal comprises a maximum height as follows:

- 31.8m roof of building (34.8RL)

- 32.92m top of balustrade (35.92RL)
- 33.25m top of vertical feature element to building facades (36.25RL)
- 35.6m top of the lift/stair overrun, single toilet and pergola (38.6RL)

As can be seen above, the proposed development seeks to vary the maximum height limit on site by 0.8m - 4.6m. This is a proposed variation of 2.5% to the roof of the building, 6.1% to rooftop balustrades, 7.2% to vertical architectural rooftop features and 14.8% to the top of the lift / stair overrun and pergola at rooftop level.

The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed above exceedance. The above has been addressed within Clause 4.6 of this report. The proposal is deemed to be consistent with the objectives of clause 4.3 - Height of Building for the reasons outlined within Clause 4.6.

#### 4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10 962.9sq/m. The previously approved ground and mezzanine levels comprise a total of 2005sq.m of gross floor area (GFA). The proposed residential levels above comprise a total of 8820sq/m. As such the development as a whole on the subject site comprises a total GFA of 10 825sq/m, with a resultant FSR of 2.96:1 and complies with this requirement. The proposal is satisfactory in this regard.

#### 4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*  
*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*

- 5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*  
*5(b) the public benefit of maintaining the development standard.*

The variations to the height standard has been assessed below.

The proposal has further been assessed against the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, where it was established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular site circumstances of the site and development.

#### Variation Sought - Height



As noted within Clause 4.3 - Height of Buildings, the proposal seeks to vary the maximum 31m height standard applicable to the subject site as follows:

- 31.8m roof of building (34.8RL)
- 32.92m top of balustrade (35.92RL)
- 33.25m top of vertical feature element to building facades (36.25RL)
- 35.6m top of the lift/stair overrun and pergola (38.6RL)

As can be seen above, the proposed development seeks to vary the maximum height limit on site by 0.8m - 4.6m. This is a proposed variation of 2.5% to the roof of the building, 6.1% to rooftop balustrades, 7.2% to vertical architectural rooftop features and 14.8% to the top of the lift / stair overrun and pergola at rooftop level.

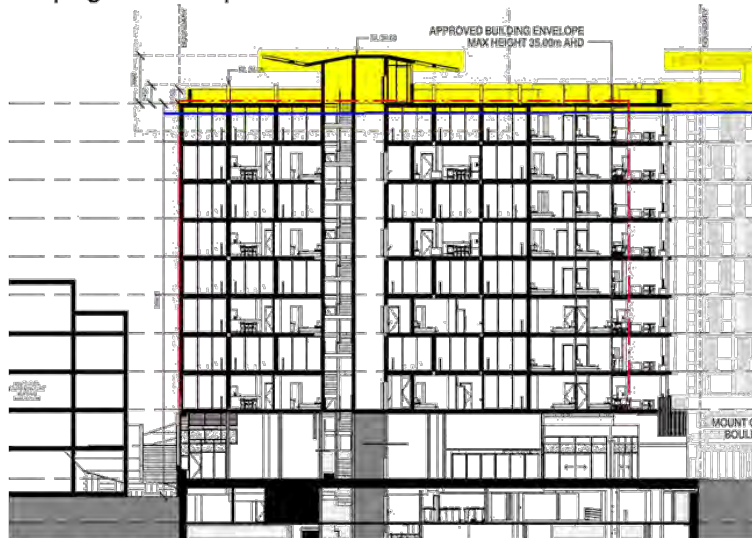


Figure 11 - Proposed height variation above blue line

#### Applicants Height Justification

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the height development standard are summarized as follows;

- The Master plan Consent for the site approved a building height of 35AHD for the property which equates to 32.6m in overall height. The proposed building generally sits within the approved building envelope of the Master plan.
- The existing ground level of the subject site prior to excavation is located 2.8m below footpath level for the majority of the site. Given the approved Master plan had an envelope of 35AHD it is evident that this was meant to be measured from street level.
- When measured from street level (5.4RL), the majority of the development is contained within the height limit, with only the lift/stair overruns and canopies exceeding the height.
- The height variation occurs primarily in the lift structures and elements which provide access to the rooftop communal open space area which was recommended to be incorporated into the development by the Design Review Panel.

- *The non compliance largely stems from the requested introduction of communal open space on the roof of the building. The addition of the rooftop communal open space area is for the future enjoyment of residents and improves the appearance of the rooftop when viewed from surrounds.*
- *The proposed building is compatible and comparable with surrounding development.*
- *The 31m height control is not reflective of existing development, inclusive of the adjoining Proximity development ranging in height from 5-21 storeys, clearly exceeding the height control. The validity of the 31m height control has essentially been destroyed or abandoned by virtue of the existing development.*
- *The proposal complies with the objectives of the standard.*
- *The proposed building will not result in significant adverse impacts upon the locality or adjacent residential properties by way of overshadowing, privacy or bulk and scale.*
- *The additional height results in the provision of a communal open space area at rooftop level which provides for a range of passive open space opportunities within the development.*
- *The proposal results in a better planning outcome for the site and accords with the objectives of the B4 - Mixed Use Zone.*
- *The proposed non compliance is not considered to result in any precedents for future development given the site considerations and surrounding pattern of development.*

#### Height Discussion

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the height variation as proposed is acceptable for the following reasons:

- The natural ground level of the site prior to excavation was generally 3RL. As a result of the flooding constraints of the site a minimum floor level of 3.3RL was required. Notwithstanding existing footpath levels adjoining the site to Magdalene Terrace and Mount Olympus Boulevard range from 5.05RL to 5.29RL. As a result the natural ground level of the subject site is therefore up to 2.05m - 2.29m below footpath level. The original approval for the site was consented to with a raised floor level of 5RL in order to ensure the development remained directly level with and accessible from the public footpath. The aforementioned are site circumstances which directly correlate to the overall height of the proposed development and result in a minor variation (0.8m) to the height of the building to the rooftop.
- The proposed rooftop height of the development is 34.8RL which is slightly less than the RL35 approved under the masterplan for the subject site. The 35AHD requirement is noted given it was adopted as part of the Masterplan and deemed acceptable for the subject site.
- The DRP was supportive of the vertical feature element to building facades stating that the *"introduction of vertical connections to the rooftop garden has improved the façade articulation and assisted in breaking up the long horizontal mass"*. These feature elements could be argued to be an architectural roof feature and therefore be excluded from the calculation of height as per the provisions of clause 5.6 of Rockdale LEP 2011, given they are purely a decorative element, not an advertising structure, do not comprise floor space and will cause minimal overshadowing.
- The proposed rooftop structures are directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development. The structures service the rooftop communal open space area which has been provided to benefit the future occupants of the site. In general a 3m high structure is required for a lift cart with approximately 0.6m-1m additional height to permit the installation of the lift overrun

which consists of cables / bolts and beams to pull the lift up and down the rails on the back wall.

This is an essential piece of infrastructure to enable access to the communal rooftop terrace.

- Proposed balustrades at rooftop level are recessed into the design of the development, minimizing their visual bulk and prominence. The balustrades will not be clearly visible from the public domain at pedestrian level, will not affect the visual perception of the overall built form of the proposed building, nor the land use intensity at the site.
- The proposed area of height non compliance is not considered to result in a size or scale of development that is incompatible with the desired future character of the locality. The proposal is of a height which is commensurate with approved and emerging residential building heights within the context of the subject site.
- The height of proposed structures is not inconsistent with the aims of the Building Height control as referred to within the Apartment Design Guide.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011 as it maintains satisfactory sky exposure to nearby buildings and the public domain and does not contribute to adverse overshadowing or overlooking of the habitable and or private open space areas of neighbouring properties.
- The redevelopment of the site will facilitate a use which is consistent with the objectives of the zone and the lift overrun and rooftop structures as proposed do not generate adverse environmental planning impacts upon adjoining or nearby properties in terms of aural and visual privacy, natural ventilation and views or vistas.
- The proposal is consistent with the objectives of clause 4.6 and is in the public interest.

Given the site and development circumstances as discussed above, the proposed additional height sought by the applicant is not considered to be unreasonable in this instance and is supported.

#### 6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affects the property. As such any works in excess of 1m below the natural ground surface or any works which are likely to lower the water table are required to be accompanied by an Acid Sulfate Soils Management Plan . The application was accompanied by correspondence from Environmental Investigations dated 21 September 2015, which stated as follows:

*"An Acid Sulfate Soil Assessment was previously conducted by Douglas Partners (DP) as part of a Supplementary Contamination Assessment (DP Project Ref. 29561) comprised of field and laboratory testing of site soils. Based on the analysis, DP found a low potential for Acid Sulfate Soils and Potential Acid Sulfate Soils on the site. EI inspected the natural soils during the site validation which comprised of orange sandy clay. The natural clays did not contain jarosite, dark grey materials, shell grit or jarosite which can be indicators for the potential presence of acid sulfate soils.*

*It was therefore considered that the potential for generation of ASS conditions within the area of the site to be redeveloped were low, and that the preparation of an ASS management plan is unwarranted."*

Given the above, the requirement for an acid sulfate soils management plan is not required at this stage. The proposal has however been conditioned to ensure that an Acid Sulfate Soils Management Plan is prepared and implemented on site should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"*.

The proposal is consistent with the objectives and requirements of this clause.

#### 6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

#### 6.6 Flood Planning Land

The subject site is identified in council records as being flood affected. DA-2011/461 for the construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage was approved on 13 September 2012. The matter of flooding was considered as part of the assessment of this application, with a minimum floor level of 3.3RL required on site. DA-2011/461 was approved with a minimum floor level of 5RL - 5.4RL. The proposal does not seek to modify previously approved ground floor levels and as such maintains compliance with this requirement.

Further to the above, it is noted that the proposal will be conditioned to ensure that the basement car park is tanked, waterproofed and provided with a pump out system

Given the above, the proposal is satisfactory with respect to the provisions of this clause.

#### 6.7 Stormwater

Councils Engineer has advised that nil stormwater plans were submitted with the application, yet will be required prior to the issue of a Construction Certificate to ensure that stormwater captured on site is connected into the existing irrigation storage tank, rain and OSD tanks. The proposal has been conditioned accordingly and thus satisfies the objectives of this clause.

#### 6.11 Active Street Frontages

The approval of DA-2011/461 provided for five ground level retail / commercial tenancies and a supermarket tenancy. These spaces provide an active street frontage to both Mount Olympus Boulevard and Magdalene Terrace. The proposed development seeks to retain these approved spaces and as such is consistent with the requirements of this clause.

#### 6.12 Essential services

Services will generally be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

There are no current draft environmental planning instruments applying to the subject site.

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

The following Development Control Plan is relevant to this application:

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

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.3 Groundwater Protection	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Servicing - Wolli Creek and Bonar Street	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Visual Connections	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes - see discussion
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes	Yes
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and Density	Yes	No - see discussion
7.1.8 Wolli Creek Street Character and Setbacks	Yes	No - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
7.1.9 Wolli Creek - Environmental Management	Yes	Yes

#### 4.1.1 Views and Vista

Given the siting of the proposed development and surrounding context of existing and emerging development of greater heights than the proposed development, the proposal is unlikely to result in adverse view loss impacts to adjoining residents. It is further noted that given the previously approved building envelope upon the subject site as a result of the Masterplan approved in 2001, a building of similar heights was envisaged on the subject site since this time.

#### 4.2 Streetscape and Site Context - General

The proposed development has been designed as a street wall periphery development form, addressing both the Magdalene Terrace and Mount Olympus Boulevard frontages of the subject site. The proposal provides an appropriate streetscape response and relationship to both street frontages.

Streetscape elevations have been articulated by four vertical elements in the lift core / fire stair locations of the building. The provision of full height glazing in these locations and variations in materials and colours results in a perceived reduction in the length and mass of the development when viewed from the public domain. These vertical feature elements visually break the building facade up into smaller building forms. Elevations further comprise appropriate building expression, with the use of articulation & modulation to facades via the incorporation of balconies, pedestrian entries at ground level and a range of colours, textures and materials.

As can be seen below, the proposal incorporates a varied palette of colours including greys, white and neutrals in addition to a variation in materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to rendered white and feature textured concrete, timber cladding, louvres, masonry and glass balustrades. These materials will provide a modern, contemporary, high quality and visually appealing development on site. This includes a varied palette of colours and materials to create visual interest when viewed from the public domain and neighbouring properties.



Figure 12 - Proposed materials and finishes

The bulk, scale and height of the development fits appropriately with established and approved developments under construction within the vicinity of the subject site. The proposed development is consistent with the massing of existing and emerging contextual development and is generally



consistent with the desired future character of the area.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter.

The subject site and proposed development are primarily located to the north, west and north west of the adjoining 'Proximity' development, which comprises shop top housing in residential towers 5 - 21 storeys in height. Given the orientation of the subject site and configuration of the proposed development on the subject site to form a periphery development, it is inevitable that some degree of overshadowing impacts will result to the existing 'Proximity' development (including its podium level communal open space and pool).

Further to the above, it is important to note that to the north of the subject site and 'Proximity' development, at 1-7 Magdalene Terrace, are Buildings 5 (18 storeys) and 3 (10 storeys) within Discovery Point. These buildings are currently under construction and nearing completion. Given the height and location of these buildings directly north of the subject site and 'Proximity' development, some overshadowing impacts already occur to the subject site and 'Proximity' development.

Consideration has been given to the cumulative overshadowing impacts of the subject development and adjoining Discovery Point Developments on the surrounding properties. The key areas are discussed below:

#### Proximity Building B

In relation to the shadow impact on Building B of the adjoining Proximity development, the applicant has submitted shadow diagrams in elevation showing existing and proposed shadows on the western and northern facades of Building B. These diagrams illustrate that all units within the northern facade of Building B will retain in excess of 3 hours sunlight between 9am & 3pm at midwinter and all units in the western facade of Building B will retain in excess of 2 hours of solar access between 9am and 3pm at midwinter. This complies with the requirements of the State Government's Apartment Design Guide (ADG). It is noted that the proposal will only start to overshadow windows located in the lower level western facade of Building B at midday in midwinter, and further units at the lower levels of this building will be impacted after this time. Therefore, given that all units will retain in excess of 2 hours of solar access between 9am and 3pm at midwinter, the loss of western afternoon sunlight is not unreasonable. The proposal is satisfactory with regards to the objectives in this regard.

#### Proximity Pool

The communal pool located at podium level within the Proximity development is positioned along the western side boundary of the property with the subject site. At 9am in midwinter the entire pool is in shade as a direct result of the shadow generated by buildings 3 and 5 at 1-7 Magdalene Terrace. The proposed development generates shadows to this pool at 9am, yet it is reiterated that the pool is already in complete shade given the shadow caused by Buildings 3 and 5 within Discovery Point located on the northern side of Magdalene Terrace.

As existing, half of this pool is in sunlight at 10am in midwinter. The proposed development generates additional shadow which results in this pool being entirely overshadowed at 10am.

Once again as existing at 11am and 12pm in midwinter this pool is overshadowed completely by the shadow generated by Buildings 3 and 5 at 1-7 Magdalene Terrace. The shadow onto the pool as caused by the proposed development is no greater than this existing shadow and the pool remains in shade at this time.

As existing, at 1pm in midwinter, 2/3 of the pool receives solar access, with half of the pool in sunlight at 2pm given existing shadows as previously referred to. The proposed development results in the loss of this existing sunlight to the pool at 1pm and 2pm in midwinter.

At 3pm in midwinter the pool is in complete shade as a result of the approved podium level on the subject site, resultant from DA-2011/461. As such the shadow onto the pool at this time by the proposed development is no greater than that previously approved as a result of DA-2011/461.

Given the above, it is evident that as a result of the location of the proximity pool, the proposed development and existing shadows caused by neighbouring buildings to the north, the pool at podium level will receive minimal sun in midwinter.

Midwinter shadows onto the Proximity pool are unfortunate yet are a direct consequence of the location of the pool on site, the high western boundary common wall between Proximity and the subject site, the high density residential context i.e. established high rise buildings to the north of the Proximity site and that proposed to the west upon the subject site.

Despite the above, it is important to highlight that the entire pool within Proximity will be in complete sunlight for the entire day in the month of December from 9am - 3pm in Summer and although unfortunate, the overshadowing of the pool in midwinter by the proposal for an additional 1.5 hours is inevitable given the aforementioned.

#### Proximity Communal Open Space

As existing at 9am in midwinter the garden podium communal open space area within Proximity is entirely overshadowed by the existing Proximity buildings and developments on the northern side of Magdalene Terrace. At 10am 1/3 of the gardens are in sunlight, this area will remain in sunlight at 10am with the proposed development. At 11am -12pm as existing approximately half the garden is in sunlight, this area will remain in sunlight at this time with the proposed development generating minor additional overshadowing. At 1pm as existing, approximately 1/3 of the gardens are in sunlight, the proposed development generates minor additional overshadowing, yet 1/3 of the gardens remain in sunlight.

During the times referred to above, it is clear that the Proximity gardens will retain a minimum of 3 hours of sunlight in midwinter between the hours of 10am - 1pm for 1/3 to 1/2 of the overall area of the gardens. This is considered to be acceptable and satisfactory with regard to the objectives of this clause. It is further noted that from 1pm - 2pm some level of sunlight is provided to the south eastern corner of the podium communal open space area within the Proximity development, with this area being entirely overshadowed by the proposed development at 3pm.

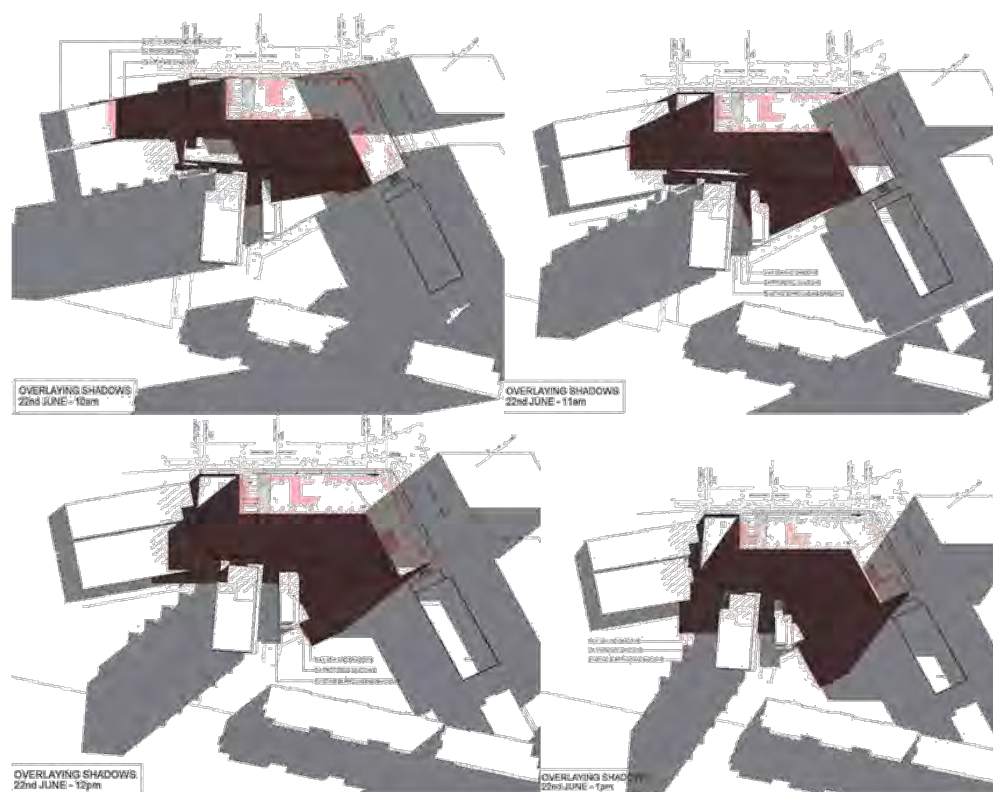


Figure 13 - Shadow diagrams

#### 4.4.4 Glazing - General Controls

Plans indicate the provision of louvered and sliding screens to residential balconies to the eastern, western and northern elevations. This will aid in reducing the necessity for mechanical heating and cooling to habitable areas and provide appropriate weather protection. The proposal complies with the requirements of this clause.

#### 4.4.5 Acoustic privacy

The proposal was accompanied by an Acoustic Report prepared by the Acoustic Group dated 24 July 2015. The report considered traffic, rail and internal noise transmission, making recommendations to ensure appropriate internal acoustic amenity is achieved. The proposal is considered to be satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

#### 4.4.6 Noise Impact

It is reiterated that an Acoustic Report has been prepared by "The Acoustic Group" dated 24/07/2015 and submitted with the application. The report considers the potential impact of railway noise to residential dwellings and recommends measures to ensure that these levels are not exceeded. Details regarding mechanical plant have not been submitted with the application, yet the proposal has been conditioned to ensure that noise from mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.

In this regard the proposal is considered satisfactory and the proposal has been conditioned accordingly.

#### 4.4.7 Wind Impact

The application was accompanied by a Wind Report prepared by ANA Civil Pty Ltd, dated 22 July 2015 ref 2015-341 Rev.2. The report stipulates that the most critical annual limiting gust wind speeds are expected in the following open areas:

- Communal Area at Podium Level;
- Podium Balconies;
- Level 2 – 8 Balconies; and
- Level 9 - Roof Terrace.

The report provides recommendations as follows in order to mitigate wind impacts on site given the height of the development.

- *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
- *Pergolas, canopies and awnings over open areas; and*
- *Landscaping such as dense shrubs and trees.*
- *Canopy or pergola on the roof terrace.*

The proposal has been conditioned to ensure the above recommendations are implemented on site. The proposal complies with the requirements of this clause.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The development is required to comply with the following unit mix:

<b>DCP Requirement</b>	<b>Proposed</b>	<b>Complies</b>
1 bedroom / Studio 10% (10) - 20% (20)	2 x studio / 13 x 1 bed / 14 x 1 bed + study 29%	<b>No – 9 surplus</b>
2 bedroom 50% (50) - 75% (75)	56 x 2 bedroom / 1 x 2 bed + study 57%	Yes
3 bedroom 10% (10) - 30% (30)	7 x 3 bedroom / 7 x 3 bed + study 14%	Yes

Notwithstanding the above, the proposal provides for a range of housing within the development to cater to diverse household types. The proposal provides for a range of housing options which will enable changing lifestyle needs and cater to different income groups. The proposal is considered to be consistent with the objectives of this clause. A variation in this instance is deemed satisfactory.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (10) of residential units within the development are required to be provided as adaptable units. A total of 18 units (2, 4, 6, 7, 8, 14, 31, 32,

33, 41, 56, 57, 58, 66, 81, 82, 83, 91) are provided as adaptable units within the development. The proposal complies with the minimum number of adaptable dwellings required within the development.

Plans indicate the provision of accessible car parking spaces within basement levels which are within close proximity to lifts to enable ease of access. The application has been accompanied by an Access Report dated ref:214473 dated 22/07/2015 and prepared by Accessible Building Solutions. The proposal is consistent with the objectives and requirements of this clause and has been conditioned to ensure the recommendations of the Access Report are implemented on site.

It is further noted that access is provided to, within and throughout the development including basement car parking levels and communal open space areas allowing equitable access for persons with a disability / mobility impairment. The proposal is consistent with the requirements and objectives of this clause.

#### 4.6 Parking Rates - Shop-top Housing

As per the provisions of this clause, parking provision is to be provided as follows on site.

- 1 space per studio, 1 and 2 bedroom (86 spaces required)
- 2 spaces per 3 bedroom (28 spaces required)
- 1 visitor space per 5 dwellings (20 visitor spaces required)
- 1 x dedicated car wash bay required

In addition to the above 58 dedicated car spaces are required for the commercial components of the development, as approved by DA-2011/461.

Overall a total of 193 on site car spaces are required for the development. Accordingly the proposal provides a total of 193 on site parking spaces and complies with the provisions of this clause.

#### 4.6 Car Wash Facilities

An appropriately dimensioned car wash bay is proposed within basement level 2. The proposal satisfies the requirements of this clause.

#### 4.6 Pedestrian Access and Sustainable Transport

Plans indicate the provision of 42 bicycle spaces within basement levels 2/3/4. These areas are secure and enclosed with mesh fencing. The proposal provides in excess of the minimum number of bicycle spaces required by DCP 2011. The proposal is therefore considered to positively encourage future occupants to adopt alternative modes of transport. The proposal is consistent with the requirements and objectives of this clause.

#### 4.7 Air Conditioning and Communication Structures

Plans indicate the provision of air conditioning units located upon balconies of residential units. Balconies are provided with either masonry or glazed balustrades to both street frontages of the property. To ensure the aforementioned air conditioning units are not visible from the public domain the proposal has been conditioned to ensure glass balustrades to balconies are opaque. The proposal is satisfactory in this regard.

#### 4.7 Waste Storage and Recycling Facilities

Plans indicate the provision of two (2) waste chutes within the development, being one chute adjoining each lift core within the building. Waste is to be discharged into 1100L residential and 660L

commercial bins on site. Waste is to be compacted and discharged into waste holding rooms within basement level 2 which is of sufficient dimensions and area to accommodate the proposed residential development. Separate previously approved garbage storage areas were provided at ground level adjoining the loading dock for use by commercial tenancies on site.

Recycling bins are to be provided within a waste compartment on each residential level for the north core and levels 3, 5, 7 and podium for the dual level cross over apartments in the northwest core. Full waste and recycling bins will be transferred to the bin enclosure on basement 2. Bins will then be transferred to the ground floor loading bay via the goods lift on the day of collection and serviced by Council within the loading dock.

The proposal provides for appropriate on site waste management and satisfies the provisions of this clause.

#### 4.7 Servicing - Wolli Creek and Bonar Street

The proposal has been conditioned accordingly, to require the developer to relocate underground electricity cables on the frontages of the site at no cost to Council.

#### 4.7 Laundry Facilities and Drying Areas

Residential units are provided with appropriate internal laundry facilities. The proposal satisfies the provisions of this clause.

#### 4.7 Letterboxes

Plans indicate the provision of residential mail boxes adjoining the main entry foyers to the upper residential levels. The proposal complies with the requirements of this clause.

#### 4.7 Hot Water Systems

No details are provided on plans regarding the location of hot water units to residential dwellings. The proposal will be conditioned to ensure that all hot water systems/units located on the balcony of a dwelling be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

#### 5.2 RFB - Building Entry

Individual residential building entries have been provided to both frontages of the site at Magdalene Terrace and Mount Olympus Boulevard. Residential entries are spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the street and development. The proposal satisfies the requirements and objectives of this clause.

#### 5.2 RFB - Lift Size and Access

Lift access has been provided on site. Three lifts are provided within the development, with a single lift core to the portion of the building fronting Magdalene Terrace and a dual lift core to the portion of the building fronting Mount Olympus Boulevard. Each lift provides access from basement levels to the uppermost storey of each building on site. Cross over between lifts is provided at levels 3 / 5 / 7 via a common corridor and the rooftop communal open space area, enabling future occupants access to three lifts within the building. Lifts are appropriately dimensioned. The proposal complies with the requirements and objectives of this clause.

#### 5.3 Mixed Use - Visual Connections

The development retains the previously approved glazed ground floor retail spaces to both street



frontages with clearly identifiable residential lobbies. The upper levels of the proposed development incorporate residential balconies and windows, which overlook the public domain and provide passive surveillance from the site. The proposal is satisfactory in this regard.

#### 5.3 Mixed Use - Secured Access to Parking

This clause requires that where a building contains residential and non-residential uses, separate lift access be provided from basement car parking to the residential and non-residential areas. Additionally that residential parking spaces be secure and separate from non-residential vehicle parking and servicing areas.

Plans indicate that secure residential car parking is provided at separate levels from commercial car parking on site. Additionally plans illustrate the provision of a separate goods / customer lift and ramp provided within the development for the future commercial uses, enabling future customers to access the ground level retail uses via a separate lift from those intended for the upper level residential uses.

The proposal is consistent with the objectives and requirements of this clause.

#### 7.1.7 Wolli Creek Built Form: Building Heights and Density

The building height diagram within Part 7.17 of DCP 2011 illustrates a height of up to 8 storeys being permitted upon the subject site. The proposed development comprises a total of 9 storeys with rooftop elements atop the building as discussed earlier within this report within Clauses 4.3 and 4.6. The proposed development is not inconsistent with the height and density of the existing and emerging contextual development within Wolli Creek and is generally consistent with the previously approved and envisaged master plan for the site. As such the proposal is considered to be satisfactory in this instance and satisfies the objectives of this clause.

#### 7.1.8 Wolli Creek Street Character and Setbacks

The Magdalene Terrace frontage of the site is identified as 'Retail Street Frontage' with the Mount Olympus Boulevard frontage of the site identified as 'Mixed Use Street Frontage' within the street character diagrams depicted within this clause.

Accordingly, a 2m building setback is required to both frontages of the site, of which a further 2.5m articulation zone is also required. The articulation zone is intended to comprise only balcony elements.

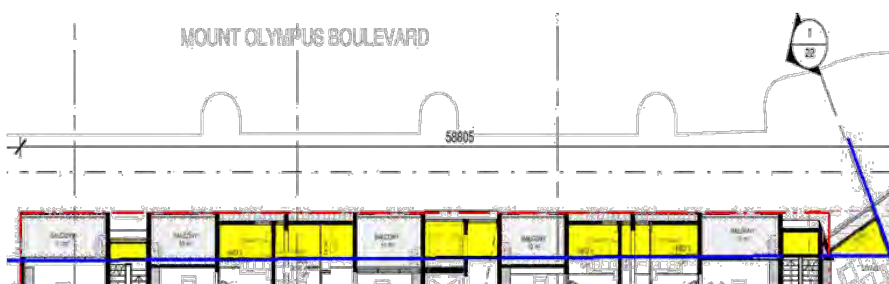
The proposed development complies with the 2m building setback to both frontages, yet plans indicate building elements protruding into the articulation zones at both site frontages as can be seen in yellow below.

Plans illustrate that the design of the development alternates on each level, with balconies proposed within the articulation zone on Levels 2, 4, 6 and 8 and a mix of floor space and balconies on Levels 3, 5, 7 and 9.



Figure 14 - Building element protrusions to Magdalene Terrace

It is noted that Building E adjoining the proposed development to the east is positioned closer to Magdalene Terrace than the proposed development, with solid balcony elements which are forward of the building line of the proposed development. Given the established building line and balcony elements of Building E to the east, the protrusions as proposed in this instance are not considered to be unreasonable given the existing context.



**Figure 15 - Building element protrusions to Mount Olympus Boulevard**

With respect to building protrusions to the Mount Olympus Boulevard frontage of the site, it is noted that the proposed development shall be the only building directly fronting Mount Olympus Boulevard. Given the intended future public park to the rear of the site and future desired context, the minor building protrusions are not considered to be unreasonable.

Further to the above, it is noted that the provision of an alternating design on the subject site, given the extensive street frontages, allows for the development to be articulated, providing for visual interest. The proposal is acceptable in this regard and complies with the objectives of the clause.

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

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

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

### Sydney Trains

The subject site is positioned opposite the railway line, as such the proposal was referred to Sydney Trains for comment. Sydney Trains raised no objection to the proposal subject to the imposition of deferred commencement conditions to ensure the construction of the development did not adversely impact upon the nearby train line or its operations. The proposal is recommended for a Deferred Commencement approval subject to compliance with the requirements of Sydney Trains.

### Interface with Proximity

As previously mentioned within this report, the approval (DA-2011/461) set the ground floor and podium levels of the development. DA-2011-461 approved the podium level of the development upon 4 Magdalene Terrace at 10.8RL. This is 2.4m higher than the communal open space level (8.4RL) of the adjoining Proximity development. In order to mitigate the extent of the variation in levels between the two developments, DA-2011/461 was approved with a stepped landscaped planter at 9.8RL stepping up to 10.8RL and spanning the entire length of the common boundary between the sites. This stepped planter is retained as previously approved as part of the current application.

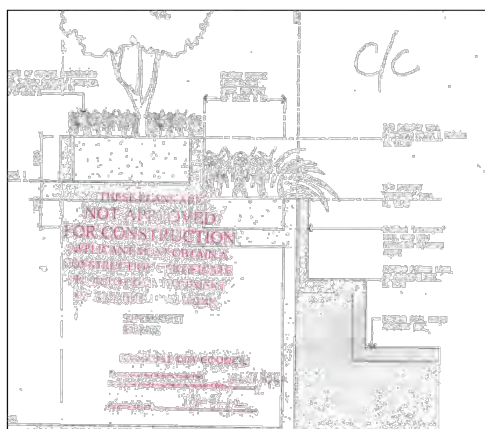


Figure 16 - Approved interface between podium of 4 Magdalene Terrace and Proximity

*Surrender of DA-2011/461*

As previously referred to in this report, the subject site benefits from an existing approval for the "construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage".

The proposal has been conditioned to incorporate relevant conditions of consent from the previous approval relating to the use of the site for commercial purposes. Conditions from the previous consent have been incorporated into the draft Notice of Determination, to ensure that a single consent operates upon the subject site for the entire development and to ensure there is no ambiguity.

Given the above, the application has been conditioned to require the applicant to surrender the previous consent to Council.

### Temporary Wall with Proximity

As previously noted within the 'History' section of this report, on the 2nd October 2002, DA-2002/1243 was approved by Council for the construction of Proximity, being blocks A / B / D / E. Condition 26 of this consent related to a requirement for 31 additional visitor car spaces for stage 1 to be provided in

the construction of Stage 2 (the subject site) of the development.

As such to allow access from Block B to the subject site in order to access the future intended visitor car spaces there was an easement in favour of the subject site over building B, and a false wall was constructed on the south western corner of Building B at the common boundary with the subject site. The intention was that this wall be removed upon the construction of the podium level to the subject site enabling direct access. A temporary wall was created in the aforementioned location beneath the existing building B within the Proximity development.

Given the deletion of condition 26 in 2004 and approval of DA-2011/461 which resulted in a difference in podium levels between Proximity and the subject site, the requirement for the temporary wall on the common boundary of the subject site with Proximity is now defunct. Accordingly, the proposal has been conditioned to require that the developer obtain consent from the relevant Body Corporate(s) of the Proximity Development so that they can replace the existing temporary wall with a permanent wall between these separate sites.

#### Safety & Security

The development provides clearly identifiable and legible residential building entries to both Magdalene Terrace and Mount Olympus Boulevards. Residential lobbies comprises direct pedestrian access and are glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal is satisfactory in this regard.

#### Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport which will assist in the reduction of car use, and the proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking. The proposal further provides well designed and located communal areas with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

#### Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

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

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

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and 13 submissions were received. Following the submission of amended plans, which were not re notified, 6 additional submissions were received. The issues raised in the submissions received by Council are

discussed below:

- *Approved / proposed development results in adjoining Proximity pool not complying with relevant pool fencing legislation. It is unfair to expect Proximity Body Corporate to have to resolve this*

Comment: As part of DA-2011/461, the podium level as part of the subject application remains at 10.8RL. Notwithstanding the proposal has been conditioned to require that the proposed development does not result in a non compliance with relevant pool legislation for the Proximity Pool.

- *Damage to walls and foundations of Proximity has occurred and will worsen with proposed development / Additional excavation below the level of Proximity's foundations will lead to subsidence and instability of infill concrete block walls. / No excavation should occur beneath Proximity / Fitting of each anchors under Proximity should not be permitted / Damage to Proximity should be rectified by the developer / Installation of ground anchors into Proximity's land has illegally been undertaken / Ground anchors would strike foundations, pipes and services causing damage / Developer should utilize a different method to secure the foundation excavation and retaining walls*

Comment: Matters relating to existing excavation and anchoring works on site are issues of compliance to be directed to and managed by the Principal Certifying Authority for the subject site. With regards to possible future impacts, the proposal has been conditioned to ensure that a dilapidation report is obtained by the developer prior to commencement of works and that should any damage to the Proximity development and/or nearby Council infrastructure occur during construction, that this be rectified. Additional conditions are also proposed requiring that the adjoining building be supported to prevent subsidence and damage. The proposal has been further conditioned to ensure all works are within the boundaries of the subject site and do not protrude into adjoining properties.

- *Significant overshadowing of Proximity pool and gardens by the proposed development / Shadow diagrams are inaccurate and do not depict trees and structures from podium level / Solar access plans do not detail shadows from trees and plants./ Overshadowing of proximity pool is unacceptable.*

Comment: The matter of overshadowing has been discussed previously within this report.

- *Visual privacy impacts to Proximity pool area from proposed development / Visual privacy impacts to bedrooms of units within Proximity / Inadequate building separation between building E fronting Magdalene Terrace and the proposed development*

Comment: The matter of building separation and Building E has been detailed previously within this report. It is reiterated that the podium level of the proposed development and the adjoining Proximity development are not aligned, with substantial shrub and tree terraced planting provided at podium level of the proposed development along the common eastern boundary of the site with Proximity. Also, given the proposed landscaping at the common boundary and level difference, it is unlikely that the proposal will result in adverse overlooking of the Proximity Pool.

Further to the above it is noted that the rooftop communal open space is recessed from the edge of the

building, with periphery shrub and tree planting provided. Additionally the proposed development comprises a building separation of 20m from Building B within the Proximity development and building separation as proposed is considered to be satisfactory in order to avoid adverse visual privacy impacts between neighbours.

- *CPTED principles not acknowledged where development adjoins doctors surgery at shop 1 Magdalene Terrace*

Comment: Plans have been amended to provide for full height glazing to the eastern wall of Retail shop A, adjoining the Proximity stairwell to Magdalene Terrace. The provision of floor to ceiling glazing will ensure visibility is retained and a safe environment is provided in vicinity of this premises.

- *Traffic impacts / Deficiencies within traffic report i.e. days and times when studies were undertaken / Revised traffic report should be submitted, undertaken on Monday morning peak, taking into account the increased traffic expected by converting Mount Olympus Boulevard and Magdalene Terrace into one way streets and the impact of increased residential traffic and traffic visiting commercial component of the development / Traffic reports submitted with the DA neglect to refer to the Council's proposed one-way traffic movement along Mount Olympus Boulevard.*

Comment: Councils Engineer considered the matters of car parking, maneuverability and traffic and was satisfied that the proposal was unlikely to result in adverse traffic or car parking impacts within the surrounding road network. It is reiterated that the proposal complies with relevant car parking requirements and provides an on site loading / unloading bay.

- *Overcrowding of trains*

Comment: The subject site is zoned to facilitate residential development. The matter of 'overcrowding of trains' is outside the scope of this application.

- *Additional height proposed is inappropriate / Additional bare concrete wall structures facing Proximity will be unsightly / Concessions are being sought to increase the height of buildings, Stage 1 has already raised the roof of the supermarket several metres above what was to be the single level shared use podium / additional height now creates bland concrete walls facing Proximity.*

Comment: As previously discussed within this report, the level of the podium was established by a previous approval DA-2011/461. This level is retained by the proposed development. The matter of interface between the subject site and Proximity has been previously discussed within this report. It is reiterated that a stepped planter with appropriate landscaping is to be constructed along the common boundary in order to mitigate the visual impact of the difference in levels between the two sites.

Further to the above, the proposed development incorporates green walls to previously approved bare walled service structures at podium level, this will ensure visual amenity from the neighbouring Proximity communal garden area is maximized.

- *Devaluation of property.*



Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.

- *Acoustic impact of rooftop communal open space to residents in Building B*

Comment: The rooftop communal open space area is located in excess of 20m away from Building B within Proximity. The rooftop area as proposed is intended to be provided as a secondary 'passive' communal open space area, with the swimming pool and childrens play equipment being located within the 'active' communal open space area at podium level. Given the distance of the rooftop communal open space area from Building B and the high density residential context of the area, it is not considered likely that the proposed rooftop communal open space area will result in adverse acoustic impacts to neighbours.

- *Increased strain on water, sewerage, electricity*

Comment: The subject site is zoned for residential uses and services are available for connection. The proposal was referred to the appropriate service providers i.e. Ausgrid / Sydney Water and no objections were raised to the proposed development.

- *DA is inconsistent and contrary to approved Master Plan for site / Site should be for commercial purposes.*

Comment: The proposal has been assessed against the current planning controls relevant to the site. Shop top housing is permissible upon the subject site as per the provisions of Rockdale LEP 2011.

- *Dilapidation report should be mandatory / Damage to street trees and pavement is expected.*

Comment: The proposal has been conditioned to require a dilapidation survey be undertaken of all properties and/or Council infrastructure, in the vicinity of the site, including the Proximity development, which could be potentially affected by the construction of this development. The condition requires that any damage caused to other properties during construction shall be rectified by the developer. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate.

- *Management of garbage bins/collection and delivery of goods will be inadequate / Clarification on residential waste disposal is sought.*

Comment: The matter of waste has been discussed previously within the report. Appropriate waste storage facilities are provided on site. Commercial and residential bins will be serviced within the loading dock within the subject site.

- *Missing 31 car spaces should be provided / Are 31 car spaces being provided for Proximity this is suggested within submitted Statement of Environmental Effects / How will residents access the additional car parking spaces within the adjoining site*

Comment: No parking is proposed to be provided for the adjoining Proximity building or its residents. The condition requiring the provision of these spaces was deleted as part of a previous S96 application. Accordingly the developer is no longer required to provide these spaces.

- *A 250mm slab has been poured in the area adjoining Magdalene Terrace that restricts excavation and prevents the existing design for the car park and proposed spaces being accommodated. Accordingly plans are inaccurate and have not taken into account the slab*

Comment: Should the existing slab on site not be required, it will be removed during construction. Any construction upon the subject site will be required to occur in accordance with the development consent for the property.

- *Loss of solar access to building B within Proximity development.*

Comment: The matter of solar access has been previously discussed within this report, in response to Part 4.4.2 of Rockdale DCP 2011, and was found to be satisfactory.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

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

The proposal has been conditioned to require the payment of S94 Contributions as required by Council policy.

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

### **General Conditions**

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

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

Plan / Dwg No.	Drawn by	Dated	Received by Council
Basement Level 4 (Drawing 03) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 3 (Drawing 04) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 2 (Drawing 05) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016

Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Roof Plan (Drawing 17) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
East / West Elevations (Drawing 18) Issue N	Design Workshop Australia	20/06/2016	21/06/2016
North / South Elevations (Drawing 19) Issue N	Design Workshop Australia	20/06/2016	21/06/2016
Sections A/B (Drawing 20) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Sections C/D (Drawing 21) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Section E (Drawing 22) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Detailed Sections 03/04 (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA01 - LA02 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M\_03 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
**Note:** For further information please see <http://www.basix.nsw.gov.au>.
6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
  - Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
  - Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
  - Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
  - Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
  - Retail E - 1/6 Mount Olympus Boulevard Wolli Creek
  - Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
  - Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek
10. A total of 193 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

Studio - 2 bedroom apartments - 1 space per apartment  
 3 and 3+ bedroom apartments - 2 spaces per apartment  
 Commercial Units - as specified within this consent

**Non-Allocated Spaces**

Residential Visitor - 20 spaces  
 Car wash bay - 1 space

**Basement level 1**

Retail tenancy A – 7 spaces  
 Retail tenancy B – 2 spaces  
 Retail tenancy C – 2 spaces  
 Retail tenancy D – 2 spaces  
 Retail tenancy E – 2 spaces  
 Supermarket – 43 spaces

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

### Development specific conditions

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".
13. The front windows of retail premises shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.  
  
 B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Rigid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in size and mass than the Heavy Rigid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.
19. Parking spaces shall not be enclosed without further approval of Council. The

enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.

20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

  - i) permit stormwater to be temporarily detained and pumped by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
24. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the



Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
29. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
31. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

32. a) In order to ensure the design quality excellence of the development is retained:
  - i. Mr Robert Gizzi of Design Workshop Australia is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.

- b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
34. The proposed signs must not have / use:
- flashing lights
  - electronically changeable messages
  - animated display, moving parts or simulated movement
  - a method and level of illumination that distracts or dazzles
35. *Landscaping*
- Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
- Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
- Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
- All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).
- All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
- The approved completed landscape works shall be maintained for a period not less than 12 months.
- On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.
36. *Swimming Pool*
- The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.
- The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.
- Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.*
- Suitable depth markers shall be provided at each end of the swimming pool.

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

The motor, filter, pump and all sound producing equipment or fittings associated with or forming part of the pool filtering system shall be sound insulated and/or isolated so as not to create an offensive noise to the neighbours.

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Rockdale Council or the Royal Life Saving Society.

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days.
39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

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

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$45 195.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.

- ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
- 42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
- 43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- 44. Mount Olympus Boulevard  
Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:
  - (a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:
    - (i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.
    - (ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.

Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.

  - (b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.
- 45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
- 46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
- 47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
- 48. A Section 94 contribution of \$2,938,466.78 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels).

The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space \$1,383,119.38  
 Town Centre / Streetscape \$148,184.63  
 Roads, Traffic Management, Public Parking \$992,101.50  
 Flood Mitigation and Stormwater \$237,026.77  
 Pedestrian and Cyclist \$79,373.40  
 Administration and Management \$47,289.64  
 Community Facilities and Services \$51,371.46

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
  50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.
  51. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
  52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
  53. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of 10 residential units within the development and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable units are to be unit numbers 2, 4, 6, 7, 8, 14, 31, 32, 33, 41, 56, 57, 58, 66, 81, 82, 83, 91. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.
- Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.
54. The applicant shall confer with Ausgrid to determine if:
    - installation of electricity conduits in the footway is required.
    - satisfactory clearances to any existing overhead High Voltage mains will be affected.

- an electricity distribution substation is required.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.
57. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
58. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities comply with the conditions of consent.
59. *Adjoining buildings founded on loose foundation materials*

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

- (a) Implement all recommendations contained in the report prepared by Douglas Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd - Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and



infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on sub soil drains / spoon drain connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).

(f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

60. *Vibration monitoring*

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;
- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

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

64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior to excavation.
65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:

A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.

B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

C). Glass balustrades shall be provided as frosted or opaque.

D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

E). Compliance with the recommendations of the Access Report dated ref:214473 dated 22/07/2015 prepared by Accessible Building Solutions.

F). The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 22 July 2015 ref 2015-341 Rev.2 are to be implemented on site, including

- Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;
- Pergolas, canopies and awnings over open areas; and
- Landscaping such as dense shrubs and trees.

- Canopy or pergola on the roof terrace.

G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.

H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.

I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

M). Acoustic Attenuation - The noise reduction measures specified in the noise report prepared by "The Acoustic Group" dated 24/07/2015 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:

- (i) in any bedroom in the building-35 dB(A) at any time between 10.00pm and 7.00 am; and
- (ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.

N) A single antenna shall be provided to the building for use of all residents.

67. *Safety & Security*

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels
  - b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
  - c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
  - d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
  - e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
  - f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.
68. All recommendations contained in the Geotechnical Investigation report prepared by by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

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

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

- 69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
- 70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Arncliffe Street, Wolli Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway.
- 71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:
- a) Hours of work,
  - b) contact details of site manager,
  - c) traffic management,
  - d) noise and vibration management,
  - e) waste management,
  - f) erosion and sediment control,
  - g) protection of trees to be retained.
- A copy of the approved Construction Management Plan shall be submitted to Council.
73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
75. A Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
- a) Ingress and egress of construction vehicles to the site,
  - b) routing and control of construction vehicles,
  - c) parking of employees vehicles,
  - d) loading and unloading, including construction zones, for all construction vehicles,
  - e) predicted traffic volumes, types and routes,
  - f) pedestrian and traffic management methods,
  - g) the hours of operation of the construction site,
  - h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
  - i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.
- The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.
76. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
- hazard identification and control
  - site security



- personal protective equipment
  - work zones and decontamination procedures
  - contingency plans and incident reporting
  - environmental monitoring.
77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
- a) Identification of the specific activities that will be carried out and associated noise sources,
  - b) identification of all potentially affected sensitive receivers including residences, schools and existing facility,
  - c) the construction noise objective specified in the conditions of this approval,
  - d) the construction vibration criteria specified in the conditions of this approval,
  - e) noise and vibration monitoring, reporting and response procedure,
  - f) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
  - g) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
  - h) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
  - i) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
  - j) contingency plans to be implemented in the event of non compliance's and/or noise complaints.
- A copy of the approved Plan shall be submitted to Council.
78. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
79. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
80. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,
- Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
- Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or

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

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

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

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

- 81. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- 82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
- 83. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
- 84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

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

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

- 85. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
- 86. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
- 87. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

88. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:

- i. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- ii. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:

- Sediment control measures
- Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
- Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

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

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality.

91. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
93. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.

- v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
94. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

95. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
97. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
98. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
  - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
    - a) spraying water in dry windy weather
    - b) cover stockpiles
    - c) fabric fences
  - vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.
- An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to

commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 99. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

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

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

- 100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
- 102. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
- 103. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 104. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
- 105. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the



acoustic conditions for floors specified in this consent;

(c) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.

(d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.

(e) notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L<sub>nT,w</sub> 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.
110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:
  - ☐ describe and document all works performed;
  - ☐ include results of validation testing and monitoring;
  - ☐ include validation results of any fill imported on to the site;

- ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
  - ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
- 111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
- The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at [www.foodnotify.nsw.gov.au/nafsis/](http://www.foodnotify.nsw.gov.au/nafsis/) and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.
- 112. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
- 113. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.
- A Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.
- 114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.
- The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 20 May 2011.
- 115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
- 116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
- 117. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
- 118. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation

must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.

119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the development shall be provided in accordance with the submitted plans and the following.
  - ☐ Retail tenancy A – 7 spaces
  - ☐ Retail tenancy B – 2 spaces
  - ☐ Retail tenancy C – 2 spaces
  - ☐ Retail tenancy D – 2 spaces
  - ☐ Retail tenancy E – 2 spaces
  - ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be

implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. A total of 135 off-street residential car spaces (134 residential / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, maneuvering areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.  
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
128. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
129. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
130. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. The drainage system shall be constructed in accordance with the approved drainage

plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

136. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.
- In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:
- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and
- (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.
138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

139. Sydney Airport Corporation Limited

SACL has approved the maximum height of the proposed building at 39.5 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

**Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

140. NSW Office of Water  
General

A. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

B. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

C. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

E. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

A. The following shall be included in the initial report:

- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint



from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

(c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

(d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

B. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

C. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

D. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

E. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A copy of a valid consent for the development shall be provided in the initial report.

F. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

G. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped

water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

*During Excavation*

A. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

B. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

C. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

D. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

E. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

F. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

G. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

*Following Excavation*

A. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

B. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

141. Sydney Trains

A. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- a) Machinery to be used during excavation/construction.
- b) Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- c) If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

B. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

C. All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

G. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

H. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

I. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

J. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principle

Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

K. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

L. Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

M. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

N. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

O. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

P. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Q. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

R. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

S. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.

## Roads Act

142. Construction related activities must not take place on the roadway without Council approval.  
  
Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.  
  
Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.  
  
Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
143. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
  - i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
144. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
145. All driveway, footpath, or road and drainage modification and/or improvement works

to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:

i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;

ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.

iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.

iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.

v) Provide Council with 48 hours notice of the following:

- a) Commencement of the works
- b) Completion of road sub-grade trimming and compaction; and
- c) Completion of road base-course trimming and compaction; and
- d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and
- e) Prior to covering any stormwater drainage pipes and connections; and
- f) Prior to placement of road wearing course; and
- g) Completion of works.

Note: An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

- a) Keep the works clean and free of silt, rubbish and debris;
- b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;
- d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;
- e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice



served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).

147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
148. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.
149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:

- i) Detailed design plans and specifications, including structural details; and
- ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).  
Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

### Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape

Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.

- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- h. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- i. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



---

**Bayside Planning Panel**

**12/06/2018**

Item No	6.4
Application Type	Section 4.55(1)
Application No	DA-2016/205/A
Lodgement Date	15/05/2018
Property	<b>78-80 Ramsgate Road, Ramsgate</b>
Ward	Botany Bay
Owner	Dillgate Developments Pty Ltd
Applicant	Dillgate Developments Pty Ltd
Proposal	Modification of DA-2016/205 for construction of a five (5) storey mixed use development comprising 20 residential apartments and four (4) commercial tenancies with basement parking, provision of 12 public car parking spaces off Cleland Lane, boundary adjustment and demolition of existing structures
No. of Submissions	Nil – notification not required
Cost of Development	\$5,868,000
Report by	Kerry Gordon, Consultant Planner

---

**Officer Recommendation**

That Development Application No. DA-2016/205/A, being a Section 4.55(1) application to amend Development Consent Number DA-2016/205 by modifying Conditions 11 and 114 relating to the required easements for overhang at 78-80 Ramsgate Road, Ramsgate be APPROVED and the consent amended in the following manner:

- (i) By amending Condition 11 to read as follows:

**11. Subdivision/Boundary Adjustment – Lodgement with LPI**

*Prior to the issue of any Construction Certificate, the linen plan and any required Section 88B Instrument for the proposed boundary adjustment must be prepared and lodged with the Land and Properties (LPI).*

*The boundary adjustment is to occur in accordance with all relevant conditions contained in this Development Consent No. 2016/205 (and any subsequent section 4.55 modifications).*

*The Section 88B Instrument shall include any required easements.*

- (ii) By amending Condition 114 to read as follows:

**114. Positive Covenants / Easements**

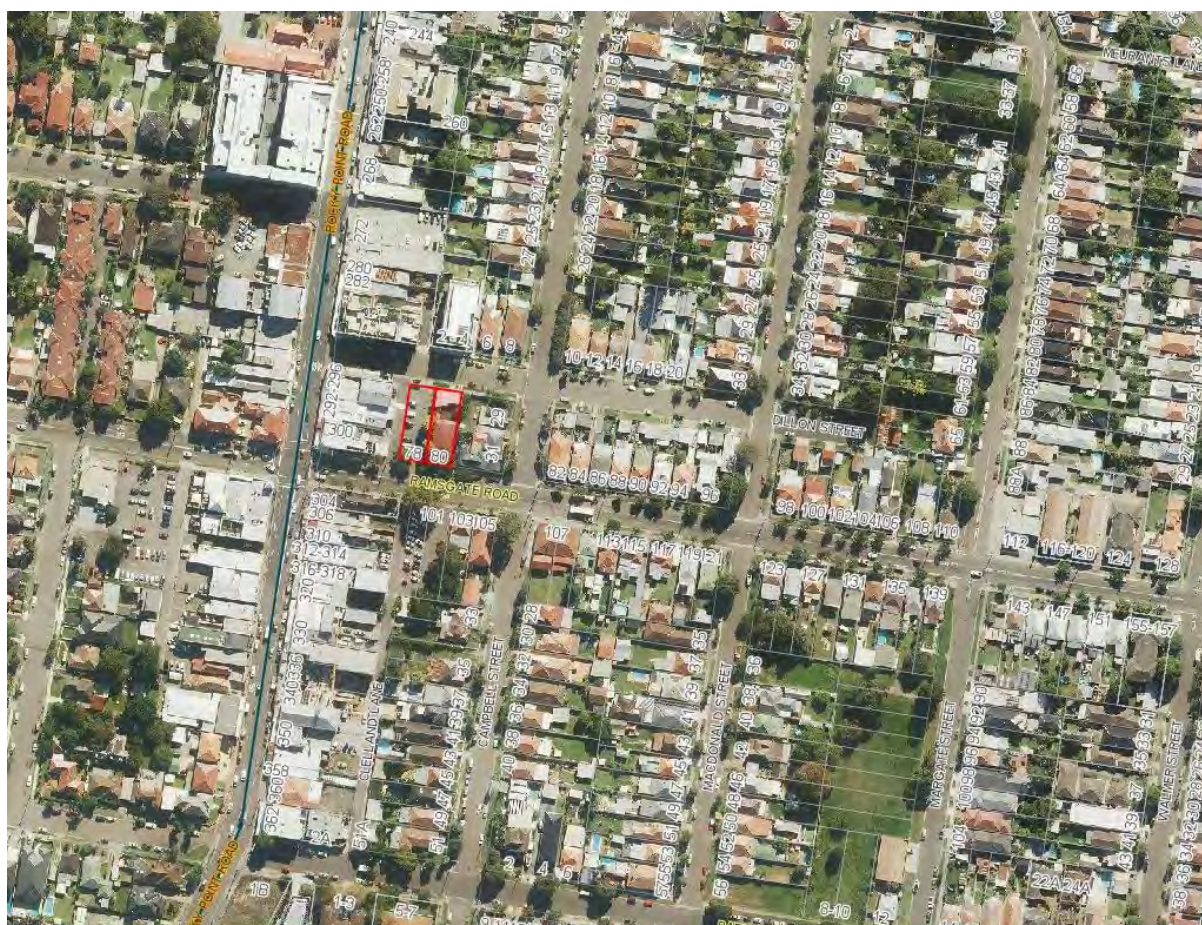
---



*Prior to the issue of any Occupation Certificate, a positive covenant to the Conveyancing Act 1919 shall be created for the lots that contain the following:*

- (a) *the stormwater detention facility to provide for the maintenance of the facility; and*
- (b) *the building elements, such as the ground level awning and awnings to bedrooms, which overhang proposed Lot 1 (i.e. the Council owned land).*

## Location Plan



## Attachments

Planning Assessment Report - 78-80 Ramsgate Road Ramsgate [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2016/205/A
<b>Date of Receipt:</b>	16 May 2018
<b>Property:</b>	78-80 Ramsgate Road, RAMSGATE, NSW 2217 Lot 1 in DP 960761 and Lot 8 in DP 977999
<b>Owner:</b>	Rockdale Council and Dillgate Developments Pty Ltd
<b>Applicant:</b>	Dillgate Developments Pty Ltd
<b>Proposal:</b>	Modification of DA-2016/205 for demolition of existing buildings and carpark and construction of a five storey mixed use building over two levels of basement parking, subdivision to create two allotments and construction of a car park.
<b>Recommendation:</b>	Approval
<b>No. of Submissions:</b>	No notification required
<b>Author:</b>	Kerry Gordon – Kerry Gordon Planning Services
<b>Date of Report:</b>	28 May 2018

### Key Issues

---

The application seeks to alter Condition 11 of the consent in relation to the timing of the boundary adjustment of the land related to the application. The change in timing raises no external impacts or issues.

### Recommendation

---

That DA-2016/205 be **MODIFIED** pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1970 by the replacement of Conditions 11 and 114 with the following conditions:

11. Subdivision/Boundary Adjustment – Lodgement with LPI

*Prior to the issue of any Construction Certificate, the linen plan and any required Section 88B Instrument for the proposed boundary adjustment must be prepared and lodged with the Land and Properties (LPI).*

*The boundary adjustment is to occur in accordance with all relevant conditions contained in this Development Consent No. 2016/205 (and any subsequent section 4.55 modifications).*

*The Section 88B Instrument shall include any required easements.*

**114. Positive Covenants / Easements**

*Prior to the issue of any Occupation Certificate, a positive covenant to the Conveyancing Act 1919 shall be created for the lots that contain the following:*

- (a) the stormwater detention facility to provide for the maintenance of the facility; and*
- (b) the building elements, such as the ground level awning and awnings to bedrooms, which overhang proposed Lot 1 (i.e. the Council owned land).*

## Background

---

### History

DA-2016/205 for demolition of the existing buildings and carpark and construction of a five storey mixed use building over two levels of basement parking, subdivision into two Torrens title allotments and construction of a car park at Nos. 78-80 Ramsgate Road, RAMSGATE, NSW 2217 was lodged with Council on 27 November 2015. Development Consent was granted on 14 December 2016 subject to conditions.

### Proposal

Application is made to modify Condition 11 of DA-2016/205 for demolition of the existing buildings and carpark and construction of a five storey mixed use building over two levels of basement parking, subdivision into two Torrens title allotments and construction of a car park at Nos. 78-80 Ramsgate Road, RAMSGATE, NSW 2217. Condition 11 is as follows:

**11. Subdivision/Boundary Adjustment – Lodgement with LPI**

*Prior to the issue of any Construction Certificate, the linen plan and any required Section 88B Instrument for the proposed boundary adjustment must be prepared and lodged with the Land and Properties (LPI).*

*The boundary adjustment is to occur in accordance with all relevant conditions contained in this Development Consent No. 2016/205 (and any subsequent section 96 modifications).*

*The Section 88B Instrument shall include all required easements, including building elements such as awnings to bedrooms which may overhang proposed Lot 1.*

The condition of consent was required as the application involved Council land, which was occupied by a car park, and privately owned land. Council had made an arrangement with the developer to swap the existing car park land with a newly developed car park to be constructed adjacent to Cleland Lane. The relocation of the car park necessitated the boundary adjustment between the existing allotments such that the new car park would be owned by Council. As parts of the new building are to overhang the new car park (ie the awning and balconies), an easement was also required to be created to address the overhanging elements.



Proposed Lot 1 would contain the public car park and be an allotment with a frontage of 5.5m to Dillon Street and Ramsgate Road and a frontage of 36.425m to Cleland Lane, with a site area of 200.4m<sup>2</sup>.

### Site location and context

The subject site comprises two lots and is known Lot 1 in DP 960761 and Lot 8 in DP 977999, Nos. 78-80 Ramsgate Road, RAMSGATE, NSW 2217. The site is a rectangular shaped allotment located on the eastern side of Cleland Lane, between Dillon Street and Ramsgate Road.

The site has frontage to Ramsgate Road and Dillon Street of 25.91m and a frontage to Cleland Lane and eastern boundary of 36.425m, with a site area of 943.77m<sup>2</sup>. The site is relatively flat, having a fall from Dillon Street to Ramsgate Road of approximately 750mm. The site contains a detached two storey dwelling on the eastern half, with a fibro shed fronting Dillon Street, and a council carpark containing 17 spaces on the western side.

The site is zoned B4 Mixed Use and properties of this zoning are located to the east, west and south of the subject site (to the south the Mixed Use zone is separated by a SP2 Classified Road zone) and sites to the north are zoned R4 High Density Residential.

## Statutory Considerations

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

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

### **S.4.55(1) – Modifications Involving Minor Error, Misdescription or Miscalculation**

Section 4.55(1) of the Environmental Planning and Assessment Act, as follows, addresses the modification of development consents where the modifications involve minor errors, misdescriptions or miscalculations.

#### ***(1) Modifications involving minor error, misdescription or miscalculation***

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.*

The modification sought relates to the timing of the boundary adjustment between the two properties the subject of the application and does not alter the development proposed in any physical way. It is requested to amend Condition 11 such that the boundary adjustment be registered prior to the release of the Occupation Certificate rather than the Construction Certificate.

The reason that the modification is sought is that the easements for the overhang of the awning and balconies need to be identified on the subdivision plan and cannot be accurately surveyed and identified until the building is built.

It is agreed that the wording of Condition 11 contains an error in that the easements cannot be shown on the subdivision until after the building is built.

However, whilst this reasoning is accepted, it is important that the boundary adjustment component of the condition take place prior to the release of the Construction Certificate as there is no impediment to this occurring and as otherwise the works for the mixed use building will be occurring partially on Council owned land.

Therefore it is recommended that Condition 11 be amended to ensure that the boundary adjustment can be registered prior to the release of the Construction Certificate. It is further recommended that Condition 114, which requires a positive covenant to be created in relation to the stormwater system prior to the release of the Occupation Certificate, be amended to include the creation of the easements for overhang.

As such the modification proposed is consistent with the requirements of Section 4.55(1) of the Environmental Planning and Assessment Act.

---

**Bayside Planning Panel**

**12/06/2018**

Item No	6.5
Application Type	S4.55 Modification Application
Application No	DA-2017/54/B
Lodgement Date	20/12/2017
Property	<b>27-31 Bryant Street, Rockdale</b>
Ward	Rockdale
Owner	Cosiness Pty Ltd
Applicant	Ghazi Al Ali Architecture
Proposal	S4.55(2) Modification Application for the amendments to the approved development including the addition of two (2) units to create a total of 62 units, new basement level, changes to parking layout and internal and external alterations
No. of Submissions	One (1)
Cost of Development	0.00
Report by	Alexandra Hafner, Senior Development Assessment Planner

---

**Officer Recommendation**

- 1 That Development Application No DA-2017/54/B, being a Section 4.55(2) application to amend Development Consent Number DA-2017/54, for the modifications to the approved development including the addition of two units to create a total of 62 units, new basement level and changes to parking layout with internal and external alterations at No. 27-31 Bryant Street, Rockdale, be APPROVED and the consent amended in the following manner:
    - a amend the approved description of development;
    - b amend Condition No. 2 to include updated plan references;
    - c increase S7.11 Contributions payable to account for the net addition of two (2) residential units (Condition No. 32);
    - d amend Condition No. 5 to refer to amended BASIX Certificate details;
    - e amend Condition No. 9; 15; 26; and 80 to refer to amended plan details.
  - 2 That the objector be advised of the Bayside Planning Panel's decision.
-

## Location Plan



## Attachments

- 1 Planning Assessment Report
- 2 Site Plan (revised)
- 3 Eastern Elevation (revised)
- 4 Northern Elevation (revised)
- 5 Southern Elevation (revised)
- 6 Western Elevation (revised)
- 7 Roof Plan (revised)
- 8 Section A (revised)
- 9 Section E (revised)
- 10 Basement 01 (revised)
- 11 Basement 02 (revised)
- 12 Basement 03 (revised)
- 13 Basement 04 (revised) [↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2017/54/B
<b>Date of Receipt:</b>	20 December 2017
<b>Property:</b>	27 Bryant Street, ROCKDALE (Lot 23 DP 6362) 29 Bryant Street, ROCKDALE (Lot 24 DP 6362) 31 Bryant Street, ROCKDALE (Lot 25 DP 6362)
<b>Owner:</b>	Cosiness Pty Ltd
<b>Applicant:</b>	Cosiness Pty Ltd
<b>Proposal:</b>	27-31 Bryant Street, ROCKDALE NSW 2216 - Integrated Development - S4.55(2) Modification Application for the amendments to the approved development including the addition of two (2) units to create a total of 62 units, new basement level, changes to parking layout and internal and external alterations
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	One (1)
<b>Author:</b>	Alexandra Hafner
<b>Date of Report:</b>	17 May 2018

### Key Issues

---

The subject site is located on the southern side of Bryant Street, at the south western intersection between Bryant and George Street. The site is located approximately 170 metres east of the Princes Highway, well served by public transport with the Rockdale Train Station approximately 300m south west of the site and several bus stops are located along Bryant Street providing direct access to an expanded public transport network. The Rockdale Public School is located approximately 70 metres south east of the site with several examples of open space areas located within close proximity, namely Rockdale Park; Ador Reserve and McCarthy Reserve.

The S4.55(2) Modification Application seeks to undertake a number of amendments discussed in the 'Proposal' section below. The modifications generally comply with the requirements of the Apartment Design Guideline (ADG) and was not required to be referred to the Design Review Panel (DRP). An assessment of the proposal under the remit of the State Environmental Planning Policy No. 65 identifies that the proposal remains acceptable with regards to context; neighbourhood character; bulk and scale; density; amenity and aesthetics.

For the reasons contained below, it is considered the proposal is satisfactory with regards to the relevant EPI's; DCP's; Technical Specifications and policies and recommended for approval in this instance.



## Recommendation

---

1. That Development Application No DA-2017/54/B, being a Section 4.55(2) application to amend Development Consent Number DA-2017/54, for the modifications to the approved development including the addition of two units to create a total of 62 units, new basement level and changes to parking layout with internal and external alterations at No. 27-31 Bryant Street, Rockdale, be APPROVED and the consent amended in the following manner:

- A. Amend the approved description of development;
- B. Amend Condition No. 2 to include updated plan references;
- C. Increase S7.11 Contributions payable to account for the net addition of two (2) residential units (Condition No. 32);
- D. Amend Condition No. 5 to refer to amended BASIX Certificate details;
- E. Amend Condition No. 9; 15; 26; and 80 to refer to amended plan details.

2. That the objector be advised of the Bayside Planning Panel's decision.

## Background

---

### History

The following applications have previously been considered in relation to the subject site:

- Development Application No. DA-2014/48 for the demolition of existing structures and construction of a 9 storey mixed use development including ground floor commercial; 53 residential units and basement parking for 80 vehicles withdrawn on 17 September 2013;
- Development Application No. DA-2015/221 for the construction of a nine (9) storey mixed use development comprising of two (2) commercial units and fifty-three (53) residential units with three (3) levels of basement car parking and demolition of structures withdrawn on 20 May 2016;
- Development Application No. DA-2017/54 for the Integrated Development - Construction of a nine (9) storey residential flat building comprising 60 units, three (3) basement levels, rooftop communal open space and demolition of existing structures approved under a deferred commencement consent on 8 February 2017;
- Deferred commencement conditions relating to approval sought from CASA for the proposed penetration of the OLS deemed satisfied on 19 April 2017;
- Modification Application No. DA-2017/54/A for the increase in number of car parking spaces by nine (9), amend the basement level layout and changes to the lower ground level approved on 16 June 2017.

Revised architectural plans were submitted to Council on Thursday 17 May 2018. The modifications to the architectural plans related to the reconfiguration and redesign of Ground Floor Unit G07 to provided an increased courtyard area and setbacks to the western allotment boundary.

### Proposal

Council is in receipt of the subject modification application no. DA-2017/54/B which seeks consent for the net addition of two (2) residential units, a new basement level and changes to the parking layout with internal and external alterations. Specifically, modifications include the following:  
Basement Levels 04-01:



- Construction of an additional Basement Level 04;
- Net additional of two (2) parking spaces to total 82 in accordance with RMS Guide to Traffic Generating Developments;
- Relocation of the bicycle storage area to Basement Level 03;
- Removal of the substation as approved by Ausgrid;
- Increase of setback to the eastern allotment boundary by 4.3m in sensitivity to the Sydney Water easement adjacent;
- Modifications to the approved car parking layout.

Lower Ground Floor Level:

- Additional two storey two bedroom unit (Unit LG01) in replacement of the substation;
- Amendment to the fire stairs;
- Reconfiguration of the service areas as per advice of service consultants.

Ground Floor:

- Additional two bedroom unit (Unit G07) proposed in replacement of storage area;
- Amendment to the fire stairs.

Levels 01 to 03:

- Consistent with approved DA

Level 04 to 05:

- Amendment to internal layout of Units 406 and 505 to convert into a dual key apartment.

Levels 06 to 08:

- Consistent with approved DA.

Roof:

- Removal of skylight approved to Unit 803.

The modifications result in an increased FSR of 4.0:1 and consequent amendment to conditions 2; 5; 9; 12; 15; 26; 32; 33 and 80.

### Site location and context

The subject site comprises of three lots legally identified as Lots 23-25 in DP 6326. The site is an irregular shaped allotment located on the south-western corner of the intersection of Bryant Street and George Street, Rockdale. The site has a frontage to Bryant Street of 42.53 metres; George Street of 37.855 metres and a total site area of 1,377.9sqm. The site has a cross fall from George Street to the west of approximately 1.6 metres and from the south to Bryant Street of approximately 1.2 metres. The site currently contains three detached dwellings with outbuildings and is affected by a Sydney Water easement which traverses the eastern allotment boundary.

The surrounding area contains a mix of uses and densities. To the west of the site in Bryant Street are a series of multi-level mixed use developments with ground floor commercial and residential above. Directly south are two detached dwellings subject to separate consent for the demolition of existing structures and construction of an eight (8) storey mixed use development with basement level car parking. Opposite the site to the east of George Street is characterised by low scale detached dwellings located within an R2 - Low Density Residential zoning. Finally, opposite the site to the north of Bryant Street is small scale residential dwellings. The juxtaposition of the low scale residential dwellings to the north and east characterises the sites location at the edge of the Rockdale Town Centre, making the site a sensitive zone boundary site.

### Statutory Considerations

---

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

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

**S4.55 (2) - Modification****1.2. S4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

S4.55(2) states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:*

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

Comments:

The application seeks to amend the approved development by providing an additional Basement Level 04 with a net increase of two (2) parking spaces; removal of the Ausgrid substation; reconfigure approved locations of services and fire stairs; net addition of two (2) residential units and reconfiguration of approved Units 406 and 505 to provide a dual key unit. The proposal was originally assessed as a residential flat development and remains as such. The application therefore remains substantially the same form of development and hence satisfies the provisions of this Clause.

*b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comments:

Division 4.8 of the Act does not apply to this application.

*c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comments:

*The subject application was notified in accordance with the provisions of the RDCP 2011 and Regulations 2000.*

*d) it has considered any submissions made concerning the proposed modification within the period*

*prescribed by the regulations or provided by the development control plan, as the case may be.*

Comments:

Nil submissions were received concerning the proposal and no further consideration is required in this regard.

**S4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

S(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

**S4.15 (1) - Matters for Consideration - General**

**S4.15 (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**

The modification application is accompanied by a multi-dwelling BASIX Certificate No. 857987M\_02 and dated Wednesday 20 December 2017. The Certificate relates to the total 62 residential units and demonstrates the proposal satisfies the relevant water, thermal comfort and energy commitments as required by SEPP (BASIX). The modification application will result in an amendment to Condition No. 5 to refer to the BASIX Certificate No. 857987M\_02.

**State Environmental Planning Policy (Infrastructure) 2007**

The provisions of SEPP (Infrastructure) 2007 were considered in the assessment of the original application. Subject to Clause 45 of the SEPP, works within the vicinity of electrical infrastructure that trigger a written referral to the energy authority were undertaken and deemed acceptable with the receipt of concurrence from Ausgrid dated 22 September 2016.

Condition 37 required that the applicant confer with Ausgrid to determine if an electricity substation be required. The application is accompanied by written correspondence from Ausgrid dated 13 April 2017 (Reference No. 10900072998) which confirms there is no need for an additional asset as the development can connect to the existing substation S62478 and low voltage panel. The second storey of the additional unit, LG01, in replacement of the approved substation area is supported in this instance.

**State Environmental Planning Policy No 55—Remediation of Land**

The provisions of SEPP No. 55 were considered under the original application and determined satisfactory insofar that the previous use of the site and the surrounding area had historically been used for residential purposes and more recently mixed use purposes. The subject modification application

does not raise concerns in relation to the potential for contamination of soil and hence remains satisfactory with regards to the provisions of SEPP No. 55. Conditions remain imposed on the Notice of Determination relating to potential contaminants at demolition stage relating to asbestos and lead paint removal.

**State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

*a. The advice of the Design Review Panel (DRP)*

The proposed modifications were considered relatively minor and therefore not required to be re-referred to the DRP for consideration.

*b. The design quality of the development when evaluated in accordance with the design quality principles.*

The design quality principles have been considered in the assessment of the modification application and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighborhood Character

The modifications remain appropriate in relation to the sites context, maintaining appropriate setbacks of the tower element from Bryant Street, consistent with the adjoining development and maintaining an appropriate corner emphasis.

Principle 2 – Built Form and Scale

The modification application seeks no changes to the approved building height which remains at 29.7 metres (RL 47.87 - RL 18.17) and in this regard, the scale remains appropriate to its context. The built form remains appropriately articulated and maintains a curved corner emphasis treatment with a well defined podium; good use of material variation and corner roof architectural features.

Principle 3 – Density

The proposed 4:1 FSR and resultant density remains appropriate for the site, with the development consistent with height and setback controls maintaining the approved envelope.

Principle 4 - Sustainability

The application is accompanied by a revised BASIX Certificate which demonstrates the modifications satisfy the relevant thermal; water and energy commitments as required by the SEPP. Additionally, passive solar design and cross ventilation is maintained ensuring principles of sustainability are adhered to.

Principle 5 – Landscape

The proposal maintains adequate deep soil landscaping within the ground level communal open space and maintains the 2m podium setback as required by the Rockdale Town Centre DCP.

#### Principle 6 – Amenity

The proposal provides acceptable amenity with adequate solar access and cross ventilation throughout the approved development.

#### Principle 7 - Safety

The proposal maintains excellent casual surveillance of both Bryant and George Streets with limited opportunity for concealment. The private and public domain remain well delineated and secure. The addition of LG01, which overlooks Bryant Street, will improve the opportunity for casual surveillance and therefore satisfy the objectives of this Principle.

#### Principle 8 - Housing Diversity and Social Interaction

The site remains located in close proximity to the Rockdale Train Station and well served bus stops. An appropriate choice of apartment types is provided and suitable provision made for adaptable units. The net addition of two (2) residential units and the change of two (2) previously approved units to dual key apartments will further contribute to housing diversity within the Rockdale Town Centre.

#### Principle 9 – Aesthetics

The aesthetics of the proposal is appropriate for the site and its context and is considered to be contributory to both streets and the Rockdale Town Centre.

#### *c. the Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG)

The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.  Parking provided off street.	The modification application is considered under the RMS rates and the following are provided: - 82 parking spaces including 13 visitor; - 7 bicycle spaces; and - 5 motorcycle spaces	Yes.

4D – Apartment size and layout	<div>Minimum internal areas:</div> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50M<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <div>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m<sup>2</sup> each.</div> <div>Further bedrooms increase minimum internal area by 12m<sup>2</sup> each.</div>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50M <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<div>Unit LG01 - 96.38sqm; Unit G07 - 89sqm; Unit 406 - 85sqm; Unit 505 - 85sqm.</div> <div>The modifications do not result in any non-compliances to previously approved residential units.</div>	Yes.
Apartment type	Minimum internal area												
Studio	35m <sup>2</sup>												
1 bedroom	50M <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	90m <sup>2</sup>												
4C – Ceiling heights	<div>Minimum ceiling heights:</div> <table><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Two storey apartments</td><td>2.7m main living 2.4m first floor, area &lt; 50% of apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge 30deg min slope</td></tr><tr><td>Mixed use area</td><td>3.3m for ground and first floor</td></tr></table>	Habitable	2.7m	Non-habitable	2.4m	Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	<div>Modifications to Levels Lower Ground;Ground Floor; Four and Five are provided FCL's of 2.7 metres.</div> <div>The modifications do not result in any non-compliances to previously approved FCL's for other floors.</div>	Yes.
Habitable	2.7m												
Non-habitable	2.4m												
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area												
Attic spaces	1.8m at edge 30deg min slope												
Mixed use area	3.3m for ground and first floor												



3F Visual Privacy	Min separation - side & rear boundaries:		The modifications to the approved development does not seek to amend the building separation approved under DA-2017/54.	Yes
	Building height	Habitable rooms and balconies		
	Up to 12m (4 storeys)	6m	3m	
	Up to 25m (5-8 Storeys)	9m	4.5m	
	Over 25m (9+storeys)	12m	6m	
	Buildings on the same site combine required building separations. Gallery treated as habitable space			
4A – Solar and daylight access	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am &amp; 3 pm mid-winter</p> <p>Max 15% apartments receive no direct sunlight b/w 9am &amp; 3pm mid-winter</p>		<p>Modifications to the approved development result in the following solar access provisions:</p> <ul style="list-style-type: none"> <li>- 3/4 subject units receive no less than 2 hours solar access (Units LG01; 406; 505);</li> </ul> <p>Overall, 74% of units receive minimum 2hrs solar access during winter solstice.</p>	Yes.
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.		<p>No more than 8 units on a single level.</p> <p>Two lifts as per original approval.</p>	Yes.

4E – Private open space and balconies	<p>Primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bed</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bed</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bed</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m<sup>2</sup> and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m <sup>2</sup>	-	1 bed	8m <sup>2</sup>	2m	2 bed	10m <sup>2</sup>	2m	3+ bed	12m <sup>2</sup>	2.4m	<p>Unit LG01 - 3m and 13sqm; Unit G07 - 3m depth and 16.8sqm; Unit 406 - 2m depth and 21.6sqm; Unit 505 - 2m depth and 12sqm.</p> <p>The modifications do not result in any non-compliances to previously approved balconies.</p>	Yes.
Dwelling type	Minimum area	Minimum depth																
Studio	4m <sup>2</sup>	-																
1 bed	8m <sup>2</sup>	2m																
2 bed	10m <sup>2</sup>	2m																
3+ bed	12m <sup>2</sup>	2.4m																
4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Proposed Units LG01 and G07 fail to achieve cross ventilation.</p> <p>Overall, the modification maintains a total of 43 units (69%) to be cross ventilated.</p>	Yes.															

4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td></tr><tr><td>1 bed</td><td>6M<sup>2</sup></td></tr><tr><td>2 bed</td><td>8m<sup>2</sup></td></tr><tr><td>3 bed</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m <sup>2</sup>	1 bed	6M <sup>2</sup>	2 bed	8m <sup>2</sup>	3 bed	10m <sup>2</sup>	<p>All four units subject of the modification application satisfy minimum storage volumes.</p> <p>The application is accompanied by a Lower Ground Floor Plan, Issue E, dated 3 May 2018 and a Storage Allocation Diagram which provides an assessment of storage volumes for the development overall in accordance with the SEPP provisions.</p>	Yes.
Dwelling type	Storage size volume												
Studio	4m <sup>2</sup>												
1 bed	6M <sup>2</sup>												
2 bed	8m <sup>2</sup>												
3 bed	10m <sup>2</sup>												

#### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.3 On 25 ANEF (2033) contour	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011), the objectives of which are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The amendments to the *residential flat building* remain permissible with Council consent and the modification application remains acceptable with regards to the objectives of the zone.

#### 4.3 Height of buildings

Clause 4.3 permits a maximum building height of 28 metres, as measured from ground level (existing).

The modification application seeks no changes to the approved building height which remains at 29.7 metres (RL 47.87 - RL 18.17). A written Clause 4.6 submission was considered under the original application and demonstrated to be acceptable with regards to support of the variation. The proposed development, as modified, remains acceptable with regards to the provisions of this Clause and no further consideration is required.

#### 6.1 Acid Sulfate Soil - Class 5

The site is located on Class 5 land and requires the preparation of an Acid Sulfate Soils (ASS) Management Plan for works within 500m of adjacent Class 1-4 land that is below 5m ADH and that will lower the water table below 1m AHD. Given the site remains located well above these levels, an ASS Management Plan is not required and the works proposed as part of the modification application remain acceptable with regards to the provisions of this Clause.

#### 6.3 On 25 ANEF (2033) contour

The site is located west of Sydney Airport, between ANEF contours 25 and 30 and therefore is considered under the remit of Clause 6.3 of the RLEP 2011 relating to development in areas subject to aircraft noise. Accordingly, the application is accompanied by a revised *Acoustic Assessment of Aircraft Noise Inter-tenancy Noise and Mechanical Plan and Equipment Noise*, Reference No. 2013-094 CC and dated April 19, 2018. The Report contains a set of noise attenuation measures which, when imposed as a condition of consent, will result in a residence that is more acoustically sound than surrounding houses and existing residences.

Subject to the recommendations contained therein, the provisions of this Clause are satisfied.

#### 6.4 Airspace operations

Clause 6.4 applies to proposals that will penetrate the Limitation or Operations Surface for Kingsford-Smith Airport. Sydney Airport had indicated the development, as considered under the original DA, would penetrate Runway 07/25 Approach/Takeoff Surfaces and as such requested coordinates to further assess the original application. The additional information was provided by the applicant and subsequently referred to CASA. Development consent was then issued on a deferred commencement basis, subject to consent being obtained from CASA.

Deferred commencement conditions relating to approval sought from CASA for the proposed penetration of the OLS deemed satisfied on 19 April 2017.

The modification application does not seek to amend the approved height/penetration of the development and as such, remains acceptable with regards to the provisions of this Clause.

#### 6.7 Stormwater

Clause 6.7 addresses stormwater and requires development to be designed to maximise the use of water permeable surfaces, provide onsite stormwater retention for reuse and avoid disturbance or impact of stormwater runoff upon adjoining properties, bushland and waterways. The modification application was referred to Council's Development Engineer for review and comment who notes there are no changes proposed to the stormwater management system, which therefore remains acceptable

with regards to the provisions of this Clause.

#### 6.12 Essential services

Essential services remain available to the subject site and no further consideration is required under the subject modification application.

### **S4.15 (1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

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

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Buildings	Yes	Yes - see discussion
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Letterboxes	Yes	Yes - see discussion
5.2 RFB - Site Coverage	Yes	Yes - see discussion
7.5.1 Street Role - Centre Edge Residential	Yes	Yes - see discussion
7.5.1 Communal Open Space	Yes	Yes - see discussion
7.5.2 Local Edge	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The modifications considered subject to this application do not result in further view loss from surrounding residential development and the provisions of this Clause remain satisfied.

#### 4.2 Streetscape and Site Context - General

The modification application continues to appropriately address the site context with no changes to the tower element setback from Bryant Street which reflects the existing setback of the adjoining mixed use building in Bryant Street. Further, the modification application continues to appropriately address and celebrate its corner location on the periphery of the Rockdale Town Centre.

#### 4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The control requires residential flat buildings to be provided with a minimum 15% of the total site area (1,377sqm) to be landscaped. The original application was approved with a total landscaped area of 194sqm, which was deficient by 12.7sqm. The request to vary this standard was approved under delegation as it was considered to provide an appropriate amount of deep soil on the site suitable for the planting of trees and provided an excellent area of communal open space on the roof, ensuring an

appropriate setting and level of amenity is provided for the development.

The modification application does not further reduce the originally approved landscaped area which remains at 194sqm. No further consideration is required in this regard.

#### 4.3.3 Communal Open Space

The modification application does not seek to amend the Level 8 location, design and total area made available for communal open space purposes (in excess of the minimum 25% required under the DCP). The proposed development remains acceptable in this regard. The introduction of residential unit G07 does not reduce the area of communal open space provided on the ground floor.

#### 4.4.6 Noise Impact

The modification application is accompanied by an amended *Acoustic Assessment of Aircraft Noise and Inter-tenancy Noise and Mechanical Plan and Equipment Noise Report*, prepared by Acoustic Noise and Vibration Solutions P/L and dated April 19, 2018. The Report considers the impact of inter-tenancy noise impacts on the development, including the net addition of two (2) residential units. It contains a set of recommendations, such that, when imposed as a condition on the Notice of Determination, the provisions of this Clause are satisfied.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The proposed modifications result in the following unit mix:

<b>Unit Mix</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
Studio/1 bedroom	10-20%	15 or 24%	No
Two bedroom	50-70%	39 or 63%	Yes
Three bedroom	10-30%	8 or 13%	Yes

The net generation of two (2) x two bedroom units however does not contribute to the existing non-compliance which was considered under the original application. Further, units 106; 108; 206; 208; 306 and 308 remain adaptable. The development remains acceptable in this instance.

#### 4.5.2 Social Equity - Equitable Access

The proposed modifications do not result in negligible impacts to the equity of access to the development. Accessible paths of travel remain available from the footpath to the residential lobby with accessible parking spaces and paths of travel provided within basement levels. Lift access is maintained throughout the building, including basement parking spaces. The provisions of the *Disability Discrimination Act* which were considered to be satisfied under the original application remain as such.

#### 4.7 Air Conditioning and Communication Structures

A condition remains imposed on the Notice of Determination, as modified, relating to the compliance with the location and use of TV antennae and air conditioning units. The modification application remains acceptable in this regard.

#### 4.7 Letterboxes

The modification application does not seek to amend the location and design of the letterboxes, which remain located within the pedestrian entry lobby addressing Bryant Street. No further consideration is required in this regard.



## 5.2 RFB - Site Coverage

### Site Coverage:

The modification application does not seek to amend the building footprint which remains established by setback requirements as contained within Part 5.2 of the RDCP 2011. However, these are superseded by Part 7.5 - Rockdale Town Centre. A further assessment is undertaken relating to the modification application in the body of this Report below.

### Apartment Size:

These controls are superseded by the ADG.

### Building Design:

Design criteria requires responsive design, with connections to the street, solid balustrading, definition of base, middle and top of building, avoidance of blank walls, building lines which are parallel to the street, expression of important corners and appropriate use of materials and articulation. The modification application does not generate further consideration and remains generally satisfactory in relation to this Part, retaining appropriate expression to the corner of George and Bryant Street,

### Building Entry:

The modification application does not amend the location and design of the building entry which addresses Bryant Street. Residential Units G07; 406; 505 are provided with direct street entry and barrier free. The provisions of this Clause remain satisfied.

### Lift Size and Access:

The modification application does not seek to amend the location, size and access arrangements pertaining to the lifts for the approved development. No further consideration is required in this regard.

## 7.5.1 Street Role - Centre Edge Residential

### Building Use and Function:

The Rockdale Town Centre controls provides for different building uses and functions for different areas according to the desired future character of that area. The subject site is located in the *Centre Edge Residential* which is to provide for high density residential at the edge of the centre with opportunities for retail or commercial uses. The modification application does not result in any changes to the ground floor access to residential lobbies from the Bryant Street frontage; direct street access provided to the ground floor residential units and vehicular access arrangement. The proposed development, as modified, therefore remains acceptable with regards to the provisions of this Clause.

## 7.5.1 Communal Open Space

### Communal Open Space and Landscape Design:

The controls require a minimum of 25% of the site to be dedicated for communal open space and at least 50% of the communal open space to be soft landscaping in order to address the density and intensity of the development proposed for the area. The original application was approved with a total of 347sqm (or 25.2%) of the site as communal open space, however only 61sqm of this was soft landscaping (17.6%). Notwithstanding this, the application provided an additional 131sqm of deep soil landscaping along Bryant Street equating to a total of 55% which was considered reasonable by Council under delegation.

The modification application does not seek to amend the location or total site areas of the approved

communal open space and landscaping. No further consideration is required in this regard.

#### 7.5.2 Local Edge

##### Built Form and Character:

All development is required to be built to the street edge unless specified otherwise in the street character applying to the site. The Rockdale Town Centre controls provide setback and podium controls throughout the Centre with different controls applying to different areas according to the desired future character set by the street character. For the subject site, the controls applicable are as follows:

Local Edge - the street edge shall be defined by a modulated built form transitioning from the strong urban character in the Centre core to the more spacious and open character of the surrounding residential area. The original application was approved with the following setbacks:

- 2m setback for deep soil and four storey podium for both Bryant and George Streets;
- A reduced additional setback of 2m (total 4m) was approved to emphasis the corner location considered appropriate to the site and its context;
- The Bryant Street frontage was approved with a non-compliance above the podium setback controls, providing only a 2m additional setback (total 4m) above the podium level with a 1m point encroachment at the corner.

The proposed modifications do not change the approved setbacks as per the above.

#### **S4.15(1)(a)(iv) - Provisions of regulations**

The modification application is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

#### **4.15(1)(b) - Likely Impacts of Development**

##### Social Impact

The proposed development, as modified, offers the net generation of two (2) residential units. Located on the periphery of the Rockdale Town Centre, the development maintains a positive social impact resulting from the provision of increased housing within the Centre; located close to high levels of public transport whilst satisfying parking and servicing requirements.

##### Construction

Standard conditions remain imposed relating to construction works; including restrictions on the hours of construction.

##### Public Domain

The proposed development will not impede upon pedestrian access for Bryant and/or George Streets.

##### Utilities

All utilities remain available to the site. Potential impacts are deemed negligible.

##### Built Environment

The scale of the proposed development remains consistent with the B4 zone, resulting in an adequate mix of dwelling houses and uses within the development to ensure that amenity is maintained.

##### Access, Traffic and Transport

Sufficient off street parking facilities are provided for vehicles; motorcycles and bicycles within the site. The traffic generated from the proposed development, as modified, is considered to pose negligible impacts to the surrounding street network in terms of traffic flow efficiency; road safety and residential amenity. The site is located in close proximity to public transport services including buses and trains.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development, as modified.

-

#### **S4.15(1)(c) - Suitability of the site**

All matters relating to the suitability of the site for the proposed development, as modified, have been considered in the assessment of the application. Additional conditions of consent are imposed on the Notice in accordance with relevant referral outcomes. There remains no known major physical constraints; environmental impacts; natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development, as modified.

#### **S4.15(1)(d) - Public submissions**

The modification application was notified in accordance with the RDCP 2011 and Regulations 2000. One submission was received with items of concern and Council responses provided below.

Concern: *Application of BCA and AS2021:2016*

Council comment: Concerns were raised regarding the amended acoustic report and the application of BCA/AS1668.2 Ventilation requirements and achieve the internal noise levels from Australian Standard AS2021:2016. This matter is suitably addressed through the application of the following conditions under the original consent notice:

*3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).*

*36. The residential dwellings are to be designed and constructed to achieve interior noise levels which comply with Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion. An appropriately qualified Noise Consultant is to advise on appropriate measures to be incorporated in the design of the building so that it will meet this standard. The information shall be submitted to Council prior to the issue of the Construction Certificate.*

#### **S4.15(1)(e) - Public interest**

The modification application has been assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979*; which requires an assessment against the provisions of the following:

- *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* and the associated Apartment Design Guidelines;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *Rockdale Local Environmental Plan, 2011*;
- *Rockdale Development Control Plan, 2011*.

The development, as modified, generally complies with the relevant provisions contained within each of the above listed environmental planning instruments and applicable development control plan. It is

considered the proposal has merit, remains in the public interest and is recommended for approval on this basis.

### **S7.11 Contribution towards provision or improvement of amenities or services**

Council's s.7.11 Planner has confirmed that both an increased and indexed contribution amount of \$390,837.19 is payable in accordance with Council's Policy. Condition No. 32 of the Notice of Determination is amended accordingly.

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

### **General Conditions**

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

1.

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

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

Plan/Dwg No.	Drawn by	Revision	Dated	Registered by Council
Site Plan, Drawing No. A1010	Ghazi Al Ali Architect	C	19/12/2017	17/05/2018
Basement 4 Plan, Drawing No. A1200	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Basement 3 Plan, Drawing No. A1201	Ghazi Al Ali Architect	D	19/12/2017	17/05/2018
Basement 2 Plan, Drawing No. A1202	Ghazi Al Ali Architect	D	19/12/2017	17/05/2018
Basement 1 Plan, Drawing No. A1203	Ghazi Al Ali Architect	D	19/12/2017	17/05/2018
Lower Ground Floor Plan, Drawing No. A1204	Ghazi Al Ali Architect	E	19/12/2017	17/05/2018

Ground Floor Plan, Drawing No. A1205	Ghazi Al Ali Architect	C	19/12/2017	17/05/2018
Typical Floor Plan Level 1-3 DA-1106	PDB Architects	D	28.10.2016	03.11.2016
Level 4 Floor Plan, Drawing No. A1209	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Level 5 Floor Plan, Drawing No. A1210	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Level 06-07 Floor Plan, Drawing No. A1211	Ghazi Al Ali Architect	A	19/12/2017	20/12/2017
Level 8 Floor Plan, Drawing No. 1109	PDB Architects	D	28/10/2016	03/11/2016
Roof Plan, Drawing No. A1215	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Northern Elevation, Drawing No. A1301	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Southern Elevation, Drawing No. A1302	Ghazi Al Ali Architect	C	19/12/2017	17/05/2018
Eastern Elevation, Drawing No. A1303	Ghazi Al Ali Architect	B	19/12/2017	17/05/2018
Western Elevation, Drawing No. A1304	Ghazi Al Ali Architect	C	19/12/2017	17/05/2018
Section A, Drawing No. A1401	Ghazi Al Ali Architect	E	19/12/2017	17/05/2018
Section E, Drawing No. A1406	Ghazi Al Ali Architect	E	19/12/2017	17/05/2018
Landscape Sections DA-1306	PDB Architects	A	28.10.2016	03.11.2016
Adaptable Unit Type A DA-1601	PDB Architects	C	19.08.2016	19.08.2016
Adaptable Unit Type B DA-1602	PDB Architects	C	19.08.2016	19.08.2016
Material Schedule (only) DA-1701, DA-1702, DA-1703, DA-1704	PDB Architects	C	19.08.2016	04.04.2017

Landscape Plans Cover Sheet L/00	A Total Concept Landscape Architects	E	02.10.2016	03.11.2016
Landscape Plan Ground Level L/01	A Total Concept Landscape Architects	E	02.11.2016	03.11.2016
Landscape Plan Level 1-3 L/02	A Total Concept Landscape Architects	D	02.11.2016	03.11.2016
Landscape Plan Level 8 L/03	A Total Concept Landscape Architects	D	02.11.2016	03.11.2016
Landscape Sections L/04	A Total Concept Landscape Architects	-	02.11.2016	03.11.2016

*Note: In the event of any inconsistency between the conditions of this consent and the above documents, the conditions of this consent prevail.*

*[Amendment B - S96(2) amended on 17 May 2018]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with *BASIX Certificate Number 857987M\_02 and dated Wednesday 20 December 2017* other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.

*[Amendment B - S96(2) amended on 17 May 2018]*

6. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
7. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
8. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prior to the issue of the Occupation Certificate, prominent house numbers are to be displayed, with a minimum number



size of 150 mm in height for each number and letter in the alphabet.

9. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

Apartments = A minimum of 69 resident spaces (Includes seven (7) accessible spaces to be allocated to the adaptable apartments)

The allocation shall not exceed the controls under RDCP 2011

**Non-Allocated Spaces**

Residential Visitor Spaces = 1 space per 5 apartments = 13 spaces, including one (1) *dedicated* accessible space

*Dedicated* car wash bay = 1 carwash bay 3.5m wide.

Loading bays = 2 VAN spaces shared with visitors bays

Bicycle spaces = 7 spaces

Motorcycle spaces = 5 spaces

All residential visitor spaces, car wash bays, bicycle, motorcycle and loading bays shall be labelled as common property on the final strata plan for the site.

**Note:** This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

*[Amendment B - S96(2) amended on 17 May 2018]*

10. Lot 1 in DP 902616 and Lots 1-2 in DP 53676400740 shall be consolidated prior to the issue of the occupation certificate.
11. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

**Development specific conditions**

The following conditions are specific to the Development Application proposal.

12. The design and construction of the off-street parking facilities shall comply with the following:
  - Australian Standards AS/NZS 2890.1:2004, AS2890.2:2002, AS2890.3:1993 and AS/NZS2890.6:2009.
  - The Loading Bay facilities are to be designed to accommodate two (2) VAN spaces for furniture delivery / removal. The details should be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2.
  - Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.

- Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
- Headroom clearance under planter boxes or deep soil areas shall be minimum of 2.3m.
- Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
- Design the entry gate location for the basements so that there is no effect to traffic on the road (including footpath / cycleway) from vehicle queuing at the gate, and as a minimum of 1 car space must be provided between the gate and the future property boundary, subject to compliance with AS2890.1:2004, which may require more than 1 car space queue length.
- The visitor parking should be conveniently located close to the ingress and egress location and the tenant parking should be able to be securely separated from the visitor parking area. Two (2) visitor parking space shall be marked for use by a Van for loading and unloading purposes, and be a minimum dimension of 5.4m x 3.5m, with an unrestricted height clearance of 2.3m.

Details showing compliance with the above shall be included in the Construction Certificate documentation prior to the issue of the Construction Certificate.

13. The following conditions relate to the proposed landscaped areas. Details shall be submitted prior to the issue of the Construction Certificate.
  - Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
  - A fully automated irrigation system, approved by Sydney Water, shall be installed and maintained to ensure adequate water is provided to the podium/roofing landscaping.
  - A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
14. The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

15. Amendments to Plans

The architectural plans shall be amended prior to the release of the construction certificate to include the following:

- The plans are to be amended to provide an additional accessible parking space (ie 7 x accessible spaces for the adaptable apartments and 1 x accessible visitor space). This may be achieved by replacing two residential parking spaces with 1 accessible space, reducing the overall provision to 81 spaces.
- The plans are to specify that the passenger lifts comply with the minimum dimensions of 2.1m x 1.5m.
- Amended post adaptation plan being provided for Apartments 106, 206, 306 and G07 that are consistent with the approved plans.
- Detail of high quality materials being provided to the inside of the access "tunnel" to the basement where visible from Bryant Street and the provision of a high quality paving treatment to the ramp from Bryant Street to the garbage room.

*[Amendment B - S96(2) amended on 30 April 2018]*

16. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
17. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

18. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;

- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
19. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
20. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
21. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
22. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
23. The following conditions relate to the design of parking facilities. Details showing compliance shall be submitted prior to the issue of the Construction Certificate.
- Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
  - Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
  - For parking with people with disabilities any vehicular path of travel to have clearance of 2.3m minimum and clearance above the parking bay shall be 2.5m minimum).
  - The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
24. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
25. Hot and cold water hose cocks shall be installed to the garbage room.
26. a) In order to ensure the design quality/excellence of the development is retained:  
i. *Ghazi Al Ali Architects* is to have direct involvement in the design documentation,

- contract documentation and construction stages of the project;
- ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
- iii. Evidence of the design architect's commission is to be provided to Bayside Council prior to release of the Construction Certificate.
- b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.

*[Amendment B - S96(2) amended on 17 May 2018]*

27. All vertical plumbing shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located within the footprint of the building. Utilities shall not detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
28. Ceiling heights shall be a minimum of 2.7 metres for all habitable areas and 2.4 metres for non-habitable areas as measured vertically from finished floor level to the underside of the ceiling. Details showing compliance with this and the acoustic requirements of this consent shall be submitted to the PCA prior to the issue of the Construction Certificate.

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

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

29. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$24,300.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
30. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
31. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance

with Council's adopted fees and charges.

32. A Section 94 contribution of \$390,837.19 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$299,659.80
Community Services & Facilities	\$29,792.74
Town Centre & Streetscape Improvements	\$15,313.93
Pollution Control	\$44,182.82
Plan Administration & Management	\$1,887.90

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

*[Amendment B - S96(B) amended on 17 May 2018]*

33. Prior to the issue of the Construction Certificate the sum of \$2,261.00 is payable to Council for removal of the Brushbox street tree located on the nature strip at the front of 27 Bryant Street Rockdale, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.
34. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
35. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
36. Aircraft Noise Intrusion

The residential dwellings are to be designed and constructed to achieve interior noise levels which comply with Australian Standard 2021-2000 Acoustic - Aircraft Noise Intrusion. An appropriately qualified Noise Consultant is to advise on appropriate measures to be incorporated in the design of the building so that it will meet this standard. The information shall be submitted to Council prior to issue of the Construction Certificate.

37. **Ausgrid**

(i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required and to determine if satisfactory clearances to any existing overhead High Voltage mains



will be affected.

(ii) All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

38. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

39. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

Note: A crest level in the driveway is to be proposed to protect the low level driveway from flooding.

40. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

COPIES OF THE CMP AND TMP SHALL BE SUBMITTED TO COUNCIL.

41. As the basement floors are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must:

- (a) Implement all recommendations contained in the Geotechnical assessment report prepared by Environmental Investigations Pty Ltd, Ref: E22709 GA\_Rev1, dated 22 July 2016; and

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective; and

(c) Confirm the proposed construction methodology and prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works; and

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

**Note:** A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

42. Prior to issue of the Construction Certificate, a swept path analysis shall be submitted to Certifying Authority for assessment and approval.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and an 'VAN' sized vehicle entering/exiting of the driveway / loading bay within the basement in accordance with section 7.2 of Councils Technical Specification – Traffic, Parking and Access.

Where a Private Certifier issues a Construction Certificate, the plans mentioned in the above paragraph must be provided to Council.

43. Any sub-surface structure within the highest known groundwater table / rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate for the relevant stage of works.

A design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

**Note:**

- a. *All structures that are fully or significantly below ground shall be fully tanked to*

*finished ground level.*

*b. After construction is completed no seepage water is to discharge to the kerb.*

*Permanent dewatering will not be permitted.*

*c. Continuous monitoring of ground water levels may be required.*

44. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals and waiting bays comply with the conditions of consent.

45. Vibration monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any subcontractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any subcontractor clearly setting out required work practice.

The principal contractor and any subcontractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any subcontractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

*Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.  
Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".  
Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.*

46. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
47. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. The plans shall address the following:

(i) The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6 m3 per 100 m2 of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.

(ii) The implementation of any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls (i.e. tanking and waterproofing).

**Note:** The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater run-off in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.

48. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

### Prior to commencement of works

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

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

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

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

51. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
52. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.  
Any such sign is to be removed when the work has been completed.  
This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
53. Temporary site access during demolition and construction shall be located not less than 1500mm from the base of the Brush Box street trees in Bryant Street.

Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8m high erected outside the drip lines where possible around the existing Brush Box street trees in Bryant Street which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or

cleaning or tools and equipment are not permitted within the Tree Protection Zones at any time.

Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area

54. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,

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

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

  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

  - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
55. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
56. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.



**During demolition / excavation / construction**

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

57. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
58. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
59. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
60. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
61. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip).

Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

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

The street trees to be retained shall not be pruned or removed, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.

Any pruning of branches or roots of the existing street trees must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF qualifications in Arboriculture.

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

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

c) fabric fences

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

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.

64. Removal of the Brushbox street tree located at the front of 27 Bryant Street Rockdale to enable construction of the new vehicle crossing is approved.  
As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.

65. The existing Brushbox street trees located on the nature strip at the front of 29 and 31 Bryant Street Rockdale and the street tree at the side of the site in George Street shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.

The following conditions are to ensure the protection of trees to be retained:

- Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees.
- Existing soil levels within the drip line of trees shall not be altered without reference to Council's Tree Management Officer.
- Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
- Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by

- contacting Council's Tree Management Officer.
  - Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
66. Any pruning of branches or roots of Council's street trees located adjacent to the site shall only be undertaken by Council or its' nominated contractor.

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

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

67. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
68. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
69. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
70. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
71. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
72. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
73. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
74. The vehicular entry including the waiting bays shall be clearly marked and signposted.
75. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".

76. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
77. The design of access driveway width, location and layout shall be in accordance with Rockdale Technical Specification – Traffic, Parking and Access, section 4.1.5. a (iii). Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.
78. Convex mirrors shall be installed at blind corners to provide increased sight distance for vehicles.

The two (2) way ramps shall be controlled by traffic signals with the following operational mode:

- Automatically revert to and dwell on green for incoming vehicles
  - Outgoing driver activates push button
  - Signals change to red for incoming and green for outgoing
  - After a preset clearance time signals revert to red for outgoing and green for Incoming.
79. Bollard(s) shall be installed by the Developer on adaptable shared areas to prevent vehicles parking in the shared zone.
  80. *Eighty one (81)* off-street car spaces shall be provided and shall be sealed and linemarked to Council's satisfaction. The allocation of parking shall be in accordance with condition 9 of this consent. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

*[Amendment 2 - S96(2) amended on 17 May 2018]*

81. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

82. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
83. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from

Ausgrid shall be obtained prior to the issue of the Occupation Certificate.

84. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
85. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
86. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability gutter flow. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
87. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on title for the maintenance of the following systems:
  1. the detention tank facility; and
  2. the ramp control traffic signal system.
88. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
89. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

90. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

91. Ausgrid

Supply of Electricity

It is recommended for the nominated electrical consultant/contractor to provide a



Preliminary Enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not: the existing network can support the expected electrical load of the development; a substation may be required on-site, either a pad mount kiosk or chamber; and site conditions or other issues. Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.

#### Method of Electricity Connection

The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – *'Premise Connection Requirements'*.

#### Conduit Installation

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

#### Proximity to Existing Network Assets

There are existing overhead electricity network assets in Bryant St adjacent to the development and also across the road from the development in both Bryant St and George St. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given the locating and operations of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, *NS220 Overhead Design Manual*. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

Based on the design of the development provided, it is expected that the "as constructed" minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

#### Water NSW General Terms of Approval

##### General

- i. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- ii. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- iii. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - (c) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- iv. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- v. Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

##### Prior to excavation

- vi. The following shall be included in the initial report:
  - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the

assessment including bore logs and three-dimensional identification information.

(b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

(c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

(d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]

vii. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

viii. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

ix. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

x. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).

xi. A copy of a valid consent for the development shall be provided in the initial report.

xii. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

xiii. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment

methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

xiv. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

xv. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

xvi. Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

xvii. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

xviii. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

ix. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

xx. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

xxi. Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:

(a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

(b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and

(c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

xxii. The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

## Roads Act

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

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

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

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

93. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
94. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
95. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
96. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
97. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath

reserve must not start until the application has been approved by Council.

98. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

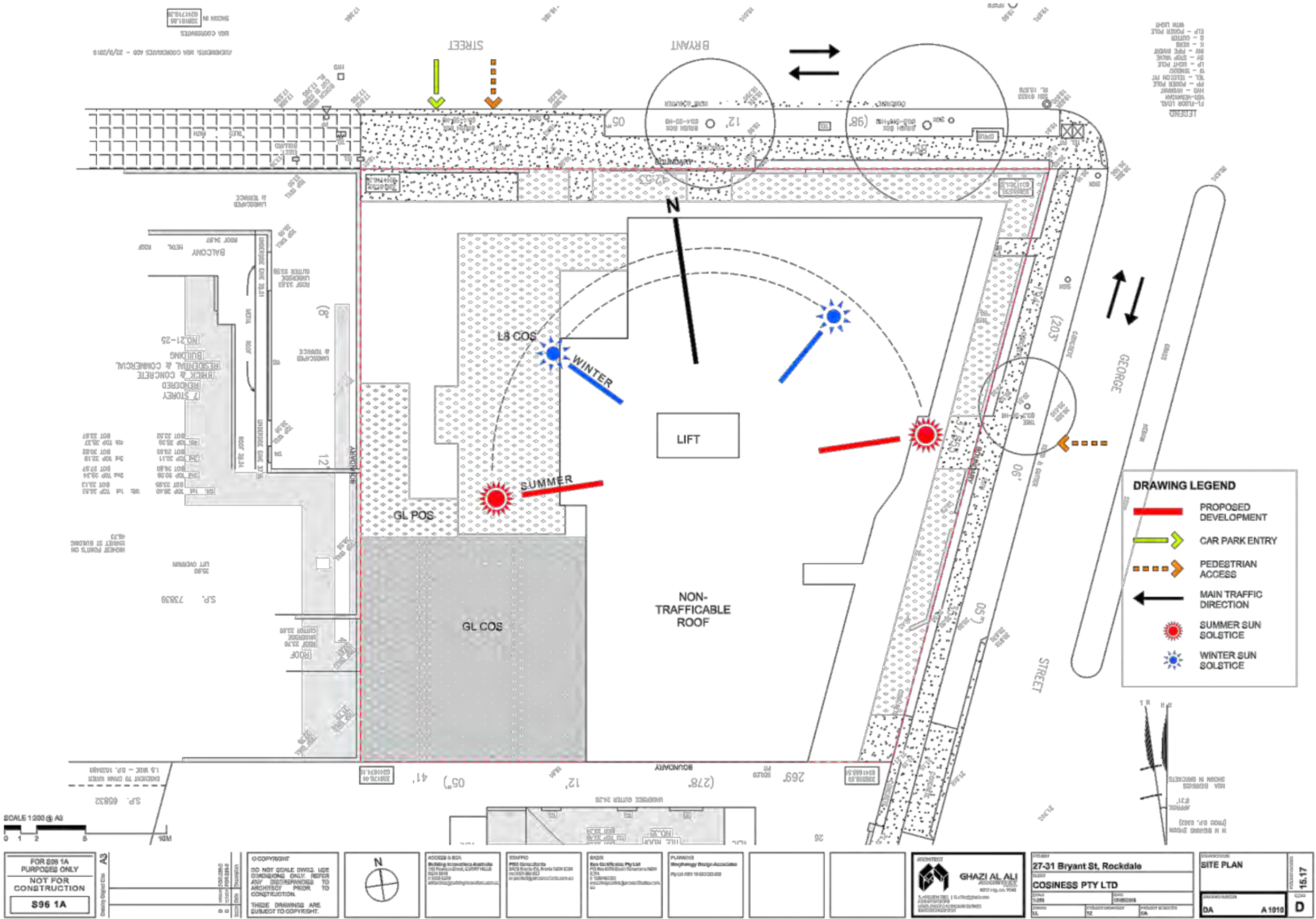
### Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- e. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- f. The Developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all road works/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.





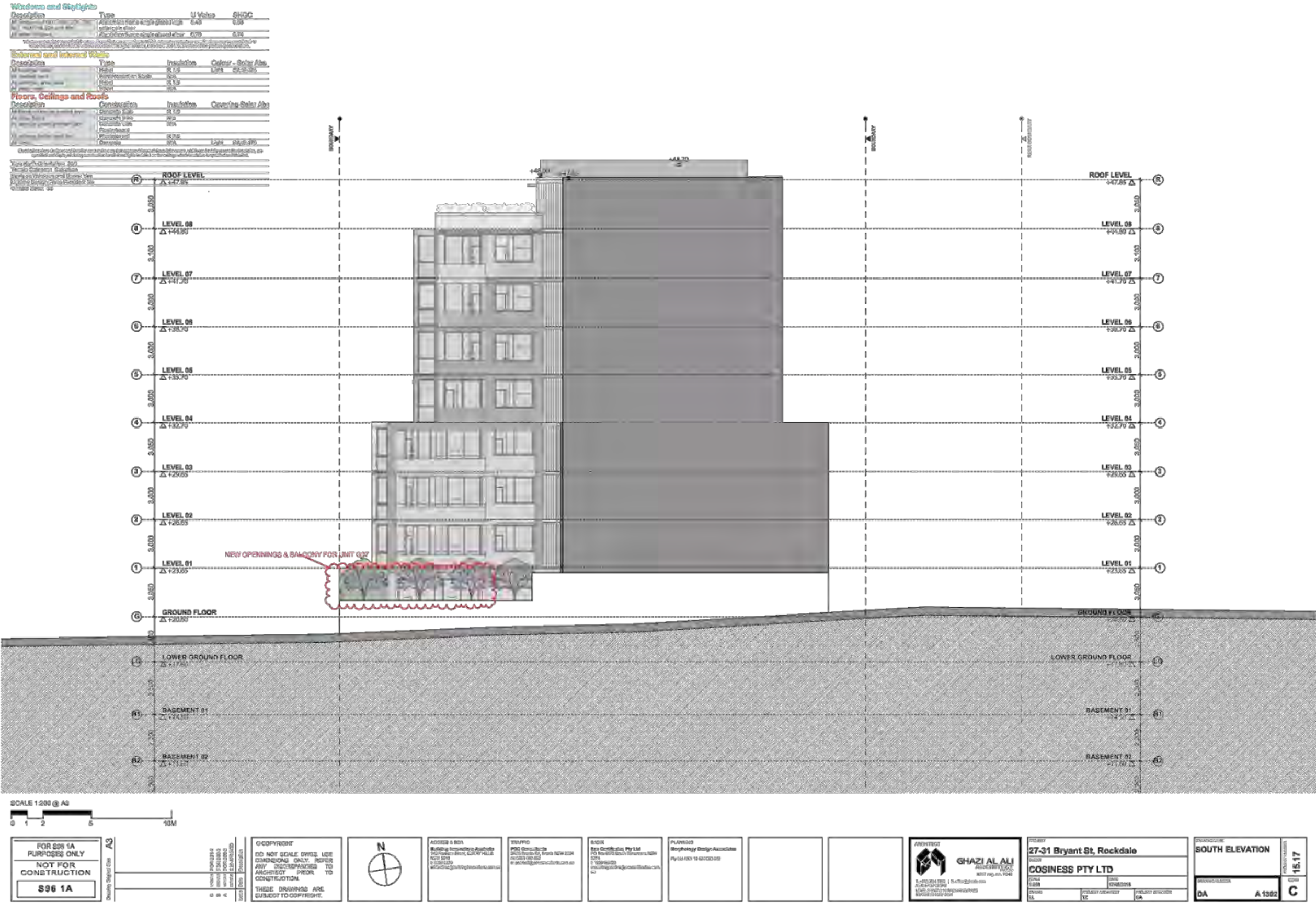






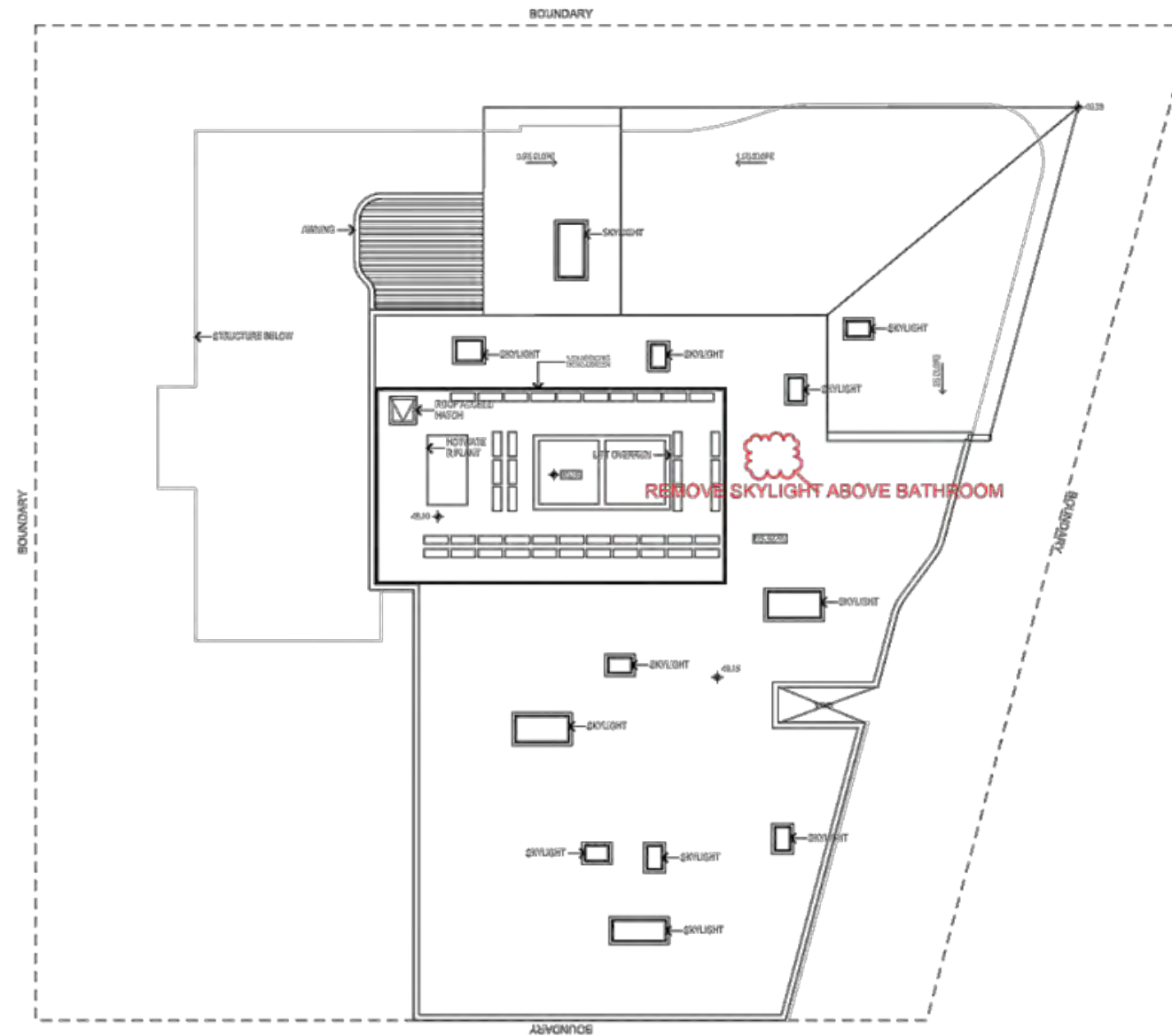










[illegible]

FOR S96 1A PURPOSES ONLY  <b>NOT FOR          CONSTRUCTION</b>  <b>S96 1A</b>	A3 Planning Engrg Class	8. A.1 Planning Engrg Class 8. A.1 Planning Engrg Class 8. A.1 Planning Engrg Class	© COPYRIGHT DO NOT SCALE DWGS. USE DIMENSIONS ONLY. REFER ANY DISCREPANCIES TO ARCHITECT PRIOR TO CONSTRUCTION.  THESE DRAWINGS ARE SUBJECT TO COPYRIGHT.		ADDRESS & B21 Building Inspectors Australia PO Box 8078, St Leonards NSW 1585 02 9551 9444 www.bia.com.au	B21PFD Plan Consultants Pty Ltd 24/25 Bayside Dr, Bayside NSW 2015 02 9551 9444 www.planconsultants.com.au	B21PFD Plan Consultants Pty Ltd 24/25 Bayside Dr, Bayside NSW 2015 02 9551 9444 www.planconsultants.com.au	PLANNING Morphology Design Associates Pty Ltd ABN 16 622 020 432	ARCHITECT <b>GHAAZI AL ALI</b> ARCHITECTS 27-31 Bryant St, Rockdale NSW 1588 02 9551 9444	PROJECT <b>27-31 Bryant St, Rockdale</b> SUBJECT <b>COSINESS PTY LTD</b> 27-31 Bryant St, Rockdale NSW 1588 02 9551 9444	CONSTRUCTION <b>ROOF</b> DRAWING NUMBER <b>DA A1215</b> DATE <b>15/10/2015</b>	15/10/2015 15/10/2015 15/10/2015	15/10/2015 15/10/2015 15/10/2015
--	----------------------------	--	---	--	---	--	--	--	--	--	---	--	--

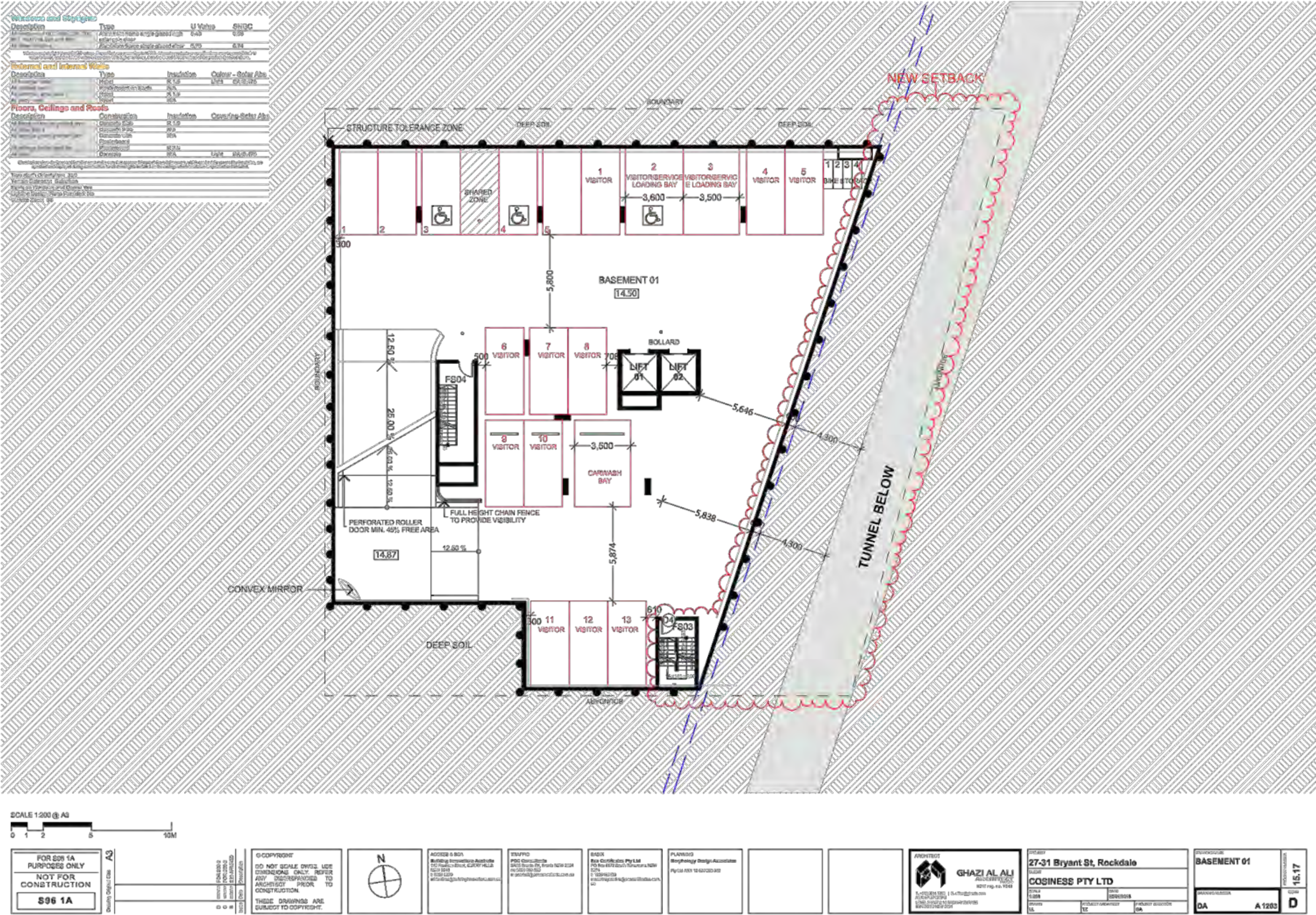




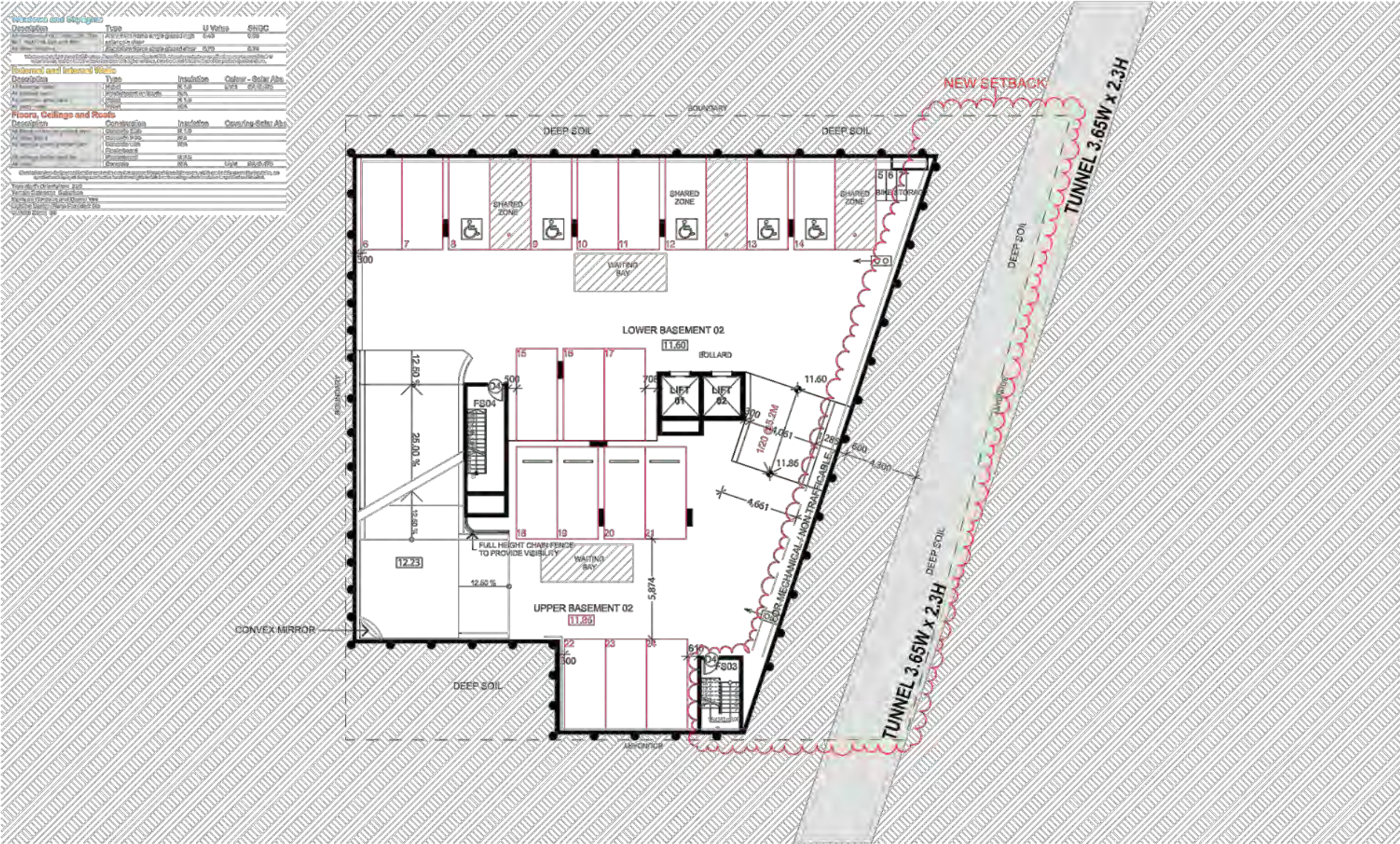












SCALE 1:200 @ A3

0 1 2 5 10M

FOR S96 1A PURPOSES ONLY  
NOT FOR CONSTRUCTION  
**S96 1A**

© COPYRIGHT  
DO NOT SCALE DIMS. USE DIMENSIONS ONLY. REFER ANY DISCREPANCIES TO ARCHITECT PRIOR TO CONSTRUCTION.  
THESE DRAWINGS ARE SUBJECT TO COPYRIGHT.

N

ADDRESS: 6 B01  
Building Innovation Australia  
150 Pacific Street, Sydney NSW 2000  
1501 0000  
61555 0000  
61555 0000

STAFF:  
PGC: G0000000  
S003: S0000000  
S004: S0000000  
S005: S0000000

BA00X: B0000000 Pty Ltd  
PO Box 400000, Sydney NSW 2000  
S001: S0000000  
S002: S0000000  
S003: S0000000

PLANNING  
Borophy Design Associates  
Pty Ltd  
PO Box 1000000, Sydney NSW 2000

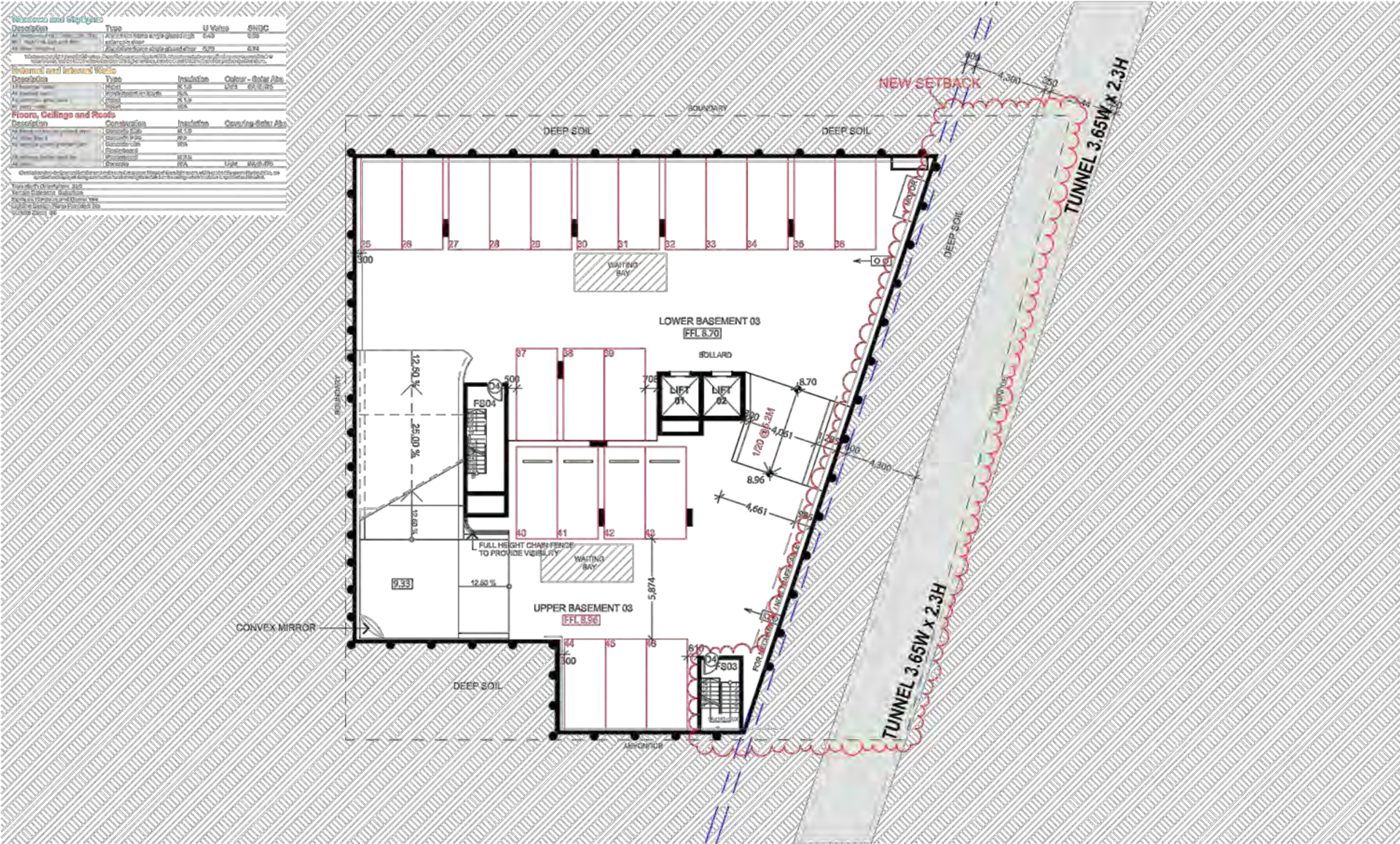
ARCHITECT  
**GHAZI ALI ALI**  
ARCHITECT  
1501 0000  
61555 0000  
61555 0000

27-31 Bryant St, Rockdale  
**COSINESS PTY LTD**  
S001: S0000000  
S002: S0000000  
S003: S0000000

PROJECT: BASEMENT 02  
S001: S0000000  
S002: S0000000  
S003: S0000000

15.17  
D





FOR 306 1A PURPOSES ONLY NOT FOR CONSTRUCTION 306 1A	DATE: 12/06/2018 DRAWN: [Name] CHECKED: [Name] APPROVED: [Name]	© COPYRIGHT DO NOT SCALE OR USE DIMENSIONS ONLY. REFER ANY DISCREPANCIES TO ARCHITECT PRIOR TO CONSTRUCTION. THESE DRAWINGS ARE SUBJECT TO COPYRIGHT.	N	ADDRESS: 306 1A Building Innovation Australia 100 Pacific Street, Sydney NSW 2000 12/06/2018 306 1A 306 1A	STAFF: [Name] PDC: [Name] 306 1A 306 1A 306 1A 306 1A	BAK: [Name] 306 1A 306 1A 306 1A 306 1A	PLANNING 306 1A 306 1A 306 1A 306 1A	ARCHITECT GHAZI AL ALI 306 1A 306 1A 306 1A 306 1A	306 1A 306 1A 306 1A 306 1A 306 1A 306 1A	306 1A 306 1A 306 1A 306 1A 306 1A 306 1A	306 1A 306 1A 306 1A 306 1A 306 1A 306 1A
--	--	--	---	--	--	---	--	---	---	---	---







**Bayside Planning  
Panel**

**12/06/2018**

---

Item No	6.6
Application Type	Development Application
Application No	SF18/709
Lodgement Date	26/07/2017
Property	<b>1368 Botany Road, Botany</b>
Ward	Botany Bay
Owner	Rhonda Hasler
Applicant	Nikolaos Tsekas
Proposal	Demolition and construction of a four storey mixed use development including one retail tenancy, at grade car parking and 8 apartments
No. of Submissions	One submission
Cost of Development	\$3,567,077
Report by	Angela Lazaridis, Senior Development Assessment Officer

---

**Officer Recommendation**

- 1 That the Bayside Planning Panel supports the variation to clause 4.3 in accordance with the Clause 4.6 justification provided by the applicant;
  - 2 That the Development Application No. 2017/1118 for the demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level at 1368 Botany Road, Botany, be issued a deferred commencement subject to the conditions attached to this report; and
- DC1** The developer is required to engage an Ausgrid Accredited Service Provider Level 3 (ASP3) to either:
- a) Demonstrate that the current building proposal does not encroach the statutory clearances to the powerlines by engaging an Accredited Service Provider Level 3 (ASP3);
  - b) Redesign the proposed building to ensure that there is no encroachment of the powerline statutory clearances with the revised powerline clearances being confirmed by an ASP3; or
  - c) Make suitable arrangements for the existing powerlines to be relocated prior to building construction commencing.

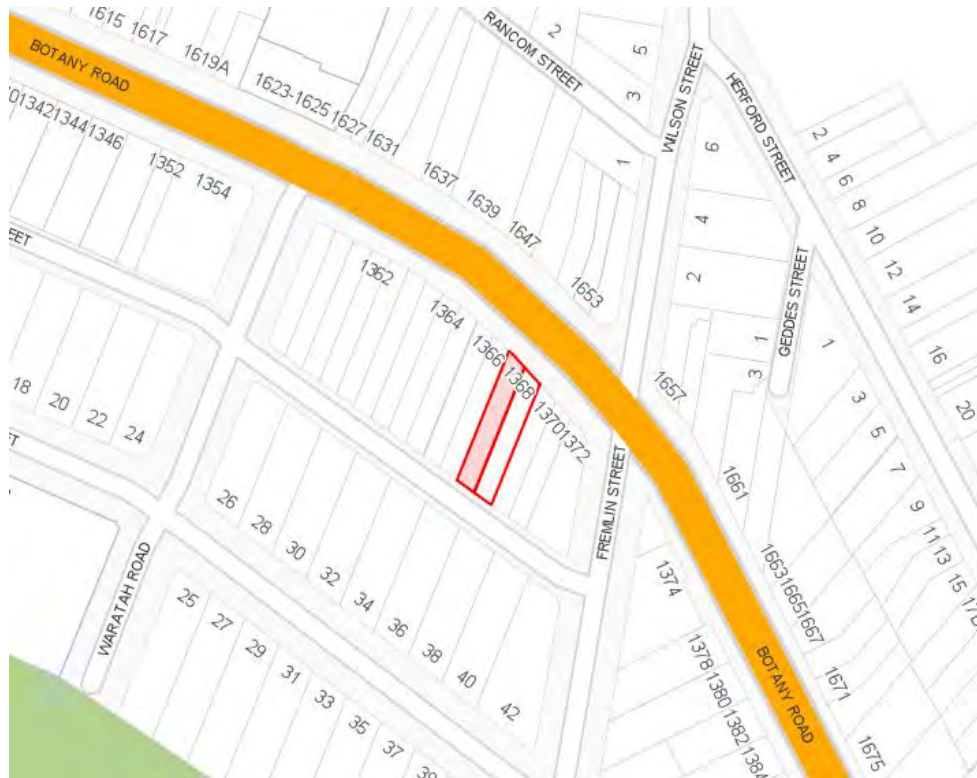
Evidence of the proposed solution is to be submitted to Council for review. Should the solution involve design changes to the development, amended plans are to be submitted for assessment and approval by Council.

---

**DC2** The period of the “Deferred Commencement” consent is to be limited to 6 months.

- 3 That any objectors be advised of the Bayside Planning Panel’s decision.
- 

## Location Plan



## Attachments

- 1 Planning Assessment Report
- 2 Site Analysis Plan
- 3 North and East Elevation Plan
- 4 South and West Elevation Plan
- 5 GFA Calculations
- 6 Streetscape Presentation
- 7 Adaptable Units Plan
- 8 Photomontage
- 9 Shadow Diagrams
- 10 DRP Report [↓↓↓↓↓↓↓↓↓↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

---

### Application Details

---

<b>Application Number:</b>	2017/1118
<b>Date of Receipt:</b>	26 July 2017
<b>Property:</b>	1368 Botany Road Botany Lots 35 and 36 in DP 11628
<b>Owners:</b>	Rhonda Hasler
<b>Applicant:</b>	Nikolaos Tsekas
<b>Proposal:</b>	Demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$3,367,077.00
<b>No. of submissions:</b>	One (1) objection
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	29 May 2018

### Key Issues

---

Bayside Council received Development Application No. 2017/1118 on 26 July 2017 seeking consent for the demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level at 1368 Botany Road, Botany.

The application was placed on public exhibition for a fourteen (14) day period from 16 August to 30 August 2017. One objection was received and this is discussed in the report below.

Key issues in the assessment of the development application include non-compliances with the building height, deep soil zone, ceiling heights for the first floor, building separation, permissibility, car parking and loading and unloading and family friendly controls.

The development proposes a building height of 17 metres which is 3 metres greater than the maximum building height of 14 metres. The departure in height results in the lift access to the roof terrace and overrun, risers, pergolas and a portion of the balustrading being over to cater for access to the communal open space and private terraces on the rooftop. The applicant has submitted a Clause 4.6 variation for the height exceedance. Non-compliances with the ADG requirements for deep soil, ceiling heights and building separation has been discussed in the report below. The site is constrained in size therefore it is difficult to achieve the minimum deep soil and building separation requirement. In regards to the ceiling heights, the first floor is for residential and not commercial and emulates the approved development to the west where both approvals have their first floor as residential. The non-compliance in ceiling height is acceptable.

In regards to the permissibility issue, the applicant has provided justification to demonstrate that the development is defined as shoptop housing and not as a mixed use development. Their justification is acceptable. In regards to non-compliances with the family friendly controls within the DCP, appropriate conditions have been imposed in the consent relating to storage and waterproofing. In regard to car parking, the development has a departure in the number of car spaces required. The proposal was amended to include studios which would be less likely to require car parking. The non-compliance in retail is justified due to the close proximity of the development to excellent public transport however a condition requiring a work travel plan will be included within the consent. Loading and unloading is acceptable considering that there is no requirement for developments with less than 20 apartments to contain on-site loading facilities.

The site is in close proximity to power pole located on Hanna Street. The development comprises of windows within 5 metres of the power pole. The applicant provided a letter from a an accreditor stating that they are in the process of carrying out assessments on the proximity to existing network assets, street lighting, supply of electricity and clearance rates. This was referred to Ausgrid and Ausgrid provided a response stating that the clearance assessment will be carried out and that it will be up to the developer to provide a solution. One of these solutions may require changes to the design of the development which may result in non-compliances with cross ventilation, amenity and setbacks. Therefore it is recommended that a deferred commencement consent be issued to allow the developers to provide a solution to this issue.

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

### Recommendation

---

It is RECOMMENDED:

1. That the Bayside Planning Panel supports the variation to clause 4.3 in accordance with the Clause 4.6 justification provided by the applicant;
2. That the Development Application No. 2017/1118 for the demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level at 1368 Botany Road, Botany, be issued a deferred commencement subject to the conditions attached to this report; and

**DC1** The developer is required to engage an Ausgrid Accredited Service Provider Level 3 (ASP3) to either:

- a) Demonstrate that the current building proposal does not encroach the statutory clearances to the powerlines by engaging an Accredited Service Provider Level 3 (ASP3);
- b) Redesign the proposed building to ensure that there is no encroachment of the powerline statutory clearances with the revised powerline clearances being confirmed by an ASP3; or
- c) Make suitable arrangements for the existing powerlines to be relocated prior to building construction commencing.

Item

Bayside Planning Panel 12/06/2018



Evidence of the proposed solution is to be submitted to Council for review. Should the solution involve design changes to the development, amended plans are to be submitted for assessment and approval by Council.

**DC2** The period of the "Deferred Commencement" consent is to be limited to 6 months.

3. That any objectors be advised of the Bayside Planning Panel's decision.

## Background

---

### History

There is no relevant town planning history on the site.

### Development Application History

The development application was presented to a design review panel on 19 October 2017. Comments were provided to the applicant for assessment.

Amended plans were provided at several times during the assessment of the application. The latest version of amended architectural plans were submitted on 5 April 2018 and 4 April for the stormwater management plans.

### Proposal

The development application, in its amended form, seeks consent for the demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level.

The proposed development is described in detail below:

### Ground Floor

- The ground floor comprises of a 102sqm retail tenancy with associated waste holding room and two car parking spaces attributed to the retail space. The remaining ground floor comprises of a residential lobby area and entrance to the rear off Hanna Street. There is a total of 11 residential car parking spaces which includes 5 car stackers. A separate car wash bay has been proposed near the retail car spaces. A total of 13 car parking spaces are proposed.

### First to Third Floor:

- These floors comprise of a total of 8 residential units with the first floor comprising of 2 x studios, 1 x 1 bedroom unit, and 1 x 3 bedroom unit, the second floor comprising of 1 x 2 bedroom unit and 1 x 3 bedroom unit and the third floor comprising of 1 x 2 bedroom unit and 1 x 3 bedroom unit. Each unit has access to a balcony or terraced area.

Item

Bayside Planning Panel 12/06/2018

**Rooftop terrace:**

- The rooftop comprises of two private terraces located from Hanna Street and a communal open space area located towards Botany Road. The communal open space and terraces are serviced by a lift. The communal open space contains a BBQ area, seating and landscaping in the form of planter beds.

**Figure 1. Proposed Site Plan****Figure 2. Proposed Northern Elevation**

Item

Bayside Planning Panel 12/06/2018



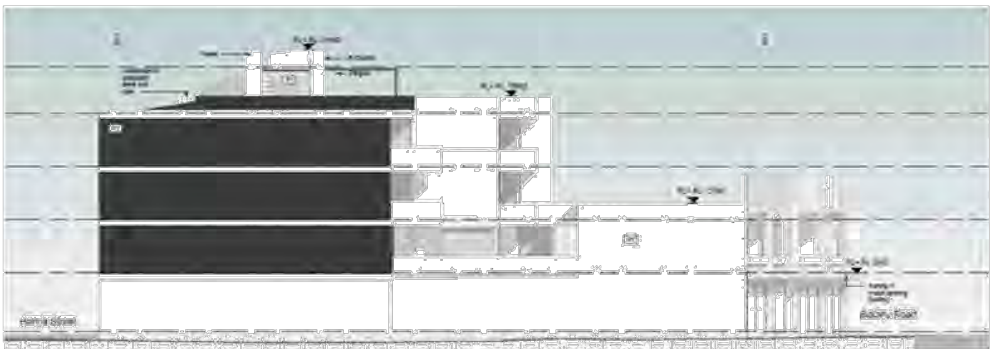


Figure 3. Proposed Eastern Elevation



Figure 4. Proposed Southern Elevation

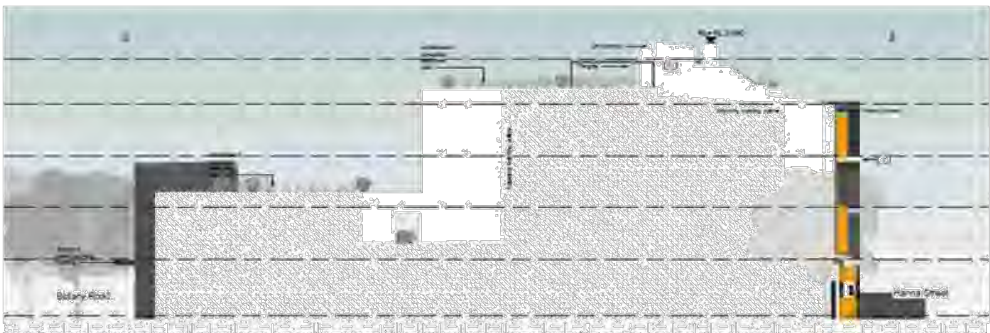


Figure 5. Proposed Western Elevation

**Site Description**

The subject site is legally known as Lots 35 and 36 in DP 11628 and is named 1368 Botany Road Botany. The site is located on the south-western side of Botany Road between Watatah Road to the north and Fremlin Street to the south. The site has a north-eastern to south-western with the north-eastern frontage being Botany Road and the south-western frontage being Hanna Street. The subject site is comprised of two (2) separate allotments which combined have a site area of 486.4sqm and has a street frontage of 12.1 metres and side boundary lengths of 41.2 metres. The site is generally flat and there are a number of trees that are located within the rear and front of the site which are to be removed.

Item

Bayside Planning Panel 12/06/2018



Figure 6. Locality Plan



Figure 7. Aerial Map of the site

The site contains a single storey detached brick dwelling house with tiled roof and a detached fibro garage to the rear. The surrounding sites to the south-east include single storey dwelling houses with rear street access, to the north-west development approval has been given for a four storey shoptop housing development with at grade and basement car parking, to the south there are single storey and two storey dwelling houses and directly adjacent to the site on Botany Road there are shoptop housing development at a two storey street wall height. The site is located within a B1 Neighbourhood Centre and is affected by flooding.

Item

Bayside Planning Panel 12/06/2018





**Figure 8. Front elevation of subject site from Botany Road**



**Figure 9. Rear elevation from Hanna Street (Source: Google Map)**

### **Statutory Considerations**

---

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

Item

Bayside Planning Panel 12/06/2018

#### **S.4.15(1) - Matters for Consideration – General**

##### **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 (Vegetation in Non-Rural Areas) 2017**

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP.

There is tree removal proposed as part of the application. There is currently no significant trees on the site that are worth retaining, no deep soil area proposed and minimal landscaped area in the form of planter beds. The application was not referred to Council's Arborist who had no issue in removing the existing trees and shrubs from the site. Part 5 of the BBDCP 2013 does not require deep soil or landscaped area therefore the proposal is acceptable in this instance.

Subject to planting of replacement trees, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Part 3L of the BBDCP 2013.

##### **State Environmental Planning Policy (Infrastructure) 2007**

The site is located on Botany Road which is a classified road. All vehicular access will be off Hanna Street and not from Botany Road which is consistent with other developments that have been approved on the street.

The development is not considered to be a traffic generating development under the table within Schedule 3 of the SEPP.

The site is in close proximity to power pole located on Hanna Street. The development comprises of windows within 5 metres of the power pole. Originally Ausgrid objected to the proposal as the proposed building awning and windows appeared to encroach the minimum clearances required to the existing overhead powerlines. Ausgrid required the developer to consult with an accredited service provider to either demonstrate that the current building does not encroach into the clearance zone or redesign the proposed building to ensure that there is no encroachment within the clearance zone or make suitable arrangements for the existing power lines to be relocated prior to building construction commencing. The applicant provided a letter from a an accreditor stating that they are in the process of carrying out assessments on the proximity to existing network assets, street lighting, supply of electricity and clearance rates. This was referred to Ausgrid and Ausgrid provided a response stating that the clearance assessment will be carried out and that it will be up to the developer to provide a solution. One of these solutions may require changes to the design of the development which may result in

Item

Bayside Planning Panel 12/06/2018

non-compliances with cross ventilation, amenity and setbacks. Therefore it is recommended that a deferred commencement consent be issued to allow the developers to provide a solution to this issue.

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 842712M dated 24 July 2017 and a BASIX Assessment Report prepared by VIPAC Engineers committing to environmental sustainable measures.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

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

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.
4. There is no significant excavation for car parking proposed.

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

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

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

During the development application process, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 19 October 2017. A copy of the minutes from the meeting are attached to the report. The Design Review Panel supported the design in principle (as shown below) and requested that the following matters be addressed in the submitted DA:

*"The Panel is generally supportive of:*

- *The alignment of the shopfronts and parapets and built form along the Botany Road frontage*
- *The use of complimentary materials to 1364-1366 Botany Road"*

The Panel had concerns which are summarised in the below bullet points and Council's response on how this has been addressed:

- *The small amount of retail for a development which purports to be shop top housing*

Item

Bayside Planning Panel 12/06/2018



Officer's Comment: The applicant originally had a 78sqm retail area which was too small to be considered as shoptop housing. The applicant has amended their plans to increase the retail space to include 102sqm in addition to a retail car parking space. The size of the retail is proportionate to the approved development to the west and integrates well with the adjoining property. Any increase in the amount of retail would create issues with the car parking proposed and further exacerbate the car parking non-compliance.

- *The height of the development in particular the Panel does not support this development being any taller than 1364-1366 Botany Road which already exceeds the height limit (especially the parapet to the third floor, which should align)*

Officer's Comment: The height of the development is predominantly attributed to the lift access to the roof terrace being 3 metres over the height limit. The adjoining property comprised of a lift overrun however their communal open space is located on Level 2 and not on the rooftop therefore the overrun height will be significantly under the proposed height. The additional height is located central to the development thereby the bulk would not be significant from Botany Road and Hanna Street. The parapets of the building have been aligned with the approved development on the adjoining site to the west.

- *The quality of the communal open space and the treatment of the rooftop gardens, which lack summer shade and facilities*

Officer's Comment: The applicant has amended their plans to provide shading in the form of a pergola on the rooftop for the weather protection. Additionally, a BBQ area and seating has been provided within the communal open space.

- *The rooftop terrace layout and design which should not provide opportunities for overlooking to the adjoining R2 residential zone*

Officer's Comment: Amended plans have been provided to further setback the terrace area to allow for greater privacy to the residential dwellings along Anniversary Street. The rooftop terrace has been setback from the rear boundary by 3.4 metres to 6.3 metres.

- *The eastern elevation, which must include art work and or design elements that provide visual interest*

Officer's Comment: The applicant has proposed a change in the colour of render for the eastern elevation to have a mix of charcoal and white proposed. The design previously had all white render along this elevation. A condition of consent will be included within the consent relating to appropriate wall treatment along this elevation.

- *The Panel considers the development could benefit from rainwater harvesting, photovoltaic panels and broader sustainability initiatives beyond the minimum required by BASIX*

Officer's Comment: No panels have been proposed as part of an amended set. A 3,000L rainwater tank is proposed on the rooftop to assist in rainwater harvesting.

#### Design Quality Principles and Apartment Design Guide

Clause 28(2) stipulates that development consent must not be granted if, in the opinion of the consent authority, the development does not demonstrate that adequate regard has been

Item

Bayside Planning Panel 12/06/2018

given to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

### Design Principles

The Panel did not address each of the nine principles though they were supportive in its consideration of the above comments. The nine design principles of SEPP 65 are addressed as follows:

#### **Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

Officer Comment: The site falls within the Banksmeadow Neighbourhood Centre and is recognised for redevelopment to a scale indicated in the amended DA scheme, which is now largely compliant with the BBLEP controls, (except for a height exceedance).

The surrounding built form context consists of low density residential to the south and surrounds with mixed retail/commercial/residential development to the west and north. Effectively, the proposal will occupy the land with a built form that is more contextually envisaged in the future for this particular site. On this basis, the proposed development of the subject site for the purposes of *shop top housing* is consistent with this desired future context.

#### **Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

Officer Comment: The scale of the proposed development is similar to the adjoining site to the immediate west at No. 1364-1366 Botany Road and 1356 Botany Road which has been approved and under construction on the north-western corner.

The height and scale of the proposed development is largely consistent with the built form envisaged for the site under BBLEP 2013 and BBDCP 2013, with the height exception that relates to the lift overrun, risers and parapet. The proposed FSR of 1.77:1 is compliant with the maximum of 2:1 under BBLEP 2013.

The proposal has been designed to have a 2 storey street wall height to Botany Road with a private courtyard above (recessed behind the parapet façade) and the upper levels are setback towards Hanna Street with the communal open space on the rooftop. The building is

Item

Bayside Planning Panel 12/06/2018

to be constructed on the boundary to match the approved setbacks with No. 1364-1366 Botany Road to the west.

**Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

Officer Comment: The proposal provides high amenity units and adopts the desired density for the street and neighbourhood area. The development is in close proximity to good public transport with bus stops located near the site. The proposal will have 8 apartments therefore not an overdevelopment of the site.

**Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes.*

*Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.*

Officer Comment: The ADG recommends that at least 60% of the proposed units shall be naturally cross ventilated, with the proposal indicating 62.5% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated.

The location, orientation and shape of the site creates a challenge for obtaining compliant solar access to individual units. The ADG recommends that the living rooms and private open spaces of at least 70% of apartments should receive a minimum of 2 hours direct sunlight during the period 9.00am to 3.00pm at mid-winter. All units are compliant with the requirement.

It is noted that all units within the development are designed with open layouts and private balconies. BASIX Certificate has been submitted with the application demonstrating the development is capable of meeting thermal, energy, and water efficiency targets. Further, stormwater detention tanks are proposed to be constructed for re-use for irrigation of communal landscape areas.

**Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.*

Item

Bayside Planning Panel 12/06/2018

*Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.*

**Officer Comment:** A communal open space is proposed on the rooftop of the development recessed from Botany Road and Hanna Street for the use of its residents. The communal open space and private terraces have appropriate landscaped area in the form of planters. There is no landscaping provided elsewhere on the site due to its size constraints. Additionally, some of the units have greater sized terrace/balconies to allow for greater amenity to its residents.

The existing established street trees located on Botany Road are to be retained as part of the application. The applicant originally provided a landscape design/plan demonstrating the type and species of planting within the open communal and private terraces. The landscape design has not been updated to reflect the changes to the rooftop area therefore an amended landscape plan has been conditioned within the consent.

The proposed landscape planting is commensurate with the building size and bulk; hence the proposal is consistent with this design quality principle.

#### **Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility*

**Officer Comment:** The plans have resulted in a design that tries to accommodate a feasible development for the site, the applicant has opted to incorporate ADG sized units. Attention has been given to ensuring each apartment receives adequate privacy, solar access and natural ventilation.

Private recreational areas are provided in the form of balconies or courtyards/terraces off the living areas or on the rooftop and are supplemented by communal open areas to ensure an overall quality of living for future occupants. A range of balcony sizes are proposed within the development. All balconies comply with the minimum balcony requirement under the ADG.

An assessment of environmental acoustic impacts have accompanied the application, which details measures to be implemented to ensure that future occupants of the development are not adversely impacted upon.

The proposal complies with disability access requirements and incorporates sufficient service areas as required.

#### **Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Item

Bayside Planning Panel 12/06/2018

**Officer Comment:** The development provides for safe direct pedestrian access from Botany Road and Hanna Street. The Botany Road residential entry is differentiated in material to distinguish it from the retail tenancies. Pedestrian and vehicular entries in Hanna Street are clearly separated and well defined. Safe internal access is available from the car park directly into the building and the public/private domain is clearly distinguished. The proposal satisfies the requirements of Crime Prevention Through Environmental Design (CPTED) and conditions have been provided in this regard.

#### **Principle 8: Housing Diversity and Social Interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.*

*Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents*

**Officer Comment:** The subject site is located in an area identified for increased residential density. The development provides a mixture of studio, 1, 2 and 3 bedroom units therefore there is a diversity in units provided on the site. Each unit is provided with adequate private open space area, communal area, solar access, natural ventilation and privacy. The car parking provided is commensurate of the units provided with the studios marked to be more affordable thus the requirement to comprise of a car parking space is not as significant as the two and three bedroom units.

The development application proposes an FSR of 1.77:1 which complies with Clause 4.4(2) of BBLEP 2013. A total of 8 apartments are proposed, comprising of 2 x studio apartments, 1 x 1 bedroom apartments, 2 x 2 bedroom apartments and 3 x 3 bedroom apartments. The proposed unit mix is 37.5% studio/1 bedroom apartments and this acceptable for the subject site as there is no maximum unit mix requirement when a development has less than 10 apartments. The apartments range in size from Council's DCP sizes to the sizes in the ADG.

#### **Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape*

The use of face brickwork to the Botany Road façade and combination cement render is supported. The balance of vertical and horizontal elements assists in reducing the visual impacts of the proposal and the stepping of the façade along Hanna Street provides variation and interest.

Aesthetically and functionally, the development proposes reasonable internal design and layout, despite some undersized balconies and units. The proposal as amended is consistent with the aims and objectives of SEPP 65 particularly in respect of bulk and scale and consistent streetscape presentation.

Item

Bayside Planning Panel 12/06/2018



Apartment Design Guide

A Design Verification Statement has been prepared by Derek Raithby Architecture and was submitted with the development application. This statement was accepted.

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

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are car deep soil, ceiling heights and building separation.

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

SEPP 65 – ADG			
Control	Requirement	Proposed	Complies
<b>Dwelling Size</b>	Minimum internal areas as follows: Studio: 35sqm 1 bed unit: 50sqm 2 bed unit: 70sqm 3 bed unit: 90sqm	Studio units: 50-55sqm 1 bed units: 78sqm 2 bed units: 78sqm 3 bed unit: 113sqm	Yes Yes Yes Yes
<b>Ceiling Height</b>	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.7m Non-habitable rooms: 2.7m Mixed Use (GF): 3.08m (FF): 2.7m	Yes Yes <b>No – Refer to Note 1</b>
<b>Deep Soil</b>	Objective 3E-1 requires 7% of the site (for sites less than 650sqm) as deep soil area (requires 34.05sqm)	Nil	<b>No – Refer to Note 2</b>
<b>Communal Open Space</b>	25% of site (413.5sqm)	126.6sqm (26%)	Yes
<b>Solar Access</b>	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	More than 50% of COS receives greater than 2 hours of sun due to its location of the rooftop terrace.	Yes

Item

Bayside Planning Panel 12/06/2018

	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	100% (8/8) of apartments will receive at least two hours of sunlight during June 21 <sup>st</sup> The properties to the south will be overshadowed between 12pm (to half of the site) and 3pm. The property will receive sunlight in the morning hours between 9am to 11am to the living areas and POS.	Yes  Yes
<b>Building Depth</b>	Use a range of appropriate maximum apartment depths of 12-18 metres	The apartments do not exceed 18 metres in depth.	Yes
<b>Building Separation</b>	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<b>Western:</b> Nil (ground to 3 <sup>rd</sup> floor) <b>Northern:</b> Nil (ground and 1 <sup>st</sup> floor) 15m (2 <sup>nd</sup> and 3 <sup>rd</sup> floor) <b>Southern:</b> Nil-2.5m (ground and 1 <sup>st</sup> ) Nil to 2.5m (2 <sup>nd</sup> and 3 <sup>rd</sup> floor) 5.3m- terrace <b>Eastern:</b> Nil (ground to 3 <sup>rd</sup> floor)	<b>No – Refer to Note 3</b>
<b>Balcony Sizes</b>	Studios: 6sqm 1 bed: 8sqm 2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm	Studios: 10sqm-17sqm 1 bed: 16sqm 2 bed: 11sqm-128sqm 3 bed: 36sqm- 44sqm Ground Floor: No ground floor apartments	Yes Yes Yes Yes N/A
<b>Cross Ventilation</b>	60%	62.5% (5/8 units)	Yes
<b>Storage</b>	Studio: 4m <sup>3</sup> 1 bed: 6m <sup>3</sup> 2 bed: 8m <sup>3</sup> 3 bed: 10m <sup>3</sup>	Studio: 6.3m <sup>3</sup> - 7m <sup>3</sup> 1 bed: 7.2m <sup>3</sup> 2 bed: 8m <sup>3</sup> 3 bed: 8.83m <sup>3</sup> -10.43m <sup>3</sup>	Yes Yes Yes

**Note 1 – Ceiling Height**

Part 4C of the ADG requires that 3.3m ceiling heights be provided for the ground and first floor for developments located within mixed use areas. The proposal provides a 3.7m ceiling height (inclusion of the bulkhead/services) to the ground floor commercial unit and a 2.7m ceiling height for the first-floor units. Given that compliance with the minimum ceiling height control would increase the height limit of the proposal even greater and the first floor will be used for residential and not commercial use, it is not possible to provide increased ceiling heights to first floor. The existing surrounding built form along Botany Road is predominantly two storey shoptop housing development which incorporates residential on the first floor and not

Item

Bayside Planning Panel 12/06/2018

commercial. Office spaces would not fall within this category and are more suited within the B4 Mixed Use or commercial centres. Additionally, the site is impacted by flooding therefore the FFL of the building has been raised slightly while maintaining the minimum BCA internal heights of the development. Therefore, based on the assessment, the non-compliance is acceptable.

#### **Note 2 – Deep Soil**

Objective 3E-1 of the ADG requires sites greater than 650sqm to have a minimum deep soil zone of 7%. The proposal does not provide any deep soil area. This does not comply with the required amount of 34.05sqm (7%) as the development is built to the boundary. The site is 12.19 metres wide therefore is limited in the amount of deep soil that could be provided on the site. This site is insufficient to provide large canopy tree planting. Additionally, the buildings along the street and in the area have been approved or are built to the boundary therefore the amount of deep soil provided is reflective of the existing built stock. Additionally, Part 5 of the BBDCP 2013 does not make provision for minimum landscaped or deep soil area. The design partly alleviates the amount of deep soil area by providing landscaping (132sqm or 27%) on the communal rooftop and on top of Level 1. These areas however are not within the deep soil zone. The site is in close proximity to local parks with Sir Joseph Banks Park down the street which is easily accessible and usable to residents should open space be provided.

#### **Note 3 – Building Separation**

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

##### **Western boundary:**

- Nil (ground to 3<sup>rd</sup> floor)

##### **Northern boundary:**

- Nil (ground and 1<sup>st</sup> floor)
- 15m (2<sup>nd</sup> and 3<sup>rd</sup> floor)

##### **Southern boundary:**

- Nil-2.5m (ground and 1<sup>st</sup>)
- Nil to 2.5m (2<sup>nd</sup> and 3<sup>rd</sup> floor)
- 5.3m- terrace

##### **Eastern boundary:**

- Nil (ground to 3<sup>rd</sup> floor)

The proposal has orientated the windows and balconies to face north and south with no openings proposed along the side eastern and western elevations. This is consistent with the setbacks that have been approved and constructed to the development to the west at 1364-1366 Botany Road. The building to the boundary would allow integration with the site to the east when it redevelops in the future. Along the northern and southern side, the site is bound by Botany Road and Hanna Street due to the site having dual frontage. The rear setback is also on the boundary and given the substantial push of the upper levels towards Hanna Street and away from Botany Road to achieve consistency with 1364-1366 Botany Road, this is supported. Balconies have been minimised so that the rear elevation contains windows only and all balconies face Botany Road. Additionally the sites that are to the south of the site along

Item

Bayside Planning Panel 12/06/2018

Anniversary Street are separated by Hanna Street which provides adequate separation with the development.

#### Botany Bay Local Environmental Plan 2013

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

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned B1 Neighbourhood Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	<b>Yes- See Note 4 below</b>	The proposed use as a shoptop housing development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B1 Neighbourhood Centre: <ul style="list-style-type: none"> <li>To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.</li> <li>To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.</li> </ul>
What is the height of the building?  Does the height of the building comply with the maximum building height?	-  <b>No – Refer to Note 5</b>	A maximum height of 14 metres applies to the subject site.  Lift Overrun- 17m (RL21.98) Pergola- (RL20.58) Risers- (RL21.68) Top of stair core- 15.5m (RL20.28) Top of parapet/balustrade- (RL18.98)  The maximum height of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation was provided with the application and is discussed in Note 3 below.
What is the proposed Floor Space Ratio?	-	The maximum Floor Space Ratio requirement is 2:1 (972.8sqm).

Item

Bayside Planning Panel 12/06/2018

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	Yes	GFA: 858.7sqm FSR: 1.77:1  The Floor Space Ratio of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
Is the site within land marked "Area 3" on the Floor Space Ratio Map?  If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– <ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> <li>6.2 – Earthworks</li> <li>6.3 – Stormwater Management</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Refer to Part 3G of the report</p> <p>Yes</p>	<p>The site is located in a Class 4 Acid Sulfate Soils Area. Excavation is not proposed greater than 2 metres below ground therefore an acid sulfate management plan is not warranted.</p> <p>There is no significant excavation proposed as part of the proposal other than for the OSD tank and footings. The application did not require a referral to Water NSW as the development will not encounter the groundwater.</p> <p>The proposed development has provided an on-site detention tank on the ground floor. The proposal has been reviewed by Council's Development Engineer who has provided comments and conditions which are discussed in Part 3G of the report below.</p> <p>The site falls within the 25-30 ANEF Contour. An acoustic report was provided with the</p>

Item

Bayside Planning Panel 12/06/2018



Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> <li>6.15 – Active Street frontage</li> </ul>	Yes	<p>application and appropriate conditions have been included within the consent.</p> <p>The proposal is in area where active street frontage is required. The development will have one retail tenancy on the ground floor fronting Botany Road.</p>

#### Note 4 – Permissibility of the use

The development has been defined as shoptop housing development rather than a mixed use development. Concern was raised that the development would not be categorised as shoptop housing. The applicant has provided justification relating to the definition and use of the development as shoptop housing as follows:

*“The adjoining site to the west was approved for an integrated development application for the demolition of the existing structures on site and construction of a four storey shop top housing development comprising of three (3) ground floor retail shops and eighteen (18) residential units being 4 x studio apartments, 2 x 1 bedroom apartments and 12 x 2 bedroom apartments with basement and ground floor car parking for 40 vehicles and associated landscaping.*

*The executive summary stated the following:*

*The site is zoned B1 Neighbourhood Centre pursuant to Botany Bay Local Environmental Plan 2013 (BBLEP). The proposal is defined as shop top housing and is permissible in the B1 Neighbourhood Centre zone with development consent. The application was approved 16th March 2016 and is currently under construction. The subject application is in essence an extension of the adjoining shop top housing development and utilises similar proportions, architectural style, layout and setbacks. Notwithstanding, the proposed development responds to its context and is consistent with the desired future character. A desired character defined by Council's expert urban planner. In review of the definition for Shop Top Housing we have considered the decision by Justice Sheahan in NSW Land and Environment case Hirsto v Canterbury City Council (No 2) [2014] NSWLEC 121.*

*Justice Sheahan conclusion in the above case is described as follows,*

*55. The Council's submissions on this separate question and allied issues are clearly to be preferred.*

*56. To qualify as "shop top housing" the relevant part of the building must be truly "above" the relevant retail or commercial parts. I respectfully adopt the Council's submissions (pars 33 - 36), set out in [34] above.*

Item

Bayside Planning Panel 12/06/2018

57. *The proposed development is not one indivisible "building", but a series of "buildings", and, as the Council contends (contention 2(b) - [3] above), the predominant use in the proposal is "shop top" residential accommodation, properly so described.*

58. *The proposed retail, business and commercial uses are not predominant, and are not "ancillary", but they clearly serve the objective(s) of the zone, while the residential elements on the same level as those uses, i.e. ground floor, are prohibited, and not severable.*

59. *Those offending residential elements of the proposal are fundamental to it, but they "cannot be subsumed in to the 'shop top housing' element", and they are "not ancillary or subservient to the permissible development" (Council subs pars 51 - 52).*

60. *They do not come within the principles of "inter-dependence" of use, established by the line of cases which includes Foodbarn Pty Ltd v Solicitor-General (1975) 32 LGRA 157, Baulkham Hills Shire Council v O'Donnell (1990) 69 LGRA 404, and Botany Bay City Council v Pet Carriers Association International Pty Ltd [2013] NSWLE C 147; (2013) 201 LGRA 116.*

61. *They constitute a substantial proportion of the project, and, therefore, in my view, probably so infect the whole proposal that it must be adjudged prohibited.*

62. *The question the parties agreed to be separated is answered in the affirmative.*

63. *That outcome would appear to dispose of the appeal. If so, the Council may be entitled to an order for its costs, but I will reserve that question.*

*In consideration of the above we make the following comments,*

- *The development is one building and not a series of buildings.*
- *Residential accommodation is above the retail component.*
- *The subject site is limited in width compared to the adjoining development (No.1364) and as such cannot provide the same parking arrangement and shop configuration. The proposal seeks to maximise available parking to comply with the relevant development control.*

*Alternative layouts including a basement carpark were considered and discarded due to shortfalls in parking and complications with excavation and the proximity of the water table. It is noted that the retail car space requires use of the whole driveway to enter, turn around (so as to leave in a forward direction) and park. As such the retail component includes the shop, car space and driveway. It is noted that there are similarities between the subject proposal and that of the development next door. Specifically, the ground floor layout and relationships between parking and retail. This relationship was considered acceptable and consistent with the subject zone."*

Officer Comment:

The argument that is presented above justifies the size of the retail component being commensurate to the approved development to the west. The ground floor proposes a 102sqm size retail which is shared by car parking for both the retail and residential units as well as the residential foyer which is located to the south of the site. The retail component is not the predominant use on the ground floor however achieves the objectives of the zone which requires an active street frontage along Botany Road. Due to the size of the site and the size of the retail tenancy, the retail is more suited for a small scale office or business premises and

Item

Bayside Planning Panel 12/06/2018

not for a supermarket. By increasing the size of the retail, constraints to the car parking will be evident and further non-compliances will occur. There are no residential units proposed on the ground floor and the only residential component associated with the units are constrained to associated lobby or car parking. The retail component can stand alone and is not ancillary to the development. Based on the justification provided above and the constraints that impact the site, the proposal falls into the category of 'shoptop housing'.

#### **Note 5 – Variance to Building Height**

The applicant has provided a Clause 4.6 variation to the maximum permissible building height of 14 metres pursuant under Clause 4.3 of the BBLEP 2013. The proposal has a maximum building height of 17 metres, a breach of 3m.

A breakdown of the heights proposed is as follows:

- Lift Access and Overrun- 17m (RL21.98)
- Pergola- (RL20.58)
- Risers- (RL21.68)
- Top of stair core- 15.5m (RL20.28)
- Top of parapet/balustrade- (RL18.98)

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 14 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

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

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

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

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

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

#### **"2. Proposed variation to height of building development standard"**

*The development application proposes the construction of a mixed use development with the majority of the proposed built form compliant with the height of buildings development standard. The lift and stair access to the rooftop terrace are a maximum height of 17m and*

Item

Bayside Planning Panel 12/06/2018

the building parapet has a maximum height of 14.1m. The maximum height exceedance is 3m (a variation of 21.4%).

The parts of the building that are non-compliant are show in Figures 1 and 2 with a dashed line showing the 14m height control based on the existing ground surface levels.

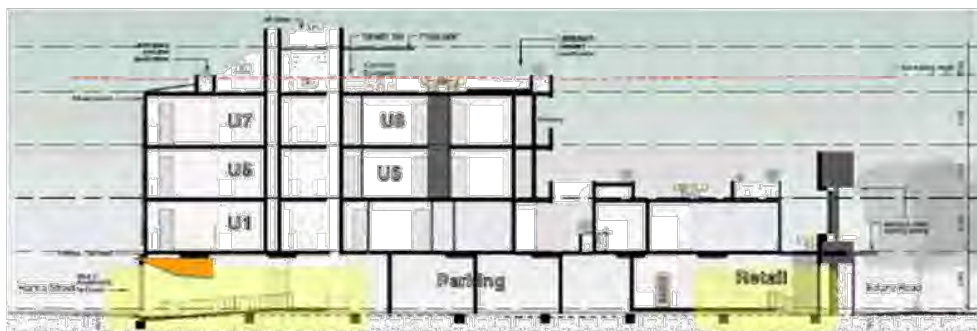


Figure 1. North-south section showing maximum height control and proposed building height

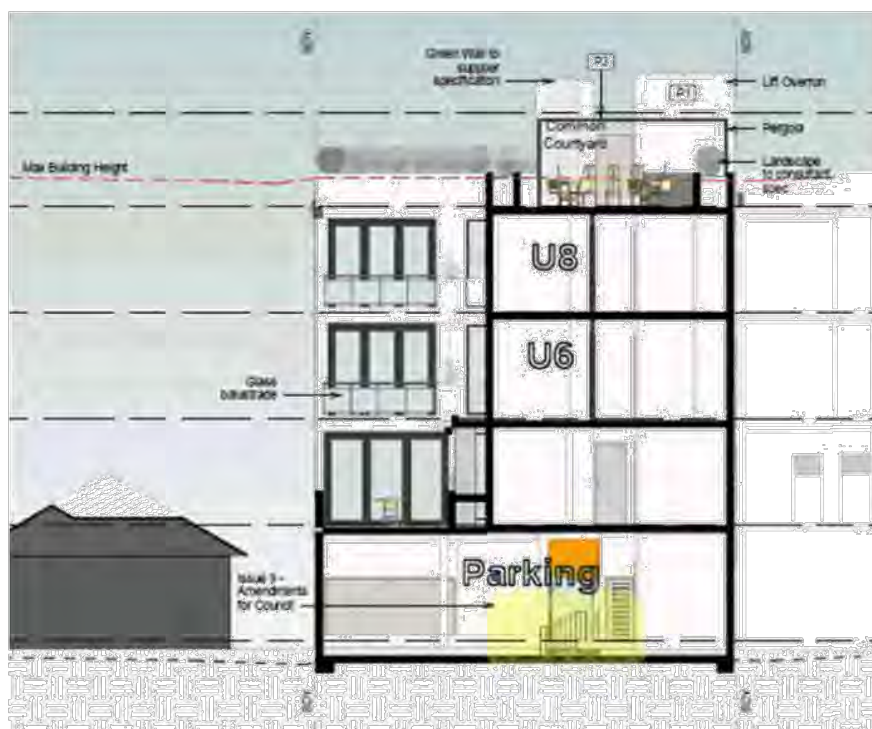


Figure 2. East-west section showing maximum height control and proposed building height and neighbouring building profile

#### Clause 4.6 discussion

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Item

Bayside Planning Panel 12/06/2018

The applicant has provided the following justification under this clause:

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

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

*The judgement goes on to state that:*

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

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

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

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

*Notwithstanding, the non-compliances are minor and will have no detrimental impact in terms of shadow, privacy, built form and character. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied and Council has the power to grant variation to the height of buildings development standard as proposed.*

*Insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied."*

Item

Bayside Planning Panel 12/06/2018



Officer's Comment:

The massing of the form of the proposal has been designed to relate to the scale of the adjoining approved development in order to create an infill development that sits sympathetically with the streetscape. The site has the advantage of being located in close proximity to public transport. The proposal represents a cohesive infill addition and delivers a coordinated development and planning outcome. Whilst there is a variation to the proposed height control, the extent of the variation is offset by elements of the building and parts of the building which sit below the height limit, particularly the front portion fronting Botany Road, and the areas of non-compliance have been sited to ensure compatibility in scale with the streetscape and surrounding development.

The proposal provides a two storey street wall height to Botany Road with the upper levels setback 15 metres from the front boundary. The massing of the built form provides an appropriate transition to the lower scale development along Anniversary Street and on the south-eastern side of Botany Road. The proposal's consistency with the maximum FSR for the site provides an indication that the density of the development is appropriate despite the building height departure.

In regards to whether the standard has been virtually abandoned or destroyed, Council has approved a slight variation on the approved north-western developments for the purposes of lift overruns therefore Council has a flexible approach in approving non-habitable uses over the height limit in this area.

The proposed variation will not result in any unreasonable impacts on the amenity of the adjoining properties and is consistent with the desired future character outlined in the BBDCP.

*Clause 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?*

The applicant has provided the following justification under this clause:

*"Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite non-compliance with the height of buildings standard, the proposed scale and form of the development is compatible with the emerging and intended mixed use character of the Botany Local Centre. The scale of the proposal fits with the streetscape. The built form optimises the number of high quality apartments on the site reasonably protecting the amenity of neighbouring properties with rooftop terraces well concealed by planter beds to the perimeter of the building. The development site is well serviced by established utilities and infrastructure and is in close proximity to established commercial, recreational, educational and health services facilities.*

*On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development, it is considered that there are positive impacts in providing the lift and stair access and rooftop terrace in the manner proposed. The rooftop terrace adds considerably to the quality and amenity of the communal and private open spaces of the proposed apartments without detrimental impacts to neighbours due to the appropriate setbacks and screening.*

*The minor breach to accommodate the rooftop terrace has no impacts in terms of shadow, visible bulk and scale, overlooking or streetscape.*

Item

Bayside Planning Panel 12/06/2018

*Compliance could be achieved by deleting the rooftop terrace. However, there would be no gain in any other terms and the change would be to the detriment of the quality of private open space and efficient use of the building footprint overall. A rooftop terrace adds to the appreciation and maintenance of the rooftop space as well as the appreciation of the outlook provided by the location.*

*The merits of the proposal on "environmental planning grounds" need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The development has been designed to provide a high quality urban outcome which will benefit the streetscapes and the future residents. Strict compliance would not achieve any measurable or perceptible gains of any nature.*

*The minor variations apply to sections of the proposed building which do not contribute to overall building mass and scale and in no way undermine or dismiss the relevance of the building height control. The proposed built form will not set an undesirable precedent. To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits. As such the proposal results in a high quality residential development which is suited to the site and its context and the streetscapes and is compatible with the continued amenity and privacy of neighbouring properties."*

Officer Comments:

The development reflects the desired future built form character of the neighbourhood centre despite the variation. The departure from the height standard will not involve any unreasonable impacts on the amenity of adjoining properties, the streetscape or the locality. The development provides appropriate setbacks from Botany Road and Hanna Street so that the additional bulk does not present a significant bulk from the streetscape.

*Clause 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)*

Officer's comment:

The Clause 4.6 request has been provided and is considered to be well-founded and has addressed the matters that are stated within Clause 4.6(3).

*Clause 4.6(4)(a)(ii)- Consent authority that the proposal is in the public interest because it is consistent with the zone and development standard objectives*

Officers Comment:

The applicant is to address the objectives of Clause 4.6, the objectives of the zone and the objectives of Clause 4.3 of the BBLEP 2013. The following has been provided in regards to the objectives:

Clause 4.6 objectives:

*"The development standard for maximum building height in clause 4.3 are not "expressly excluded" from the operation of clause 4.6. Clause 4.3(2A) does not apply to the subject site.*

Item

Bayside Planning Panel 12/06/2018

*Objective 1 (a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This request addresses the requirements of subclauses 4.6(3) and 4.6(4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1 (a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in subclause 4.6(6).*

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

#### Clause 4.3 objectives

*The objectives of clause 4.3 height of buildings are listed in BBLEP 2013 as follows, inter alia:*

*"(a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*

*(b) to ensure that taller buildings are appropriately located,*

*(c) to ensure that building height is consistent with the desired future character of an area,*

*(d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

*(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

*As previously noted, the Height of Buildings Map nominates a maximum building height of 14m for the site. It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit a maximum building height of 17m to the lift and stair access to the rooftop and 14.1 m to the uppermost edge of the parapet to the rooftop terrace, as described in Section 2.*

*In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3 are addressed in turn below*

#### **Objective (a): "to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner"**

*The proposed non-compliance relates to the rooftop terrace parapet and the top of the lift and stair access to the rooftop. The number of storeys of the proposed building is consistent with the number of storeys and building height anticipated by the LEP height control of 14m.*

*The height of the proposal is also consistent with the height of newer buildings in the streetscape as demonstrated in Figure 2. The proposed building height will not be out of place in the streetscape and the general anticipated built form in the locality and is therefore consistent with Objective (a).*

#### **Objective (b): "to ensure that taller buildings are appropriately located"**

*The spatial pattern of building height controls as shown in the BBLEP 2013 height of buildings map indicates that taller buildings are to be located along Botany Road with lower*

Item Bayside Planning Panel 12/06/2018

scale buildings further away from Botany Road. The pattern of building heights reflects the fact that Botany Road is the main arterial road for this locality and the focus for mixed use development of greater scale and intensity than surrounding land. The proposed building height is consistent with the focus for taller buildings on sites with frontage to Botany Road and therefore is consistent with Objective (b).

**Objective (c): "to ensure that building height is consistent with the desired future character of an area"**

The desired future character for the locality is best described by the objectives for development in Zone B1 (see 5 below) and in Section 5.2.2.7 to Botany Bay Development Control Plan 2013 (BBDCP 2013). As demonstrated in Section 5 the proposal is consistent with the objectives for development in Zone B1. The elements of the desired future character of the Botany Local Centre as listed in Section 5.2.2.7 to BBDCP 2013 are summarised as follows:

- New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character;
- Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the centre;
- Buildings must address the street and their entries are to be readily apparent from the street;
- Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties;
- Shop top housing must have windows and/or verandas in the street elevation to encourage surveillance of the street;
- New development when viewed from the street is to be compatible with the character of buildings within the site's visible locality by using similar shaped windows, doors and similar building materials; and
- Continuous awnings incorporating traditional shopfronts and building facades.

The proposal demonstrates consistency with the desired future character as outlined in the DCP for the Botany Local Centre in the following ways:

- The number of storeys is compatible with the number of storeys contained in newer buildings along the street including the neighbouring building to the west (See Figure 2);
- The building is of contemporary design and includes details and proportional which are compatible with the streetscape and furthermore the rooftop terrace adds to variety whilst utilising a high parapet which is characteristic of the original built form along Botany Road;
- The building addresses both street frontages with pedestrian and vehicle entry points readily identifiable;
- The Botany Road façade includes balconies and living room windows oriented to the street;
- The development includes an active street frontage and a continuous awning. For these reasons the proposal is consistent with Objective (c).

Item

Bayside Planning Panel 12/06/2018

**Objective (d): "to minimise visual impact disruption of views, loss of privacy and loss of solar access to existing development"**

*As described in the Statement of Environmental Effects and demonstrate on the plans submitted with the development application, the sections of the building which exceed the 14m height control will have no detrimental impact to views, privacy or solar access.*

*The lift and stair access to the rooftop is located in the centre of the site and will not be readily visible from the adjoining public space or from neighbouring sites as it is recessed form the building perimeter. The high parapet which defines the outer edge of the planter bed to the rooftop terrace will not result in obstruction of views.*

*The roof and stair access to the rooftop will not result in overlooking or loss of privacy as there are no direct lines of sight between this structure and neighbouring private open space or living room windows for neighbouring dwellings.*

*The rooftop terrace is to be provided with a continuous deep soil planter bed which prevents overlooking from the rooftop terrace space and also creates acoustic privacy with solid masonry walls to the rooftop terrace.*

*The small sections of the building which exceed the height of buildings control do not contribute to the overall shadow cast by the building to the degree that the amenity of neighbouring properties would be compromised. For these reasons the proposal is consistent with Objective (d).*

**Objective (e): "to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities"**

*As stated above and as demonstrated in Figure 2 the proposed building height is consistent with the streetscape in terms of the number of storeys. The height of the parapet which borders the rooftop terrace is consistent with the typical high parapets on original mixed use buildings in the streetscape. The rooftop lift and stair access is recessed form the perimeter of the building and will not be visible from adjoining streets. The proposed encroachment into the maximum building height limit is considered to be minor and will not substantially change the appearance of the proposal within the streetscape, nor will the additional height be readily apparent or obvious to the casual observer at street level.*

*In summary it has been demonstrated that the proposal meets the objectives for height control in Clause 4.3 despite the numeric non-compliance.*

**Objectives of the B1 Neighbourhood Zone**

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

*"To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

*To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.*

*The proposal involves the construction of a new mixed use building and will provide for small scale commercial premises with an active street front to Botany Road. The future use of the commercial tenancy has not been determined although the dimensions and*

Item Bayside Planning Panel 12/06/2018



*accessibility of the space make it suitable for a variety of small-scale uses suitable for a localised service. The proposal will have no adverse impacts on residential amenity with no unreasonable overshadowing or overlooking as a result of the small sections of the building which exceed the 14m height control.*

*Figure 2 shows that the scale of the building is compatible with the height of the adjoining building to the west and, as explained above, the roof and stair access will not be visible as part of the overall building height whilst the height of the parapet is consistent with the streetscape to Botany Road. For these reasons the proposal is consistent with the objectives for development in Zone B1.*

*The proposal is architecturally designed and has high aesthetic value. The scale, massing, materiality and detailing of the proposal is compatible with the mixed use buildings that dominate the streetscape in the Botany Local Centre and is considered to make a strong positive contribution to the desired character of the area.*

*The design optimises solar access and natural ventilation within the site and provides high quality rooftop open space for communal use and private use thus providing for superior amenity for future occupants. For these reasons the proposal is highly suited to the site and the specific context and setting."*

Officers' Comment:

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

The majority of the height departure is a result of the lift access and overrun, risers and pergola due to access to the rooftop communal open space, with a slight non-compliance with the building parapet. Additional points relating to the proposed height exceedance include:

- The development proposal is compatible with the bulk and scale of the existing and desired future character of the locality presenting onto Botany Road;
- The development is compatible with the low density residential dwellings to the rear on Anniversary Street;
- The development will not jeopardise the visual relationship between new development and the existing character, furthermore, it should be taken into consideration that surrounding land particularly to the immediate east will likely undergo change as a result of BBLEP 2013;
- The development proposal will not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places including parks or community facilities;
- The proposal has maintained an appropriate visual character and is consistent with the transformation of the area;
- There will not be adverse impacts on the road network as a result of the proposed height exceedance;
- The development has been assessed to have minimal adverse impacts from the additional building height on the amenity of adjoining properties in terms of overshadowing, overlooking, traffic etc.; and
- The proposal provides for an appropriate correlation between the size of the site and the extent of the development on the site in that the development complies with the FSR development standard under BBLEP 2013.

Item

Bayside Planning Panel 12/06/2018

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.

As stated above and throughout the report, the site is impacted by special circumstances which does not allow compliance with the height control. As the top floor is setback so that it does not dominate the streetscape from Botany Road and the rooftop terrace from Hanna Street, the additional bulk is largely not visible from both Botany Road and Hanna Street and structures located over the height limit are located centre to the site. The non-compliance in height is accepted.

#### **S4.15(1)(a)(ii) - Provisions of any Draft EPI's**

There are no current Draft EPIs applicable to this development

#### **S4.15(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 3A.2- Parking Provisions of Specific Uses* of the BBDCP 2013 requires the development to provide the following number of car parking spaces (as specified within Table 1):

##### Residential:

- 1 space/studio and one bedroom units: 3 spaces required
- 2 spaces/two and three bedroom units: 10 spaces required
- 1 visitor space/5 units: 2 spaces required

##### Commercial:

- 1 space/25sqm for the shop: 5 car spaces required

The proposal generates a total of 20 car parking spaces.

The proposed development provides car parking within the ground floor level with the majority of car parking in a car stacker form. The proposal provides a total of 13 car parking spaces with the two and three bedroom units (Units U1, U5, U6, U7, U8) and the one bedroom unit (Unit U2) allocated car parking spaces. The proposal does not provide car spaces to U3 and U4 which are studio apartments nor does it provide any visitor parking spaces. Therefore there is a total departure of 4 residential spaces. The proposal provides a total of 2 retail car spaces with one doubling up as a car wash bay, which is a shortfall of 3 retail spaces within the development. There is no loading bay proposed on site. Whilst not able to rely on Part 3J of the ADG, note that the DCP provides flexibility for parking in certain circumstances.

Item

Bayside Planning Panel 12/06/2018

The applicant has provided a traffic impact statement with the development application which makes reference to the original plans which contained 79sqm of retail and seven residential units. However their argument continues to apply which is as follows:

*"The deficiency of car parking spaces is considered acceptable and appropriate given the sites accessibility and proximity to frequent bus services on Botany Road. The deficiency does not create a constraint that would otherwise encourage staff visiting the site to consider public transport, cycling, walking and car sharing for work related journeys. Additionally, it is envisaged that any on-site car parking provision for retail use would be allocated to staff only, as it would not be desirable nor practical for customers to access the on-site parking at the rear of the site, based on the internal circulation, intercom and security arrangements. Furthermore, customer parking would be short term and therefore allocation of on-site retail spaces to staff only is the appropriate arrangement."*

The proposed development shortfall relates to car parking for studios and visitor spaces. While there is a requirement under DCP to provide one space to studio units, the site has excellent service to public transport with a bus stop located directly opposite the site and to the south of the site along Botany Road. These bus stops provide frequent services to the City and Port Botany. It is also considered that the studios would be more affordable arrangement within the development and the requirement for car parking would not be warranted. Due to the nature of the units and the frequency of public transport, the departure is acceptable. In regards to the departure in retail car parking, a condition of consent has been imposed requiring a workplace travel plan for employees of the retail tenancies to be provided prior to Occupation Certificate. For the same reason discussed regarding to the residential departure, the constraints and location of the site to public transport is accepted.

Part 3A.3.4- On-site loading and unloading of the BBDCP 2013 requires one service bay to be provided within the development. There is no service bay proposed on the site. The applicant has provided justification on the lack of loading bay as follows:

*"Due to the constraints of the site and given the small size of the development it is considered that a SRV loading bay would be excessive for either land use component of the mixed use development. In addition, it is noted that the proposed mixed- use development has eight residential units and 102sqm GFA of retail space and is well under the threshold. Waste collection is proposed to be undertaken from the kerbside of either Botany Road or Hanna Street (at Council's discretion), this arrangement is considered to be acceptable for the small size of the development. It is emphasised that garbage collection will occur on an infrequent basis and typically outside of on-street peak periods when passing traffic volumes are substantially reduced. As such, on-street collection is considered supportable and appropriate."*

Due to the size of the site, it is recommended that garbage collection be carried on-street from Hanna Street. The site is too constrained to allow a garbage truck to enter, manoeuvre and exit the site in a forward direction. The garbage collection off Hanna Street is consistent with the rest of the dwellings and developments on the street fronting Botany Road and Anniversary Street. In regards to loading within the site, it is conditioned that the retail space be a shared retail/loading bay for an SRV to allow appropriate loading/unloading for the retail space. This has been imposed within the consent.

Control C28 of Part 3A.3.1 of the BBDCP 2013 states that for other residential development, the vehicular crossing and driveway should have a minimum width of 5.5 metres for two way access. The proposal provides a 4 metre wide driveway and vehicular crossing which does not comply with Council's controls. The applicant has proposed that this will be one way and has made provisions to access by providing traffic signalisation to allow appropriate vehicular access in and out of the site.

Item

Bayside Planning Panel 12/06/2018

Other relevant controls relating to the development and assessed under Part 3A are as follows:

Control	Requirement	Proposed	Complies
<b>3A.3.1 – Car Park Design</b>	<b>C13</b> Pedestrian entrances and exits shall be separated from vehicular access paths.	The plans demonstrate that there is separate entry and for vehicles and pedestrians. Pedestrians can access the car parking from Hanna Street. Pedestrian access is from a separate lobby access off Hanna Street and Botany Road.	Yes
	<b>C15</b> Vehicle access points of the property should not be located: a) In places with high traffic volumes, such as classified or arterial roads; b) Close to intersections as outlined in Section 3.2.3 of AS2890.1; c) Where there is heavy or constant pedestrian movements along the footpath; d) Opposite to other traffic generating developments; e) Where traffic using the driveways interferes with or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings; f) Adjacent to or at the sag point of the street; and g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with.	<p>The site has two street frontages with one off Botany Road and the other off Hanna Street. The development is not a traffic generating development with only 8 apartments proposed. All access will be off Hanna Street which is a secondary street whereas Botany Road is a classified street.</p> <p>The vehicular access has been located on the secondary street to avoid queuing and is not in a heavy constant pedestrian movement area which is predominantly along Botany Road.</p> <p>The proposal does not obstruct any operations relating to bus stops, taxi ranks and pedestrian crossings.</p> <p>There is a bus stop located directly opposite and down the street along Botany Road therefore the site has excellent access to public transport.</p> <p>Sight distances have been maintained as part of the proposal.</p>	Yes
	<b>C28</b> The minimum width of the access driveway at the property boundary shall be:- <ul style="list-style-type: none"> <li>For other residential developments: 5.5 metres (two way);</li> <li>The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary.</li> </ul>	The development has a minimum driveway width of approximately 4 metres and is located on the southern side of the site.	<b>No- See above discussion</b>

Item

Bayside Planning Panel 12/06/2018

	<b>C40</b> The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	Waste collection and garbage holding rooms are located within the ground floor car parking area within the development. Collection of bins will be via the kerb on-street along Hanna Street.	Yes
<b>3A.3.2</b> Bicycle Parking	<b>C1-C5</b> To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 2)	The plans do not demonstrate bicycle spaces. A condition of consent has been provided requiring amended plans to be provided prior to CC showing 2 bicycle spaces.	<b>No - Conditioned</b>

#### *Part 3C – Access and Mobility*

The proposal provides one accessible unit (U2) within the development. This unit is located on the first floor and is provided with one accessible car parking space in the car parking level. All units other than U3 and U4 are accessible from a lift.

In regards to access within the site, the development is impacted by flooding therefore the building is slightly elevated along the Botany Road and Hanna Street frontages. The applicant has designed the front retail component to include a chair lift up to the retail area. A 1:14 grade ramp is proposed at the rear of the site leading to the lobby and the lifts to the residential units. The applicant has considered appropriate access measures which are supported.

#### *Part 3G – Stormwater Management*

The development proposes an on-site detention tank to be located under the ground floor of the car parking level in addition to a 3,000L rainwater tank to be installed on the rooftop communal area for rain harvesting. The site is also impacted by flooding with a flood level of 5 AHD and from Hanna Street a flood level of 4.83 AHD. The application was referred to Council's Development Engineer who raised some issues regarding to flooding.

Amended plans were provided showing the retail component, foyer and driveway crest raised to 5.5 AHD which is above the minimal flood level for the commercial and residential frontage. The driveway crest is located over the OSD system. Conditions relating to stormwater management and flooding have been included within 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 25-30 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.

Item

Bayside Planning Panel 12/06/2018



An acoustic report prepared by Sebastian Giglio and dated July 2017 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.

The standard requires that the external environment to the dwelling be considered for aircraft noise impacts. This process has taken the following into account:

1. There is an existing residential premise on site and the development proposes commercial and residential units on the site;
2. The degree the land is affected by aircraft noise is related to the use and operation of the airport as it affects the subject shoptop housing development;
3. Development in the immediate surrounding environment is shoptop housing developments and residential dwellings; and
4. The outdoor environment, given the curfew and current operating patterns, are such that in daylight hours there will be sufficient opportunity to utilise the private open space without the presence of aircraft noise.

The development consent will be conditioned to comply with the recommendations outlined in the acoustic report and the requirements of AS2021-2000.

#### *Part 3K – Contamination*

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

#### *Part 3L – Landscaping*

The proposed development provides a total of 132sqm of landscaped area which results in a total of 27%. While this does not comply with the requirement within Part 4C of the BBDCP which requires a total of 35% landscaped area, the requirements under Part 5 of the BBDCP does not require a specific landscaped area as the site is located within a neighbourhood centre. Considering the size of the site and the location of the landscaped area on the rooftop area, the departure is acceptable.

The application was referred to Council's Arborist as there are a number of trees on the site that are proposed for removal. The arborist has commented that there are no significant trees on the site that are worth retaining. However the neighbouring site at 1370 Botany Road contains a small Tuckeroo located on its eastern boundary which should be retained. The trees along Botany Road that are directly outside the site are to be retained and protected during construction works.

#### *Part 3N – Waste Minimisation and Management*

The relevant requirements and objectives have been considered in the assessment of the development application. A Waste Minimisation Management Plan (WMMP) was submitted with the application. The waste management plan is to be conditioned to be updated prior to Construction Certificate to reflect the recent amendments to the plans which include a larger retail space and additional unit within the development and to reflect the requirements of Bayside Council. As discussed above, waste collection for both the residential and commercial components will be carried from Hanna Street which is the secondary frontage. Residential

Item

Bayside Planning Panel 12/06/2018

waste will be carried out from Council's garbage trucks while the retail waste will be collected by a private contractor. This is acceptable as it is consistent with the garbage collection arrangement of the neighbouring sites as well as the constraints of the site does not allow for an MRV to enter for garbage collection. Appropriate conditions have been imposed in the consent reflecting appropriate disposal of waste and maintenance during construction and for the ongoing use.

#### *Part 4C – High Density Residential*

##### *Part 4C.4.2 – Family Friendly Apartments*

4C.4.2 Family Friendly Apartment Buildings		
<b>C1</b> Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.	The two and three bedroom apartments have generally been designed in accordance with the below controls.	Yes
<b>C2</b> Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child	Some of the two and three bedroom units provide a desk within a bedroom or in the living room however there are no separate studies proposed.	No – Refer to Note 7
<b>C3</b> Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan	Given the size of the apartments, there is considered to be sufficient space in a secondary bedroom for a bed and desk or within the living room to accommodate a desk.	Yes
<b>C4</b> The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet	To be conditioned within the consent.	Yes-Conditioned
<b>C5</b> Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision	All two and three bedroom apartments include two bathrooms with one easily accessible off the primary corridor. At least one bathroom in the three bedroom units includes a bathtub however the two bedroom units do not.	No – Refer to Note 7
<b>C6</b> The private outdoor space is to be clearly visible from the kitchen	All apartments have POS clearly visible from the kitchen.	Yes
<b>C7</b> The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing	There is considered to be sufficient space in entry areas for storage. Storage requirements comply for the development.	Yes
<b>C8</b> The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment	The amount of storage provided within the apartments is acceptable.	Yes

#### **Note 7 – Family Friendly Apartments**

Control C2 requires a study in all family apartments- All but one of the 2 bedroom apartments do not have a separate study room or nook. 100% are required to.

Item

Bayside Planning Panel 12/06/2018

Notwithstanding the above, this does not imply that there is not sufficient space within the open-plan living area or in bedrooms to provide a desk so that parents can monitor children while working from home. All 2-bedroom apartments exceed the ADG minimum apartment size by 8 to 23sqm. This indicates that there is sufficient size within the apartment to accommodate a desk within the open plan living area and that there is sufficient size to support the separation of conflicting activities within the living spaces. This satisfies Objective O2 and O3 which state:

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

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

While it is considered that there is sufficient size for the location of a nook or desk within the open-plan living area, a condition has been recommended that amended plans be submitted showing compliance with this requirement by indicating that within each 2-bedroom apartment, there is either a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area. Additionally, the two bedroom units do not propose a bath tub within one of the bathrooms. The plans demonstrate that the two bathrooms proposed are not large enough to provide a bathtub without a significant redesign of the area. Therefore it is considered acceptable to not have a bathtub to these areas.

#### **Part 5 – Business Centres**

The site is located within the Banksmeadow Neighbourhood Centre. The objectives of the Centre that apply to the site under Part 5.2.2.3 of the BBDCP is as follows:

Objective	Response
<b>O1</b> To retain and conserve the shopping strip at Banksmeadow and encourage a viable and attractive Neighbourhood Centre by improving the public domain and the public/private interface	The proposal will replace a portion of the old Mascot Telephone Exchange with a mixed use development. The commercial tenancies have floor to ceiling windows which will allow for adequate surveillance along Botany Road and King Street. Additionally, the front residential lobby has been designed to allow for safe surveillance. The architectural style of the building is attractive through the use of different materials, articulation and a curved façade on the corner facing the intersection.
<b>O2</b> To ensure that development recognises predominant streetscape qualities (i.e. setbacks, traditional shopfronts & design features)	The development reflects the streetscape qualities of the surrounding site. The proposal will incorporate an awning at the front of the site and has setback the top 2 levels of the development along the eastern elevation to reduce the bulk when viewed from the streetscape on Botany Road.
<b>O3</b> To protect and maintain Heritage Items such as the Sir Joseph Banks Hotel which provide a landmark for the Centre	The development is one of the first that is proposed to be redeveloped therefore the scale and height of the existing built stock does not reflect the proposal however it is anticipated that the surrounding shops will be redeveloped in this manner. The height of the proposal is consistent with the existing building to the west which has a five storey height. The top floors are setback and

Item

Bayside Planning Panel 12/06/2018

	demonstrate a two storey street wall height along Botany Road. The architectural style proposed is visually aesthetic and complements the character of the locality.
<b>O4</b> To retain traditional building façades in any redevelopment of the shops	As stated above, height is reflective of the height of the adjoining Mascot Telephone Exchange building. The proposal is going for a more contemporary style with face brick, rendered brick, metal mansard roof and aluminium louvres.
<b>O5</b> To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character	The proposal will retain the two large street trees (London Plane trees) along Botany Road. The existing street tree on King Street has been cut down to accommodate the vehicular crossing. A number of new trees along King Street and within the site are proposed.
<b>O6</b> To retain existing trees and provide additional advanced trees within the streetscape	Previously on the site was a commercial building utilised as the Mascot Telephone Exchange. The site proposes adequate redevelopment to a mixed use form and provides active street frontage on the ground floor which was not previously there.
<b>O7</b> To allow reasonable redevelopment and to improve the architectural quality of building stock	The proposal adopts a two storey street wall along Botany Road with the above levels setback away from the street. This setback is consistent with the setback on this street frontage. The elevation along King Street matches the setback of the neighbouring property.
<b>O8</b> To retain a coherent streetscape with a consistent street wall and parapet line	There are six commercial tenancies proposed in the development. A number of these will front onto Botany Road and will receive morning sunlight. The size of the commercial tenancies can accommodate uses such as cafes.
<b>O9</b> To ensure that redevelopment of the shops minimises impacts on the adjoining residential precinct	All units that are fronting the street, have balconies that face onto the street. Additionally, there is adequate surveillance into the communal open space on the first floor from internal balconies and the breezeways.
<b>O10</b> To improve pedestrian connections and safety within the Centre	There are no balconies proposed over the awnings.
<b>O11</b> To encourage appropriate active outdoor uses with good solar access; and	The development does not allow for a site through pedestrian link as it is situated on a corner. There is no requirement for site consolidation.
<b>O12</b> To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets).	Due to liability and ownership issues, Council requires all balconies to be located within the site boundaries. The proposal is located within the site boundaries.

Item

Bayside Planning Panel 12/06/2018

Figure 11 - Desired Future Character - Banksmeadow Neighbourhood Centre  
Desired Future Character - Banksmeadow Shops

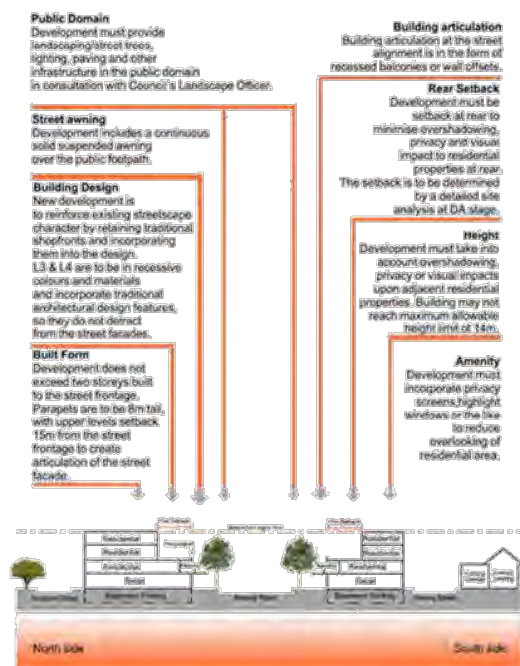


Figure 10. Reproduction of Figure 11 from Part 5 of the BBDP 2013

Figure 13 - Desired Future Character - Banksmeadow Neighbourhood Centre

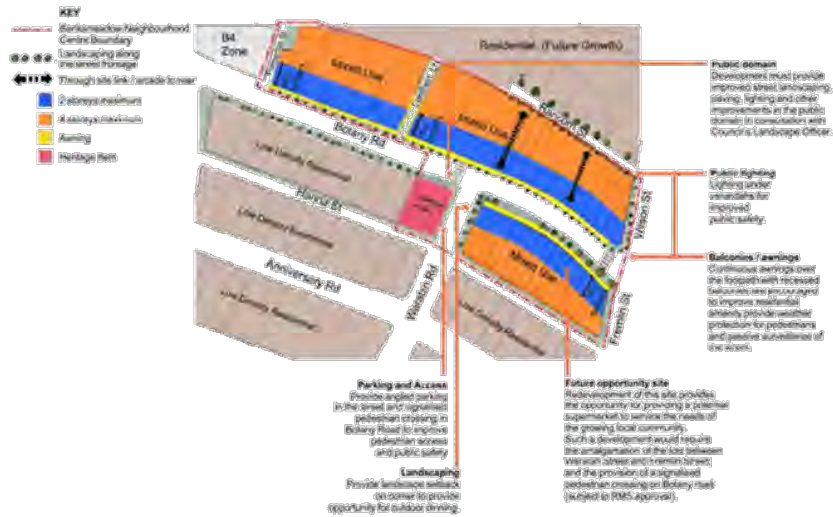


Figure 11. Reproduction of Figure 13 relating to desired future character of the Banksmeadow Neighbourhood Centre

Item

Bayside Planning Panel 12/06/2018



**Figure 14 - Banksmeadow Neighbourhood Centre: Site Amalgamation**

Redevelopment requires site amalgamation  
in accordance with the defined amalgamation parcels  
(ie A, B, C, D, E, F, G, H, I, J)

**Figure 12. Reproduction of Figure 14 relating to desired site amalgamation of the sites**

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

Control	Proposed	Complies
<b>5.2.2.3 Banksmeadow Neighbourhood Centre</b>		
<b>C1</b> Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figures 11, 12 and 13	The street that exists along Botany Road are to be maintained. The proposal will continue the awning that has been approved along the northern developments. There is no additional public seating and lighting provided. Appropriate conditions relating to public domain are included within the consent.	Yes
<b>C2</b> Pedestrian amenity and connectivity must be enhanced in conjunction with new development. For instance, a signalised pedestrian crossing in Botany Road at the centre of the shops would be required to improve pedestrian safety and connections. Through site links and arcades leading to the residential precinct to the rear is also encouraged with future redevelopment of the shops to improve pedestrian accessibility, safety and amenity.	Due to the size of the site, the requirement to contribute to a signalised pedestrian crossing is onerous particularly as there is an existing pedestrian crossing directly opposite the site along Botany Road. There is no requirement to have a site through link as part of this development. This would be better suited for development on the northern side of Botany Road.	Yes

Item

Bayside Planning Panel 12/06/2018

<b>C3</b> Development of a heritage item or a site within the vicinity of a heritage item must comply with Part 3B - Heritage.	The site is not a heritage item nor is it located near a heritage item or in a heritage conservation area.	N/A
<b>C4</b> Redevelopment of the shops requires site amalgamation generally in accordance with Figure 14 to avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	Figure 14 demonstrates that the entire block on Botany Road between Fromlin Street and Waratah Road is to be amalgamated. The site is an individual site however the development has been designed to mirror the development approved to the north. The sites to the north have not been amalgamated. The site has been designed so that the development could function appropriately without consolidation. There are three sites to the south which could be amalgamated in the future to provide appropriate development.	Yes
<b>C5</b> The design of development must be generally consistent with the desired future character of the centre identified in Figures 11, 12 and 13.	The development has been designed to have a two storey street wall with the top two floors setback away from the Botany Road street frontage. The upper level setbacks match the setback that was approved on the northern neighbouring site. The proposal is consistent with Figures 11 to 13.	Yes
<b>C6</b> New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character. Traditional shopfronts and façades must be retained and incorporated into new developments.	The proposal is consistent with development that was approved at 1364-1366 Botany Road and 1358 Botany Road which were approved with a four storey height and two storey street wall. The neighbouring sites are under construction therefore will form the new streetscape along the southern side of Botany Road which replaces residential dwelling houses. The ground floor is consistent with the desired future character of this centre.	Yes
<b>C7</b> Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb as detailed in the Character Statement.	The proposal mirrors the approved development at 1364-1366 Botany Road which comprises of dark face brick at the street level. The materials proposed complement the approved and existing streetscape.	Yes
<b>C8</b> The maximum height of buildings identified under BBLEP 2013 is 14 metres. Whilst a maximum of four storeys is permitted, buildings along the street frontage, must have a maximum street wall height of two storeys with a continuous parapet line, consistent with existing development.	The proposed height exceeds the 14 metre maximum height requirement. A Clause 4.6 variation has been included with the development application. This has been discussed in the report above.	No – See Note 6 above

Item

Bayside Planning Panel 12/06/2018

<b>C9</b> The top two stories must be setback from the street alignment to create articulation of the street façades. Setbacks to the rear are required (and will be determined subject to site analysis at the development application stage) to ensure that potential overshadowing, privacy and visual impacts on residential properties are minimised, in accordance with Figure 11. Applicants must demonstrate at development application stage that appropriate setbacks are provided so that amenity impacts on residential properties are minimised.	The development proposes a two storey street built form with the two upper levels setback from Botany Road by 15 metres towards Hanna Street. This is consistent with the desired future character diagram under Figure 11.	Yes
<b>C10</b> With redevelopment of the shops, landscape planting must be provided along the rear boundary where a site adjoins a residential property, to provide a visual separation between the shops and the residential area.	The development does not provide a landscape buffer on the ground floor as it is bound by Botany Road and Hanna Street. The rooftop has been amended so that the planters and courtyards are setback away from the edge of the building to allow for greater privacy to the dwellings that front onto Anniversary Street.	Acceptable
<b>C11</b> The design of new development must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.	Each unit has direct access to a balcony or a rooftop terrace which contributes to surveillance along Botany Road.	Yes
<b>C12</b> All designs must provide awnings above the footpath. Awnings above the footpath are encouraged to be trafficable verandahs for the use of residents on the first floor and to provide for passive surveillance of the streets. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges.	An awning is proposed along the Botany Road street frontage. The awnings are not trafficable with the development encompassed within the site boundaries.	Yes
<b>C13</b> The design of buildings must encourage active street life and provide for small scale shops that will serve the local community. The design must also improve the	The proposal provides a retail tenancy on the ground floor facing Botany Road. This is consistent with Control C13.	Yes

Item

Bayside Planning Panel 12/06/2018

passive surveillance of the surrounding streets.			
<b>C14</b> Buildings must address the street and their entries are to be readily apparent from the street. Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties	The retail tenancies and access to Units 3 and 4 are from Botany Road where the residential lobby to the remaining units is located off Hanna Street to the rear. Both street frontages have been addressed and access points are easily identifiable.		Yes
<b>C15</b> A street number for the property is to be clearly identifiable from the street.	Appropriate street numbering will be conditioned in the consent.		Condition
<b>C16</b> Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	An awning is proposed along the entire site street frontage.		Yes
<b>C17</b> Air conditioners must not be installed on street awnings or the front façade of buildings.	No air conditioning units have been demonstrated on the site. Appropriate conditions relating to air conditioning will be included within the consent.		Yes
<b>C19</b> Vehicular access on Botany Road must be avoided where access is available from a side street or rear laneway.	Vehicular access to the site is maintained from Hanna Street with no vehicular access to the site from Botany Road.		N/A
<b>C20</b> Where a rear laneway exists loading and unloading must occur from the laneway (loading and unloading must be within the site).	Dedicated loading and unloading is not proposed from within the site. Due to the nature and number of units proposed, loading from Hanna Street would be acceptable. Alternatively, a condition of consent is incorporated to allow loading/unloading from a SRV space within the car parking level is included. This may double with the retail car space.		Condition
<b>C22</b> The provision of through site links and arcades is encouraged with new development to provide pedestrian connections to the residential precinct.	The site is not suitable to have a site through link as the site links to no arcades or residential development to the rear.		No- Refer to Note 3
<b>5.3 General Controls</b>			
5.3.1.2 Height	C2 & C3 In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys	The desired future character of the Banksmeadow Neighbourhood Centre is two storey street wall with the upper levels setback. The proposal adopts this height. While there is a height exceedance which is attributed predominantly to the lift overrun, risers and stair core, the height is not considered unacceptable.	Yes

Item

Bayside Planning Panel 12/06/2018

	identified in the relevant character statement for each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height.		
5.3.1.3 Street Setbacks	C1 Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits.	As discussed above, the development complies with the street setbacks prescribed within the Botany Road desired future character.	Yes
5.3.1.4 Side and Rear Setbacks and Building Separation	C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.	<b>Western:</b> Nil (ground to 3 <sup>rd</sup> floor) <b>Northern:</b> Nil (ground and 1 <sup>st</sup> floor) 15m (2 <sup>nd</sup> and 3 <sup>rd</sup> floor) <b>Southern:</b> Nil-2.5m (ground and 1 <sup>st</sup> ) Nil to 2.5m (2 <sup>nd</sup> and 3 <sup>rd</sup> floor) 5.3m- terrace <b>Eastern:</b> Nil (ground to 3 <sup>rd</sup> floor)	<b>No- Refer to Note 3 above</b>
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	The applicant has provided a SEPP 65 compliance report and ADG checklist with the development application. Building separation is appropriate in this case.	Yes
5.3.1.5 Built Form and Streetscape	C2 Building must have a consistent street wall height and provide a continuous street frontage and awning	The development proposes a two storey street wall height along Botany Road which is consistent with the northern neighbour.	Yes

Item

Bayside Planning Panel 12/06/2018



	height along the street frontage where appropriate.		
5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The applicant has provided a SEPP 65 Design Verification Statement with the development application. The document addressed the design excellence of the proposed development.	Yes
5.3.2.2 Building Design	C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.	The applicant has provided a SEPP 65 Design Verification Statement with the development application.	Yes
	C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any privacy impacts on adjoining residential properties.	Balconies and courtyards have not been screened as the balconies have been located to either look onto the street. No two balconies are directly opposite each other to create adverse impacts in regards to privacy.	Yes
	C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.	A Schedule of Colours and Finishes has been provided with the development application.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	The development does not incorporate any materials that exceed the solar reflectance value by 20%.	N/A
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	The development proposes an awning along Botany Road.	Yes
5.3.2.5 Public Domain Interface at Ground Level	C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.	This is discussed above in the report.	Acceptable
	C2 Development must be designed so that it has a	The building addresses Botany Road and Hanna Street with both its front entrance, vehicle entry to	Yes

Item

Bayside Planning Panel 12/06/2018

	clearly definable entry and addresses the street.	the at-grade car parking and active street frontage available from the street.	
	C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	All apartments are located on Level 1 and above and private open space is via balconies or private courtyards. All units have access to a communal open roof terrace.	Yes
	C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity.	A condition will be imposed that a Public Domain Plan is required prior to the Construction Certificate. The front of the site contains active street frontage that promotes high level of pedestrian amenity.	Yes
5.3.2.6 Active Street Frontages	C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street Frontages under BBLEP 2013.	The development proposes one commercial tenancy measuring a total of 102sqm. The shop is located at the northern side of the ground floor of the site.	Yes
5.3.2.8 Interface between Business Zones and Adjoining Landuses	C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	Clear boundaries are demonstrated by separate entries to the residential and commercial components as well as to the car parking from the rear of the site.	Yes
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	The site has a north-east to south-west orientation therefore a majority of the shadow cast by the proposed development will fall onto 1370 Botany Road to the south of the development. From the shadow diagrams, the adjoining property will be overshadowed approximately between 9am to 11am.  The proposed eight units will receive the minimum 2 hours of solar access during mid-winter.	Yes
5.3.2.9 Landscaped Area	C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public	There is no residential on the ground floor. The development is built to the boundary therefore there is no opportunity for landscaping on the ground floor.	Yes

Item

Bayside Planning Panel 12/06/2018

	domain. This requirement may vary with each block	Planter beds are proposed on the rooftop and courtyards,	
	C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.	The site does not provide deep soil. This has been discussed in Note 2 above.	<b>No- Refer to Note 2</b>
5.3.2.10 Private Open Space and Communal Open Space	C1 The primary area of outdoor private open space must not be located at grade on the street frontage.	There is no residential proposed at grade. All private open space is off a balcony or private courtyard from Level 1 and above.	Yes
	C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.	The communal open space is located on the rooftop. The rooftop provides a BBQ area, seating, and planter beds.	Yes
	C4 Where a site adjoins a residential property, 3 metre wide landscape planting must be provided along the common boundary to provide a visual separation between the residential and the non-residential development. The area is to be mass planted with tall shrubs and suitable dense trees.	The site adjoins residential directly to the south-east at 1370 Botany Road. The top floor provides planter beds along this elevation which is 1 metre wide. It is anticipated that any future development of this site will align with the adjoining site.	No, acceptable
5.3.2.12 Servicing	C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.	The proposal does not provide a loading or unloading zone. This is discussed in Part 3A above.	<b>No – Refer to Part 3A</b>
5.3.2.14 Access and Mobility	C1 Development must comply with Part 3C – Access and Mobility  ▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing,	An Access Report has been prepared and provided with the development application.	Yes

Item

Bayside Planning Panel 12/06/2018

	<p>multi dwelling housing and live/work buildings – Statement of consistency lodged.</p> <ul style="list-style-type: none"> <li>▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B.</li> <li>▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1.</li> <li>▪ In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of spaces complying with AS2890.6.</li> </ul>	<p>The development proposes one adaptable unit.</p> <p>Appropriate access through the front entrance and through the building is provided. The FFL of the ground floor has had to be raised to address flooding. A chairlift is proposed for the retail and appropriate ramping is provided at the rear.</p> <p>The development proposes one (1) adaptable parking space for residential uses located within the car parking level.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
5.3.3.1 Acoustic Privacy	C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.	The site is located within a 25-30 ANEF Contour area and is also impacted by traffic noise along Botany Road. An acoustic report has been provided with the development application and has been conditioned in the consent.	Yes
5.3.3.2 Visual Privacy	<p>C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:</p> <ul style="list-style-type: none"> <li>(i) Fixed screens of a reasonable density (min 75% block out);</li> <li>(ii) Fixed windows with translucent glazing</li> </ul>	The balconies and courtyards have been orientated to the northern side of the site facing Botany Road. In Units 3 and 4, there are windows that are located directly adjacent to the POS of Units 1 and 2. These windows should be either obscure glass or highlight windows or have privacy louvres. This is conditioned in the consent.	Condition

Item

Bayside Planning Panel 12/06/2018

	(providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes.		
5.3.3.5 Solar Access & Shadow	<p>C1 Development must demonstrate:</p> <p>(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and</p> <p>(ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p>	<p>The development to the south-east at 1370 Botany Road will be overshadowed from 12pm in mid-winter. It is demonstrated that the adjoining property will receive the minimum amount of solar in mid-winter.</p> <p>The proposed communal open space on the roof top will receive full sunlight.</p>	Yes

#### *Part 8 – Botany Character Precinct*

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

#### **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**

As outlined in the assessment above, 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**

The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The site is located in the 25-30 ANEF Contour and therefore impacted by aircraft noise. This has been assessed in the report above. The site is also impacted by flooding and the proposal has addressed this by providing a crest at 5.5 AHD which is above the flood level within the driveway and the commercial tenancy has been elevated to meet this level. Amended stormwater plans prepared by ACOR have been provided and reviewed by Council's Development Engineer who has provided appropriate conditions.

Item

Bayside Planning Panel 12/06/2018



The site is in close proximity to power pole located on Hanna Street. The development comprises of windows within 5 metres of the power pole. Originally Ausgrid objected to the proposal as the proposed building awning and windows appeared to encroach the minimum clearances required to the existing overhead powerlines. Ausgrid required the developer to consult with an accredited service provider to either demonstrate that the current building does not encroach into the clearance zone or redesign the proposed building to ensure that there is no encroachment within the clearance zone or make suitable arrangements for the existing power lines to be relocated prior to building construction commencing. The applicant provided a letter from a an accreditor stating that they are in the process of carrying out assessments on the proximity to existing network assets, street lighting, supply of electricity and clearance rates. This was referred to Ausgrid and Ausgrid provided a response stating that the clearance assessment will be carried out and that it will be up to the developer to provide a solution. One of these solutions may require changes to the design of the development which may result in non-compliances with cross ventilation, amenity and setbacks. Therefore it is recommended that a deferred commencement consent be issued to allow the developers to provide a solution to this issue.

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

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a fourteen (14) day period from 16 August to 30 August 2017. One (1) objection has been received and a summary of the issues is as below:

- *Height of Building*

Objector Comment: Concern is raised regarding to the proposed building height over the 14 metre maximum building height. The additional height will contribute overshadowing onto the residential properties to the south. Additionally the extra height will result in privacy concerns to the residential development to the south. Request to the rooftop area must be removed from the southern Hanna Street boundary to protect the privacy of all R2 residential properties for this development proposal.

Officer Comment: Amended plans have been submitted demonstrating that the rooftop courtyards be setback 3.4 metres to 6.3 metres from the rear boundary. This will alleviate the visual privacy concerns relating to the low density residential development. The overshadowing of the proposal would fall onto the rear yards of the properties that front Anniversary Street. The proposal will cast shadow to some of the dwellings in June mid-winter however it is anticipated that the rear yards will receive the minimum sunlight in September/March. The majority of the building built form is compliant with the height with the exception of the lift overrun, pergola and risers which are located central to the site and will have minimal impact due to their location.

- *Floor Space Ratio*

Objector Comment: Concern is raised regarding the FSR proposed as the FSR is at 1.68:1 where the FSR is 1.5:1.

Item

Bayside Planning Panel 12/06/2018

Officer Comment: The LEP requirement is an FSR of 2:1. The proposal has a FSR of 1.77:1 which is compliant with the LEP requirement.

- *Departure in Car Parking Spaces*

Objector Comment: Concerns are raised by the objector in regards to the shortfall in car space that the development requires. The developer is 7 car spaces short of the minimum requirement outlined in the DCP. The shortfall of onsite parking will adversely increase the local parking problems which is not acceptable. Additionally, the car stacker parking proposal is not suitable with the larger sedans, vans, utes or SUV type vehicles.

Officer Comment: Discussion regarding to car parking has been addressed within Part 3A of the report above. The shortfall in car parking is acceptable considering that the two studios are not provided within a car space as they are considered more affordable units and the departure in retail spaces is acceptable considering the location of the site to good public transport opportunities. A condition requiring a workplace travel plan is included within the consent to alleviate the non-compliance.

- *Communal Open Space*

Objector Comment: Concern is raised regarding to the proposed communal open space on the rooftop. The proposal does not comply with the design criteria as it is only achieved by having the open space area above the 14 metre maximum building height level which does not comply with the BBLEP controls for this site.

Officer Comment: The communal open space has been located on the rooftop as the development is considered shoptop housing which requires the ground floor to be predominantly relating to retail. The communal open space is located on the rooftop to maximise the amount of sunlight provided to this area. Consideration regarding to the size of the site and the location and setbacks required for the top floors are to be assessed and to achieve these requirements the communal open space has been proposed on the rooftop. The communal area is located away from Hanna Street and from Botany Road therefore the impact from privacy is not significant from this area.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

#### **Section 7.11 Contributions**

The Section 7.11 Contributions, as calculated within the Section 94 Contributions Plan 2016 (indexed at June 2017), for the proposed development are calculated as follows:

The construction of a 4 storey shoptop housing development containing a total of 8 dwellings and one commercial tenancy at 102sqm:

##### Residential

PROPOSED	Proposed	Contribution per dwelling	Total payable
Studio	2	\$8,102.15	\$16,204.30
1 bed	1	\$8,654.53	\$8,654.53

Item

Bayside Planning Panel 12/06/2018

2 bed	2	\$14,239.60	\$28,479.20
3 bed	3	\$18,609.44	\$55,828.32
<b>TOTAL</b>	<b>8</b>		<b>\$109,166.35</b>

As there is currently a dwelling on the site, a credit for one three bedroom dwelling is applicable. Therefore the updated contributions are as follows:

PROPOSED	Proposed	Contribution per dwelling	Total payable
Studio	2	\$8,102.15	\$16,204.30
1 bed	1	\$8,654.53	\$8,654.53
2 bed	2	\$14,239.60	\$28,479.20
3 bed	2	\$18,609.44	\$37,218.88
<b>TOTAL</b>	<b>8</b>		<b>\$90,556.90</b>

### Commercial

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

Therefore the total contribution payable for the proposal is **\$90,556.90** (as indexed in June 2017). A breakdown of the figure is provided in the condition of consent. The applicant is to pay an indexed rate of the contribution based on the timing of the payment.

### Conclusion

Development Application No. 2017/1118 on 26 July 2017 seeking consent for the demolition of the existing structures and construction of four (4) storey shoptop housing development comprising of 8 residential units and one (1) ground floor commercial unit and car parking level at 1368 Botany Road, Botany.

The development departs from the height requirement of 14 metres by proposing a maximum height of 17 metres which is to the top of the lift overrun and ancillary structures. The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded.

Other key issues relating to permissibility, first floor ceiling height, deep soil, car parking, loading/unloading, building separation, storage and family friendly apartments have been addressed in the report above and have been found to be acceptable when considering the aspects of the site. The flooding issue has been resolved by raising the finished floor levels of the ground floor.

The development is suitable for the site as apartments will receive the minimum solar amenity requirement, the site will provide active street frontage, and ample private open space and communal area. The area is serviced by ample public transport. The proposed development generally complies with the future character of the Banksmeadow Neighbourhood Centre and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. The proposal is similar to the approved development to the north-west.

Item Bayside Planning Panel 12/06/2018

However, to ensure that the development complies with Ausgrids requirements relating to clearance rates from the existing power pole from Hanna Street, the development application is recommended for deferred commencement subject to conditions of consent.

## **Attachment**

### **Schedule 1 – Conditions of Consent**

**Premises:** 1368 Botany Road, Botany

**Da No.:** DA-2017/1118

### **DEFERRED COMMENCEMENT CONDITIONS**

The Consent given does not operate until the following conditions are satisfied:

**DC1** The developer is required to engage an Accredited Service Provider Level 3 (ASP3) to either:

- a) Demonstrate that the current building proposal does not encroach the statutory clearances to the powerlines by engaging an Ausgrid Accredited Service Provider Level 3 (ASP3);
- b) Redesign the proposed building to ensure that there is no encroachment of the powerline statutory clearances with the revised powerline clearances being confirmed by an ASP3; or
- c) Make suitable arrangements for the existing powerlines to be relocated prior to building construction commencing.

Evidence of the proposed solution is to be submitted to Council for review. Should the solution involve design changes to the development, amended plans are to be submitted for assessment and approval by Council.

**DC2** The period of the "Deferred Commencement" consent is to be limited to 6 months.

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

### **GENERAL CONDITIONS**

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

Drawing No.	Author	Date Received
00- Coversheet- Rev 9		Dated 18 April 2018; Received
01- Site Analysis Plan- Rev 3		Dated 17 November 2017;
02- Ground and First Floor Plan- Rev 9		Dated 18 April 2018;

Item

Bayside Planning Panel 12/06/2018

03- Second and Third Plan and Roof Terrace- Rev 5	Derek Raithby Architects	Dated 18 January 2018;
04- Section AA and BB- Rev 9		Dated 18 April 2018;
05- North and East Elevation- Rev 9		Dated 18 April 2018;
06- South and West Elevation- Rev 9		Dated 18 April 2018
08- Finishes Schedule- Rev 1		Dated 17 July 2017
09- Sediment Control Plan- Rev 1		Dated 17 July 2017;
10- Demolition Plan- Rev 1		Dated 17 July 2017;
11- Services Plan- Rev 1		Dated 17 July 2017
17- Gross Floor Area- Rev 5		Dated 18 January 2018;
18- Door Schedule- Rev 1		Dated 17 July 2018;
19- Window Schedule- Rev 1		Dated 17 July 2017;
20- Adaptable units- Rev 5		Dated 18 January 2018;
22- Residential waste room- Rev 1		Dated 17 July 2017;
23- Commercial waste room- Rev 1		Dated 17 July 2017;
26- Driveway Profile- Rev 8		Dated 18 March 2018;

Reference Document(s)	Author	Date Received
Drawing Transmittal	Acor Consultants (CC) Pty Ltd	Dated 28 March 2018; Received 28 March 2018
Sheet C1- Cover sheet and notes		Dated 28 March 2018; Received 28 March 2018
Sheet C2- Stormwater Management Plan		Dated 28 March 2018; Received 28 March 2018
Sheet C3- Stormwater management detail sheet		Dated 28 March 2018; Received 28 March 2018
Sheet C4- On site detention details		Dated 28 March 2018; Received 28 March 2018
Sheet C5- On-site stormwater detention report		Dated 28 March 2018; Received 28 March 2018
Amended Clause 4.6 variation	Planning Ingenuity	Dated 23 May 2018 Received 23 May 2018
Cover sheet- Request for amendments	Derek Raithby Architects	Received 1 March 2018
Acoustic report	Sebastian Giglio Acoustic Consultant	Dated 20 July 2017; Received 26 July 2017
BASIX Assessment Report	VIPAC Engineers and Scientists	Dated 24 July 2017; Received 26 July 2017
Statement of Environmental Effects	Derek Raithby Architects	Dated July 2017; Received 26 July 2017
Traffic Impact Assessment	Traffix	Dated July 2017;

Item

Bayside Planning Panel 12/06/2018

		Received 26 July 2017
Waste Management Plan	Derek Raithby Architects	Dated July 2017; Received 26 July 2017
BASIX Certificate No. 842712M	Prepared by VIPAC Engineers	Dated 24 July 2017; Received 26 July 2017
SEPP 65 Design Verification Statement	Derek Raithby Architects	Dated July 2017; Received 26 July 2017
Public Domain Landscape Plan, Landscape Plan and detail and specification	Conzepth Landscape Architects	Dated 26 June 2017; Received 26 July 2017
NCC Section J Assessment Report	VIPAC Engineers and Scientists	Dated 25 July 2017; Received 26 July 2017
Nathers Group Certificate	-	Dated 21 July 2017; Received 26 July 2017

2.

- a) This Consent relates to land in Lots 35 and 36 in DP 11628, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
- b) Separate applications must be lodged with Council for the use of the individual retail tenancy and associated signage.

3.

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

4. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.

5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent (Condition No. 1) that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.

a) Relevant BASIX Certificate means:

- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is

Item

Bayside Planning Panel 12/06/2018



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*.
6. The consent given does not imply that works can commence until such time that: -
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

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

7. The following conditions imposed by **SACL** are as follows:
- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
  - b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 22 metres Australian Height Datum (AHD).
  - c) In his capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, Peter Bleasdale has no objection to the erection of this development to a maximum height of 24.8 metres AHD.
  - d) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
  - e) Should you wish to exceed this height a new application must be submitted.
  - f) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Item

Bayside Planning Panel 12/06/2018

- g) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
  - h) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
  - i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
  - j) The height of the prescribed airspace at this location is 51 metres above AHD.
  - k) Planning for Aircraft Noise and Public Safety Zones
    - l) Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).
    - m) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
8. The following conditions imposed by **Ausgrid** are as follows:
- a) The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.
  - b) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
    - The existing network can support the expected electrical load of the development
    - A substation may be required on-site, either a pad mount kiosk or chamber style and;
    - site conditions or other issues that may impact on the method of supply.
 Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.
  - c) There are existing overhead electricity network assets in Botany Road and Hanna Street. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.
  - d) There are existing underground electricity network assets in Botany Road and Hanna Street. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer located and record the depth of all known underground services prior to any excavation in the area.

Item

Bayside Planning Panel 12/06/2018

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrids underground cables.

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

- a) Where proposed development works are in close proximity to a Sydney Water easement, the developer may be required to carry out additional works to facilitate their development in order to not encroach within the Sydney Water easement. The easement for sewerage purposes is not to be built over or encroached in without the consent of Sydney Water.
- b)
  - i) The proposed development site is traversed by 150 mm wastewater main.
  - ii) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the wastewater main.
  - iii) Servicing options may involve adjustment/deviation and or compliance with the Guidelines for building over/adjacent to Sydney Water assets.
  - iv) Refer to a Water Servicing Coordinator for details of requirements.
- c) No building or permanent structure is to be constructed within **1m** from the outside wall of the stormwater asset or within the easement whichever is larger. Permanent structures include (but are not limited to) basement car park, hanging balcony, roof eaves, hanging stairs, stormwater pits, stormwater pipes etc. This clearance requirement would apply for unlimited depth and height.
- d) The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
- e) The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.
- f) The [Tap in™](#) service provides 24/7 access to a range of services, including:
  - i) building plan approvals
  - ii) connection and disconnection approvals
  - iii) diagrams
  - iv) trade waste approvals
  - v) pressure information
  - vi) water meter installations
  - vii) pressure boosting and pump approvals

Item

Bayside Planning Panel 12/06/2018

- viii) changes to an existing service or asset, e.g. relocating or moving an asset.
- d) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

**PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK**

10. 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.
11. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - e) any such sign is to be removed when the work has been completed.
12. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
  - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - c) Permit to install temporary ground anchors in public land,
  - d) Permit to discharge ground water to Council's stormwater drainage system,

Item

Bayside Planning Panel 12/06/2018

- e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
13. All contractors shall comply with the following during all stages of demolition and construction:
- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - e) A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
14. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organization of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Item

Bayside Planning Panel 12/06/2018

15. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
16. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
17. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
18. Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

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

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire-fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;

Item

Bayside Planning Panel 12/06/2018



- 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) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;
  - m) Sewer – common sewerage system;
  - n) On site monitoring both during asbestos removal and the remainder of demolition activities.
19. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the any excavation for the building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
20. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.
- These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
21. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Climate Change and Water and with the provisions of:
- a) New South Wales Occupational Health and Safety Act, 2000;
  - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - d) Protection Of the Environment Operations Act 1997 (NSW); and
  - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
22. All works carried out on the public roads shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:

Item

Bayside Planning Panel 12/06/2018

- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
- b) Prior to placement of concrete (kerb and gutter and footpath);
- c) Prior to construction and placement of road pavement materials; and
- d) Final inspection.

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

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

23. 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.

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

- |                               |                         |
|-------------------------------|-------------------------|
| a) Development Control Fee    | \$3,000.00              |
| b) Footpath Crossing deposit  | \$80,073.00 (see below) |
| c) Section 7.11 Contributions | \$90,556.90 (see below) |

25. Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the *City of Botany Bay Section 94 Contributions Plan 2016*, a contribution of **\$90,556.90** (as indexed of July 2017) is to be paid to Council prior to the issue of the first Construction Certificate.

Community Facilities – Citywide	\$15,539.30
Recreation Facilities- Citywide	\$67,499.56
Transport Management- Citywide	\$6,359.98
Administration	\$1,158.06

**Note:** The Section 7.11 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 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

26. Prior to the issue of the Construction Certificate, amended plans are to be submitted to Council demonstrating the following:

Item

Bayside Planning Panel 12/06/2018

- a) The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained within all apartments.
  - b) All two bedroom apartments are to have a study nook/space or indicate that a desk can adequately be accommodated within the open-plan living area;
  - c) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
  - d) The dedicated car wash bay is to provide a tap. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Botany DCP Part 3A. Details shall be provided with the plans accompanying the Construction Certificate.
  - e) Detailed eastern elevation of the proposed building is to be submitted, coloured up to indicate use of external materials, finishes and colours, the elevations to be submitted for approval of Council. A blank wall will not be supported.
  - f) An updated landscape plan is to be submitted to Council to reflect the approved changes to the rooftop terrace.
  - g) Windows on the southern elevation of Units 1 and 2 are to be obscure or have a 1.7 metre minimum sill height to prevent any direct overlooking from the southern units.
  - h) An updated waste management plan is to be submitted to reflect any approved changes to the retail and residential component of the development.
  - i) Two bicycle spaces are to be provided within the development and demonstrated within amended plans.
  - j) One of the retail spaces is to be used as a shared loading bay for SRV vehicles and demonstrated within amended plans.
27. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing deposit of \$80,073.00 (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.
28. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
29. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

Item

Bayside Planning Panel 12/06/2018

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

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

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

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

Item

Bayside Planning Panel 12/06/2018

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

31. Prior to the issue of the Construction Certificate, a suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event or flow level.
32. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
33. Prior to the issue of a Construction Certificate, a public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
34. Stormwater management requirements for the development site, including the final discharge / end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical Guidelines.
35. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per DCP Part 10 – Stormwater Management Technical Guidelines. Details shall be provided with the plans accompanying the Construction Certificate.
36. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. DCP Part 10 – Stormwater Management Technical Guidelines sets out the minimum documentation requirements for detailed design plans.
37. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
  - a) A minimum 1 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements, and
  - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
38. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Council or an Accredited Certifier for assessment and approval. The profile

Item

Bayside Planning Panel 12/06/2018

shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.

39. Any portion of the proposed structure within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending 300mm below the bottom of the tank or trench base.
40. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
  - a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
  - b) The applicant shall provide 1 carwash bay with the appropriate drainage systems for resident use,
41. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1:2004.
42. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
43. Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
44. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council or PCA approval.
45. All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.
46. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
47. Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
48. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal

Item

Bayside Planning Panel 12/06/2018



Certifying Authority. All utilities within the work zone shall be protected during construction.

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

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

- a) identify each item of plant and equipment;
- b) the following additional criteria adopted by Bayside Council:
  - i) The operation of all plant and equipment shall not give rise to an equivalent continuous ( $L_{Aeq}$ ) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background  $L_{A90}$  level (in the absence of the noise under consideration).
  - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  50dB(A) day time and  $L_{Aeq}$  40 dB(A) night time.
  - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds  $L_{Aeq}$  65dB(A) day time/night time.
  - iv) For assessment purposes, the above  $L_{Aeq}$  sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

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

50. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

51. Prior to the issue of any Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by Sebastian Giglio dated 20 July 2017. The measures as detailed in the acoustic assessment report prepared by Sebastian Giglio, shall be undertaken in accordance with the provisions of AS 2021 – 2000: *Acoustics - Aircraft Noise Intrusion*

Item

Bayside Planning Panel 12/06/2018

– *Building, Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- a) The roof/ceiling must be constructed as per Table 3 of the report,
- b) All external walls need to be constructed as per Table 4 of the report,
- c) Glazing to all windows and glazed door systems are to be as per Table 5 of the report.
- d) Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

**Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do, it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

#### **CONDITIONS TO BE SATISFIED DURING WORKS**

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

- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- b) involves the enclosure of a public place:
  - i) a hoarding or fence must be erected between the work site and the public place.
  - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
  - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
  - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
- c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.

53. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.

54. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.

55. The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

Item

Bayside Planning Panel 12/06/2018

56. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
57. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
58. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Erosion and Sediment Control Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ("The Blue Book"); and
  - c) Protection of the Environment Operations Act 1997.
59. As the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) Protect and support the adjoining premises from possible damage from the excavation, and
  - b) Where necessary, underpin the adjoining premises to prevent any such damage.
  - c) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.
60. 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.
61.
  - a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
  - b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Council prior to the issue of an Occupation Certificate.
62. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
  - a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.

Item

Bayside Planning Panel 12/06/2018

- b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
63. The following shall be complied with:
- a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
  - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
  - c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
  - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
64. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.
- a) **Level Restrictions**

Construction period of 4 weeks and under:

the  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

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

the  $L_{10}$  sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - b) **Time Restrictions**

Item

Bayside Planning Panel 12/06/2018

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

Monday to Friday: 07:00 am to 06:00 pm

Saturday: 08:00 am to 04:00 pm

No Construction to take place on Sundays or Public Holidays.

**c) Silencing**

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

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

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
  - i) must be standard flushing toilet; and,
  - ii) must be connected:
    - 1 to a public sewer; or
    - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

66. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - i) The additional load on the system, and
  - ii) The relocation and/or adjustment of the services affected by the construction.
- c) The Ausgrid Power poles along Botany Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider;
- d) The Ausgrid Power poles along Hanna Street, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider;
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of

Item

Bayside Planning Panel 12/06/2018

the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council.

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.

67. Existing building elements such as steel framed windows, cast zinc letters, doors and equipment should be salvaged as far as possible and consideration given to reuse for interpretation purposes or these elements being offered for sale or reuse.
68. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
69. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
70. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
71. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
72. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
73. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
74. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
75. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
76. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
  - a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and

Item

Bayside Planning Panel 12/06/2018



c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

77. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

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

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

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.

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

79. 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.

80. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.

81. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

**Note:** The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.

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

82. 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.

83. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.

Item

Bayside Planning Panel 12/06/2018

84. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the above report in Condition No. 1 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
85. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
86. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
87. 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.
88. Prior to the Occupation of the building, the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.
89. Prior to the issue of Final Occupation Certificate, Workplace Travel Plan shall be developed and submitted to Council in order to encourage staff to make good use of public transport, cycling, walking and car sharing for commuting work related journeys and reduce car based travel demand by staff. The plan shall generally include but not limited to the following:
  - a) Encourage staff to cycle and/or walk to the workplace;
  - b) Encourage staff to use public transport to travel to workplace by providing financial incentive or shuttle bus services;
  - c) Adopt car sharing and /or car pool scheme;
  - d) Provide priority parking for staff with car pool;
  - e) Provide bike storage area and end-of-trip facilities in the convenient locations;
  - f) Develop Transport Access Guides (TAGs) to Roads and Maritime Services (RMS) requirements for staff and visitors and hotel guests about information on how to reach the site via public transport, walking or cycling;
90. The landscaped areas on the property shall be installed in accordance with the Council approved landscape documentation, the conditions of development approval and Council's BBDCP at all times. The applicant is required to obtain a Certificate of

Item

Bayside Planning Panel 12/06/2018

Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Council prior to the Issue of an Occupation Certificate.

91.

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

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

92. Prior to the issue of the Occupation Certificate, thirteen (13) off-street car parking spaces (10 in a car stacker form) shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:

- a) 1 bedroom unit                      one (1) parking space/unit;
- b) 2/3 bedroom unit                      2 parking spaces/unit;
- c) Two (2) parking spaces shall be available at all times for the retail tenancy at ground level within the site.

93. Prior to the issue of the Occupation Certificate, the following shall be complied with:

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

94. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.

95. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval.

Item

Bayside Planning Panel 12/06/2018

96. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
97. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
98. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
99. The minimum commercial floor level shall be constructed 300mm above the 1% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
100. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany DCP Part 10 - Stormwater Management Technical Guidelines Council's. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
101. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 5.5 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood.
102. A positive covenant and restriction on use of land pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention (OSD) and the pump-out facility to provide for the maintenance of the detention facility. Standard wording is available in Botany DCP Part 10 – Stormwater Management Technical guidelines Appendix B and Appendix C.
103. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
104. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.
105. A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical guidelines shall be provided prior to discharge of stormwater from the site.
106. The overflow from the rainwater tank shall be directed to the storm water system.

Item

Bayside Planning Panel 12/06/2018

107. 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.
108. A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
109. Construction related activities must not take place on the roadway without Council approval. Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit. Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RMS. Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
110. The following works will be required to be undertaken in the road reserve at the applicant's expense:
  - a) construction of a concrete footpath along the frontage of the development site;
  - b) construction of a new fully constructed concrete vehicular entrance/s;
  - c) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required.
111. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council on 9562 1670. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
112. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
113. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
114. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.
115. All works associated with the proposed development shall be at no cost to the RMS.
116. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

Item

Bayside Planning Panel 12/06/2018

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

117. Ongoing maintenance of the road verges and footpaths in Botany Road and Hanna Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
118. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.
- a) The Registered Proprietor will:
    - b) permit stormwater to be temporarily detained by the system;
    - c) ii) keep the system clean and free of silt, rubbish and debris;
    - d) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
    - e) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
    - f) not make alterations to the system or elements thereof without prior consent in writing of the Council.
    - g) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
    - h) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

119. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- a) permit stormwater to be temporarily detained and pumped by the system;
- b) keep the system clean and free of silt, rubbish and debris;
- c) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- d) carry out the matters referred to in paragraphs (b) and (c) at the proprietor's expense;
- e) not make alterations to the system or elements thereof without prior consent in writing of the Council.

Item

Bayside Planning Panel 12/06/2018



- f) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - g) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
- 120. Claims shall not be made against Council for disruption to business or damage to stock or machinery due to flooding of the premises.
- 121. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 122. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
- 123. The off-street parking areas associated with the subject development shall be maintained strictly in accordance with AS2890.1:2004.
- 124. No roller shutters are to be installed to any of the commercial shopfront that fronts Botany Road.
- 125. Prior to commencing trading the tenant must register the business premises with Council if trading as a food premise, skin penetration, hairdresser or beauty therapist.
- 126. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 127. Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 128. The car stackers are to be maintained in functioning order at all times.
- 129. The Strata subdivision or otherwise of the development shall be the subject of a further Development Application to Council; and this subdivision application must be accompanied by the following documentation that indicates:
  - a) The requirement for the employment of a person to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
  - b) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent.
  - c) Responsibilities with regard to the operation maintenance of artificial features i.e. car wash bay and car stacking plat and equipment at the property in accordance with the plans and details approved under this Development Consent.

Item

Bayside Planning Panel 12/06/2018

- d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times.
- e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon.
- f) The Owners Corporation obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
- g) The prohibition on the sub-leasing of car parking spaces.
- h) Maintenance of the buildings vital mechanical plant and equipment including but not limited to pumps, ventilation systems, passenger lifts.
- i) The Owners Corporation/Executive Committee obligations to ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.

130.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The adaptable apartment approved under this development consent is to remain unaltered at all times; and

131. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

132. 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.*

133. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
- b) Before 7 am or after 10 pm on any other day.

134. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A)

Item

Bayside Planning Panel 12/06/2018

above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

















**0000**      **Zefland Developments**  
610 GEMEN RAYWAY ARLINGSTOWN  
Landscapes:  
**CONZEPT LANDSCAPE**  
Suite 101, 500 Miller Street, Cammeray  
NSW 2062  
T +61 2 9822 5312 M 0413 861 351  
r@conzept.net.au  
Hydro/Ec Engineers  
**ACOR CONSULTANTS**  
Platinum Building, Suite 2.01, 6 Ilya  
Avenue, Erina, NSW 2250  
T +61 2 4334 2448  
bjenny@acor.com.au  
Basil Beckett & Co  
**Vipac Engineers & Scientists**  
2 Strius Road, Lens Cove NSW 2088  
T +61 2 8422 4205  
bins1@vipac.com

Mechanical/Electrical Engineer

Project:  
Mixed Use Development  
1368 Botany Road, Botany.

## Streetscape

Date:	11/97	Grading No.	21
Code:	1:390		
Project No.	01769		
Drawn/Checked:	Author		
BA SUBMISSION			



**DEREK RAITHBY ARCHITECTURE**  
LEVEL 2, 57 RENWICK STREET,  
LEICHHARDT NSW 2040  
T: (02) 9516 9565 ABN: 61613174620  
info@derekraithby.com.au Architect 07489

**CONCEPT LANDSCAPE**  
Suite 101, 606 Miller Street, Cammeray  
NSW 2062  
T +61 2 9822 5312 M 0413 891 351  
rob@concept.net.au

**ACOR CONSULTANTS**  
Platinum Building, Suite 2.01, 4 Eya  
Avenue, Erina, NSW 2250  
T +61 2 4324 3439  
phanny@acor.com.au

**Viggo Engineers & Scientists**  
2 Sirius Road, Lane Cove NSW 2086  
T +61 2 9422 4205  
bens1@viggo.com

Rev	Date	Description	By
5	01/18	Amendments for Council	AL
4	12/17	Amendments for Council	AL
3	11/17	DRP Amendments	VG
2	20/09	Amendments for Council	VG
1	07/17	ISSUE FOR DA	VG

Client: Zeland Developments  
GPO DEREK RAITHBY ARCHITECTURE

Project:  
Mixed Use Development  
1368 Botany Road, Botany.

Project Title:  
**Adaptable Units**

Rev: 01/18  
Date: 1:50  
Project No: D1705  
Scale/Sheet: VGR  
**20**  
RA 0000000001







**DEREK RAITHBY ARCHITECTURE**  
LEVEL 2, 57 RENWICK STREET,  
LEICHHARDT NSW 2040  
T: (02) 9518 9569 ABN: 6416174020  
info@derekraithby.com.au Architects 87469

DEREK RAITHBY ARCHITECTURE is a registered company under the Companies Act 2006 (NSW) and is a member of the Australian Institute of Architects (AIA). All work is carried out in accordance with the Australian Standard AS/NZS 4455:2000 and the Australian Standard AS/NZS 4455:2000.



ORIGINAL SIZE

3	11/17	DRP Amendments	VG
2	20/09	Amendments for Council	VG
1	07/17	ISSUE FOR DA	VG

Client: Zeland Developments  
c/o DEREK RAITHBY ARCHITECTURE

Landscape: **CONCEPT LANDSCAPE**  
Suite 101, 608 Miller Street, Cammeray  
NSW 2062  
T +61 2 9922 6312 M 0413 861 361  
rob@concept.net.au

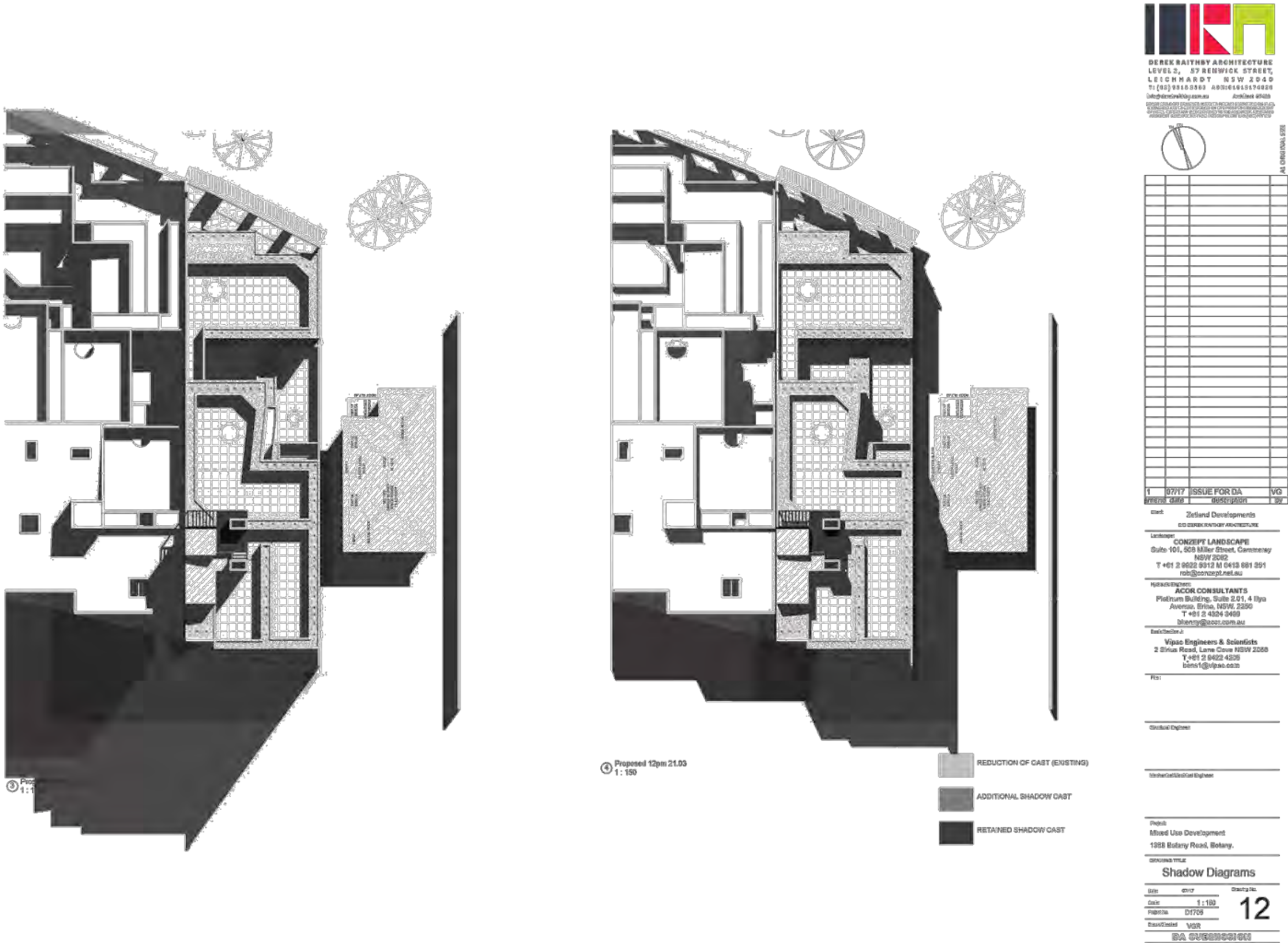
Hydraulic Engineer: **ACOR CONSULTANTS**  
Platinum Building, Suite 2.01, 4 Ilya Avenue, Erina, NSW 2250  
T +61 2 4324 3489  
bhenny@acor.com.au

Electrical Engineer: **Vipac Engineers & Scientists**  
2 Sirius Road, Lane Cove NSW 2086  
T +61 2 9422 4205  
bens1@vipac.com

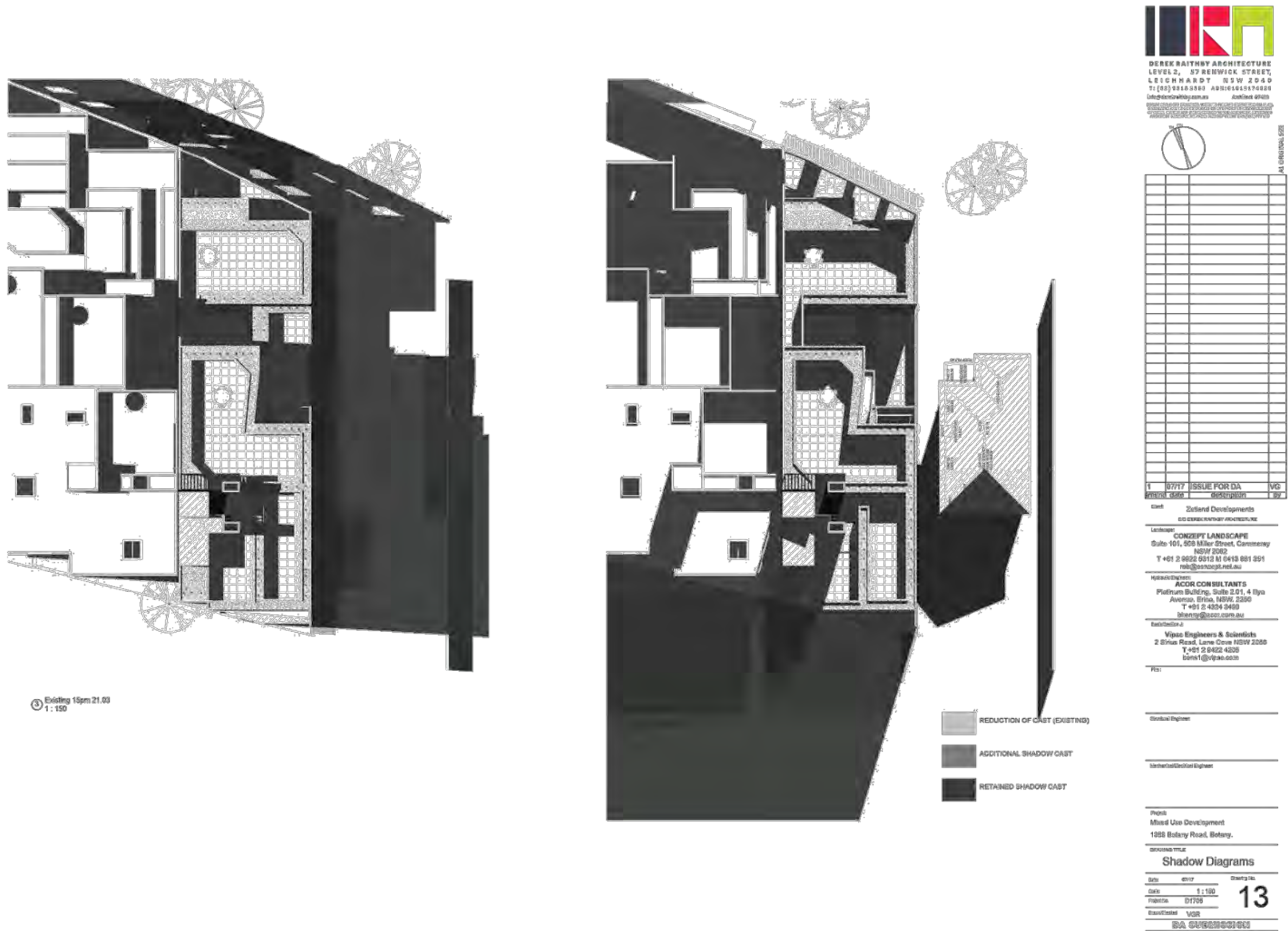
Project:  
Mixed Use Development  
1368 Botany Road, Botany.

DRAWING TITLE  
**Artist Impression**

Date:	11/17	Drawing No.
Date:	01/05	<b>07</b>
Project No.	01705	
Drawn/Checked	UGR	
DA SUBMISSION		

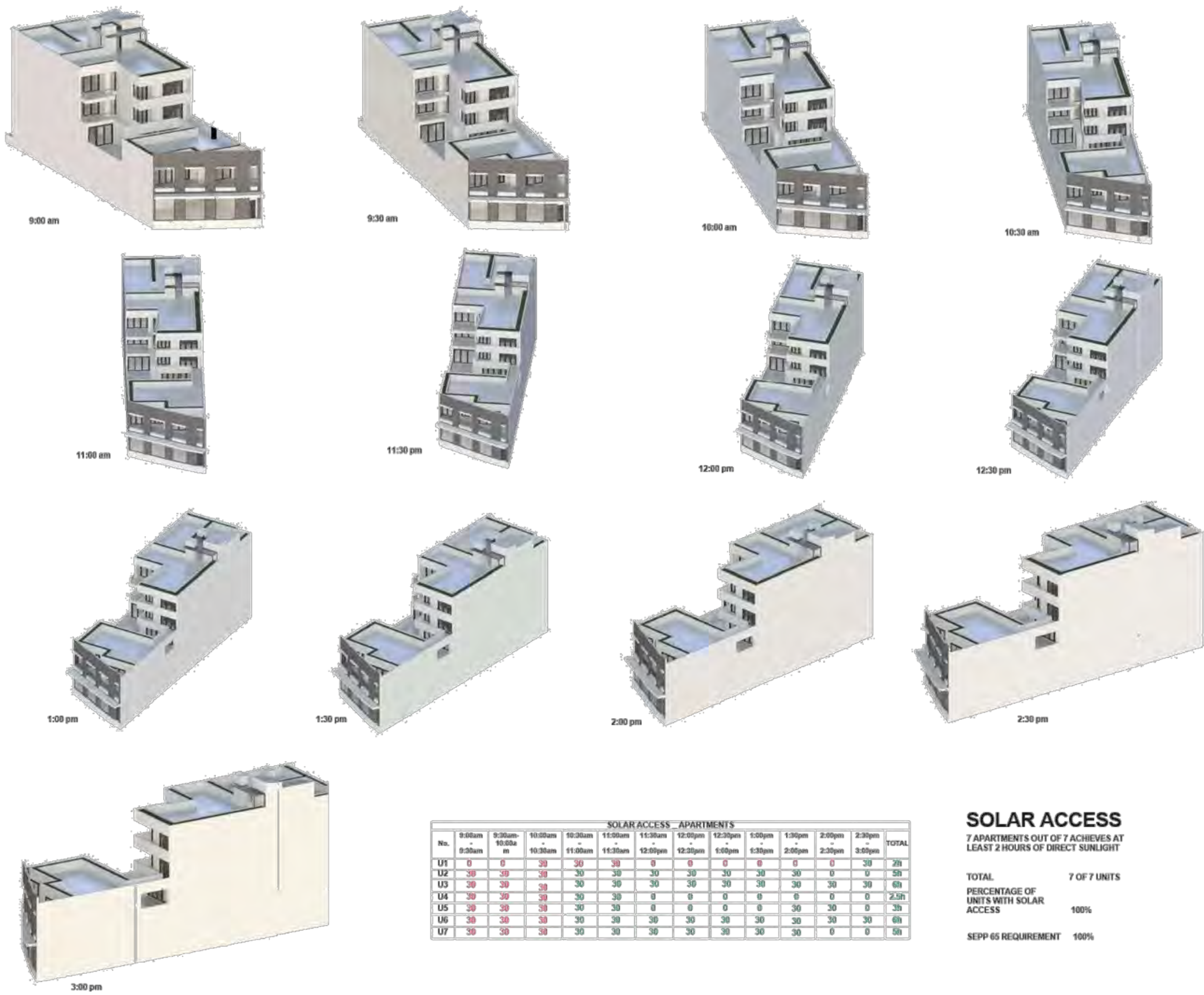












SOLAR ACCESS

7 APARTMENTS OUT OF 7 ACHIEVES AT LEAST 2 HOURS OF DIRECT SUNLIGHT

TOTAL	7 OF 7 UNITS
PERCENTAGE OF UNITS WITH SOLAR ACCESS	100%
SEPP 65 REQUIREMENT	100%

**DEREK RATHBY ARCHITECTURE**  
LEVEL 2, 57 RENWICK STREET,  
LEICHHARDT NSW 2040  
T: (02) 9516 5580 A: (02) 9516 5740  
info@derekathby.com.au Website: d20.com.au  
© 2018 DEREK RATHBY ARCHITECTURE. ALL RIGHTS RESERVED.  
THIS DOCUMENT IS THE PROPERTY OF DEREK RATHBY ARCHITECTURE. IT IS TO BE USED ONLY FOR THE PROJECT AND NOT BE LOANED, REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF DEREK RATHBY ARCHITECTURE.

1	07/17	ISSUE FOR DA	VG
2	08/01	08/01/2018	07

Client: Zetland Developments  
100 DEREK RATHBY ARCHITECTURE  
Location: CONCEPT LANDSCAPE  
Suite 101, 500 Miller Street, Cammeray  
NSW 2062  
T +61 2 9622 5312 M 0413 901 351  
rob@concept.net.au  
Hatchery: ACCOR CONSULTANTS  
Platinum Building, Suite 2.01, 4 Ilya  
Avenue, Erina, NSW, 2250  
T +61 2 4324 3480  
blenny@accor.com.au  
Erector: Vipac Engineers & Scientists  
2 Sirius Road, Lane Cove NSW 2060  
T +61 2 9422 4206  
bens1@vipac.com

Prepared by:  
Checked by:  
Reviewed by:  
Approved by:

Project:  
Mixed Use Development  
1388 Botany Road, Botany.

Drawing Title:  
Solar Analysis  
Date: 07/17 Drawing No: 15  
Scale: 1:100  
Project: D1705  
Drawn by: VGR  
DA SUBMISSION

## Bayside Design Review Panel

Botany Branch | Rockdale Branch

### REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Thursday, 19 October 2017 at Bayside Council – Rockdale Branch

Panel members: Mr Alan Cadogan (Deputy Chairperson – Urban Designer), Ms Obelia Tait (Architect/Urban Designer), Mr Dean Boone (Architect/Landscape Architect)

### ITEM 2

Date of Panel Assessment:	Thursday, 19 October 2017
Applicant:	Nikolaos Tsekas
Architect:	Derek Raithby Architects
Property Address:	1368 Botany Road, Botany
Description:	Demolition and construction of a four storey mixed use development including one retail tenancy, at grade car parking and 7 apartments.
No. of Buildings:	1
No. of Storeys:	4
No. of Units:	7 apartments, 1 retail tenancy, mixed use development, carparking
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2017/1118
Declaration of Conflict of Interest:	Nil

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant.

The following people were present at the meeting: Derek Raithby, John Higgins, Ari Aristedis, Nick Tsekas

Design Principle	Comments
<p><b>Context and Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The Panel is generally supportive of:</p> <ul style="list-style-type: none"> <li>• The alignment of the shopfronts and parapets and built form along the Botany Road frontage</li> <li>• The use of complimentary materials to 1364 – 1366 Botany Road</li> </ul> <p>The Panel has concerns about:</p> <ul style="list-style-type: none"> <li>• The small amount of retail for a development which purports to be shop top housing</li> <li>• The height of the development. In particular the Panel does not support this development being any taller than 1364 – 1366 Botany Road which already exceeds the height limit (especially the parapet to the third floor, which should align)</li> <li>• The quality of communal open space and the treatment of the rooftop gardens, which lack summer shade and facilities</li> <li>• The rooftop terrace layout and design, which should not provide opportunities for overlooking to the adjoining R2 residential</li> <li>• The eastern elevation, which must include art work and or design elements that provide visual interest</li> <li>• The Panel considers the development could benefit from rainwater harvesting, photovoltaic panels and broader sustainability initiatives beyond the minimum required by BASIX.</li> </ul>
<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	
<p><b>Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	
<p><b>Sustainability</b></p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of</p>	



Design Principle	Comments
<p>residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	
<p><b>Landscape</b></p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	
<p><b>Amenity</b></p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	
<p><b>Safety</b></p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p>	



Design Principle	Comments
<p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	
<p><b>Housing Diversity and Social Interaction</b></p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	
<p><b>Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	

#### RECOMMENDATION

- The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.

## Bayside Planning Panel

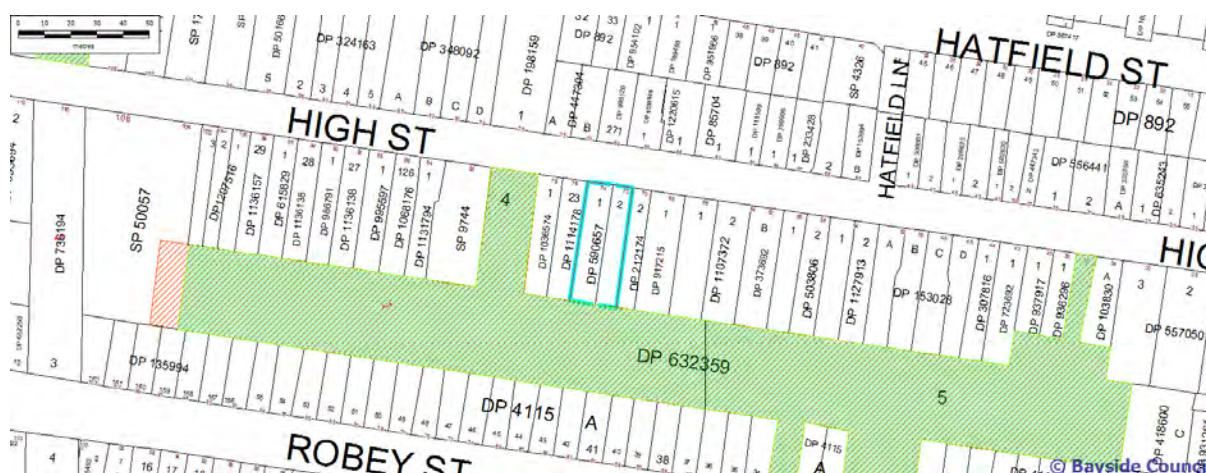
12/06/2018

Item No	6.7
Application Type	Development Application – Semi Detached Dwellings houses and Secondary Dwellings
Application No	F18/404
Lodgement Date	20/10/2017
Property	<b>72-74 High Street, Mascot</b>
Ward	Mascot
Owner	Kydon Holdings Pty Ltd
Applicant	Arkhaus
Proposal	Construction of two semi-detached dwellings and associated secondary dwellings
No. of Submissions	Nil
Cost of Development	\$1,337,960
Report by	Lincoln Lawler, Senior Development Assessment Planner

## Officer Recommendation

- 1 That the Bayside Planning Panel supports the variation to FSR development standard as contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013, in accordance with the written request under Clause 4.6 of BLEP 2013 submitted by the applicant.
- 2 That development application DA-2017/1188 for the demolition of existing structures and construction of two, two (2) storey semi-detached dwellings with secondary dwellings on each lot be **approved**.

## Location Plan



**Attachments**

- 1 Planning Assessment Report
- 2 Site Plan
- 3 Streetscape
- 4 North Elevation
- 5 East and West 72 High Street
- 6 East and West Elevation 74 High Street
- 7 Secondary Dwellings - Elevations
- 8 Clause 4.6 [↓↓↓↓↓↓↓↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

---

#### Application Details

---

<b>Application Number:</b>	2017/1188
<b>Date of Receipt:</b>	20 October 2017
<b>Property:</b>	72-74 High Street, Mascot LOT 1 and 2 DP 590657
<b>Owner:</b>	Kydon Holdings Pty Ltd
<b>Applicant:</b>	Arkhaus
<b>Proposal:</b>	Demolition of existing structures and construction of two, two (2) storey semi-detached dwellings with secondary dwellings on each lot
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$1,337,960.00
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Lincoln Lawler, Senior Development Assessment Planner
<b>Date of Report:</b>	19 March 2018

#### Key Issues

---

Bayside Council received Development Application No. 2017/1188 on 20 October 2017 seeking consent for the demolition of existing structures and construction of two, two (2) storey semi-detached dwellings with secondary dwellings on each of the lots at 72 and 74 High Street, Mascot.

The application was placed on public exhibition for a fourteen (14) day period from 12 February 2018. No objections were received

The key issue in the assessment of the proposal includes 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 0.59:1. 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.

Item

Bayside Planning Panel Meeting

### Recommendation

---

It is RECOMMENDED that the Bayside Planning Panel, resolve:

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, two (2) storey semi-detached dwellings with secondary dwellings on each lot, be approved.

### Background

---

#### History

There is no recent town planning history on the site.

#### Proposal

The development application seeks consent for the demolition of the existing dwellings and structures, construction of two semi-detached dwellings and secondary dwellings on each allotment.

The specifics of the proposal are as follows:

##### Ground Floor

The proposed ground floor of each dwelling contains:

- A single garage with access from High Street;
- Guest bedroom/study;
- Laundry and powder room;
- Kitchen, living and dining area directly adjoining a covered patio; and
- 1m high front fence on each property.

##### First Floor

The proposed first floor level of each dwelling contains:

- Master bedroom with rear-facing balcony, walk in robe and ensuite bathroom;
- Study;
- One bedroom with a walk-in robe, ensuite bathroom and street-facing balcony; and
- Two bedrooms (one with a street-facing balcony) and a bathroom.

##### Secondary Dwelling

Each secondary dwelling is located to the rear of each allotment. The proposed dwellings contains the following:

- Two bedrooms,
- Bathroom,
- Living area and kitchen and
- Laundry facilities and a north-facing deck.

Item

Bayside Planning Panel Meeting



Each private open space area is separated from the primary dwelling rear yard by a fence and landscaping, and a privacy screen is provided to each deck.

#### Site Description

The sites are legally known as Lot 1 and 2 in DP 590657. The subject site is located on the southern side of High Street between O'Riordan Street to the west and Botany Road to the east.

The site has a north- eastern to south-western orientation with north- east being the street and south-west 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 419sqm for 72 High Street and 412sqm for 74 High Street and has a street frontage width of 9.77 and 8.91 metres respectively and a rear boundary width of 9.03 and 8.6m respectively. The side boundaries are all of a length of 47.040 metres. The site is generally flat.

Existing development on the site comprises single storey semi-detached weatherboard dwelling houses with metal roof and a detached fibro outbuilding to the rear of the site. There is a large overhanging tree at the rear from John Curtin Reserve which is located to the south of both allotments.

The adjoining properties are a range of single and two storey dwellings of a variety of ages. Beyond the site, are a range of larger buildings that form part of the skyline which are generally flat roofed. Development surrounding the site consists of single and two storey detached or semi-detached dwelling houses. The site is immediately abutted to the rear by John Curtin Reserve.



Figure 1. Locality Plan

Item

Bayside Planning Panel Meeting



Figure 2. Aerial Plan of the subject site



Figure 3. Front elevation of the subject site

**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:

Item	Bayside Planning Panel Meeting
------	--------------------------------

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 864235M (72 High Street) and 867004M (74 High Street) dated 6 October 2017 prepared by ECOMODE Design committing to environmental sustainable measures.

**State Environmental Planning Policy No. 55 – Remediation of Land**

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

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

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

**State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP)**

The provisions of Division 2 of the AHSEPP 2009 apply to secondary dwellings as follows in the table below.

Applicable Clause	Provision	Proposed development	Complies
<b>Clause 19 – definition</b>	<i>Secondary dwelling</i> means a self-contained dwelling that: <ol style="list-style-type: none"> <li>a) Is established in conjunction with another dwelling (the <i>principal dwelling</i>), and</li> <li>b) Is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and</li> <li>c) Is located within, or is attached to, or is separate from, the principal dwelling.</li> </ol>	The application seeks Council consent for the construction of a new dwelling on each lot and the construction of a secondary dwelling. The application does not propose any subdivision of the land.	Yes
<b>Clause 20 – Land to which</b>	This Division applies to land within any of the following land use zones or within a	The site is zoned R2 – Low Density	Yes

Item

Bayside Planning Panel Meeting

Applicable Clause	Provision	Proposed development	Complies
<b>Division applies</b>	land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land.	Residential under the BBLEP 2013. Secondary dwellings are prohibited in the R2 Zone under the BBLEP 2013, however are permissible under the AHSEPP.	
<b>Clause 22 – Development may be carried out with consent</b>	(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposal will result in a principal dwelling and secondary dwelling on the land and no other dwellings.	Yes
	(3)(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and	A maximum FSR of 0.6:1 applies to the subject site for <b>dwelling houses</b> . <u>72 High Street</u> Site area: 419m <sup>2</sup> Proposed GFA: 251.34m <sup>2</sup> FSR 0.599:1  <u>74 High Street</u> Site area: 412.7 m <sup>2</sup> Proposed GFA 247.60 FSR 0.599:1 The development complies with the FSR for a dwelling house under the BBLEP 2013.	Yes
	(3)(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	The secondary dwelling on each lot shall have a total floor area of 45m <sup>2</sup> which is less than the maximum permitted GFA of 60m <sup>2</sup> .	Yes

Item

Bayside Planning Panel Meeting

Applicable Clause	Provision	Proposed development	Complies
	(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:		Yes
	(a) Site Area (i) the secondary dwelling is located within, or is attached to the principal dwelling, or	The secondary dwelling is detached from the primary dwelling, to be the rear of the subject site.	Yes
	(ii) the site area is at least 450 square metres.	The area of the subject site is 72 High Street 419 m <sup>2</sup> and 74 High Street 412.7m <sup>2</sup> .	No – however acceptable in this case
	(b) Parking If no additional parking is to be provided on the site.	The application does not propose any additional car parking for the secondary dwelling.	Yes
	(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4) of Clause 22.	The application complies with the standards set out in subclause (4) of Clause 22.	Yes
<b>Clause 23 – Complying Development</b>	Applies to secondary dwellings seeking approval under Complying Development	Complying development is not proposed.	N/A
<b>Clause 24 - Subdivision</b>	A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division	Subdivision is not proposed.	N/A

The proposal is compatible with the proposed dwellings on each of the sites and adjoining properties in relation to the bulk, scale and site coverage. These matters have been further addressed under the BBLEP, and it is demonstrated that the building satisfies all relevant planning objectives as identified in the BBLEP 2013 and BBDCP 2013.

Item

Bayside Planning Panel Meeting



**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 semi-detached dwelling houses are permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.  Secondary dwellings are prohibited, however they are permissible under the SEPP as previously discussed.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the R2 Low Density Residential: <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low density residential environment</i></li> <li>• <i>'to enable other land uses that provide facilities or services to meet the day to day needs of residents</i></li> <li>• <i>To encourage development that promotes walking and cycling</i></li> </ul>
Does Schedule 1 – Additional Permitted Uses apply to the site?  If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the height of the building?	-	A maximum height of 9 metres applies to the subject site.
Does the height of the building comply with the maximum building height?	Yes	The height of No. 72 is 7.5m; and The height of No. 74 is 7.3m. The secondary dwellings have a maximum height of 4.1m

Item

Bayside Planning Panel Meeting

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p><b>No- Refer to Note 1 below</b></p>	<p>The maximum Floor Space Ratio requirement is 0.5:1 for semi-detached dwelling houses.</p> <p>Note: A dwelling house has a permissible FSR of 0.6:1.</p> <p><u>72 High Street</u> Site area: 419m<sup>2</sup> Proposed GFA: 251.34m<sup>2</sup> FSR 0.599:1</p> <p><u>74 High Street</u> Site area: 412.7 m<sup>2</sup> Proposed GFA 247.60m<sup>2</sup> FSR 0.599:1</p> <p>It is noted that the above calculations include the secondary dwellings of 45 sqm each allotment.</p> <p>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.</p>
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	<p><b>No – Refer to Note 1 below</b></p>	<p>The site is located in an Area 3 zone. The proposal does not comply with the maximum FSR (See Note 1).</p>
<p>Is the land affected by road widening?</p>	<p>N/A</p>	<p>The subject site is not affected by road widening.</p>
<p>Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?</p>	<p>Yes</p>	<p>The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.</p>

Item

Bayside Planning Panel Meeting

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"> <li>• 6.1 – Acid Sulfate Soils</li> <li>• 6.2 – Earthworks</li> <li>• 6.3 – Stormwater Management</li> <li>• 6.9 – Development in areas subject to aircraft noise</li> </ul>	<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 minimal earthworks in relation to providing a suitable building platform, infiltration trenches and footings. Appropriate conditions have been imposed in the consent.</p> <p>The proposed development will provide absorption trenches which are 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 25-30 ANEF Contour. An acoustic report prepared by West and Associates Pty Ltd was provided with the application and appropriate conditions have been included within the consent.</p>

Item

Bayside Planning Panel Meeting

**Note 1 – Clause 4.6 variation relating to FSR variance**

The development seeks an FSR of 0.599:1 for each site which results in a total GFA for 72 High Street of 251.34m<sup>2</sup> on a site of 419 sqm and 74 High Street of 247.6sqm on a site of 412.7sqm.

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:

- a) *To ensure that the bulk and scale of development is compatible with the character of the locality; and*
- b) *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 existing lots is 0.6:1.

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'**

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

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

Item

Bayside Planning Panel Meeting

The judgement goes on to state that:

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

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

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Having regard to all of the above, it is our opinion that compliance with the FSR development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied and Council has the power to grant variation to the FSR development standard as proposed.

Insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied.

#### **Sufficient Planning Ground**

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

The applicant purports the following

*“The non-compliance will have no adverse impacts on adjoining properties with regard to visual, aural and privacy impacts or overshadowing, and to require strict compliance would mean removing parts of the building without resulting in a real planning benefit to neighbourhood character or amenity.*

*The proposed FSR non-compliance will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning and*

Item

Bayside Planning Panel Meeting



Assessment Act, 1979. There is no planning purpose to be served by limiting the FSR strictly to the maximum allowable given the floor space has been distributed within a compliant building envelope and in the absence of amenity related impacts. In short, we consider that there are sufficient environmental planning grounds to justify the applicant's proposed variation to the FSR standard.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", the non-compliance is minor and will not be noticeable from the street or surrounding properties.

Council has characterised the development as 'semi-detached dwellings' due to the proposed setback of the garages. The garages are not attached and by definition are not 'dwellings'. The Botany Bay Comprehensive DCP seeks to ensure semi-detached dwellings provide a compatible built form, not only with each other but within the context of the site. While the dwellings are not semi-detached by definition, it is acknowledged that they appear so from the street. The design of the dwellings is such that while they are not a mirror image of each other when viewed from High Street, they are recognisable as a pair of dwellings and their relationship to one another is positive with regard to bulk, scale and amenity. They have each been designed with contemporary architecturally appealing materials and finishes that complement each other and are compatible with the existing character of the area. The FSR non-compliance is technical in nature as a maximum 0.6:1 can be achieved on the site for dwelling houses, which the proposal should be categorised as. The degree of detachment of garage walls should not impact on the developable size of a property.

Strict compliance would be counterproductive in terms of amenity for future residents. The merits of the proposal on "environmental planning grounds" need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The development has been designed to provide a high quality urban outcome, designed so as to not impact on the privacy and amenity of neighbouring properties. The three dimensional building envelope complies with height and setback requirements. Insisting on strict compliance in this instance would result in the reduction in size of the dwellings, thus reducing the internal amenity for future residents with no demonstrable built form or amenity benefits. As such the proposal results in a high quality residential development which is suited to the site and its context.

**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.**

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.4 are addressed in turn below. The applicants Clause 4.6 is strong and is reproduced as follows:

**Objective (a): to establish standards for the maximum development density and intensity of land use.**

The applicant asserts "The maximum FSR has been established at 0.5:1 for a semi-detached development on the site and 0.6:1 for a dwelling house. The proposed development includes a dwelling house and secondary dwelling on each lot which comply with the FSR maximum of 0.6:1. However, the degree of attachment (or detachment) of the proposed garages creates a significant and nonsensical change to

Item

Bayside Planning Panel Meeting

the FSR maximum. Total detachment of the garages (whether it be 1mm or 1m) would mean that the entire development is detached. This would not materially change the appearance of the development to the casual observer. The degree of attachment should therefore not be such a limiting factor and as such, the expected density and intensity for development on the site is to an FSR of 0.6:1 which the proposal achieves compliance.

For these reasons the proposed FSR meets Objective (a).

**Objective (b): to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.**

The locality is undergoing transition from older single storey dwelling houses, many with no garaging, to two storey dwelling houses with double garages, terraces and semi-detached dwellings. The proposed development contains a two storey dwelling house at the street and single storey secondary dwelling at the rear of the site on each lot. The massing to the street, proposed setback at the garage walls and increased setbacks of the dwellings to the shared boundary ensures the proposal will sit comfortably in its context. The R2 zone permits a range of residential accommodation including dwelling houses, attached dwellings, semi-detached dwellings, multi-dwelling development and residential flat buildings. The desired future character for Mascot is described in Chapter 8 of the Botany Bay Comprehensive DCP. Had the development proposed detached garages, the 0.6:1 FSR would apply, which would not create a tangible change to the streetscape appearance, which as described above, is an eclectic mix of dwelling types, with and without garaging, or neighbour amenity but a substantial increase in permitted FSR on the site. The proposal is consistent with the desired future character for the area as addressed in the Statement of Environmental Impacts submitted with the application in that it meets the required height, landscaping, diversity of dwelling types and streetscape appearance without impacting adversely on neighbouring properties and the public domain.

For these reasons the proposed height meets Objective (b).

**Objective (c): to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.**

The minor non-compliance of the FSR does not offend the objective of maintaining visual relationships between the proposed development and the existing character of the area. The proposal is compatible with the built form, bulk and scale of the surrounding low density residential development and the proposed non-compliance with FSR will not be perceptible in the streetscape and character of the locality.

**Objective (d): to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.**

The proposal sits comfortably within the streetscape by providing compliant front setbacks, building height and landscaped front gardens.

The primary dwellings have a maximum height of 7.5m, and the secondary dwellings have a maximum height of 4.2m, which are both well below the maximum 9m height limit for the site. As such the dwellings are of a suitable scale when viewed from the park at the rear of the site and the surrounding public domain.

Item

Bayside Planning Panel Meeting

**Objective (e): to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.**

*The design of the building ensures functional internal layouts and the massing has been determined by the DCP controls. The three dimensional building envelope is compliant with the height controls. The proposed building form will not have any adverse impact on adjoining properties, achieves compliance with the solar access requirements for adjoining properties, and provides compliant setbacks to the eastern and western boundaries to ensure the amenity of neighbours is not adversely affected.*

*The built form of the building is of a high quality and positively relates to protecting the amenity of the neighbouring properties despite the non-compliance and meets Objective (e).*

**Objective (f): to provide an appropriate correlation between the size of a site and the extent of any development on that site.**

*The proposal is of a suitable size in relation to the size of the site. Compliant front, eastern and western side setbacks to adjoining properties are provided, and sufficient distance is proposed between the dwellings and the secondary dwellings to provide useable private open spaces without impacting adversely on privacy. In addition, the proposal is compliant with the minimum landscaped area and maximum site coverage DCP controls. The proposed development meets Objective (f).*

**Objective (g): to facilitate development that contributes to the economic growth of Botany Bay.**

*The proposed development will improve the quality of development on the site and in turn enhance its contribution to the local landscape. Undertaking the demolition and construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality, meeting Objective (g).*

*The proposed development is therefore consistent with the objectives for maximum FSR despite the minor numeric non-compliance.*

*Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of Zone R2 Low Residential are as follows:*

- "To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To encourage development that promotes walking and cycling."*

*The proposed development is demonstrably consistent with the relevant zone objectives in that it provides four new dwellings within a high quality development envisaged by the controls for the R2 Low Density Residential zone, and that will not have adverse impacts on the character or amenity of the area. The site is located close to public transport routes on O'Riordan Street and Botany Road.*

*For these reasons the development proposal meets the objectives for development in Zone R2.*

Item

Bayside Planning Panel Meeting

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 the density of surrounding low density residential developments whilst the proposal does not exceed Council's height control;
- will introduce an architectural feature to High 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 0.6:1 for a single detached dwelling house on the site with subdivision and is similar in bulk and scale of developments fronting High Street;
- will provide the minimum 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 requirement for a dwelling house on the site being 0.6:1. The dwellings are joined by zero lot line only on the garage. This is also permissible for a dwelling house under the planning regime. The resultant impacts could also be anticipated even if the dwellings were independently developed.

It is noted that the proposed workshop located at the rear of the proposed garage will create a non compliance as the applicant has not included the workshop as part of the gross floor area calculations. Given the proposal includes an assessment under the ARHSEPP, where there is a prohibition for FSR exceedance it is recommended that the workshops be removed through a condition of consent, which will require amended plans prior to the issue of the construction certificate.

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.

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

Item

Bayside Planning Panel Meeting

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**

<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3A.2.</b> Parking Provisions of Specific Uses	<b>C2</b> 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
<b>3A.3.1</b> Car Park Design	<b>C26</b> The minimum width of the access driveway at the property boundary shall be:- (i) For dwelling houses: ▪ 3 metres	The proposal includes two vehicular crossing and driveways to each property which have a minimum 3 metre width.	Yes

#### **Part 3G – Stormwater Management**

The development application was accompanied by hydraulic plans which were prepared by Australian Consulting Engineers. 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 Basix required 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 25-30 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 West and Associates Pty Ltd has been prepared to accompany the development application.

Item

Bayside Planning Panel Meeting

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.

### **Part 3L – Landscaping and Tree Management**

The application seeks to remove one Street tree from kerb to allow for the new driveways and there will be works within the dripline of the trees to the rear. Council's Tree officer has visited the site and concluded that there are no objection to the proposed works.

Appropriate conditions have been imposed in the consent relating to tree preservation and planting of a replacement street tree.

### **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
<b>4A.2.4</b> Streetscape Presentation	<b>C1</b> New dwellings must be designed to reflect the Desired Future Character of Botany.	The proposed development is consistent with the desired future character of Mascot. This is further discussed in Part 8 below.	Yes
	<b>C3</b> Dwellings must reflect dominant roof lines and patterns of the existing streetscape.	The proposal will have a flat roof. While it is not the dominant roof form on the street, the proposal is similar to other examples of flat roofs in close proximity. Refer also to Clause 4A.3.2	No - Acceptable
	<b>C4</b> Buildings must address the street.	Both dwellings front onto High Street.	Yes
	<b>C6</b> Dwellings front door is to be readily apparent from the street.	The front entrances are located facing the street.	Yes

Item

Bayside Planning Panel Meeting



Part	Control	Proposed	Complies
<b>4A.2.7</b> Site Coverage	<b>C2</b> Sites greater than 300sqm, the maximum site coverage is 50%.	No. 72 – 49% No. 74 – 50%	Yes
<b>4A.2.8</b> Building Setbacks	<p><b>C1</b> Dwelling houses must comply with the following minimum setbacks as set out in <b>Table 1</b>.</p> <p>Less than 12.5m lot width:</p> <ul style="list-style-type: none"> <li>• Front – comply with prevailing street setback or 6m min.</li> <li>• Side – merit.</li> <li>• Rear – 4m min.</li> </ul> <p>Note: The subject site has an average lot width of 12.19m however after subdivision each lot will have a street frontage width of 6.095 metres.</p>	<p><b>Front:</b> <u>Ground floor:</u> 74 High - 4.9m 72 High - 5m, consistent with prevailing</p> <p><u>First floor:</u> 72 High 6m to balcony 74 High 4.5 metres to balcony</p> <p><b>Side:</b> <u>Eastern side:</u> 72 High 900mm 74 High – minimum 866mm (variable)</p> <p><u>Western side:</u> 72 High 1137mm Variable 74 High – 900 mm</p> <p><b>Rear:</b> Ground Floor: 8.8 to secondary dwelling ,19.4m to rear boundary</p> <p>First Floor: 10.8 to secondary dwelling</p> <p><b>Nil setbacks:</b> 6.9- 7.5 metres</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<b>C5</b> Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	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
<b>4A.2.9</b> Landscape Area	<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> .	The site area of each site is as follows: 72 High Street – 419sqm 74 high street 412.7 sqm Therefore a minimum of 35% landscaped are is required for each site.	Yes

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
	<p>Table 2 requires the following minimum landscaped area:</p> <p>(i) 35% for sites that have an area of at least 350sqm</p> <p>The landscaping requirements for each site is below:</p> <p>72 High Street – 146.6sqm 74 High Street – 144.4sqm</p>	<p>The following indicates the landscaping proposed:</p> <p>72 High Street - 150.77sqm or 36%</p> <p>74 High Street – 145.93sqm or 35.4%</p>	
	<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	The driveways will be permeable paving. The front setback provides landscaped area more focused on the edge of the sites as the driveways are focused on the centre of the sites.	Yes
	<b>C9</b> The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.	The front of the site cannot accommodate a tree considering that this is the location of the infiltration system.	No – Acceptable as trees are proposed in the rear yard and a replacement street tree.
<b>4A.3.1</b> Materials and Finishes	<b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A Schedule of Colours and Finishes was 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
<b>4A.3.2</b> Roofs and Attics/Dormer	<p><b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.</p> <p><b>C3</b> A variety of roof forms will be considered, provided that they relate</p>	The predominant roof pitch in the street is pitched, this is said noting that dwellings in this particular area have largely not gentrified and redeveloped. However, within the visual catchment of the site are a number of buildings that are more dominant and	Considered acceptable

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
	appropriately to the architectural style of the proposed house and respect the scale and character of adjoining dwellings.	introduce a more rectilinear design response from which this developments takes design cues. Given the visual catchment, the articulation and that this is an area that is yet to see intensification the proposed roof form is considered acceptable.	
4A.3. Fences	<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style	The front fences will be 1 metre in height and will be constructed out of concrete, rendered cement and aluminium panels.	Yes
	<b>C18</b> Side fences of a height of 1.8 metres are not to extend beyond the front building line.  <b>Note:</b> Fences with untextured surfaces that present a blank appearance to the street are unsuitable and discouraged.	There is no proposed change to the side boundary and therefore will remain as existing.	Existing
	<b>C19</b> 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	<b>C2</b> Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> <li>▪ using windows which are narrow or glazing</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> </ul>	The windows on the ground for the laundry and bathroom are frosted glass for two thirds of the window with the remaining top third transparent and operable. The transparent section is above the top of the windows of the adjoining neighbour to the east. The kitchen window is at Counter height and as such it is not anticipated to provide opportunities for overlooking.	Yes, subject to recommended conditions

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
	<ul style="list-style-type: none"> <li>Increasing sill heights to 1.5 metres above floor level.</li> </ul>	<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 and are mostly obscure glazed / frosted 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>All windows on the side (external) boundaries for the first floor are frosted glass with the exception of the study, however this is stepped in from the boundary which the building reduces the opportunity for overlooking. Windows on the internal boundary between 72 and 74 High Street are either frosted or have privacy screens.</p> <p>The secondary dwellings due to their single level nature are screened by existing and proposed fencing and privacy screens.</p>	
	<b>C3</b> 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 privacy screens/blade walls along the side elevations. This has been conditioned in the consent.	Yes, conditioned
<b>4A.4.3</b> Solar Access	<b>C1</b> Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas	<p>The applicant has submitted aerial shadow diagrams of the proposal.</p> <p>Due to the orientation of the site being north south, the shadow is cast westwards at 9am over the rear yard of the</p>	No – Considered acceptable.

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
	(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>subject site and No.76 High Street. Part of the dwelling is overshadowed at 76 and 74 is also overshadowed. At 12pm, the subject rear yards are overshadowed with a small portion of the shadow being cast eastwards and onto a small portion of the site at 70 High Street. The shadow at 3pm is then cast further eastwards and over 70 and 68 High Street.</p> <p>The applicant has also provided elevational shadow diagrams that indicate that the existing dwelling already casts existing shadows on the the neighbouring windows.</p> <p>Given the orientation, the existing overshadowing of the dwellings abutting the site and their private open space maintain the required 2 hours of solar access, the overshadowing is considered acceptable.</p>	
	<b>C2</b> Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	There are no solar panels on the adjoining sites that will be impacted by the proposed development.	N/A
<b>4A.4.4</b> Private Open Space	<b>C2</b> For sites greater than 250sqm, a minimum area of 36sqm applies.	72 High Street - 77sqm 74 High Street – 75 sqm	Yes
<b>4A.4.7</b> Vehicle Access	<b>C1</b> Driveways within a property shall have a minimum width of 3 metres.	Each site has a driveway that is 3 metres wide.	Yes
	<b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.	There is one vehicle crossing for each site.	Yes

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
<b>4A.4.8</b> Car Parking	<b>C1</b> Development must comply with Part 3A – Car Parking	Refer to Part 3A above.	Yes
	<b>C10</b> Garages, parking structures (carports and car spaces) and driveways are not to dominate the street. <b>Note:</b> Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.	The 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. The use of materials and articulation have successfully recessed the garages to ensure a high quality streetscape is proposed.	Yes
<b>4A.6</b> Ancillary development	<b>C1</b> The total gross floor area of ancillary structures must not exceed 60sqm.	There is a secondary dwelling on each site as discussed below	Yes
<b>4A.5.2</b> Secondary Dwellings	<b>C1</b> Secondary dwellings are to comply with all other sections within Part 4A – Dwelling houses, including Solar Access, Visual and Acoustic Privacy.	The proposed single storey secondary dwelling at the rear of the subject site is compliant with the provisions for dwelling houses, solar access, visual and acoustic privacy – refer to previous comments.	Yes
	<b>C5</b> Secondary dwellings must be designed to capture predominant roof lines and patterns of the existing streetscape. Note: Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in housing designs provided that development outcomes complement the	The proposed secondary dwelling is designed as single storey structure with pitched roof and situated towards the rear of the property. The proposed design is compatible with the predominant roof lines and patterns of the existing streetscape in addition to the hipped pitch roof form of the principal dwelling. The proposed development will encourage development outcomes to complement the existing character of the suburb.	Yes

Item

Bayside Planning Panel Meeting



Part	Control	Proposed	Complies
	existing character of the suburb.		
	<b>C8</b> Secondary dwellings are to comply with the setbacks in Table 1 in Part 4A.2.8 – Building Setbacks.	The proposed secondary dwelling is compliant with the setback requirements for dwellings, refer to previous comments.	Yes
	<b>C9</b> A secondary dwelling located to the rear of a site must provide deep soil planting within the rear setback, including trees that contribute to the tree canopy. Notwithstanding Table 1 a secondary dwelling in a loft form over a garage fronting a lane may have a setback in line with the prevailing rear setback.	Deep soil planting adjoining the rear and side boundaries is proposed, including tree planting.	Yes
	<b>C16</b> The primary private open space may be provided as a balcony, or at ground level, at the rates specified in <b>Table 3</b> . For 1 bedroom dwelling, minimum area of 8m <sup>2</sup> and depth of 2 metres are required.	The primary open space of the secondary dwelling is provided at ground level with at least 8sqm provided and a depth of 2m that is separate to the dwelling.	Yes
	<b>C17</b> The private open space area is to be: <ul style="list-style-type: none"> <li>i) Located with direct access to the internal living areas of the dwelling;</li> <li>ii) Located to maximise solar access;</li> <li>iii) Generally level and useable;</li> <li>iv) Appropriately landscaped; and</li> <li>v) Located or screened to ensure adequate privacy.</li> </ul> <b>Note:</b> Private open space is not to include: <ul style="list-style-type: none"> <li>- Non-recreational structures (including</li> </ul>	The private open space is directly accessible from the internal living areas of the secondary dwelling. No windows are proposed at the front (western) elevation of the secondary dwelling so as not to impede on the visual privacy of the private open space area of the principal dwelling.	Yes

Item

Bayside Planning Panel Meeting

Part	Control	Proposed	Complies
	garages, tool sheds and similar structures); - Swimming pools; and - Driveways, turning areas and car spaces, drying areas and pathways.		

#### **Part 8- Mascot Character Precinct**

Part 8.4.2 Desired Future Character of the Mascot 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 Mascot Precinct.

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 within the greater visual catchment.

The existing character of the precinct has a variety of residential buildings with dominant styles being one storey older dwellings and more modern two storey dwellings. This housing stock is a variety of styles but is typically three main styles – Victorian Georgian, Californian Bungalow and Post war. A variety of materials have been used in the construction of these dwellings, including fibro, weatherboard, brick or a rendered finish.

The desired future character of the area is to encourage different housing styles depending on the locality.

The proposed design is modern in a street where there is a mixture of housing styles. There are recent approvals which provide a more modern dwelling of various designs that is a sign that the street is in the beginning phases of gentrification. As such, it is considered that the proposal is consistent with the emerging pattern of development and the desired future character of the area, whilst recognising the rectilinear design elements within the visual catchment of the site.

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 Mascot 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.

Item

Bayside Planning Panel Meeting

#### 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 and two secondary dwellings 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 12 February to 2 March 2018. No Submissions were received

#### 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

## Flooding

The Development complies with Council's flooding information for the site. The flood level is 6m AHD.

Habitable floor level is to be 6.5m AHD. Non habitable floor level to be 6.3m AHD. The application demonstrates compliance with these.

## 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  
1 x New 2 Bedroom dwellings: \$13, 211.47  
1 x New 2 Bedroom dwellings: \$13, 211.47  
Total Contribution: \$70,386.68

Credit

Since there is an existing dwelling house on each of the existing lots, the applicant is entitled to a credit. The credit applies to the smaller of the new dwellings, in accordance with the S94 Plan. The credit is therefore applied to the secondary dwellings.

Item	Bayside Planning Panel Meeting
------	--------------------------------

Credit applicable: \$26,422.94

Subtotal: \$70,386.68- \$26,422.94= \$43,963.74

#### Ministerial Cap

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 **\$40,000.00**. In accordance with the Plan, the contribution is to be paid prior to the release of the construction certificate.

### **Conclusion**

Development Application No. 2017/1188 for the demolition of existing structures and construction of two, two (2) storey semi-detached dwellings with secondary dwellings on each lot at 72 and 74 High Street, Mascot 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. Therefore, the proposal is recommended for approval subject to conditions of consent.

### **ATTACHMENT**

#### **Schedule 1 – Conditions of Consent**

**Premises: 72-74 High Street, Mascot**

**Da No.: DA-2017/1188**

#### **GENERAL CONDITIONS**

- 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°	Drawing Title	Author	Dated Received
DA.00	COVER PAGE		Dated 7 May 2018 Received 8 May 2018
DA.01	SITE ANALYSIS PLAN		Dated 7 May 2018 Received 8 May 2018
DA.02	DEMOLITION PLAN		Dated 7 May 2018 Received 8 May 2018
DA.03	SITE/ ROOF PLAN		Dated 7 May 2018 Received 8 May 2018

Item

Bayside Planning Panel Meeting

DA.04	GROUND FLOOR PLAN	Arkhaus	Dated 7 May 2018 Received 8 May 2018
DA.05	GROUND FLOOR PLAN REAR		Dated 7 May 2018 Received 8 May 2018
DA.06	FIRST FLOOR PLAN		Dated 7 May 2018 Received 8 May 2018
DA.07	STREETSCAPE		Dated 7 May 2018 Received 8 May 2018
DA.08	ELEVATIONS		Dated 7 May 2018 Received 8 May 2018
DA.09	ELEVATIONS		Dated 7 May 2018 Received 8 May 2018
DA.10	ELEVATIONS		Dated 7 May 2018 Received 8 May 2018
DA.11	SECONDARY DWELLING ELEVATIO..		Dated 7 May 2018 Received 8 May 2018
DA.12	SECTIONS		Dated 7 May 2018 Received 8 May 2018
DA.13	COLOURS & FINISHES SCHEDULE		Dated 7 May 2018 Received 8 May 2018
DA.14	PERSPECTIVES		Dated 7 May 2018 Received 8 May 2018
DA.15	PERSPECTIVES		Dated 7 May 2018 Received 8 May 2018
DA.16	PERSPECTIVES		Dated 7 May 2018 Received 8 May 2018
DA.17	PERSPECTIVES		Dated 7 May 2018 Received 8 May 2018
DA.18	PERSPECTIVES		Dated 7 May 2018 Received 8 May 2018
DA.26	WASTE MANAGEMENT PLAN		Dated 7 May 2018 Received 8 May 2018
DA.27	FSR DIAGRAMS		Dated 7 May 2018 Received 8 May 2018
DA.28	SOIL & WATER MANAGEMENT PLAN		Dated 7 May 2018 Received 8 May 2018
DA.29	BASIX COMMITMENTS - No72		Dated 7 May 2018 Received 8 May 2018
DA.30	BASIX COMMITMENTS - No74		Dated 7 May 2018 Received 8 May 2018
DA.31	SURVEY		Dated 7 May 2018 Received 8 May 2018

Reference Document(s)	Author	Date Received
BASIX Certificate No. 864235M and 867004M	Ecomode Design	Dated 6 October 2017; Received 25 October 2017

Item

Bayside Planning Panel Meeting

Statement of Environmental Effects	Planning Ingenuity	Dated 16 October 2017 Received 25 October 2017
Clause 4.6 Exceptions to development standards written requires	Planning Ingenuity	Dated 20 December 2017; Received 21 December 2017
Waste Management Plan	Arkhaus (refer above)	Dated 7 May 2018 Received 8 May 2018
Stormwater drainage concept plan (4 Sheets) Issue A	Australian Consulting Engineers	Dated 12 September 2017; Received 25 October 2017
Acoustic Assessment Issue A	West and Associates	Dated 13/09/2017 Received 25 October 2017

2. This Consent relates to land in Lot 1 and 2 in DP 590657 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;
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

Item Bayside Planning Panel Meeting



- 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

Item

Bayside Planning Panel Meeting

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. 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.
15. 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

Item

Bayside Planning Panel Meeting

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

16. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;

Item Bayside Planning Panel Meeting

- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
- n) Sewer – common sewerage system ad08.

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

- 17. 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.
- 18. 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) \$40,000.00 (See below)
- 19. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$40,000.00**, to be paid to Council prior to the issue of the Construction Certificate.

The contribution is broken down as follows:

- a) Community Facilities- Citywide: \$6,880.00
- b) Recreation Facilities- Citywide: \$29,800.00
- c) Administration: \$520.00
- d) Transport Management- Citywide: \$2,800.00

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.

- 20. 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

Item Bayside Planning Panel Meeting

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.

21. 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.
22. Prior to the issue of the Construction Certificate, amended plans shall be provided to the principal certifying authority to indicate the removal of the workshop area in the garage. That is, the garages, including garage doors, are to be moved back towards the rear boundary to replace the workshop area. The garages may retain a maximum 6m internal length.

*Reason: - the workshop area if included in the floor space provides a departure beyond what can be approved in accordance with the ARHSEPP.*

23. 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.
24. 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.
25. 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.

Item

Bayside Planning Panel Meeting

- 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. Any relocation works that may be required 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.
31. 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.

Item

Bayside Planning Panel Meeting



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**

32. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Principal Certifying Authority including an afterhour's contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.
33. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
34. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
35. 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.

Item

Bayside Planning Panel Meeting

36. 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).
37. 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.
38. 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
39. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
40. No demolition materials shall be burnt or buried on the site.
41.
  - 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

Item

Bayside Planning Panel Meeting

- 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.
42. 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.
43. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
44. 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.
45.
  - 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, piling, 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.
46. 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).

Item Bayside Planning Panel Meeting

- 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.
47. 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.
- 48.
- 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.
49. 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,

Item Bayside Planning Panel Meeting

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.

50. 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.
51. 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 A OCCUPATION CERTIFICATE**

52. 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.
53. 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 (Condition 31) 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).
54. 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.
55. 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.
56. 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.

Item Bayside Planning Panel Meeting

- 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.
57. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On High 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 High 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.
58. 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.
59. 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.
60. 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.
61. 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.
62. The Council nature strip in High 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.
63. Prior to the issue of an occupation certificate, One Callistemon Viminalis cv street tree shall be planted on Council's Nature strip in front of the site to replace the tree removed.

Item

Bayside Planning Panel Meeting



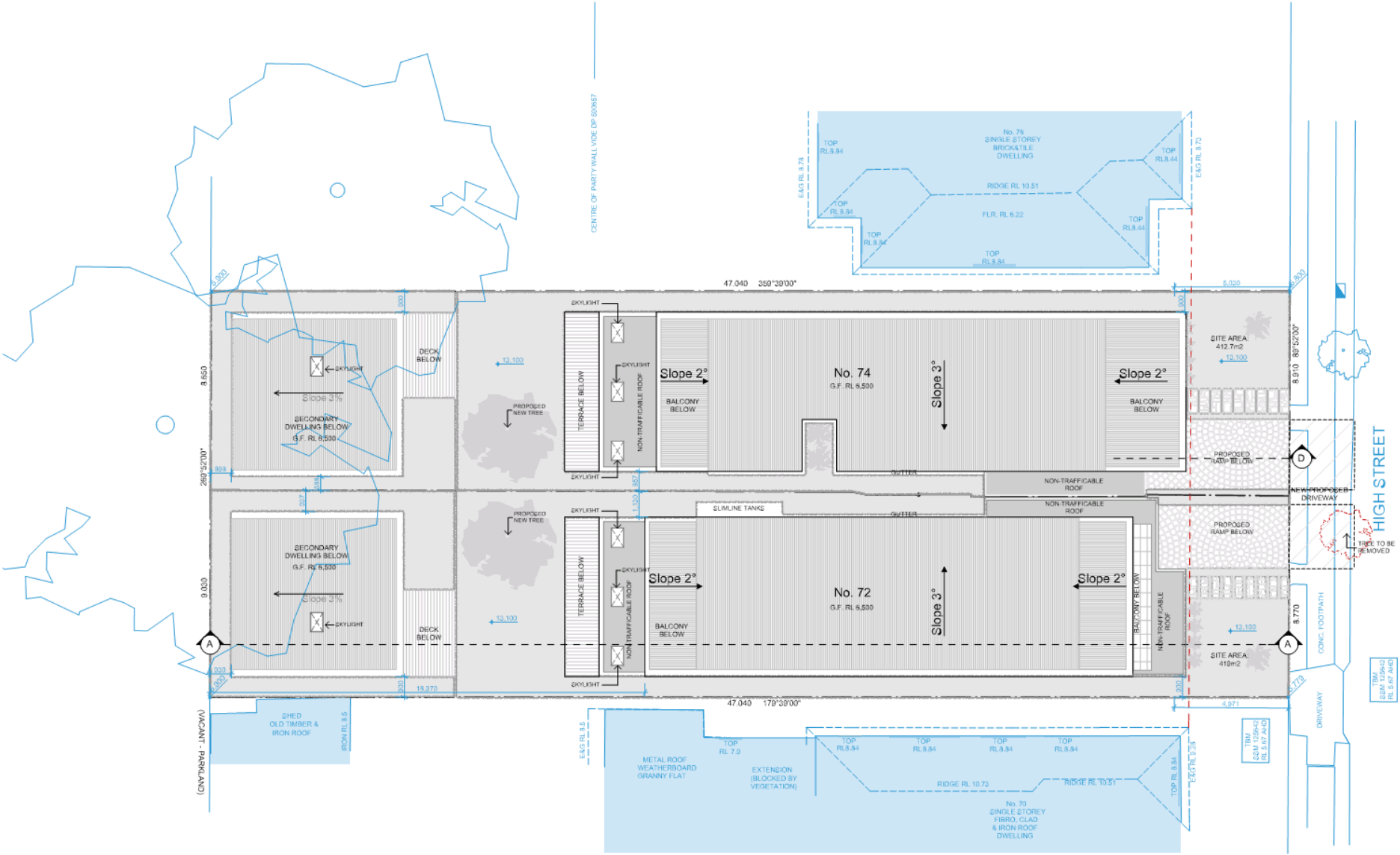
The tree shall be a minimum container size of 45L. The surrounds of the tree shall be mulched and regularly watered. The tree shall be supported by three posts.

64. 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**

65. 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.
66. 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.
67. 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*.
68. 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.
- 69.
- 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  $L_{\text{aeq } 15 \text{ minute}}$ ) is not to exceed the background level (measured as the  $L_{\text{a90 } 15 \text{ minute}}$ ) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

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



SITE/ ROOF PLAN  
Scale 1:200

NO.72

LEP & DCP	REQUIRED	PROPOSED
ZONING	R2	-
FSR	0.60:1	0.60:1
HEIGHT	9M	7.5m
SITE AREA	419m <sup>2</sup>	
GROSS FLOOR AREA	251.4m <sup>2</sup>	251.34 m <sup>2</sup>
SITE COVERAGE	50% = 209.5m <sup>2</sup>	49.36%=206.83 m <sup>2</sup>
LANDSCAPED AREA	35% = 146.6m <sup>2</sup>	36%= 150.77 m <sup>2</sup>
POS - MAIN DWELLING	36m <sup>2</sup>	77.81 m <sup>2</sup>
POS - SECONDARY DWELLING	4m <sup>2</sup>	16m <sup>2</sup>
SETBACKS		
GROUND FLOOR SETBACKS		
FRONT	PREVAILING	4.96m
REAR	4m	19.47m
REAR-SECONDARY DWELLING	4m	0.90m
SIDE	ON MERIT	0.90m
FIRST FLOOR SETBACKS		
FRONT	PREVAILING	7.7m
REAR	4m	24.33m
SIDE	ON MERIT	0.90m

GFA BY STOREY - No. 72

STOREY	AREA
GROUND FLOOR	153.60
FIRST FLOOR	97.74
	251.34 m <sup>2</sup>

NO.74

LEP & DCP	REQUIRED	PROPOSED
ZONING	R2	-
FSR	0.60:1	0.60:1
HEIGHT	9M	7.3m
SITE AREA	412.7m <sup>2</sup>	
GROSS FLOOR AREA	247.62m <sup>2</sup>	247.60 m <sup>2</sup>
SITE COVERAGE	50% = 206.35m <sup>2</sup>	50%= 206.34 m <sup>2</sup>
LANDSCAPED AREA	35% = 144.4m <sup>2</sup>	35.4%=145.93 m <sup>2</sup>
POS - MAIN DWELLING	36m <sup>2</sup>	75.23 m <sup>2</sup>
POS - SECONDARY DWELLING	4m <sup>2</sup>	16m <sup>2</sup>
SETBACKS		
GROUND FLOOR SETBACKS		
FRONT	PREVAILING	5m
REAR	4m	19.40m
REAR-SECONDARY DWELLING	4m	0.90m
SIDE	ON MERIT	0.90m
FIRST FLOOR SETBACKS		
FRONT	PREVAILING	7.7m
REAR	4m	24.36m
SIDE	ON MERIT	0.86mm

GFA BY STOREY - No.74

STOREY	AREA
GROUND FLOOR	153.60
FIRST FLOOR	94.00
	247.60 m <sup>2</sup>

BUILDING COMPONENT	TYPE/FINISH
EXTERNAL WALL TYPE/S <small>(Block work, cavity brick, framed (concrete/brick), stone masonry, brick, concrete (asbestos/external concrete or external masonry))</small>	G.F: BRICK VENEER F.F: TIMBER FRAMED
ROOFING TYPE/S <small>(metal sheet, corrugated)</small>	METAL
GROUND FLOOR STRUCTURE <small>(concrete (slab or walls), concrete)</small>	CONCRETE SLAB
FIRST & MULTIPLE FLOORS STRUCTURE <small>(timber (timber or steel), concrete)</small>	TIMBER FRAMED
FLOOR COVERINGS	
LIVING & DINING <small>(interior finishboards, tile, carpet)</small>	TILE
KITCHEN <small>(interior finishboards, tile, )</small>	TILE
BEDROOM/ STUDY <small>(interior finishboards, tile, carpet)</small>	CARPET
WINDOW FRAME TYPE <small>(aluminium, timber, UPVC)</small>	ALUMINIUM
HOT WATER SYSTEM <small>(gas (gas heated), solar electric (electric), gas instantaneous, electric (electric, electric tank, electric tankless))</small>	GAS INSTANTANEOUS
AIR CONDITIONING <small>(no air conditioning (no duct work, electric), single phase (split system), single phase (split system), single phase (split system), single phase (split system), single phase (split system))</small>	DUCTED
COOKTOP/OVEN <small>(gas cooktop &amp; electric oven, gas cooktop &amp; gas oven, electric cooktop &amp; electric oven, electric cooktop &amp; electric oven, electric cooktop &amp; electric oven)</small>	ELECTRIC

DEVELOPMENT APPLICATION

ARKHAUS

(02) 9637 8554 hello@arkhaus.com.au www.arkhaus.com.au Suite 4.01/ 77 Dunning Avenue, Rosebery NSW 2018

The works to be completed in accordance with the National Construction Code, Australian Standards and relevant by laws. All proprietary items are to be installed in accordance with manufacturers' details and specifications. Statutory authority approvals and specifications that form part of the construction methods are to be adhered to. Work references of dimensional measurements are to be taken over finished measurements. These drawings have been prepared by Arkhaus and remain the property of the above mentioned party. These drawings are not to be used in any way without the permission of Arkhaus and are subject to copyright laws.

amendments		
Date	Issue	Description
04/10/17	B	DEVELOPMENT APPLICATION

Client

MR VLAHAKIS

Drawing

SITE/ ROOF PLAN

Project description

PROPOSED DWELLING & SECONDARY DWELLING

Project address

72 & 74 HIGH STREET MASCOT

Csheet no

DA.03

Job no.

03217DA



STREETSCAPE  
1:200



STREETSCAPE PERSPECTIVE

**ARKHAUS** (02) 9577 9554 info@arkhaus.com.au www.arkhaus.com.au Suite 4.01/77 Darling Avenue, Potts Point NSW 2015  
This report is for client use only and is not to be used for any other purpose. It is the client's responsibility to ensure that the information provided is accurate and up-to-date. The client should consult with a professional advisor for any further information or advice. The client should also ensure that the information provided is not used for any other purpose without the written consent of Arkhaus.

amendments		
Date	Issue	Description
04/10/17	B	DEVELOPMENT APPLICATION
07/05/18	C	REVISED DA - REMOVAL OF WORKSHOP

DEVELOPMENT APPLICATION

Client  
**MR VLAHAKIS**  
Drawing  
**STREETSCAPE**

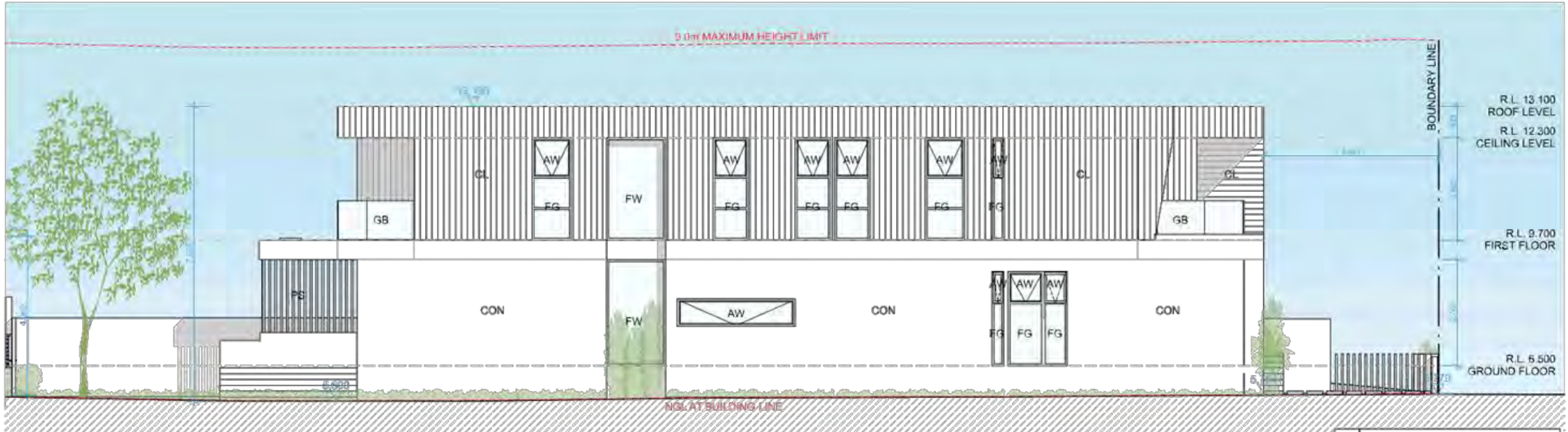
Project description  
**PROPOSED DWELLING &  
SECONDARY DWELLING**  
Project address  
**72 & 74 HIGH STREET  
MASCOT**











EAST ELEVATION - No.72  
1:100



WEST ELEVATION - No.72  
1:100

AW	AWNING WINDOW (Aluminium window, as selected)
BS	BOX GUTTER
C	CARPET
CL	CLADDING
CON	CONCRETE (As selected)
CW	CASEMENT WINDOW (Aluminium window, as selected)
DP	DOWN PIPE (As selected)
FB	FACE BRICK (As selected)
FG	FROSTED GLASS
FRP	FACADE RENDERED & PAINTED FINISH
FW	FIXED WINDOW (Aluminium window, as selected)
GB	GLASS BALUSTADING
GD	GARAGE DOOR
LW	LOUVER WINDOW
MS	METAL BALUSTADING
MR	METAL ROOFING (As selected)
PS	PRIVACY SCREENING
PSE	PAINTED SLAB EDGE (As selected)
SD	SLIDING DOOR (Aluminium door, as selected)
SW	SLIDING WINDOW (Aluminium window, as selected)
T	TILED (As selected)
TF	TIMBER FLOOR
VW	VENT WINDOW (Aluminium window, as selected)

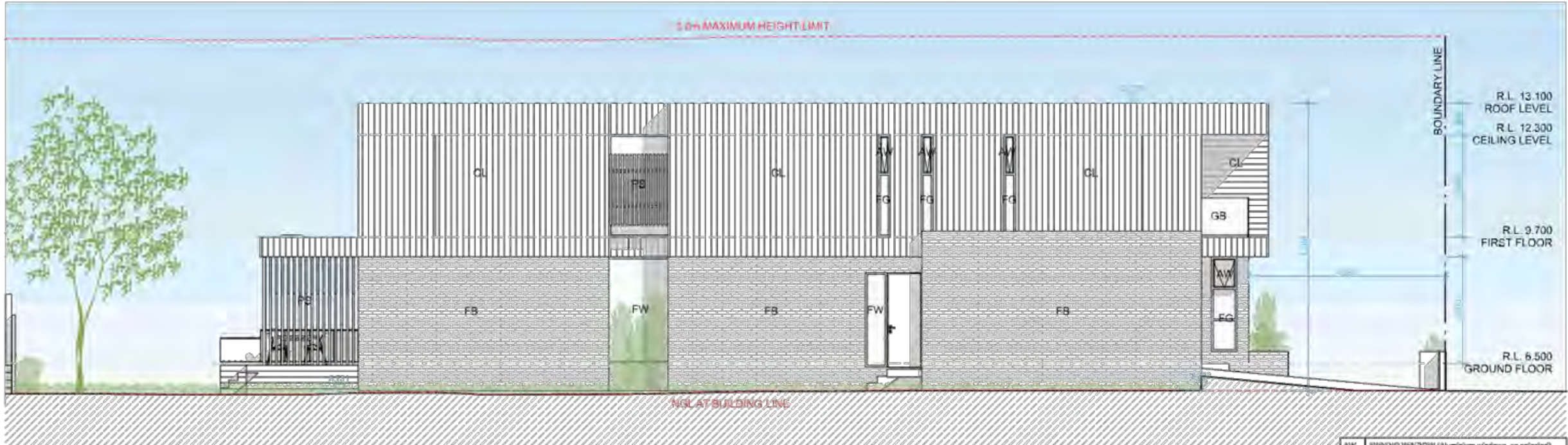
**ARKHAUS**  
1021 987 9824 | info@arkhaus.co.nz | www.arkhaus.co.nz | 2018/01/17 77 Ouning Avenue, Rimbey HEP 2018

amendments	Issue	Description
Date	B	DEVELOPMENT APPLICATION
04/10/17	C	REVISED DA - REMOVAL OF WORKSHOP
07/05/18		

Client  
**MR VLAHAKIS**  
Drawing  
**ELEVATIONS**  
Project description  
**PROPOSED DWELLING & SECONDARY DWELLING**  
Project address  
**72 & 74 HIGH STREET MASCOT**

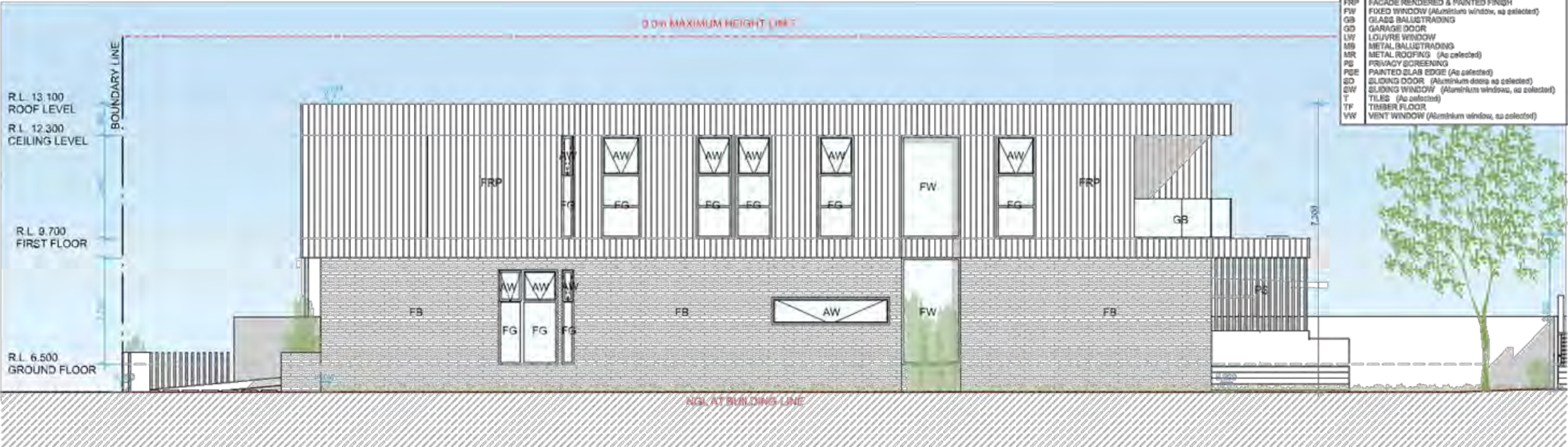






**EAST ELEVATION - No.74**  
1:100

- AW AWWING WINDOW (Aluminium windows, as selected)
- BS BOX GLITTER
- C CARPET
- CL CLADDING
- CON CONCRETE (As selected)
- GW GABLEMENT WINDOW (Aluminium windows, as selected)
- DP DOWN PIPE (As selected)
- FB FACE BRICK (As selected)
- FG FROSTED GLASS
- FRP FACADE RENDERED & PAINTED FINISH
- FW FIXED WINDOW (Aluminium window, as selected)
- GB GLASS BALUSTADING
- GD GARAGE DOOR
- LW LOUVRE WINDOW
- MB METAL BALUSTADING
- MR METAL ROOFING (As selected)
- PS PRIVACY SCREENING
- PSE PAINTED SLAB EDGE (As selected)
- SD SLIDING DOOR (Aluminium doors, as selected)
- SW SLIDING WINDOW (Aluminium windows, as selected)
- T TILES (As selected)
- TF TIMBER FLOOR
- VW VENT WINDOW (Aluminium windows, as selected)



**WEST ELEVATION - No.74**  
1:100

**ARKHAUS**

1802 9607 3524    info@arkhaus.com.au    www.arkhaus.com.au    Suite 4.01/77 Dandenong Avenue, Rusby NSW 2058

Arkhaus is a registered architectural firm under the Architectural Act 2006. It is a company limited by guarantee and is not a public company. It is a company limited by guarantee and is not a public company. It is a company limited by guarantee and is not a public company.

amendments		
Date	Issue	Description
04/10/17	B	DEVELOPMENT APPLICATION
07/05/18	C	REVISED DA - REMOVAL OF WORKSHOP

DEVELOPMENT APPLICATION

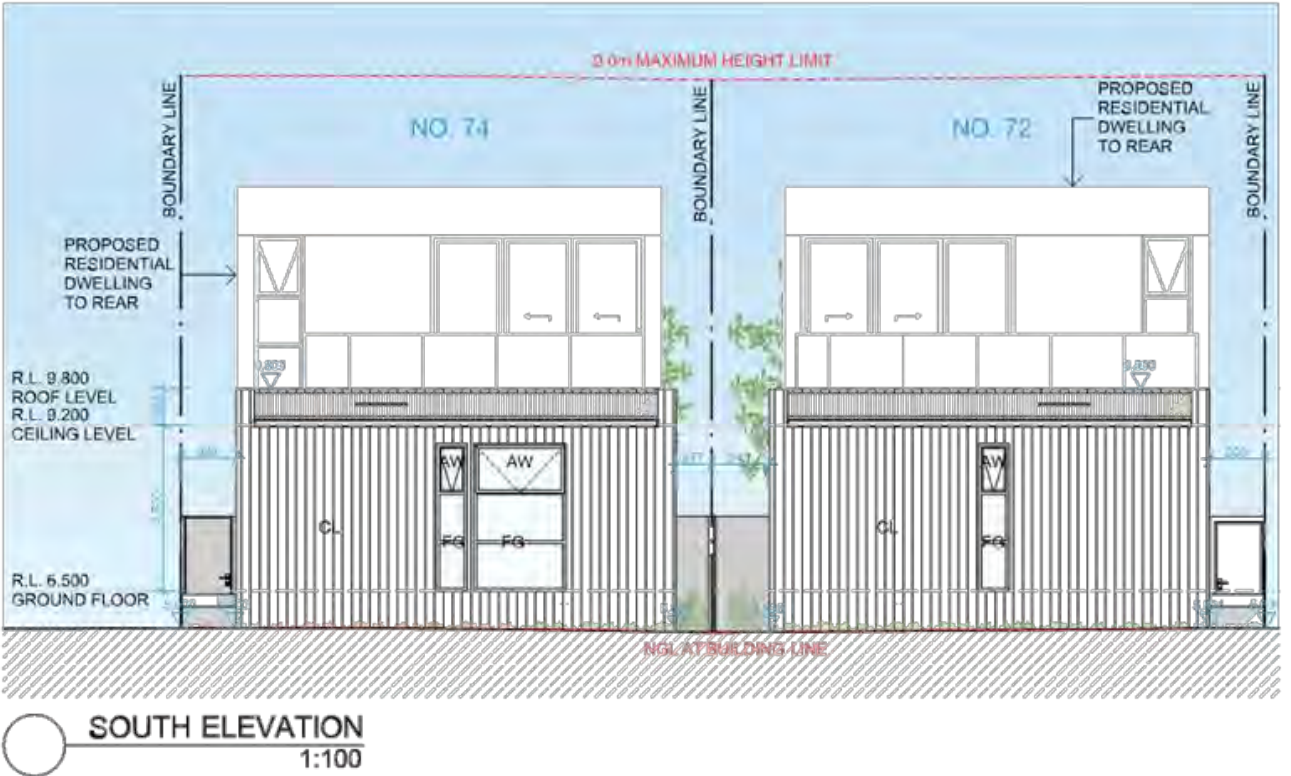
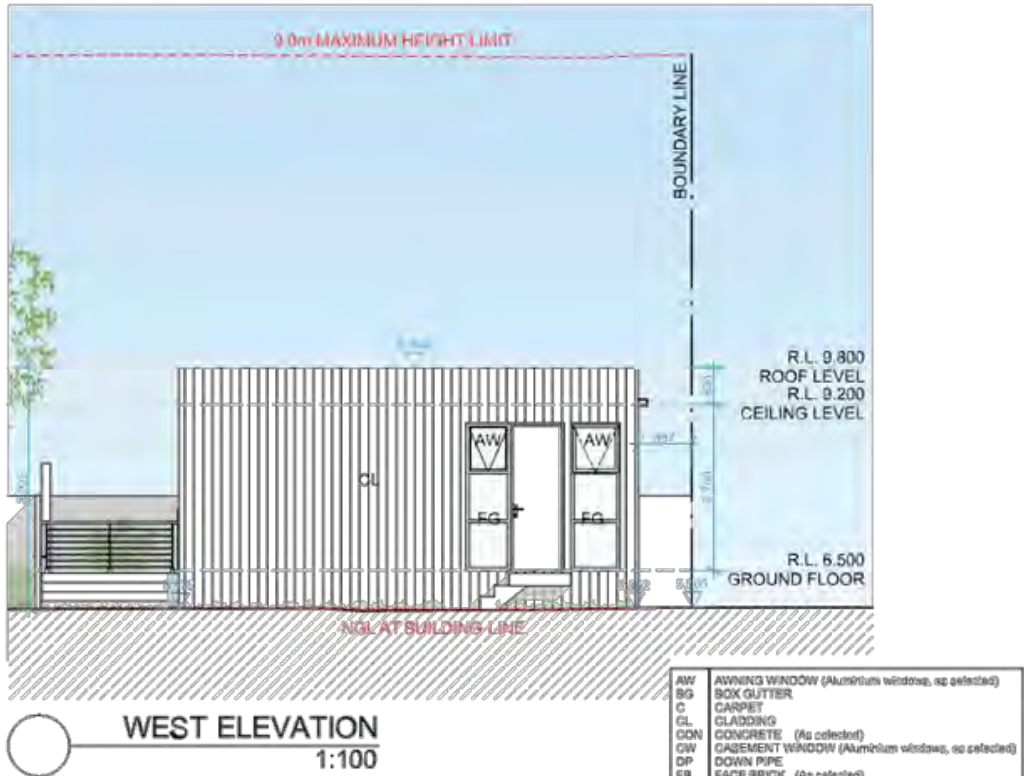
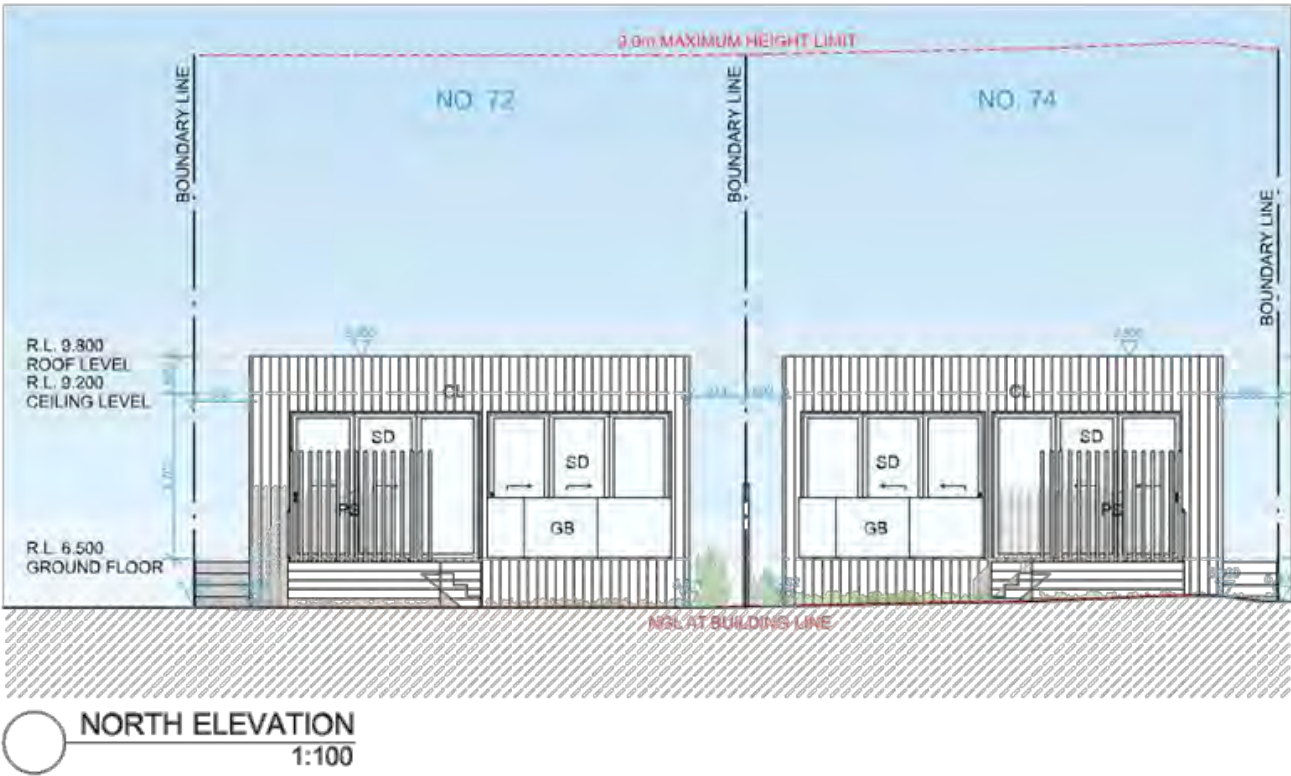
Client  
**MR VLAHAKIS**

Drawing  
**ELEVATIONS**

Project description  
**PROPOSED DWELLING & SECONDARY DWELLING**

Project address  
**72 & 74 HIGH STREET  
MASCOT**





- AW AWNING WINDOW (Aluminium windows, as selected)
- BG BOX GUTTER
- C CARPET
- CL CONCRETE (As collected)
- CON CONCRETE (As collected)
- GW GABLE WINDOW (Aluminium windows, as selected)
- DP DOWN PIPE
- FB FACE BRICK (As selected)
- FG FROSTED GLASS
- FRP FACADE RENDERED & PAINTED FINISH
- FW FIXED WINDOW (Aluminium windows, as selected)
- GB GLASS BALUSTRADING
- GD GARAGE DOOR
- LW LOUVER WINDOW
- MB METAL BALUSTRADING
- MR METAL ROOFING (As selected)
- PS PRIVACY SCREENING
- PES PAINTED SLAB EDGE (As collected)
- SD SLIDING DOOR (Aluminium doors, as selected)
- SW SLIDING WINDOW (Aluminium windows, as selected)
- T TILES (As collected)
- TF TIMBER FLOOR
- VW VENT WINDOW (Aluminium windows, as selected)

**ARKHAUS**  
021 957 3524 | info@arkhaus.co.za | www.arkhaus.co.za | Suite 4.01/17 Ox-Bow Avenue, Midrand 2008

amendments		
Date	Issue	Description
04/10/17	B	DEVELOPMENT APPLICATION
07/05/18	C	REVISED DA - REMOVAL OF WORKSHOP

**DEVELOPMENT APPLICATION**

Client <b>MR VLAHAKIS</b>	Project description <b>PROPOSED DWELLING &amp; SECONDARY DWELLING</b>
Drawing <b>SECONDARY DWELLING ELEVATIONS</b>	Project address <b>72 &amp; 74 HIGH STREET MASCOT</b>



## CLAUSE 4.6 VARIATION STATEMENT

---

Demolition of existing structures and construction of a dwelling house and secondary dwelling on each lot

72-74 High Street  
Mascot

Prepared for: Kydon Holdings Pty Ltd

REF: 251/17

DATE: 20 December 2017

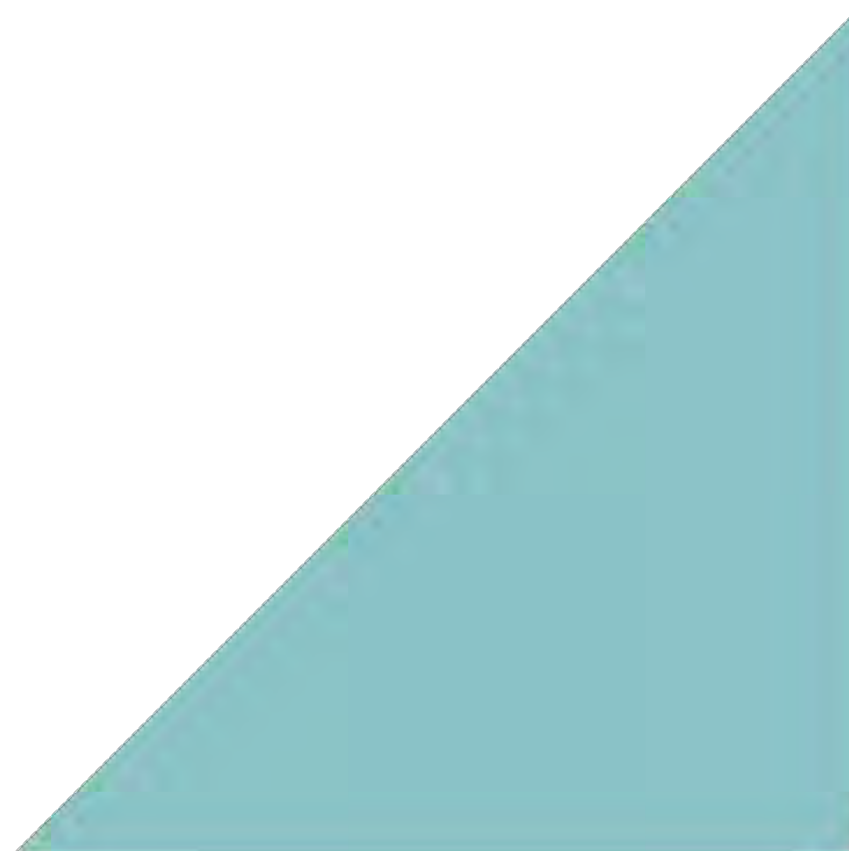




## DEVELOPMENT

+

**Clause 4.6 Variation Statement**  
Prepared for: Kydon Holdings Pty Ltd  
Ref: 251/17  
Date: 20 December 2017





## CLAUSE 4.6 VARIATION STATEMENT – MAXIMUM FSR (CLAUSE 4.4)

The development application proposes the construction of a dwelling house and a secondary dwelling on each lot and proposes a maximum FSR of 0.6:1, in accordance with Clause 4.4(2) of Botany Bay LEP 2013.

In their preliminary assessment of the application, Council have raised the issue of whether the application should be assessed as two dwellings or as a pair of semi-detached dwellings due to the proposed relationship of the garages that share a common boundary between No. 72 and No. 74 High Street. The dwellings are not attached, however the garages are built close to the boundary between the two properties.

The land is located in the *R2 Low Density Residential* zone which permits:

“ *Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Hospitals; Multi dwelling housing; Neighbourhood shops; Office premises; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings*”

The LEP defines each type of accommodation as follows:

“ ***dwelling house*** means a building containing only one dwelling.  
  
***semi-detached dwelling*** means a dwelling that is on its own lot of land and is attached to only one other dwelling.”

Further, it is noted that each of the above definitions contains terminology of 'dwelling' which is defined by the LEP as follows:

“ ***dwelling*** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.”

The proposal is for two dwelling houses, not semi-detached dwellings. The dwellings are not attached, nor are the garages, which in any case do not form part of the definition of a 'dwelling' as they are not capable of being occupied or used as a separate domicile.

Council has advised that the assessment will be based on the proposal being characterised as “semi-detached dwellings” and has requested a Clause 4.6 variation be submitted justifying the proposed 0.6:1 FSR as the maximum FSR for semi-detached dwellings is 0.5:1 under Clause 4.4A(3)(d) of the LEP.

The proposal complies with the maximum FSR of 0.6:1 for dwelling houses on a site with an area between 401m<sup>2</sup> and 450m<sup>2</sup>. However on the basis that Council takes the view that the proposal is best described as a semi-detached dwelling development this Clause 4.6 Variation request has been prepared to justify a variation to the 0.5:1 FSR permitted for semi-detached dwellings.

### 1. Floor space ratio control

Clause 4.4 (2) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) relates to maximum permitted FSR for a site and refers to the *Floor Space Ratio Map*. The relevant map identifies the subject site as having a maximum FSR of 1:1. However, Clause 4.4A states:







- “ 4.4A Exceptions to floor space ratio for residential accommodation
- (1) The objectives of this clause 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.
- (2) This clause applies to land identified as “Area 3” on the Floor Space Ratio Map.
- (3) Despite clause 4.4 (2), the following provisions relate to floor space ratios on land to which this clause applies:
- (a) the maximum floor space ratio for a dwelling house is not to exceed the floor space ratio applicable to the site area of the land on which the dwelling house is situated:

Site Area	Maximum Floor Space Ratio
<200 square metres	0.85:1
200–250 square metres	0.80:1
251–300 square metres	0.75:1
301–350 square metres	0.70:1
351–400 square metres	0.65:1
401–450 square metres	0.60:1
>450 square metres	0.55:1

- (b) the maximum floor space ratio for multi dwelling housing is not to exceed 0.8:1,
- (c) the maximum floor space ratio for a residential flat building is not to exceed 1:1,
- (d) the maximum floor space ratio for all other development for the purpose of residential accommodation is 0.5:1.”

The site is located in ‘Area 3’ and so the maximum FSR is 0.5:1 for residential accommodation (semi-detached dwellings).

The maximum FSR control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.

## 2. Proposed variation to FSR development standard

The development proposes an FSR of 0.6:1 (498.94m<sup>2</sup>). The maximum GFA under the LEP is 415.85m<sup>2</sup>. The non-compliance is 83.09m<sup>2</sup> which is a 19.9% variation to the control.





### 3. Clause 4.6 to BBLEP 2013

The objectives and provisions of clause 4.6 to BBLEP 2013 are as follows:

#### ***"4.6 Exceptions to development standards***

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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

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

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

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

(i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

(b) *the concurrence of the Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

(b) *the public benefit of maintaining the development standard, and*

(c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*







(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(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.<sup>a</sup>

The development standards in clause 4.4 are not "expressly excluded" from the operation of clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This request addresses the requirements of subclauses 4.6(3) and 4.6(4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in subclause 4.6(6).

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

The objectives of clause 4.4 are as follows:

- <sup>a</sup> (a) to establish standards for the maximum development density and intensity of land use,
- (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
- (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,
- (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,





*(g) to facilitate development that contributes to the economic growth of Botany Bay."*

As previously noted, Clause 4.4A(3)(d) nominates a maximum FSR of 0.5:1 for the site. It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit a maximum FSR of 0.6:1.

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.4 are addressed in turn below.

**Objective (a): to establish standards for the maximum development density and intensity of land use.**

The maximum FSR has been established at 0.5:1 for a semi-detached development on the site and 0.6:1 for a dwelling house. The proposed development includes a dwelling house and secondary dwelling on each lot which comply with the FSR maximum of 0.6:1. However, the degree of attachment (or detachment) of the proposed garages creates a significant and nonsensical change to the FSR maximum. Total detachment of the garages (whether it be 1mm or 1m) would mean that the entire development is detached. This would not materially change the appearance of the development to the casual observer. The degree of attachment should therefore not be such a limiting factor and as such, the expected density and intensity for development on the site is to an FSR of 0.6:1 which the proposal achieves compliance.

For these reasons the proposed FSR meets Objective (a).

**Objective (b): to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.**

The locality is undergoing transition from older single storey dwelling houses, many with no garaging, to two storey dwelling houses with double garages, terraces and semi-detached dwellings. The proposed development contains a two storey dwelling house at the street and single storey secondary dwelling at the rear of the site on each lot. The massing to the street, proposed setback at the garage walls and increased setbacks of the dwellings to the shared boundary ensures the proposal will sit comfortably in its context. The R2 zone permits a range of residential accommodation including dwelling houses, attached dwellings, semi-detached dwellings, multi-dwelling development and residential flat buildings. The desired future character for Mascot is described in Chapter 8 of the Botany Bay Comprehensive DCP. Had the development proposed detached garages, the 0.6:1 FSR would apply, which would not create a tangible change to the streetscape appearance, which as described above, is an eclectic mix of dwelling types, with and without garaging, or neighbour amenity but a substantial increase in permitted FSR on the site. The proposal is consistent with the desired future character for the area as addressed in the Statement of Environmental Impacts submitted with the application in that it meets the required height, landscaping, diversity of dwelling types and streetscape appearance without impacting adversely on neighbouring properties and the public domain.

For these reasons the proposed height meets Objective (b).

**Objective (c): to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.**

The minor non-compliance of the FSR does not offend the objective of maintaining visual relationships between the proposed development and the existing character of the area. The proposal is compatible with the built form, bulk and scale of the surrounding low density residential development and the proposed non-compliance with FSR will not be perceptible in the streetscape and character of the locality.

**Objective (d): to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.**

The proposal sits comfortably within the streetscape by providing compliant front setbacks, building height and landscaped front gardens.





The primary dwellings have a maximum height of 7.5m, and the secondary dwellings have a maximum height of 4.2m, which are both well below the maximum 9m height limit for the site. As such the dwellings are of a suitable scale when viewed from the park at the rear of the site and the surrounding public domain.

**Objective (e): to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.**

The design of the building ensures functional internal layouts and the massing has been determined by the DCP controls. The three dimensional building envelope is compliant with the height controls. The proposed building form will not have any adverse impact on adjoining properties, achieves compliance with the solar access requirements for adjoining properties, and provides compliant setbacks to the eastern and western boundaries to ensure the amenity of neighbours is not adversely affected.

The built form of the building is of a high quality and positively relates to protecting the amenity of the neighbouring properties despite the non-compliance and meets Objective (e).

**Objective (f): to provide an appropriate correlation between the size of a site and the extent of any development on that site.**

The proposal is of a suitable size in relation to the size of the site. Compliant front, eastern and western side setbacks to adjoining properties are provided, and sufficient distance is proposed between the dwellings and the secondary dwellings to provide useable private open spaces without impacting adversely on privacy. In addition, the proposal is compliant with the minimum landscaped area and maximum site coverage DCP controls. The proposed development meets Objective (f).

**Objective (g): to facilitate development that contributes to the economic growth of Botany Bay.**

The proposed development will improve the quality of development on the site and in turn enhance its contribution to the local landscape. Undertaking the demolition and construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality, meeting Objective (g).

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

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of Zone R2 Low Residential are as follows:

- “
- To provide for the housing needs of the community within a low density residential environment.
  - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To encourage development that promotes walking and cycling.”

The proposed development is demonstrably consistent with the relevant zone objectives in that it provides four new dwellings within a high quality development envisaged by the controls for the R2 Low Density Residential zone, and that will not have adverse impacts on the character or amenity of the area. The site is located close to public transport routes on O’Riordan Street and Botany Road.

For these reasons the development proposal meets the objectives for development in Zone R2.





#### 4. Sufficient environmental planning grounds

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

The non-compliance will have no adverse impacts on adjoining properties with regard to visual, aural and privacy impacts or overshadowing, and to require strict compliance would mean removing parts of the building without resulting in a real planning benefit to neighbourhood character or amenity.

The proposed FSR non-compliance will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning and Assessment Act, 1979. There is no planning purpose to be served by limiting the FSR strictly to the maximum allowable given the floor space has been distributed within a compliant building envelope and in the absence of amenity related impacts.

In short, we consider that there are sufficient environmental planning grounds to justify the applicant's proposed variation to the FSR standard.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", the non-compliance is minor and will not be noticeable from the street or surrounding properties.

Council has characterised the development as 'semi-detached dwellings' due to the proposed setback of the garages. The garages are not attached and by definition are not 'dwellings'. The Botany Bay Comprehensive DCP seeks to ensure semi-detached dwellings provide a compatible built form, not only with each other but within the context of the site. While the dwellings are not semi-detached by definition, it is acknowledged that they appear so from the street. The design of the dwellings is such that while they are not a mirror image of each other when viewed from High Street, they are recognisable as a pair of dwellings and their relationship to one another is positive with regard to bulk, scale and amenity. They have each been designed with contemporary architecturally appealing materials and finishes that complement each other and are compatible with the existing character of the area. The FSR non-compliance is technical in nature as a maximum 0.6:1 can be achieved on the site for dwelling houses, which the proposal should be categorised as. The degree of detachment of garage walls should not impact on the developable size of a property.

Strict compliance would be counterproductive in terms of amenity for future residents. The merits of the proposal on "environmental planning grounds" need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The development has been designed to provide a high quality urban outcome, designed so as to not impact on the privacy and amenity of neighbouring properties. The three dimensional building envelope complies with height and setback requirements. Insisting on strict compliance in this instance would result in the reduction in size of the dwellings, thus reducing the internal amenity for future residents with no demonstrable built form or amenity benefits. As such the proposal results in a high quality residential development which is suited to the site and its context.

#### 5. Insistence on compliance is unreasonable and unnecessary

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

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







The judgement goes on to state that:

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

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

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Having regard to all of the above, it is our opinion that compliance with the FSR development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied and Council has the power to grant variation to the FSR development standard as proposed.

Insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied.



## Bayside Planning Panel

12/06/2018

Item No	6.8
Application Type	Development Application
Application No	F18/404
Lodgement Date	22/12/2017
Property	<b>40 Ricketty Street, Mascot</b>
Ward	Mascot
Owner	Denbutton Pty Ltd
Applicant	Sutherland and Associates Pty Ltd
Proposal	Alterations and additions to the existing building and change of use to an office
No. of Submissions	Nil
Cost of Development	\$6,410,476
Report by	Lincoln Lawler, Senior Development Assessment Planner

## Officer Recommendation

- 1 That the Bayside Planning Panel supports the variation to FSR development standard as contained in Clause 4.4 of Botany Bay Local Environmental Plan 2013, in accordance with the written request under Clause 4.6 of BLEP 2013 submitted by the applicant.
- 2 That Development Application DA-2017/1253 for alterations and additions to the existing building and change of use to an office at 40 Ricketty Street, Mascot, be **approved**.

## Location Plan





## **Attachments**

- 1 Planning Assessment Report
- 2 Architectural Plans
- 3 Clause 4.6 [↓↓↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

---

<b>Application Number:</b>	2017/1253
<b>Date of Receipt:</b>	22 December 2017
<b>Property:</b>	40 Ricketty Street, Mascot
<b>Lot &amp; DP/SP No:</b>	Lot 2 DP 1001894
<b>Owner:</b>	Denbutton Pty Ltd
<b>Applicant:</b>	Sutherland and Associates Planning Pty Ltd
<b>Proposal:</b>	Alterations and additions and change of use to an office building
<b>Property Location:</b>	Southern side of Ricketty Street between Kent Road to the east and Alexandria Canal to the west
<b>Value:</b>	\$6,410,479.00
<b>Recommendation:</b>	That this Development Application be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to conditions of consent attached to this report.
<b>Zoning:</b>	B7 Business Park Botany Bay Local Environmental Plan 2013
<b>Author:</b>	Lincoln Lawler- Senior Development Assessment Officer
<b>Date of Report:</b>	25 May 2018
<b>Classification of Building:</b>	Class 5 Office
<b>Present Use:</b>	Vacant. Approved as office / restaurant, educational establishment, and caretakers flat
<b>No. of submissions:</b>	Nil

#### Key Issues

---

The key issues with this application include the non compliance with the Floor Space Ratio Development standard and the car parking control. The site is uniquely located on the entrance to the Mascot Town Centre and the proposal makes a positive contribution to the streetscape and is in close proximity to Mascot Train Station and other parking facilities.

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

---

1. That the Bayside Planning Panel support the variation to FSR development standard as contained in Clause 4.4 of Botany Bay Local Environmental Plan 2013, in accordance with the written request under Clause 4.6 of BLEP 2013 submitted by the applicant.
2. That development Application DA-2017/1253 for alterations and additions to the existing building and change of use to an office at 40 Ricketty Street, Mascot, be **approved**.

### Site Description

---

The subject site is located on the southern side of Ricketty Street between Kent Road to the east and Alexandria Canal to the west, and has rear access off Ossary Street. The site is generally rectangular in shape except for a stepped front boundary where the adjoining car repair/service station site extends 6m into the Ricketty Street frontage.

The site has an area of 1834m<sup>2</sup> with a 24.4 — 30.25 metre frontage to Ricketty Street and a 29.4 metre frontage to the rear Ossary Street. The site is located within B7 – Business Park zone and currently contains a partially constructed commercial / industrial building.

Surrounding the site is a car repair station to the east, commercial premises to the west, a warehouse building on the opposite side of Ossary Street, and commercial development opposite the site on Ricketty Street. Other surrounding development comprises of a mixture of commercial and industrial developments.

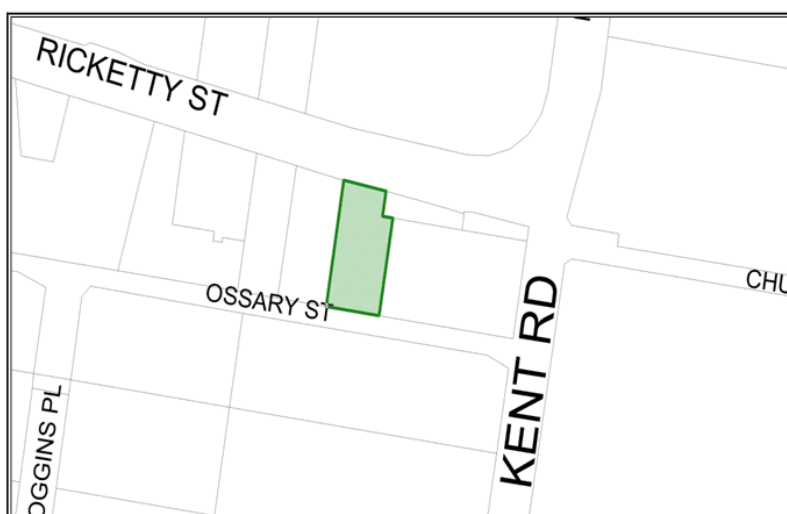


Figure 1. Locality Map

### Site History

The site has an extensive history of Development Applications and Building Certificates associated with unauthorized works.

Council granted development consent for use of the premises for manufacturing commercial ovens/showroom and ancillary offices ('Goldsteins') on 22 March 1973 (DA 73-T-53). The consent was issued for 38-40 Ricketty Street.

An application for alterations and additions to the building was approved on 21 May 2004 (DA 04/283), and it was around this time that the premises was damaged by fire and offered for sale.

Council issued a draft Order 4 on 6 September 2004, which gave the owner notice of an intention by Council to serve an Order to Demolish. Compliance with the Draft Order was not achieved and the Order was issued on 28 October 2004.

Council received intention of purchase and redevelopment of the property on 5 November 2004 and Council agreed that if a Development Application were made on or before 12 January 2005 that the Order would be suspended until the Development Application was determined.

On 15 December 2004 Council notified the owner that it intended to issue an order to repair the building to a standard it was in prior to damage by fire, and submit to Council the particulars of work required to ensure that the building is made safe in accordance with the requirements of the Draft Order. This notice also advised the owner of Council's intention to revoke the Order dated 20 October 2004.

Development Application 2005/262 for *"alterations and additions to the fire damaged building and use as a printing facility"* was submitted to Council on 24 December 2004 and was approved on 30 August 2005. This application established that the site benefited from 'existing use rights' and approval was granted to the proposed industrial use – a prohibited use in the 4(c2) zone.

On 12 December 2005 Council issued a Notice of Intention to Issue an Order requiring removal of the unlawful wall construction and unlawful infill construction.

On 9 February 2006 an Emergency Order was issued on the owner "Denbutton Pty Ltd" to remove the block wall erected at the rear of the building that was damaged by impact as it was considered a danger to public.

Building Certificate Application No.08/74 for the unauthorised internal and external building works was lodged on 15 November 2006.

Stage 1 Construction Certificate Application for works relating to the Level 2 slab, remainder of enclosing walls and the roof was lodged with Council on 19 October 2006. Amended Plans were lodged on 23 November 2006, and the Construction Certificate issued on 23 November 2006.

Section 96 Application No.2005/262/01 for *"various design modifications relating to floor plans, parking, landscaping, and other minor alterations to the building"* was approved by Council on 1 November 2007. Overall the Section 96 Application increased the office floor area by 345m<sup>2</sup>,

3/22

increased the factory floor area by 55m<sup>2</sup> and decreased the amount of parking provided from 19 to 12 off-street spaces.

Building Certificate Application No.08/74 for the unauthorised internal and external building works (as shown on the plans submitted) was lodged on 16 June 2008 and a 'Part Building Certificate' was issued on 11 December 2008.

A Draft Order was issued on 22 August 2008 to cease occupation of the subject premises until condition 112 of DA 05/262 is complied with. Condition 112 of this consent required the issue of an Occupation Certificate prior to use and occupation of the building. The use did not cease and an Order was issued on 15 October 2008.

An interim Occupation Certificate was issued by Council on 11 December 2008 for use of the ground floor of the premises by the approved printing business.

Construction at the premises continued beyond those works approved by DA 05/262 (as modified) and Building Certificate Application No.10/076 was lodged for the unauthorised building works to Levels 1, 2 and 3 of the building. The application was lodged with Council on 13 July 2010.

Council granted consent to Development Application No. 09/352 on the 7 December 2010 for alterations and additions to the existing building, the erection of business identification signage fronting Ricketty Street and continued use of the premises as a printing business at 40 Ricketty Street, Mascot.

Section 96(2) Application No. 09/352/02 was approved on 14 June 2011 for provision of an additional 879m<sup>2</sup> of office space at level 3 and an extension of the roof terrace for the length of the building.

Section 96(1) Application No. 09/352/03 was approved on 28 July 2011 for the modification of Condition 11 to allow the building to be sub-let or otherwise divided into separate sections for additional purposes. This modification was requested under Section 96 Application No. 09/352/02 but was omitted from that application in error.

Section 96(1A) Application No. 09/352/04 was lodged on 8 August 2011 seeking to modify Development Consent No. 09/352 by relocating the approved car parking from Level 2 to the Ground Floor Level, minor internal modifications, minor modifications to the rear elevation and continued use of the first floor of the building as a printing business.

During the assessment of the above application it was noted Illegal building works had been carried out at roof top level of the building since the previous Section 96 Application was approved and a draft order was served on the owner of the property on 2 November 2011 to remove the structures. The building works comprised the enclosure of the air-conditioning plant and equipment, the creation of new habitable living space including sleeping area, shower and toilet, and the construction of a steel awning. The works did not form part of the Section 96 Application.

Development Application 12/96 was lodged at Council 7 June 2013 for use of part of the roof terrace as a caretakers unit and amenities/forecourt/awning to be used in conjunction with the roof terrace. This application was officially withdrawn on 3 December 2013. The matter of the caretakers unit on the roof terrace was subsequently included in Development Application - 13(233).

Development Application No. 13/233 was approved by Council, under Delegated Authority on 4 July 2014 for the modification of parking and internal office changes on the ground floor, conversion of existing office to restaurant on Level 1 for use by occupants of the building only, establish the use of Level 2 as a training facility, Level 3 as offices, Level 4 caretakers unit, staff cafeteria and outdoor smoking area at 40 Ricketty Street, Mascot. This approved a shortfall of 97 car spaces.

### Description of Development

---

The Development Application seeks Council consent for alterations and additions to the existing commercial building including the demolition of the caretakers flat and bathrooms on Level 4 and construction of two additional floors to level 4 and Level 5 of the building and the use of the entire building for office purposes.

As the end users for the floors are not yet known, the fitout plans for Levels 1 to 3 include two fitout options and consent is sought for both options to provide flexibility at the Construction Certificate stage to respond to the end users needs. This approach will avoid the need for modifications at later dates if only a single option is proposed which does not ultimately suit the end user.

The proposal is to use the entire building as "office" and the construction specifics are detailed as follows:

#### Ground Floor

At ground level the proposed development involves partial demolition, alterations, upgrading and refurbishment and includes:

- Remove columns and walls and reconfigure ground floor car parking area to increase the number of car parking spaces from 26 to 40 (including 2 accessible spaces) and 20 bicycle parking spaces.
- Removal of internal walls to increase the size of the:
  - lobby accessed from Ricketty Street with new reception and sitting area, and
  - electrical switch room.
- Addition of new internal walls to provide:
  - lobby accessed from Ossary Street,
  - loading area,
  - garbage store, and
  - services room.
- Retention and where necessary refurbishment of existing sanitary facilities, accessible sanitary facility, pump room, water pump room, server room and vertical circulation zones including 3 x stairs and 2 x lifts.
- The existing car park and loading dock access driveways will be retained on the Ossary Street frontage while the existing single combined ingress / egress driveway on the Ricketty Street frontage was proposed to be modified to separate ingress and egress driveways to facilitate set down / pick up movements. (the frontage works and car parking to Ricketty Street has been subsequently removed on negotiation with RMS)
- New awnings on the Ricketty Street and Ossary Street frontages.
- Retention of the existing substation in the north-western corner of the site.

5/22



**Level 1**

The works at this level include:

- Refurbishment of existing male and female sanitary facilities and reconfiguration of two accessible sanitary facilities.
- Alteration to window openings on the southern (rear) elevation.
- Provision of a suspended ceiling with bulkhead above.

**Level 2**

The works at this level include:

- Demolish internal walls and general refurbishment.
- Refurbishment of existing male and female sanitary facilities and reconfiguration of two accessible sanitary facilities.
- Provision of a suspended ceiling with bulkhead above.

**Level 3**

The works at this level include:

- Demolish internal walls and general refurbishment.
- Refurbishment of existing male and female sanitary facilities and reconfiguration of two accessible sanitary facilities.
- Provision of a suspended ceiling with bulkhead above.

**Level 4**

The works at this level include:

- Partial demolition of the existing structures on Level 4
- Construction of an office for Level 4 with a maximum of 1152 square metres of gross floor area commercial floor space. (Previously Caretakers Unit)
- New terrace on the northern, eastern, western and southern sides of the building including landscaped planters.
- New male and female sanitary facilities and one accessible sanitary facility.

To provide future tenants flexibility with the use of the space, the architectural plans demonstrate an indicative layout which provides for 3 meeting rooms, open meeting and breakout zone, storage rooms, printing area, kitchen area and circulation zones.

**Level 5**

The works at this level include:

- Construction of a new Level 5 with a maximum of 1164 square metres of commercial floor space.
- New male and female sanitary facilities and one accessible sanitary facility.

To provide future tenants flexibility with the use of the space, the architectural plans demonstrate an indicative layout which provides for 3 meeting rooms, open meeting and breakout zone, storage rooms, printing area, kitchen area and circulation zones.

## Statutory Considerations

---

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

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

#### **S.4.15(1) - Matters for Consideration – General**

##### **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 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 BBDCP Part 3K Contamination, relating to Contaminated Land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out of any development on that land and if the land is contaminated, it is satisfied that the land is suitable in its current state or will be suitable.

The existing building has been used for a commercial and industrial purpose and the proposed development is for alterations and additions to continue the commercial use. The printing operation is not listed as a contaminating use in Table 1 of the guide for SEPP 55 and the proposal does not include excavation works. Therefore, there is no requirement for further consideration under SEPP No. 55.

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

#### **Botany Bay Local Environmental Plan 2013 (BBLEP)**

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

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	Yes	The site is zoned B7 Business Park under the BBLEP 2013
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the B7 Business Park zone which are as follows:

7/22

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> <li>To provide a range of office and light industrial uses.</li> <li>To encourage employment opportunities.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</li> <li>To encourage uses in the arts, technology, production and design sectors.</li> </ul>
Does Schedule 1 – Additional Permitted Uses apply to the site?	N/A	Schedule 1 does not apply to the site.
If so what additional uses are permitted on the site?		
What is the height of the building?	Yes	A maximum building height of 44m applies to the subject site.
Does the height of the building comply with the maximum building height?		The proposed height of the building is 22.783m.
What is the proposed FSR?	-	The site is has a maximum permitted Floor Space Ratio for the site is 3:1 or 5502sqm
Does the FSR of the building comply with the maximum FSR?	No – Clause 4.6 submitted	<p>Site Area (1834 sqm)</p> <p>The proposed development has a maximum gross floor area of 6939sqm has a floor space of 3.78:1</p>
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not listed as a Heritage Item, nor is it located within a Heritage Conservation Area.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<p>The following provisions in Part 6 of BBLEP apply to the development:</p> <ul style="list-style-type: none"> <li>6.1 - Acid Sulphate Soils</li> </ul>		<p>The site is identified as Class 2 land on the Acid Sulfate Soils Map. Pursuant to clause 6.1(2) development consent is required for works below the natural ground surface and by which the watertable is likely to be lowered. Subclause (3) provides that development consent must not be granted under the clause for the carrying out of works unless an acid sulfate soils management plan has been prepared. No excavation is proposed and the proposed development is unlikely to lower the watertable. Accordingly, an acid sulfate soils management plan is not required.</p>
<ul style="list-style-type: none"> <li>6.8 – Airspace operations</li> </ul>	Yes	<p>A maximum building height of 15.42m applies to the site in accordance with the Obstacle Limitation Surface Map. The maximum height of the proposal exceeds 15.42m and as such Sydney Airport have given their approval to the proposal and therefore complies with Part 6.8 of the BBLEP 2013.</p>
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> </ul>	Yes	<p>The subject site is located within the 25-30 ANEF contour. The applicant provided an acoustic report addressing this issue.</p>

The objectives and provisions of BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the BBLEP 2013.

#### **Note 1 –Clause 4.6 Variation to the maximum Floor Space Ratio**

As discussed in the above table, the proposed development is non-compliant with Clause 4.4 – Floor Space Ratio. The FSR standard for the site is 3:1 for development in this locality. The site contains an area of 1834sqm as defined by the submitted survey plan. The permissible floor space for the site then equates to 5,502 sqm. The applicant proposes a total floor space 6939sqm which equates to an FSR for the proposal of 3.78:1.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request seeking to justify the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

9/22

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) have been addressed by the applicant below.

*Is the development standard unreasonable or unnecessary in the circumstances of the case?*

The applicant has submitted the following in response to whether the development standard is unreasonable or unnecessary in the circumstances of the case:

*"Whilst a floor space ratio standard is adopted for the site, Council has consistently varied this standard within the suburb of Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate. Council has consistently accepted that there are certain circumstances where the established standard does not properly reflect the environmental capacity of a particular site and in these instances it has been appropriate to support an alternative FSR. By way of reference, it has been established that with a 44 metre height, an FSR of up to around 4:1 has consistently been demonstrated to represent an appropriate*

10/22

density within the suburb of Mascot. Examples of where an alternative FSR has been considered acceptable include:

Site	FSR Control	Approved FSR	Approval Date
19-33 Kent Road	3.2:1	3.72:1	30/3/2014
13A Church Avenue	3.2:1	3.6:1	11/6/2014
2-8 Sarah Street	3:1	3.19:1	22/7/2014
246 Cowards Street	3.2:1	3.88:1	11/9/2014
141 O'Riordan Street	3.2:1	4.06:1	19/10/2016
256-280 Coward Street	3.2:1	4.42:1	12/2/2015
7-9 Kent Road	3.2:1	3.78:1	Unknown
42 Church Avenue	3.2:1	3.32:1	20/7/2017
671-683 Gardeners Road	3.2:1	3.43:1	19/1/2017

Are there sufficient environmental planning grounds to justify contravening the development standard?

The applicant has submitted the following:

- "Strict compliance with the development standard could be achieved by reducing the number of storeys of the building and subsequently reducing the number of office tenancies to be delivered with the redevelopment of the subject site. However, these measures are undesirable because they will reduce the unique architectural form of the development and will result in a failure to deliver an appropriate quantum of employment floor space on a site which has the capacity to absorb the proposed density due to its site attributes, surrounding context and location in close proximity to a variety of public transport nodes.
- The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome. The proposed development will significantly improve the appearance of the existing development with the streetscape and will provide a high quality architectural solution for the site.
- Occupants of the development are provided with a high level of amenity.
- The development will have an acceptable impact on local traffic conditions.
- There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

11/22



*Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the floor space ratio control as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites."*

Officer Comment: Whilst the site is not strictly located within the Mascot Station Town Centre, its location is unique as it can be read as a suitable transition to the significantly larger developments of the town centre. Further, the site is one of few that are able to characterize themselves as forming part of the gateway corridor to the local government area and as an entrance to the town centre.

It is noted that correlation between the height limit and the floor space controls for the site would allow for a smaller floor plate but spread over a 12 storey building, based on a floor to floor height of 3.6m within the height limit of 44m.

Further, investigating the potential envelope based on the height control and other controls including building setbacks and landscaping of 10% of the site area, the buildable area equates to 1528sqm, working this into the height limit of 44m, would equate to an FSR of 10:1 which would provide for a building with significantly greater impacts. The relationship between the Floor Space Ratio control and Height Limit does not produce a building that is achievable.

Having regard to reasons 2-5 outlined in Wehbe above, the 4.6 variation request has demonstrated that the development standard is unreasonable or unnecessary in this case as the Floor space anticipated by a commercial building is similar to what is being proposed.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The applicant has submitted the following justification:

*Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

*The objectives of the development standard have already been addressed previously in this written request and are relevant in specific reference to Clause 4.6(4)(a)(ii).*

#### **Objectives of the Zone**

*Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B7 Business Park zone which has the following objectives:*

- To provide a range of office and light industrial uses.*
- To encourage employment opportunities.*
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- To encourage uses in the arts, technology, production and design sectors.*

*The proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building, noting that the existing building is currently predominantly vacant and is no longer an attractive office provider without upgrades.*

12/22

*The proposed development provides office uses which will support the viability of the centre and provide much needed modern employment floor space in a location which is close Sydney Airport and various transport nodes including Mascot train station and is also well sited to encourage walking and cycling. For the reasons given the proposal is considered to be consistent with the objectives of the B7 Business Park zone.*

#### *Objectives of Clause 4.6*

*The specific objectives of Clause 4.6 are:*

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

*The architectural package prepared by Plus Architecture which accompanies the subject application illustrates the relationship of the proposed development within the context of the site. It demonstrates a high quality outcome for the site which will result in the delivery of a high quality commercial building and that will provide modern employment floor space in a location which is close Sydney Airport and various transport nodes. Allowing the flexible application of the floor space ratio development standard in this instance is not only reasonable but also desirable given the context of the site and that the site has the environmental capacity to absorb the proposed density.*

*Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better urban design outcome in this instance in accordance with objective 1(b).*

#### *Conclusion*

*Strict compliant with the floor space ratio development standard contained within clause 4.4(2) of the Botany Bay Local Environmental Plan 2013 has been found to be unreasonable and unnecessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.*

*The objectives of Clause 4.4 Floor Space Ratio of the Botany Bay LEP 2013 are:*

- a) to establish standards for the maximum development density and intensity of land use,*
- b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- g) to facilitate development that contributes to the economic growth of Botany Bay.*

13/22

**Comment:** The proposal is considered to be consistent with the objectives of the FSR development standard for the following reasons:-

- The proposed development is compatible with the bulk and scale of the existing development in the area and the future desired character of the locality, given the proposed nature of the site and locality;
- The proposal has maintained an appropriate visual character in that the building additions are stepped in from the boundaries to further minimise any impact associated with their addition and to provide consistency with the podium type treatments within the Mascot Town Centre which is the backdrop of this development and is consistent the transformation of the area.
- It is not likely that there will be significant adverse impacts from the additional floor space proposed on the amenity of adjoining properties in terms of increased traffic and the lack of on street car parking as the car parking noncompliance is suitably addressed and is acceptable, due to the retention of the existing building, proximity to public transport (train and Bus services) provides bicycle parking and is in proximity to the regional cycleway network and has a large resident population nearby.
- The proposal provides for an appropriate correlation between size of the site and the extent of the development site as a compliant building within the height limit would have significantly greater impacts particularly in relation to dominance, streetscape and overshadowing.

The proposed development is in the public interest as it is consistent with the objectives of the zone in that the proposed development has flexible floor plates within the proposed FSR which can attract and range of tenancies for office premises. This in turn will encourage employment opportunities on the doorstep of a large residential population. It is considered that the proposal is congruent with the objectives of the zone. The proposal is also consistent with the objectives of the development standard and through this assessment has addressed the relevant clauses of 4.6.

Public Interest and Public Benefit

Preston CJ noted that there is a public benefit in maintaining planning controls and a variation to a development standard should not be used in an attempt to affect general planning changes throughout the area.

The proposed FSR exceedance is not contrary to the public interest as the development has been designed to comply with Council's maximum building height controls, the bulk and scale of the proposed addition is considered to be appropriate, additional landscaping is to be installed along the Ricketty Street frontage due to RMS not supporting the retention of the existing crossing which will further assist in screening and softening the development.

On the basis of this assessment, it is concluded that the variation is not contrary to the public interest and is able to be supported.

Matters of State or Regional Importance

The proposed variation to the FSR standard does not raise matters of significance for state or regional planning which are detailed below due to its consistency with regional planning documentation, namely the District Plan. The variation is also not contrary to any state policy or ministerial directive.

The Eastern City District Plan includes the following planning priority in regards to retaining and managing industrial and urban services land.

The District Plan States the following:

*"Planning Priority E12 - Industrial and urban services land in the Eastern City District provides cost competitive and well located land for industries and services that support businesses in the Harbour CBD, other centres and Greater Sydney's two existing international trade gateways of Port Botany and Sydney Airport."*

The plan goes on to state that of the 75 hectares within the Mascot Area, 73 hectares is already developed, with only 2 hectares of land this increases the pressure of land in this well connected locality.

The Eastern City District Plan indicates that

*"Industrial activity and urban services are important to Greater Sydney's economy and the nature of this economic sector is continuing to change, with emerging technologies and new industries with different requirements. Industrial land is evolving from traditional industrial and manufacturing lands, and freight and logistics hubs, into complex employment lands"*

*Industrial and urban services land in the Eastern City District is highly constrained due to the development of residential dwellings and large-scale retail, which are higher-return land uses, and the lack of opportunities for new supply. There is strong competition for space from non-urban services industries that seek proximity to Sydney Airport, Port Botany, the Harbour CBD and health and education precincts. While these businesses must be supported in a service-oriented modern economy, capacity for industrial and essential urban services must be retained."*

The proposed use of office, which utilizes and works with the existing constraints of the land including the existing building exhibits a more sustainable development response whilst being aligned with the planning priority in regards to employment lands. The applicant has chosen a site where the additional office accommodation can be accommodated to meet the objective of the planning priority 12 whilst minimising the impacts of the development. The impacts associated around car parking are suitably addressed throughout this report and are acceptable given the existing shortfalls Council has previously considered for the site, the walkability of the site and its close proximity to bus routes and the Mascot Train Station. Further, on the doorstep of the development, over recent years has been the significant increase in resident population through the development of the Mascot Town Centre. This residential population allows for greater opportunity for working and living in the same

#### Summary

Based on the above, the applicant's Clause 4.6 justification is well founded. It is clear that the development standard is unreasonable given that other examples exist in the area of a similar FSR breach. Further, the development standard is unnecessary in the circumstances of the case given the sites context and that a building with significantly more impact could be achieved with a compliant FSR and Height.

The proposed development satisfies the objectives of the B7 – Business Park zone and the objectives of the FSR standard are achieved as the proposed development is consistent with the maximum development and intensity of the land in the zone and is compatible in bulk and scale with the existing and desired future character of the area. Further the development is

15/22

consistent with the Eastern City District Plan in recognising the importance of employment lands especially in this area and their contribution to the Greater Sydney Region in an economic sense.

Given the above, the proposal is satisfactory in terms of the BBLEP 2013.

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

There are no draft EPI's that are applicable to the proposed development

#### **S4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application;

#### **Botany Bay Development Control Plan 2013**

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

Control	Requirement	Proposed	Complies
Part 3 General Provisions			
3A.2 Car Parking	General: Table 1 provides that office premises are required to provide 1 space per 40m <sup>2</sup> of GFA.	Based on the proposed gross floor area of 6,884m <sup>2</sup> , 172 car parking spaces are required. The proposal provides 40 car parking spaces	No - <i>Refer Note 1</i>
	Car parking: C5 Parking spaces for small cars will only be permitted as visitor parking spaces or parking facilities that open to the general public. The number of parking spaces for small cars (as defined in AS2890.1) shall not exceed 5% of the total car parking spaces provided by the development.	Four parking space for small cars are proposed, not exceeding 5% of the total car parking spaces.	Yes
	Bicycle Parking: C7 In every new building, where the floor space exceeds	As the proposal is for alterations to the existing building and not a new building, there is no requirement to provide bicycle parking.	Yes

16/22

Control	Requirement	Proposed	Complies
	600m <sup>2</sup> GFA (except for houses and multi unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.	Notwithstanding, the proposed development incorporates 20 bicycle parking spaces within the ground level carpark which exceeds 10% of the required parking provision of 172 car spaces.	
3A.3.1 Car Park Design	General: C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities).	A Traffic and Parking Report was submitted with the application which addresses compliance with the standards relating to the car park design.	Yes
	Location: C10 Off-street parking facilities are not permitted within the front setbacks. C11 Car parks must provide a direct and safe access to a building's entry and exit (well lit and free of concealment opportunities). C12 Off-street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.	The ground level carpark will be concealed within the building envelope and will not be visible from the either Ricketty Street or Ossary Street. At-grade open air car parking is not proposed.	Yes
	Access: C13 Pedestrian entrances and exits shall be separated from vehicular access paths. C14 A maximum of one vehicle access	All vehicular access to the site has been designed to ensure all vehicles enter and exit the site in a forward direction minimising the impact of vehicles on pedestrian movements. Pedestrian access is separated from vehicular access.	Yes

17/22



Control	Requirement	Proposed	Complies
	point is permitted per property. Council may consider additional vehicle access points for large scale developments.	The existing development is provided with existing vehicular access from both Ricketty Street and Ossary Street. The Ricketty Street entrance will be removed through this application in accordance with RMS requirements.	
	At-Grade Parking: C25 At-grade parking shall be avoided for large scale residential and commercial development.	All parking is contained within the building.	Yes
	Non-Residential: C29 Car parking areas shall be adequately finished with fully sealed surfaces, internal drainage systems, line markings, appropriate kerbing, paved aisle dividers and/or wheel stops. Pavement: C32 All off-street parking areas and internal circulation roadways shall be sealed with hard-standing all weather materials or approved alternatives to Council's satisfaction.	All parking and manoeuvring areas will be sealed and finished in accordance with Council requirements. Relevant conditions are proposed.	Yes
	Lighting: C34 Adequate lighting shall be provided if the parking facility is expected to be used at night. Design of lighting shall be in accordance with relevant Australian Standards and be consistent with the relevant requirements	Lighting will be provided in accordance with the relevant Australian Standards.	Yes

18/22

Control	Requirement	Proposed	Complies
	to allow drivers to manoeuvre vehicles safely into and out of parking spaces.		
	Accessible parking: C35 Accessible parking spaces for people with disabilities shall be designed in accordance with AS2890.6.	The development provides a total of 2 accessible car parking spaces.	Yes
	Waste Collection Points: C40 The waste collection point shall be designed to: (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.	A Waste Management Plan accompanied the application and indicates that waste will be collected from Ossary Street within the road reserve consistent with the existing arrangement.	Yes
3A.3.3 Traffic and Transport Plans and Reports	C1 A Traffic and Parking Impact Assessment Report shall be provided for development: (i) Listed in Schedule 3 of State Environmental Planning Policy	A Traffic and Parking Report prepared accompanies the application which addresses compliance with the car parking requirements and standards relating to the car park design, local traffic conditions, traffic generation associated with the development and the availability and frequency of public transport.	Yes

Control	Requirement	Proposed	Complies
	<p>(Infrastructure) 2007; and</p> <p>(ii) Where, in the opinion of Council, the proposed development is likely to generate significant traffic and/or parking demand or land use.</p> <p>C2 The Traffic and Parking Impact Assessment Report shall be prepared by a qualified and experienced traffic engineer.</p>		
3A.3.4 On Site Loading and Unloading	<p>C2 - The number of service bays shall be provided in accordance with Table 2. Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number.</p>	<p>The existing loading dock access driveway will be retained on the Ossary Street frontage while the existing single combined ingress / egress driveway on the Ricketty Street frontage is also retained to facilitate set down / pick up movements.</p> <p>Office premises with a GFA of 6,000-7,999m<sup>2</sup> are required to provide a minimum of 4 service bays for courier vans, 1 bay for SRV and 1 bay for MRV.</p> <p>Whilst not meeting the minimum requirement, having regard to the proposed use, adequate provision for parking of services vehicles is provided within the ground level car park.</p> <p>Servicing of the development is addressed further within the Traffic and Parking Report that accompanies the application.</p>	No but considered acceptable.
3C Access and Mobility	Commercial and industrial developments:	The Accessibility Report which accompanies this application confirms that appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and	Yes

20/22

Control	Requirement	Proposed	Complies
	<p>A Statement of consistency is to be lodged with the DA.</p> <p>Appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards.</p> <p>General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p>	relevant Australian Standards is provided.	
3D Signage	Not applicable.	Signage for the building will be the subject of a future development application.	Not Applicable
3G Stormwater Management	<p>Stormwater Management:</p> <p>Stormwater runoff generated from the development site shall be collected and discharged in accordance with Council's Part 10 – Stormwater Management Technical Guidelines.</p>	The proposal will utilise the existing stormwater arrangement for the current building.	Yes

Control	Requirement	Proposed	Complies
3H Sustainable Design	To ensure commercial and industrial development incorporates ecologically sustainable design principles.	The proposal is not for a new building. The works will be undertaken in accordance with Section J of the BCA.	Yes
3I Crime Prevention, Safety and Security	The building is to be designed in accordance with CPTED principles.	The proposed development provides opportunities for natural surveillance to the surrounding streets. The entries to the development will be appropriately lit at night to enhance safety, visibility and legibility. Effective access control has been achieved through the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development such as the entrances and lobbies will be well used.	Yes
3J Aircraft Noise & OLS	In certain circumstances and subject to Council's discretion, Council may grant consent to development where the building site has been classified as "conditional" or "unacceptable" under Table 2.1 of AS2021-2000  Pursuant to Part 3J.3 of the DCP if a building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to Civil Aviation Safety Authority and Airservices Australia for assessment.	The site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and in determining the subject application Council must take into consideration the guidelines provided in AS 2021 for aircraft noise. In this regard, the proposal consists of commercial uses within an existing industrial area, which is considered 'conditional' within the 25-30 contour under Table 2.1 of the Australian Standard AS 2021 for aircraft noise  As the site is within the area identified on the OLS map and the building exceeds 15.24 metres, Council is required to refer the application to the Sydney Airport for assessment. Sydney Airport have provided their approval to the proposed development.	Yes – Condition of Consent

22/22

Control	Requirement	Proposed	Complies
3K Contamination	Contamination of the site is to be investigated in accordance with SEPP 55 and the Managing Land Contamination: Planning Guidelines.	The existing building has been used for a commercial industrial purpose and the proposed development is only for alterations and additions to continue this use and so there is no requirement for further consideration under SEPP No. 55.	Yes
3L Landscaping and Tree Management	<p>A Landscape Plan is to be prepared.</p> <p>A deep soil zone is required for all developments within boundary setbacks, communal and private open space and green corridors.</p> <p>A minimum of 80% of a planting scheme is to consist of native plants.</p>	<p>As the existing building occupies the majority of the site and is built to the eastern, western and southern boundaries, existing landscaping is limited to a number of minor shrubs located in the north-western corner of the site.</p> <p>The RMS requires deletion of the driveway from Ricketty Street, and a condition requires that this area be landscaped.</p> <p>There are no street trees located along either frontage of the site, however there are street trees to the west of the site located in the Ricketty Street road reserve and to the east of the site within the adjacent site in Ossary Street.</p> <p>The proposed development introduces a landscaped terrace area at Level 4 as well as landscaping within the front building line to Ricketty Street. A Landscape Plan accompanies the application, and an amended plan is required for the modified Rickett Street frontage. The plan has taken into consideration the requirements detailed within the BBDP.</p>	Yes – Considered acceptable.
3N Waste Minimisation and Management	<p>Demolition, construction and ongoing waste is to be minimised.</p> <p>A Site Waste Minimisation Plan is to be submitted for all development applications.</p>	<p>A Waste Management Plan accompanies the application which addresses waste management during demolition, construction and ongoing use.</p> <p>A common garbage storage room is provided at ground level near the loading area.</p>	Yes

23/22



Control	Requirement	Proposed	Complies
Part 6 Employment Zones			
6.1.3 Contamination	Contamination of the site is to be investigated in accordance with SEPP 55 and the Managing Land Contamination: Planning Guidelines.	The existing building has been used for a commercial/industrial purpose and the proposed development is only for alterations and additions to continue this use and so there is no requirement for further consideration under SEPP No. 55.	Yes
6.1.4 Design Quality Principles	Developments covered by this Part are required to consider the following Design Quality Principles:		
	P1 The contribution of industrial and business land use activity at the Local, Regional and State levels.	The proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building, noting that the existing building is currently predominantly vacant and is no longer an attractive office provider without upgrades.	Yes
	P2 The improvement to the built form/urban form and public domain of the industrial and business areas of the City.	The proposed alterations will transform an existing commercial building with an outdated architectural style into a modern commercial building that will have a high level of visual interest within the Ricketty Street and Ossary Street streetscapes given its unique architectural style whilst delivering an increased employment density on the site.  A varied palette and materials are used to provide a clear identity for the development as well as to define the components of the building.	Yes
	P4 The efficient design, operation and function of industrial / business land uses.	All plant and equipment required for the development will be located within the site boundaries and where possible will be screened from public view.  The reconfiguration of the ground level car park and vehicular access from Ricketty Street, will result in improved efficiencies in terms of access to the site and the ability to provide car parking suitable for the	Yes

24/22

Control	Requirement	Proposed	Complies
		demand created by the proposed development. The proposed use will not result in any unreasonable impacts on surrounding properties.	
	P5 The need for a compatible and workable relationship between industrial/business and nonindustrial/business uses.	The site does not adjoin any residential land uses. The use as office premises is unlikely to generate any unreasonable noise impacts or affect air quality levels.	Yes
	P6 The promotion of developments that are sustainable and encourage the protection of the environment.	The proposed development seeks to retain the embodied energy within the existing building by keeping a substantial proportion of the building fabric including the ground level slab, external walls, floors and vertical circulation zones.	Yes
6.2 Precinct Controls			
6.2.2 Mascot West Business Park Precinct	C1 Development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application.	The site is particularly well located in terms of access to a range of public transport options. The site is a 500m walk from the entrance to Mascot Station.  In addition, the site is located nearby a regional bicycle network connecting the city to Sutherland Council, and the proposal includes 20 bicycle parking spaces.  A workplace travel plan has also been prepared within the Traffic Report which accompanies the application.	Yes through a condition of consent
	C2 Developments, including alterations and additions must: (i) Improve the appearance of buildings, particularly along the roads which serve a gateway function to Sydney	The appearance of the development within the streetscape will be substantially improved, with the proposed development representing a high quality architectural outcome for the site that will positively contribute to the character of the Mascot West Business Park Precinct.	Yes

25/22

Control	Requirement	Proposed	Complies
	Airport and the Sydney CBD; and (ii) Comply with Sydney Airport's regulations in regard to safety, lighting and height of buildings.	As the site is within the area identified on the OLS map and the building exceeds 15.24 metres Council is required to refer the application to Sydney Airport who have no objection to the proposal.	
	C3 Developments within the precinct shall submit a detailed Flood Study/Assessment for 1 in 100 year average recurrence interval (ARI) design storm events and probable maximum flood (PMF).	The proposal involves alterations and additions to the existing building and includes the retention of the existing ground level slab. Accordingly, no flood study is required.	N/A
	C4 Development shall: (i) Have finished floor levels of a minimum 500mm above the 1 in 100 year flood level habitable areas and 300mm for industrial areas and garages; and (ii) Not impede the passage of floodwater to cause a rise (afflux) in the flood level upstream and/or increase the downstream velocities of flow.	The proposal involves alterations and additions to the existing building and includes the retention of the existing ground level slab.	Considered acceptable given the existing situation
	C5 Development within the precinct shall require submission of a Risk Management Plan to address potential risks related to coastal sea levels	Council mapping does not indicate that the site will be subject to sea level rise.	N/A

26/22

Control	Requirement	Proposed	Complies
	(projected to increase above Australian Height Datum by 40cm by 2050 and by 90cm by 2100).		
	C7 Development shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).	The site is located within the 25-30 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, and in determining the subject application Council must take into consideration the guidelines provided in AS 2021 for aircraft noise. In this regard, the proposal consists of commercial uses within an existing industrial area, which is considered 'conditional' within the 25-30 contour under Table 2.1 of the Australian Standard AS 2021 for aircraft noise.	Yes - Conditioned.
	C8 The introduction of noise abatement measure to achieve compliance with current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.	Any noise abatement measures required to achieve compliance with AS 2021 will be integrated within the architecture of the proposed development and will not negatively impact on the character of the streetscape.	Yes
	C9 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008'.	The proposed development is not a sensitive use.	Yes

6.3 General Provisions			
6.3.2 Building and Site Layout	<p>A site analysis plan is to be lodged with the Development Application in accordance with the Council's Development Application Guide.</p> <p>Through careful site arrangements new building works must:</p> <ul style="list-style-type: none"> <li>(i) Address the street and highlight any non-industrial aspects (ie office section) of the development;</li> <li>(ii) Avoid long blank walls of warehouse units facing the street and long continuous roof lines; and</li> <li>(iii) Provide regular modulation to the façade or division of massing.</li> </ul> <p>For sites in excess of 1,000m<sup>2</sup>, an outdoor staff recreation area is to be provided.</p> <p>Building entrances are to be clearly defined and located so that visitors can readily distinguish the public entrance to each building. Access to each entrance is to be provided by a safe direct route, avoiding potential conflict with vehicles manoeuvring on site.</p>	<p>A site analysis plan forms part of the architectural package.</p> <p>The proposed development will sit comfortably within the streetscapes of Ricketty Street and Ossary Street and will make a positive contribution.</p> <p>The top two levels of the building are setback and located above the street walls and appear as a lightweight and contemporary element to the building. The geometry of the upper level is organic, providing curves within the design that will provide a softness to the building whilst incorporating a vertical pattern. The facades of the lower (existing) part of the building have a darker tone and when combined with different shades of colour used within the awnings and frames, will give the existing part of the building a modern appearance with a high level of modulation within the façade treatment.</p> <p>Level 4 of the development is proposed to have terraces that will provide high quality break out spaces on the northern, eastern and southern sides of the development.</p> <p>The building entrances from both Ricketty Street and Ossary Street will be easily identifiable from the public domain.</p> <p>All vehicular access to the site has been designed to ensure all vehicles enter and exit the site in a forward direction, minimising the impact of vehicles on pedestrian movements.</p>	Yes
6.3.3 Floor space	The maximum FSR is identified on the Floor Space Ratio Map	The proposed development has an FSR of 3.78:1 which exceeds the FSR control of 3:1 for the site. This	No – refer to Clause 4.6

28/22

	within Botany Bay Local Environmental Plan 2013.	issue is addressed in the Clause 4.6 variation discussion.	discussion under BLEP 2013
6.3.4 Building Design and Appearance	<p>To achieve a high standard of development both in terms of design and finish.</p> <p>To achieve developments, which enhance the streetscape of the locality.</p> <p>The maximum building height is indicated in the Building Height Map attached to the Botany Bay Local Environmental Plan 2013.</p> <p>All rooftop or exposed structures including lift motor rooms, plant rooms, etc., together with air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance</p>	<p>The proposed development enhances the streetscapes of Ricketty Street and Ossary Street.</p> <p>The new two levels of the building are setback and located above the street walls and appear as a lightweight and contemporary element to the building. The geometry of the upper level is organic, providing curves within the design that will provide a softness to the building whilst incorporating a vertical pattern. The facades of the lower (existing) part of the building have a darker tone and when combined with different shades of colour used within the awnings and frames, will give the existing part of the building a modern appearance with a high level of modulation within the façade treatment.</p> <p>The proposed development complies with the maximum 44 metre height control, with a height of 22.783 metres proposed.</p> <p>The proposed development will rationalise the existing ad hoc Level 4 structures, and provide a new upper level to the existing building. The architectural package demonstrates that plant and equipment is either enclosed within the building envelope or where provided on the roof will be appropriately screened.</p>	Yes
6.3.5 Setbacks	<p>C1 Setbacks are to be in accordance with the following Table 1. The DCP suggests the following setbacks:</p> <ul style="list-style-type: none"> <li>- A 9m building setback and 4m landscaped</li> </ul>	<p>The proposal retains the existing building footprint and external walls of the existing building. No change is proposed to the existing setbacks.</p> <p>The new upper levels of the building are setback well behind the existing parapet. The increased setback of the upper levels combined with the distinctly different architectural form, with a high level of modulation, will result in the</p>	Yes

29/22



	<p>setback to Ricketty Street.</p> <ul style="list-style-type: none"> <li>- A 2m landscaping and building setback to the eastern and western side boundaries.</li> <li>- A 2m landscaping and building setback from Ossary Street.</li> </ul>	development having an acceptable visual bulk impact when viewed from surrounding properties and the public domain.	
6.3.6 Parking and Vehicular Access	<p>C1 All vehicles (including deliveries) are to enter and leave the site in a forward direction with no vehicles permitted to reverse from or onto public road.</p> <p>C2 A Traffic and Parking Impact Assessment Report shall be prepared.</p> <p>C6 Separation of service areas (loading/unloading) and parking areas is required.</p> <p>C13 The following information is required:</p> <ul style="list-style-type: none"> <li>(i) Details of all traffic generation and possible impacts;</li> <li>(ii) The largest vehicle expected to access the site (including delivery);</li> <li>(iii) The frequency of deliveries to the site; and</li> <li>(iv) The maximum number of staff expected to be on-site at any one time.</li> </ul>	<p>All vehicles will enter and exit the site in a forward direction.</p> <p>At ground floor level separate areas are provided for servicing and car parking.</p> <p>A Traffic and Parking Report submitted with the application addresses compliance with the car parking requirements and standards relating to the car park design, local traffic conditions, traffic generation associated with the development and the availability and frequency of public transport.</p> <p>Details of frequency of deliveries to the site are unknown at this stage as an end user has not been identified, however, given that the use of the premises is proposed as office, it is anticipated that deliveries will be minimal.</p>	Yes

30/22

6.3.7 Signage	Not applicable.	Signage for the building will be the subject of a future development application.	N/A
6.3.8 Site Facilities	New site facilities such as mail boxes and electricity sub-stations shall be designed and/or sited so that they enhance the development.	The proposal involves retention of the existing substation located within the front building line to Ricketty Street.  Letterboxes will be located along the front boundary and be clearly visible and accessible from the street	Yes
6.3.9 Landscape	Landscaping is to be designed to ameliorate the bulk and scale of industrial and business park buildings, to shade and ameliorate large expanses of pavement and surfacing, to create a comfortably scaled environment for pedestrians in the public domain or from within the site and to screen utility areas and the like. Emphasis is to be placed on leafy internal spaces and landscaped setbacks designed for screening and visual amenity.	The Landscaped Plan submitted with the application demonstrates a high quality landscaping solution for the site that will provide a generously landscaped setting for the development when viewed from Ricketty Street, with substantial shrub planting and a canopy tree proposed. The proposed landscaping will soften the built form, provide a human scale to the development whilst providing an improved contribution to the Ricketty Street streetscape.	Yes
6.3.12 Noise and Hours of Operation	To ensure appropriate noise attenuation measures are incorporated into building design and site layout.	Given the use as an office premises, and the site is not being located within close proximity to residential development, the proposed development is unlikely to have any unreasonable impact in terms of acoustic amenity.	N/A
6.3.13 Waste	Development must comply with Part 3N - Waste Management and Minimisation. Sufficient space shall be provided for on-site separation and	A Waste Management Plan submitted with the application which addresses waste management during demolition, construction and ongoing use.	Yes

31/22

	storage of recyclables and garbage.	A common garbage storage room is provided at ground level near to the loading area.	
6.3.14 Environmental Protection	To ensure that development takes account of and minimises any adverse effects upon the environment.  To limit the potential for noise, air (including odour), ground water, soil and surface water pollution	Given the use as an office premises, it is unlikely that there will be any adverse environmental effects from the ongoing use of the premises.  The development will be carried out in accordance with the provisions of the <i>Protection of the Environment Operations Act 1997</i> . Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.	Yes
6.3.15 Risk	To ensure that any risk to human health, property or the natural environment arising from the operation of the development is minimised and addressed.	The use will not involve the storage and/or transport hazardous substances.	N/A
6.3.17 Change of Use of Existing Buildings	To ensure that the existing building is appropriate for the new use.  To ensure that any necessary upgrades including upgrades to landscaping, BCA compliance and car parking layout or changes to the development are made.  To ensure there are minimal adverse impacts on surrounding development.  To ensure there are minimal adverse impacts on traffic and car parking on nearby streets.	The existing building is appropriate for the intended use given: <ul style="list-style-type: none"> <li>The proposed alterations will transform an existing commercial building with an outdated interior and architectural style into a modern commercial building that will have a high level of visual interest within the Ricketty Street and Ossary Street streetscapes given its unique architectural form.</li> <li>The commercial use is unlikely to result in any adverse impacts to surrounding properties.</li> <li>The Traffic and Parking Report submitted with the application addresses the impact of the proposed development on local traffic conditions and finds that the proposal will not result in any adverse traffic implications.</li> </ul>	Yes
6.3.21	C14 There shall be a minimum landscaped	The provision of compliant landscaping on the site is	Yes

32/22

Business Premises & Office Premises in the B5 Business Development & B7 Business Park Zones	<p>setback of 3 metres on all street frontages, and 4 metres on classified roads. The landscaped setback may be varied by Council to enable landscaping to be in proportion to the height of the building, on large development sites or to be consistent with setbacks in the street. For example, buildings greater than 4 storeys in height will usually require a larger landscaped setback.</p> <p>C15 Not less than 10% of the site area shall be landscaped. New commercial development shall allocate landscaping in accordance with the following ratios:</p> <p>Site Area</p> <p>0-2,000m<sup>2</sup>, minimum 10%</p> <p>2000m<sup>2</sup>-5000m<sup>2</sup> 20%</p> <p>&gt;5000m<sup>2</sup> 30%</p>	<p>constrained by the retention of the existing building.</p> <p>Notwithstanding, the Landscape Plan demonstrates a high quality landscaping solution for the site that will significantly improve the landscaped setting of the development when viewed from Ricketty Street with substantial shrubs and a canopy tree proposed, consistent with the intent of the DCP. The Ricketty Street landscaping will be further enhanced through a condition of consent requiring additional planting in lieu of the hard stand areas.</p>	
Part 8 Character Precincts			
8.7.2 Mascot Character Precinct	Desired Future Character	<p>The proposal is consistent with the Desired Future Character for the Mascot Character Precinct as follows:</p> <ul style="list-style-type: none"> <li>The proposed development will enhance the public domain and streetscapes of Ricketty Street and Ossary Street.</li> <li>The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane surrounding the site for the public</li> </ul>	Yes

		<p>benefit by improving the relationship between the building and the adjoining street frontages through the provision of awnings to both street frontages and by introducing a landscaped character to the site that will significantly increase vegetation within the front building line to Ricketty Street in comparison to the current situation.</p> <ul style="list-style-type: none"> <li>• The site access and parking facilities will not dominate the streetscape.</li> <li>• Any necessary measures will be adopted into the design to minimise aircraft noise transmission in accordance with AS2021.</li> <li>• The shadow from the proposed development will not impact on any residential properties or public or private open spaces and will allow for solar access to adjoining properties.</li> <li>• The provision of on-site car parking is appropriate for the reasons outlined in Note 1.</li> <li>• The Traffic and Parking Report addresses the impact of the proposed development on local traffic conditions and finds that the proposal will not result in any adverse traffic implications. This is reinforced by the RMS concurrence that Council has received.</li> <li>• The proposal will not impact on any significant views.</li> </ul>	
--	--	---	--

**Note 1: Car parking**

The proposed alterations and additions to the existing building generate additional floor space and conversions of existing floor space to office accommodation. Table 1 to Part 3A.2 of the DCP provides a rate of 1 car parking space per 40 square metres of floor area, which would require the provision of 172 car parking spaces in this instance. However, this part of the DCP applies to the entire local government area of the former Botany Bay Council.

Part 9A of the DCP applies to the Mascot Station Town Centre Precinct which is approximately 80 metres to the east of the subject site and Part 9A.4.4.9 Car Parking Rates of the DCP provides a significantly reduced car parking rate of 1 space per 80 square metres of gross floor area for new office development, which would require a parking provision of 86 parking spaces for the proposed use. Whilst this part of the DCP does not technically apply to the subject site, these reduced parking rates are derived from the Mascot Town Centre Precinct Transport Management and Accessibility Plan (Mascot TMAP) and the subject site is located within the study area to which the Mascot TMAP applies. The car parking rates and traffic analysis within the TMAP have therefore assumed an office car parking rate of 1 space per 80 square metres for the subject site and so it is considered that the DCP intends a car parking provision of 86 car parking spaces for the proposed quantum of office floor space.

The proposed development provides 40 car parking spaces instead of the required 86 car parking spaces. However, the first objective under Part 3A. 1.2 of the DCP is as follows:

*To minimise car parking in areas which have good access to public transport to promote sustainable transport.*

Furthermore, the DCP also provides a pathway for considering a reduction in car parking in certain circumstances, including the following which apply to the subject proposal:

- 2. Existing site and building constraints make provision of car parking impractical;*
- 3. Located adjacent to high-frequency public transport services and/or urban services;*

In relation to the above, it is noted that the proposed development provides an opportunity to provide an architecturally designed enhancement to an existing building which forms part of the gateway to the local Government Area. Further, by expanding the employment use of the site further reinforces the current direction from the Department of Planning in regards to the protection of employment lands which aligns to Planning Priority 12 of the Distract Plan.

The retention of the existing building constrains the provision of car parking, however the car parking design has been refined and is to most efficient design to accommodate the maximum possible car parking spaces on the site.

The site is located in very close proximity to Mascot Train Station and a range of bus services. Pedestrian access to the train station has recently been significantly improved with the completion of nearby large scale mixed use developments which incorporate publicly accessible through-site links to provide a pedestrian route to the train station, which is largely of high amenity.

Council has previously allowed substantial variation to the car parking provisions applicable to the subject site in its determination of Development Application 09/352 (as modified) and more recently as part of Development Application 13/233 which approved use of two floors of the building as an educational establishment and restaurant. The two consents operate concurrently and the site benefits from a car parking shortfall of 149 spaces as detailed below:

- Section 96 No. 09/352/04 approved the continued use of the first floor of the premises for the printing business. Only the office / administrative operations of the business were retained at this site and the use of the first floor level therefore required the provision of 24.125 off-street car spaces to comply for the office component. The applicants at that time confirmed that the business will employ a maximum of 15 people and they proposed to allocate 17 car spaces to this use. Through a condition of consent

35/22



the reorganisation of the structural pillars was to be undertaken to allow for an additional 26 car spaces increasing from 41 spaces as previously approved. There was no structural detail as to how this could be achieved. The total required was 120 spaces, being a 53 space shortfall.

- DA-13(233) - The education establishment and restaurant proposal as part of DA-13(233) only provided 23 off-street spaces (at Ground Level) which resulted in shortfall of 96 car spaces for those uses. This consent operates in conjunction with the Consent of 09/352/04, providing a total shortfall that the site currently benefits from of car parking shortfall of 149 spaces.

This most recent application resulted in a shortfall of 97 car parking spaces on the basis that the site is located in close proximity to public transport (including buses and Mascot Train Station) and also having regard to the nature of the use.

Council and the Joint Regional Planning Panel have also recently approved a shortfall for a site at 1-3 Ricketty Street, (DA-2017/1198) which involved a shortfall of 273 spaces and the approval for the office development at 7-9 Chalmers Crescent (DA 2015/191) involved a shortfall of 473 spaces (50%). These are the most recent commercial approvals in this locality.

The proposed development encourages alternative transport options to the building with the provision of 20 bicycle spaces and end-of-journey facilities within the ground floor. The site is in close proximity to the regional cycleway network.

The reduction in car parking provision on the site will achieve a positive outcome as it will serve to minimise traffic impacts associated with the proposed development which is of critical importance in this location, and will serve to encourage higher public transport patronage and well as walking and cycling. As such this is considered to meet clause 1.2 of the BBLEP 2013, being the aims of the plan in that the approach taken for car parking encourages **sustainable economic growth and development** by reducing the reliance on the motor vehicle and utilising an existing built form.

In light of the above commentary it is considered that in this instances that the proposed provision of car parking is therefore appropriate for the site in the circumstances.

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

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

The proposed development will have no significant adverse environmental, social or economic impacts in the locality. The reduction of the car parking rates are considered to help alleviate traffic congestion in the area

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

The site is located in the B7 Business Park zone and accommodates an existing commercial/industrial building. The subject site is affected by several site constraints which have been discussed within this report. The issue of site contamination, aircraft noise and acid

sulphate soils have been considered, however, given the nature of the development, and that only additions to the building are proposed, and the measures included to address the aircraft noise, the site is considered to be suitable to accommodate the development.

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

In accordance with Part 2 of Botany Bay DCP 2013 – Notification and Advertising, the development application was notified to surrounding property owners for a fourteen (14) day period to 30 January 2018. No submissions were received in response to the notification of the development application.

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

It is considered that granting approval to the proposed development would be in the public interest.

**Other Matters**

**External Referrals –**

Roads and Maritime Services

The Roads and Maritime Services first raised objection to the additional crossing proposed as part of the application, the applicant amended the proposal to keep the existing crossing and RMS were not accepting of this approach. The applicant then further amended the proposal to remove the crossing and hardstand and install landscaping on the provision that this was undertaken through a condition of consent. RMS provided their concurrence based on the above on 9 May 2018.

**Stormwater Channel**

The site is traversed by an existing storm water pipe with the appropriate easement. This pipe is already encased and is already built over by the existing building.

**Sydney Airport Corporation Limited (SACL)**

The application was referred to Sydney Airport as the building and the proposed additions are above 15.24 (50 feet). Sydney Airport gave their approval to the proposed development on 19 February 2018 for the building to be constructed to a height of 27m AHD

**Cladding**

The current building has a cladding that has been identified as potentially combustible and Council required in its letter to the owner that further testing be provided or the material removed. The current owner of the site has advised that the cladding has been removed, however upon inspection, the cladding remains. This redevelopment provides for the removal of the cladding and reduces the potential fire risk to inhabitants and the surrounding buildings.

37/22

**Section 94 – Development Contributions**

Floor	Existing use to proposed use	Additional workers
Ground Floor Reception	No Change	No additional workers (8 workers existing)
First Floor – Restaurant/office (15 Staff)	Restaurant to Office 506sqm to Office 1504sqm	84 workers for entire floor Credit of 15 Staff 69 workers additional
Level 2 – Educational Establishment	Educational Establishment (6 staff) to office 1518sqm	86 workers (credit of 6 employees) 80 workers additional
Level 3 – no change	No Change	No change (85 employees existing)
Level 4 - Caretakers	Caretakers to Office	65.17 additional employees
Level 5 -	New Office	65.88 additional employees
		280 additional workers

280 additional employees – Based on S94 Occupancy Rates and the above table

Workers Contribution \$2704.01

S94 Contributions  $280 \times 2704.01 = \$757,122.80$

**CONCLUSION**

Development Application No. 2017/1253 for the alteration and addition to the existing building and change of use to office for the existing building 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.

**Premises: 40 Ricketty Street Mascot**

**DA No: 2017/1253**

**SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

- 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

38/22

Site Plan – Drawing No. DA0090, Rev A	Plus architecture Pty Ltd	Dated 20/12/2017; Received 22/12/2017
Ground Floor Plan DWG No DA0100 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 01 Plan Single Tenancy Option DWG No DA0101 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 02 Plan Single Tenancy Option DWG No DA0102 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 03 Plan Single Tenancy Option DWG No DA0103 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 04 Plan Single Tenancy Option DWG No DA0104 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 05 Plan Single Tenancy Option DWG No DA0105 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 01 Plan Dual Tenancy Option DWG No DA0106 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 02 Plan Dual Tenancy Option DWG No DA0107 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 03 Plan Dual Tenancy Option DWG No DA0108 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 04 Plan Dual Tenancy Option DWG No DA0109 Rev A		Dated 20/12/2017; Received 22/12/2017
Level 05 Plan Dual Tenancy Option DWG No DA0110 Rev A		Dated 20/12/2017; Received 22/12/2017
Roof Plan DWG No DA0111 Rev A		Dated 20/12/2017; Received 22/12/2017
Elevation 1 DWG No DA0200 Rev A		Dated 20/12/2017; Received 22/12/2017
Elevation 2 DWG No DA0201 Rev A		Dated 20/12/2017; Received 22/12/2017
Elevation 3 DWG No DA0202 Rev A		Dated 20/12/2017; Received 22/12/2017
Elevation 4 DWG No DA0203 Rev A		Dated 20/12/2017; Received 22/12/2017
Materials and finishes DWG No DA0207 Rev A		Dated 20/12/2017; Received 22/12/2017

Reference Document(s)	Author	Dated
-----------------------	--------	-------

Statement of Environmental Effects	Sutherland and Associates	December 2017 Received 22/12/2017
Waste Management Plan	Sutherland and Associates	December 2017 Received 22/12/2017
Access Report	Accessibility Solutions	Dated 18/12/2017; Received 22/12/2017
Acoustic Report	EMF Griffiths	December 2017 Received 22/12/2017
BCA Compliance Statement	Steve Watson and Partners	Dated 20 December 2017; Received 22 December 2017 May 2017
Traffic Assessment Report, ref 17252, Rev D	Transport and Traffic Planning Associates	December 2017 Received 22/12/2017
Wind Report WD992-01F02(rev1)- WS Report	Windtech Consultants Pty Ltd	19 December 2017 Received 22/12/2017

### External Referrals

#### Roads and Maritime Services

2. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Ricketty Street boundary.
3. All vehicular access to the property is to be via Ossary Street.
4. The redundant driveway on the Ricketty Street boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Ricketty Street shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).
5. Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.
6. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
7. Ricketty Street is identified in the NSW Governments 2013 Sydney Clearways Strategy for a possible future clearway. Full time No Stopping restrictions are to be implemented along the full Ricketty Street frontage of the development site. This restriction should be implemented prior to the commencement of any demolition works relating to the proposed development. Prior to the installation of the parking restrictions the applicant is to contact Roads and Maritime South East Network and Safety Unit on phone by email [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au) for a works

40/22

instruction. Roads and Maritime may, in the future, supplement the No Stopping restriction with Clearways.

8. Parking for all vehicles associated with the proposed development should be fully contained within the development site and must not encroach onto any state road. Council should be satisfied that the parking provision for the proposed development is adequate to cater for all current and future demand.
9. All service vehicles (including garbage collection, building maintenance vehicles and removalists), must service this property from within the development or from the local road network.
10. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Ricketty Street.

#### Sydney Airport

11. This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 27.0 metres Australian Height Datum (AHD).

In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 27.0 metres AHD.

The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

#### **General Conditions**

12. This consent relates to land in Lot 1 DP 660482 and, as such, building works must not encroach on to adjoining lands or the adjoining public places.
13. The premises is to be used solely as one tenancy per floor, with the option of a two tenancy approach as outlined in approved plans. Prior to the issue of the construction

41/22



certificate the consent holder shall advise Council as to the number of tenancies and this shall be reflected in the Construction Certificate drawings. Should the consent holder at a later stage wish/choose to implement the alternative approved plans, this shall be undertaken through a construction certificate for demolition and /or construction.

14. No signage, other than signage permitted as exempt or complying development shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Councils Guidelines and SEPP 64.
15. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
16. 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,
  - c) 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 works.

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

17. The applicant must the following fees prior to the issue of the Construction Certificate:-
 

a) Development Control	\$3,000.00
b) Footpath Crossing Deposit	\$162,975.00
c) Section 94 Contribution	<b>\$757,122.80</b> as outlined elsewhere)
18. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the Botany Bay Section 94 Contributions Plans 2016, a contribution of **\$757,122.80**, is required to be paid prior to the issue of the Construction Certificate.

Note: The proposed cost of carrying out the development determined by the consent authority will be indexed between the date that consent is issued and the date of payment as indicated within the Botany Bay Section 94 Contributions Plans.

19. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:
  - a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
20. Prior to the issue of any Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
  - a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;
  - b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system; and
    - ii) The relocation and/or adjustment of the services affected by the construction;
  - c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider;
  - d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council and RMS prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
21. 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.

22. Prior to the issue of the Construction Certificate, the applicant is to provide structural certification that the existing building can withstand the additional load created. The report shall be prepared by a suitably qualified and practising structural engineer and be submitted to the Principal Certifying Authority.
23. Prior to the issue of the construction certificate, the drawings shall be updated to reflect the following:
- a) the removal of the existing crossing to Ricketty Street
  - b) an additional landscaping plan which shall be submitted to, and approved by, Council's Landscape Architect for the additional landscaping to the Ricketty Street frontage.
  - c) Recommendations of the wind report shall be incorporated into the construction set of drawings.
  - d) Any mechanical plant shall not be visible from any public place or appropriately screened.
- Note: Additional approvals from Sydney Airport maybe required for plant and/or screening of Plant.
24. Prior to the issue of the Construction Certificate, Acoustic Measures outlined in the approved Acoustic report listed in Condition 1 shall be established and adhered to on the construction set of drawings. This shall be undertaken to the satisfaction of the Principal Certifying Authority.
25. Prior to the issue of the Construction Certificate, the applicant shall submit to Council a full photographic survey of the existing conditions of the road reserve (including footpath, grass, kerb and gutter and roadway), and other Council properties which are adjacent to the property.
26. A Construction Management Plan shall be submitted to, and approved in writing by the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed;
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase;
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;

44/22

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

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

27. Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the MRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the MRV are not permitted to enter the site.
  - b) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1, AS2890.2, AS2390.3, AS2890.6 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines; and
  - c) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure;
  - d) All vehicles shall enter the property front in front out;
  - e) Demonstrate safe headroom clearance is achieved in the driveway entrance and along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV);

45/22

- f) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
  - g) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.
28. Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant;
  - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;
  - c) during construction, where required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by Council and/or NSW Roads and Maritime Services;
  - d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee;
  - e) Indicate the location of the construction vehicle access point of the site and Ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction;
  - f) Indicate the frequency of truck movements associated with construction activities;
  - g) Ensure any trucks associated with construction activities be restricted to Medium Rigid Vehicle as defined in AS2890.2 and shall be restricted to the following designated traffic route for access;
    - i) All access shall be from Ossary Street.

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

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

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

Council's property/road reserve under Road Act 1993 and Local Government Act 1993:

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
  - c) Permit to install temporary ground anchors in public land;
  - d) Permit to discharge ground water to Council's stormwater drainage system;
  - e) Permit for roads and footways occupancy (long term/ short term);
  - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
  - h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
30. 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.
- The Council also must be informed if:-
- c) A contract is entered into for the work to be done by a different licensee; or
  - d) Arrangements for the doing of the work are otherwise changed.
31. The works area on 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.
32. Building plans must be lodged through Sydney Water Tap in Service for approval, and receive approval prior to commencement of works.
33. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in

47/22



consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

**CONDITIONS WHICH MUST BE SATISFIED DURING CONSTRUCTION**

34. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and,
  - e) any such sign is to be removed when the work has been completed
35.
  - a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;
  - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
  - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition; and
  - 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.
36. During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery

vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

37. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
38. The following shall be complied with during construction and demolition:
- a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 28 weeks:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - c) Time Restrictions
    - i) Monday to Friday 07:00am to 05:00pm
    - ii) Saturday 08:00am to 01:00pm
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing

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

39. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";

- a) Induction training for on-site personnel;
  - b) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  - c) 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;
  - d) Disconnection of Gas and Electrical Supply;
  - e) 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;
  - f) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - g) Waterproofing of any exposed surfaces of adjoining buildings;
  - h) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
  - i) Working hours, in accordance with this Development Consent;
  - j) Confinement of demolished materials in transit;
  - k) Proposed truck routes, in accordance with this Development Consent;
  - l) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
  - m) Sewer – common sewerage system ad08.
40. Vibration levels induced by the demolition/construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
41. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
42. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
43. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and,
    - ii) must be connected:
      - 1 to a public sewer; or
      - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
44. Inspections must be conducted by Bayside 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  
OCCUPATION CERTIFICATE**

45. Prior to the issue of an Occupation Certificate, 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.
46. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
47. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report approved and listed in Condition 1 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).
48. Prior to occupation of the building the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request, during the ongoing use of the development.
49. Prior to the issue of the occupation certificate, the existing crossing to Ricketty Street shall be removed and reinstated with Kerb and gutter. All hard paving shall be removed and landscaping installed in accordance with the approved landscaping plan for the Ricketty Street Frontage. (Refer to Condition 23(b)).
50. Prior to the issue of the occupation certificate, the works outlined in Condition 20 in regards to undergrounding the power lines and other infrastructure shall be completed.
51. Prior to the issue of the occupation certificate, the workplace travel management plan shall be refined and include any secured tenancies and their operation to the satisfaction of the Principal Certifying Authority. The Plan shall be implemented at all times.
52. Prior to the issue of the occupation certificate, validation that the measures and requirements stipulated in Condition 23 have been met to the satisfaction of the Principal Certifying Authority.
53. Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property:

- a) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.
54. Prior to issue of the Occupation Certificate a final fire safety certificate must be prepared and issued to Council. This certificate must state that each essential fire safety measures specified in the current fire safety schedule for the building to which the certificate relates:
- a) Has been assessed by a properly qualified person;
  - b) Was found when assessed to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued; and,
  - c) The date of assessment which must be within the period of 3 months prior to the date on which the final fire safety certificate is issued.
- Note:
- i) The choice of person to carry out the assessment is up to the owner of the building;
  - ii) The person who carries out the assessment:
    - 1 must inspect and verify the performance of each fire safety measure being assessed; and,
    - 2 must test the operation of each new item of equipment installed in the building premises that is included in the current fire safety schedule for the building;
  - iii) As soon as is practicable after a final fire safety certificate is issued the owner of the building to which it relates:
    - 1 must cause a copy of the certificate (together with a copy of the current fire safety schedule to be given to the Commissioner of the New South Wales Fire and Rescue; and,
    - 2 must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.
55. Any damage not shown in the dilapidation report as required by Condition No. 10 submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of Occupation Certificate.
56. Prior to the issue of the Occupation Certificate, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that car parking area, loading area, driveways and vehicular access have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal road network parking and loading facilities shall be clearly designated, sign posted (including "Entry Only", "Exit Only" and "One Way" signs) and line marked. Signage and line marking shall comply with the current version of Australian Standards.



57. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Bayside Council's engineer and submitted to the Principal Certifier attesting that this condition has been appropriately satisfied.
58. At the completion of works, an Occupation Certificate must be obtained under Section 109(c) and 109 (b) of the Environmental Planning and Assessment Act 1979. Specific forms are obtainable from Council for this purpose.

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

59. There are to be no less than 40 car parking spaces provided on site at all times for the sole use of parking for this development.
60. The approved workplace travel management plan shall be adhered to and updated to ensure alternative transport modes are encouraged for the life of the development.
61. All parking areas, driveways and turning circles shown on the architectural and parking plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods or containers. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas. All vehicles shall be parked wholly within the site and not on any neighbouring or surrounding streets.
62. The operation of the premises and movements of vehicles shall comply with the following requirements:-
  - a) All manoeuvring movements of vehicles shall be carried out wholly within the site and manoeuvring area shall be kept clear at all times.
  - b) All vehicles shall be parked in the marked parking bays and all parking bays on-site shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.
  - c) Under no circumstance shall vehicles queue on public places, public streets or any road related area (eg. footpath, nature strip, road shoulder, road reserve etc) prior to entering the site.
  - d) Any gate at the vehicular entrance of the site shall be left open during the operation hours.
  - e) The occupier shall ensure that any person involved in the use of the premises shall park their vehicles, if any, in the parking area provided for the premises. No persons involved in the use of the premises shall be permitted to park on a common driveway, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve, public carpark etc).
63. All loading and loading activities in relation to the use of premises shall take place wholly within the dedicated loading area wholly within the building. Vehicles making

54/22

deliveries to the premises shall be limited to 10m in length at a maximum rate of 3 per day. The loading areas shall be physically line marked and are to be maintained free of obstruction, for the sole use of delivery vehicles.

64. The permitted hours of operation for the premises are as follows:
- a) Monday – Friday 7.30am to 9.30pm only;
  - b) No deliveries or loading/unloading activities shall take place to the premises outside of the approved hours of operation.
  - c) Large vehicle movements on site (for deliveries) are to take place outside of normal hours of operation (i.e. Monday to Friday 8am to 5pm and Saturdays 8am to 4pm). Any additional hours of operation to the premises shall be subject to a further application to Council.
65. No storage is to take place externally to the building on site, or within car parking spaces.
66. 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.
67. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - b) Before 7 am or after 10 pm on any other day.
68. The operations of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
69. All work shall be carried out inside the confines of the building and not in adjacent forecourts, yards, access ways, car parking areas, or on Council's footpath.
70. To ensure spill prevention and control, a ready and adequate supply of appropriate spill control and clean-up materials must be maintained and easily accessible at all times at the premise.
71. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

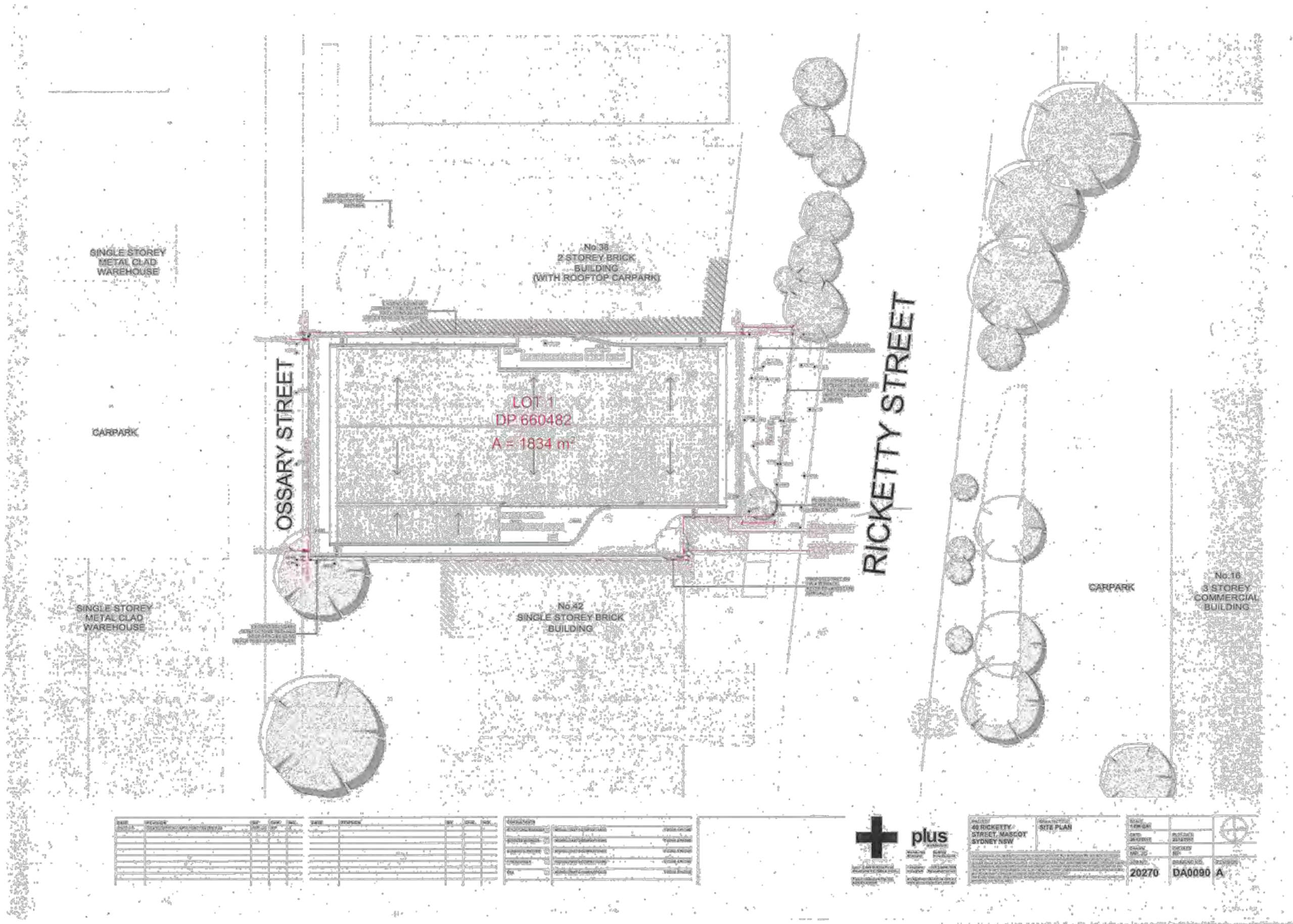
The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

55/22

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

72. The operation of the premises shall be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act 1997.
73. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
74. The maximum number of staff at any one time, based on the population anticipated by the Section 94 rates and existing approvals is 392 employees. Any additional employees would require amendment to this consent and as such trigger the recalculation of Section 94 – Development Contributions for any additional workers.
75. Ongoing maintenance of the nature strip shall be undertaken by the occupier/owner. Maintenance includes mowing, watering, the removal of weeds and rubbish and maintaining an even coverage of grass at all times.
76. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.









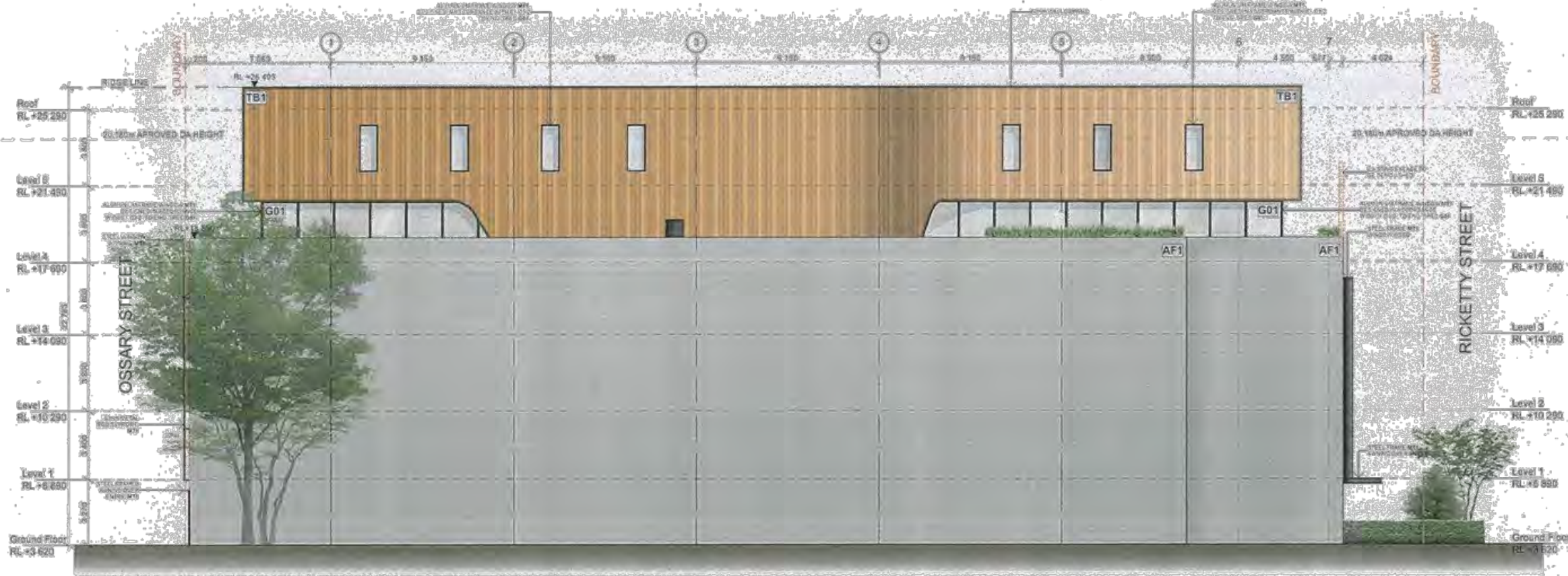
REV	REVISION	BY	CHK	DATE	DESCRIPTION	REV	DATE	NO
001	ISSUED FOR APPROVAL	...	...	...	...	...	...	...
002	...	...	...	...	...	...	...	...
003	...	...	...	...	...	...	...	...
004	...	...	...	...	...	...	...	...
005	...	...	...	...	...	...	...	...
006	...	...	...	...	...	...	...	...
007	...	...	...	...	...	...	...	...
008	...	...	...	...	...	...	...	...
009	...	...	...	...	...	...	...	...
010	...	...	...	...	...	...	...	...

PROJECT	40 RICKETTY STREET, MASCOT SYDNEY NSW
DATE	2018/06/12
SCALE	1:100
PROJECT NO.	20270
DA0200	A



plus





DATE	REVISION	BY	CHECK	NO.
20/06/18	1.0	20/06/18	20/06/18	1

DATE	REVISION	BY	CHECK	NO.

DATE	REVISION	BY	CHECK	NO.

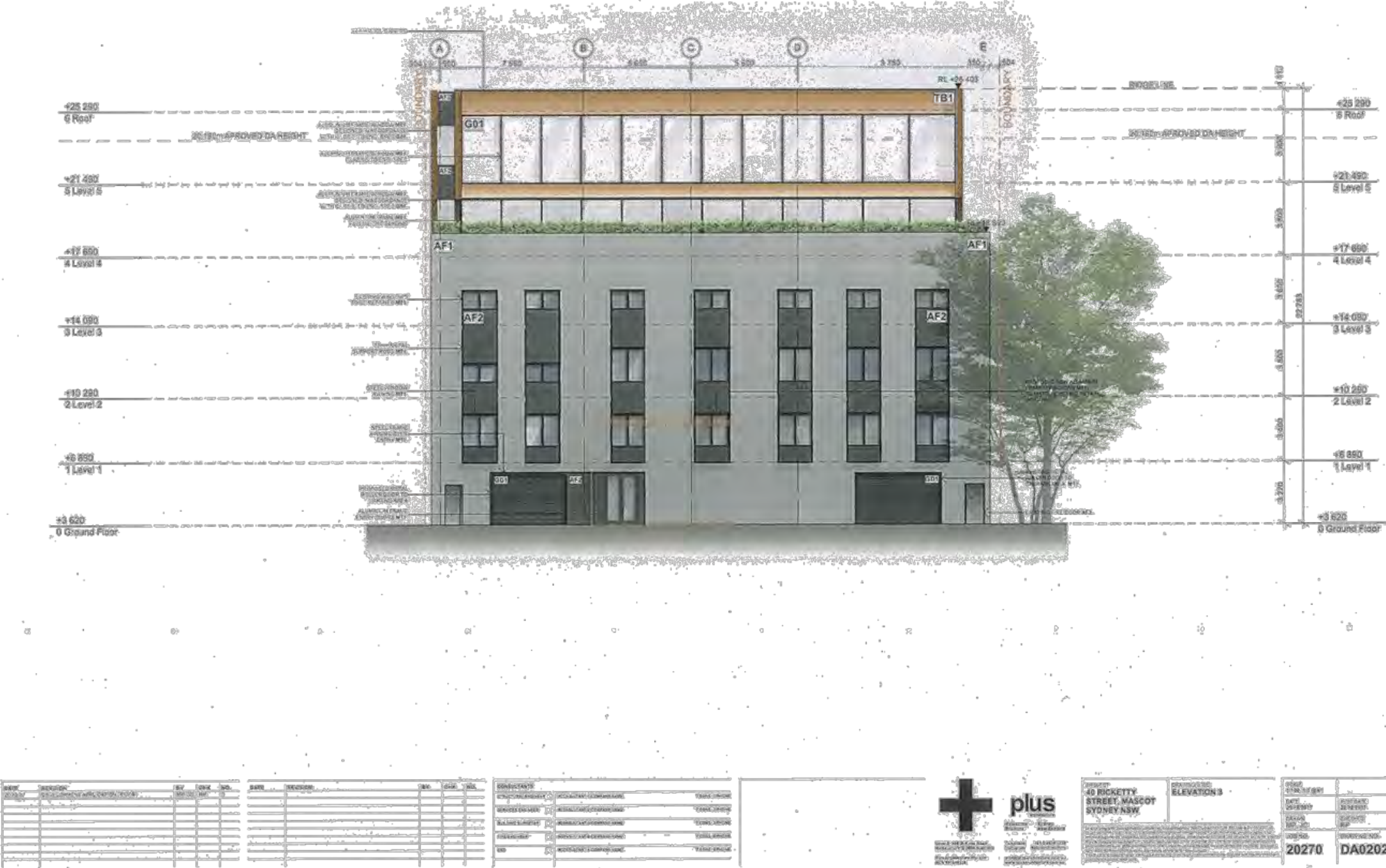


plus  
ARCHITECTS  
20/06/18  
20/06/18

40 RICKETTY STREET, MASCOY SYDNEY NSW.  
ELEVATION 2  
20270 DA0201 A

20/06/18	20/06/18	20/06/18	20/06/18
20/06/18	20/06/18	20/06/18	20/06/18
20/06/18	20/06/18	20/06/18	20/06/18
20/06/18	20/06/18	20/06/18	20/06/18







[illegible][illegible][illegible]An aerial photograph showing a street intersection. A white rectangular box highlights a specific area on the left side of the image, containing the address "40 RICKETTY STREET, MASCOT SYDNEY NSW". To the right of this box, another smaller white box contains the text "DRAINAGE STUDY ELEVATION -1.6". The surrounding area shows buildings, trees, and other streets.

**40 RICKETTY  
STREET, MASCOT  
SYDNEY NSW**

**DRAINAGE STUDY  
ELEVATION -1.6**

[illegible]

**REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD****Introduction**

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4(2) of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The request relates to an application for alterations and additions and use as commercial offices at 40 Ricketty Street, Mascot.

**Clause 4.6 Exceptions to development standards**

Clause 4.6(2) of the BBLEP 2013 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the BBLEP 2013 or any other environmental planning instrument.

However, clause 4.6(3) states that 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 circumstance of the case, and
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 4.6(3) the applicant requests that the floor space ratio development standard be varied.

**Development Standard to be varied****Clause 4.4 states:**

- (1) The objectives of this clause are as follows:
  - (a) to establish standards for the maximum development density and intensity of land use,
  - (b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
  - (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
  - (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,
  - (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
  - (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

(g) to facilitate development that contributes to the economic growth of Botany Bay.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Floor space ratio is defined under Clause 4.5 of the BBLEP as:

"the ratio of the gross floor area of all buildings within the site to the site area."

The site is within area 'V1' on the Floor Space Ratio Map and accordingly an FSR of 3:1 applies.

Extent of Variation to the Development Standard

A gross floor area of 6,939 square metres is proposed which equates to a floor space ratio of 3.784:1. The proposal therefore seeks to vary the floor space ratio development standard by 1,382 square metres or 25%.

Clause 4.6(3)(e) is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 has recently required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

**1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;**

The specific objectives of the floor space ratio development standard, as specified in clause 4.4(1) of the Botany Bay Local Environmental Plan 2013 are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to establish standards for the maximum development density and intensity of land use,

Whilst a floor space ratio standard is adopted for the site, Council has consistently varied this standard within the suburb of Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate. Council has consistently accepted that there are certain circumstances where the established standard does not properly reflect the environmental capacity of a particular site and in these instances it has been appropriate to support an alternative FSR. By way of reference, it has been established that with a 44 metre height, an FSR of up to around 4:1 has consistently been demonstrated to represent an appropriate density within the suburb of Mascot. Examples of where an alternative FSR has been considered acceptable include:



Site	FSR Control	Approved FSR	Approval Date
19-33 Kent Road	3.2:1	3.72:1	30/3/2014
13A Church Avenue	3.2:1	3.6:1	11/6/2014
2-8 Sarah Street	3:1	3.19:1	22/7/2014
246 Cowards Street	3.2:1	3.88:1	11/9/2014
141 O'Riordan Street	3.2:1	3.86:1	19/10/2016
256-280 Coward Street	3.2:1	4.42:1	12/2/2015
7-9 Kent Road	3.2:1	3.78:1	Unknown
42 Church Avenue	3.2:1	3.32:1	20/7/2017
671-683 Gardeners Road	3.2:1	3.43:1	19/1/2017

The proposed FSR is consistent with the pattern of variation to the FSR development standard and is therefore considered satisfactory with respect to objective (a) of the standard.

(b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

The envisaged scale of development within the area is established by the 44 metre height under the BBLEP 2013. The proposal is substantially below this height and so presents an appropriate scale of development. The bulk of the development is mitigated through careful design which involves the addition of one new level to the existing building. The top two levels of the building are setback and located above the street walls and appear as a lightweight and contemporary element to the building. The geometry of the upper level is organic, providing curves within the design that will provide a softness to the building whilst incorporating a vertical pattern. The facades of the lower (existing) part of the building have a darker tone and when combined with different shades of colour used within the awnings and frames, will give the existing part of the building a modern appearance with a high level of modulation within the façade treatment. The proposal provides an appropriate bulk and scale which is compatible with the emerging context of development within Mascot. Accordingly, the proposal satisfies objective (b) of the standard in that it provides an appropriate bulk and scale and will be consistent with the desired future character of the locality.

(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,

The site is currently occupied by a commercial building which is insensitive to its surrounds due to its horizontal proportions, commercial language and outdated architectural style. The redevelopment of the site provides the opportunity to make use of the embodied energy of the existing building and provide a high quality architectural outcome which references the commercial use whilst providing differing architectural typologies for the upper and lower components of the building and provide a more sympathetic relationship with surrounding development, the adjoining streets and the character of the Mascot West Business Park Precinct. Accordingly, the proposal satisfies objective (c) of the standard.

- (d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,

The proposal is substantially below the maximum 44 metre height control and provides an appropriate bulk and scale which is commensurate with other new buildings within the area. The appearance of the development within the streetscape will be substantially improved, with the proposed development representing a high quality architectural outcome for the site that will positively contribute to the character of the Mascot West Business Park Precinct. A varied palette and materiality are used to provide a clear identity for the development as well as to define the differing components of the building. The varied architectural language generates a high level of visual interest and will positively influence the ground floor plane surrounding the site for the public benefit by improving the relationship between the building and the adjoining street frontages through the provision of awnings to both street frontages and by introducing a landscaped character to the site that will significantly increase vegetation within the front building line to Ricketty Street in comparison to the current situation. Accordingly, the proposal satisfies objective (d) of the standard.

- (e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The increased floor space beyond the control does not result in any additional adverse impact on the adjoining properties or the public domain and satisfies objective (e) of the standard.

- (f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

The subject site is a large land holding which is demonstrated to have the environmental capacity to accommodate the proposed gross floor area without generating adverse impact. The density is similar to that of nearby approved development. It has been demonstrated on many sites within Mascot that with a height of 44 metres it is possible to comfortably accommodate an FSR of up to 4:1 whilst meeting the various design criteria in Council's DCP to achieve a high level of internal amenity. Accordingly, it has been demonstrated that the subject site has the environmental capacity to absorb the proposed density, objective (f) of the standard is satisfied.

- (g) to facilitate development that contributes to the economic growth of Botany Bay

The proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building, noting that the existing building is currently predominantly vacant and is no longer an attractive office provider without upgrades. The increased floor space beyond the control will be used as office premises and will directly contribute to the economic growth of the area and satisfies objective (g) of the standard.

**2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;**

The underlying objectives and purpose of the floor space ratio control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed floor space ratio still results in a development which is consistent with the desired future character for the subject site and the Mascot precinct generally and sits comfortably within the context of the site with no significant adverse impacts to adjacent properties.



**3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

The underlying objective of the floor space ratio control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design, location and configuration of the proposed development, the proposal successfully achieves these objectives and will provide a considered built form response that will deliver a positive urban design outcome. However, strict compliance with the floor space ratio control would likely lead to a less satisfactory outcome as it would result a development which fails to fulfil the environmental capacity of the site and would result in an inferior built form that would be contextually inappropriate. Accordingly, it is considered that strict compliance would likely defeat the underlying objective or purpose of the floor space ratio control because it would encourage a less desirable outcome for the site.

**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;**

Council has historically consistently varied the floor space ratio development standard in circumstances where the objectives of the control are achieved and in doing so has consistently accepted that there are certain circumstances where the established standard does not properly reflect the environmental capacity of a particular site and in these instances it has been appropriate to support an alternative FSR.

Examples of where an alternative FSR has been considered acceptable include:

Site	FSR Control	Approved FSR	Approval Date
19-33 Kent Road	3.2:1	3.72:1	30/3/2014
13A Church Avenue	3.2:1	3.6:1	11/6/2014
2-8 Sarah Street	3:1	3.19:1	22/7/2014
246 Cowards Street	3.2:1	3.88:1	11/9/2014
141 O'Riordan Street	3.2:1	3.86:1	19/10/2016
256-280 Coward Street	3.2:1	4.42:1	12/2/2015
7-9 Kent Road	3.2:1	3.78:1	Unknown
42 Church Avenue	3.2:1	3.32:1	20/7/2017
671-683 Gardeners Road	3.2:1	3.43:1	19/1/2017

**5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

The proposed zoning of the land is considered to be reasonable and appropriate.

Strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The proposal has been designed to respond properly to opportunities and constraints of the site and is considered to provide an appropriate outcome having regard to the context of the site. A reduction in the floor space ratio of the development would not result in any meaningful difference in relation to the impact of the proposal or its fit within its context, but would harm the viability of the project to the potential detriment of achieving the vision for the Mascot West Business Park Precinct.
- The height of the development remains significantly below the 44 metre height limit under the BBLEP 2013 and so any reduction in density would not require a reduction to the overall height and scale of the development.
- The proposed development provides office uses which will support the viability of the centre and provide much needed employment floor space in a location which is close Sydney Airport and various transport nodes.
- The availability and capacity of local infrastructure and public transport supports the additional floor space proposed. The site is located in close proximity to Mascot Train Station and a range of bus services.
- The density proposed does not give rise to any unreasonable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.
- The location of the subject site and restriction on car parking for the building is such that the proposed additional floor space does not generate any additional traffic beyond that which would be generated by a complying development on the site which would involve the same car parking provision.
- A high level of amenity is provided for occupants of the development.
- There is a sustained history over many years, including before the BBLEP 2013 came into effect, of Council supporting variations to the FSR control for many sites within Mascot where a considered site analysis and careful spatial arrangement of built and landscape elements has demonstrated that an alternative floor space ratio is appropriate, as is the case for the proposed development.
- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

Strict compliance with the FSR standard in this particular instance would be unreasonable as it would represent a departure from the manner in which the issue of FSR has been considered in recent times in Mascot to the significant detriment of the economic development of the subject site and with no measurable benefit for the public or surrounding properties. Whilst compliance could be achieved through the removal of levels from the development, the floor to ceiling heights of the remaining floors could in theory be increased a corresponding amount to compensate for the removed floors which would result in a building with an identical height to that which is proposed and therefore strict compliance would not achieve any change to the physical scale and bulk of the development. The proposal has been demonstrated to result in an appropriate built form without adverse impact to adjacent properties and so strict compliance is unnecessary in this instance as it would not result in any differing built form outcome when compared to the proposed scheme.

Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- Strict compliance with the development standard could be achieved by reducing the number of storeys of the building and subsequently reducing the number of office tenancies to be delivered with the

redevelopment of the subject site. However, these measures are undesirable because they will reduce the unique architectural form of the development and will result in a failure to deliver an appropriate quantum of employment floor space on a site which has the capacity to absorb the proposed density due to its site attributes, surrounding context and location in close proximity to a variety of public transport nodes.

- The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome. The proposed development will significantly improve the appearance of the existing development with the streetscape and will provide a high quality architectural solution for the site.
- Occupants of the development are provided with a high level of amenity.
- The development will have an acceptable impact on local traffic conditions.
- There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the floor space ratio control as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites.

Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the development standard have already been addressed previously in this written request and are relevant in specific reference to Clause 4.6(4)(a)(ii).

#### **Objectives of the Zone**

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B7 Business Park zone which has the following objectives:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To encourage uses in the arts, technology, production and design sectors.

The proposal will provide for an increased employment density on the site compared to the maximum capacity available within the existing building, noting that the existing building is currently predominantly vacant and is no longer an attractive office provider without upgrades. The proposed development provides office uses which will support the viability of the centre and provide much needed modern employment floor space in a location which is close Sydney Airport and various transport nodes including Mascot train station and is also well sited to encourage walking and cycling. For the reasons given the proposal is considered to be consistent with the objectives of the B7 Business Park zone.

#### Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

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

The architectural package prepared by Plus Architecture which accompanies the subject application illustrates the relationship of the proposed development within the context of the site. It demonstrates a high quality outcome for the site which will result in the delivery of a high quality commercial building and that will provide modern employment floor space in a location which is close Sydney Airport and various transport nodes. Allowing the flexible application of the floor space ratio development standard in this instance is not only reasonable but also desirable given the context of the site and that the site has the environmental capacity to absorb the proposed density.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better urban design outcome in this instance in accordance with objective 1(b).

#### Conclusion

Strict compliance with the floor space ratio development standard contained within clause 4.4(2) of the Botany Bay Local Environmental Plan 2013 has been found to be unreasonable and unnecessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.