

## **MEETING NOTICE**

A meeting of the  
**Bayside Local Planning Panel**  
will be held in the Committee Room, Botany Town Hall  
Corner of Edward Street and Botany Road, Botany  
on **Tuesday 28 August 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 - 14 August 2018 .....3

4.2 Minutes of the Bayside Local Planning Panel Meeting - 21 August 2018 9

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

5.1 Planning Proposal 8 Princess Street, Brighton-Le-Sands .....18

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

6.1 SF18/1824 - DA-2016/150/04 - 42 Church Avenue, Mascot .....150

6.2 SF18/1783 - DA-2016/150/05 - 42 Church Avenue Mascot .....200

6.3 SF18/1792 - DA-16/143/06 - 130-150 Bunnerong Road Eastgardens 258

6.4 SF18/1794 - DA-16/143/07 - 130-150 Bunnerong Road, Eastgardens297

6.5 SF18/1785 - DA-2015/216/08 - 1-5 Kent Road, Mascot.....369

6.6 DA-2017/139 - 142 Queen Victoria Street, Bexley .....418

6.7 DA-2017/517 - 1B Park Road, Sans Souci (Alternatively known as  
368 Rocky Point Road, Sans Souci) .....502

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 Local Planning Panel**

**28/08/2018**

Item No	4.1
Subject	<b>Minutes of the Bayside Planning Panel Meeting - 14 August 2018</b>
Report by	Michael Mamo, Director City Performance
File	SC17/786

---

### **Recommendation**

That the Minutes of the Bayside Planning Panel meeting held on 14 August 2018 be confirmed as a true record of proceedings.

---

### **Present**

Robert Montgomery, Chairperson  
Jan Murrell, Independent Specialist Member  
Ross Bonthorne, Independent Specialist Member  
Thomass Wong, Community Representative

### **Also present**

Michael McCabe, Director City Futures  
Bruce Cooke, Acting Manager Governance & Risk  
Clare Harley, Manager Strategic Planning  
Samantha Urquhart, Manager Property  
Josh Ford, Coordinator Statutory Planning  
John McNally, Senior Urban Planner  
Alison Phillips, Urban Designer  
Stephen Kerr, Independent Planner from City Plan Services  
Anthony Kazacos, Independent Planner from City Plan Services  
John O'Grady, Independent Planner from Cardno  
Bill Nikolovski, IT Technical Support Officer  
Anne Suann, Governance Officer

---

The Chairperson opened the meeting in the Committee Room, Botany Town Hall, corner of Edward Street and Botany Road, Botany at 6.02 pm.

## **1 Acknowledgement of Traditional Owners**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, 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**

Ross Bonthorne declared a Less than Significant Non-Pecuniary Interest in Items 5.1 and 5.2 on the basis that he had previously worked on a project with Mr Boyd but stated he had no ongoing relationship, professionally or otherwise, with Mr Boyd. The Chairperson agreed that it would be appropriate for Mr Bonthorne to remain in the meeting for consideration of the matters.

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

#### **4.1 Minutes of the Bayside Planning Panel Meeting - 24 July 2018**

##### **Decision**

That the Minutes of the Bayside Planning Panel meeting held on 24 July 2018 be confirmed as a true record of proceedings.

#### **4.2 Minutes of the Bayside Planning Panel Meeting - 10 July 2018**

##### **Decision**

That the Minutes of the Bayside Planning Panel meeting held on 10 July 2018 be confirmed as a true record of proceedings.

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

#### **5.1 Assessment of Planning Proposal - Cook Cove Report by City Plan Strategy and Development (CPSD)**

A site inspection was held on Tuesday, 7 August 2018.

The following members of the public spoke:

- Mr Rasmus Torkel, interested resident, spoke against the report recommendation.
- Mr Brian Shaw, Chair of Botany Bay Catchment Alliance, spoke against the report recommendation.
- Ms Anna Angelakis, interested resident, spoke against the report recommendation and responded to the Panel's questions.
- Ms Greta Werner, interested resident, spoke to the proposal.
- Ms Wendy Aylward, interested resident, spoke against the report recommendation.
- Mr Ted Hamilton, interested citizen, spoke for the report recommendation and responded to the Panel's questions.
- Ms Kirin Linkop, from Cricket NSW, spoke for the report recommendation and responded to the Panel's questions.
- Mr Anthony Bouteris from Raine & Horne Commercial spoke for the report recommendation.
- Mr Anthony Rodgers, General Manager Kogarah Golf Club, spoke for the report recommendation and responded to the Panel's questions.
- Mrs Marilyn Melhuish, interested citizen and member of the Kogarah Golf Club, spoke for the report recommendation.

- Mr Stephen Law, President Kogarah Golf Club, spoke for the report recommendation and responded to the Panel's questions.
- Mrs Maree Andrews, interested resident, spoke for the report recommendation and responded to the Panel's questions.
- Mr John Flowers, interested resident, spoke for the report recommendation.
- Mr Greg Glanville, Director St George Football Club, spoke for the report recommendation.
- Jeffery Evans, representing St George District Cricket Club and St George District Cricket Association, spoke for the report recommendation.

Bernard Gallagher from Ethos Urban, acting on behalf of the proponent Cook Cove Inlet Pty Ltd, made a 30 minute presentation to the Panel, and he and Mr John Milston, Transport Planner from Arup, responded to the Panel's questions.

### **Recommendation to the Council**

- 1 That the Planning Proposal not proceed, for the reasons included in the Panel's Reasons for Recommendation below.
- 2 That, however, should Council be of a mind to proceed with the Planning Proposal at this time, the following is recommended:
  - a The matters below should be resolved prior to proceeding with the Planning Proposal:
    - i The precise identification of each of the interests affecting each parcel of public land and the intended effect of the Planning Proposal regarding those interests (including any proposal to cease public reserves);
    - ii The written consent of the Minister administering the Crown Lands Management Act 2016 to the proposed reclassification of Crown land to operational land;
    - iii Details of the current view of the Roads & Maritime Services regarding the proposed extinguishment of the trusts created when Lot 14 in DP 213314 and Lot 1 in DP 108492 were dedicated to Council;
    - iv Confirmation from Council (in its capacity as landowner and Trustee) that its obligations under any trusts proposed to be extinguished do not prevent Council from adopting the Planning Proposal.
  - b The proposal should be amended to provide for a much higher proportion of employment land floorspace and lower residential density in recognition of the strategic location, the constraints to residential development and the surrounding built form.
  - c The draft Planning Proposal be amended to address the items identified in the Technical Assessment by Cardno and as summarised in Attachment 3 to the report.

- d The draft Planning Proposal be amended to specify and limit the quantum of gross floor area and maximum building height for the 'registered club' within the southern precinct, prior to public exhibition.
- e Consultation of the draft Planning Proposal be undertaken with the following agencies, and amendments made prior to public exhibition and broader community consultation:
  - i The Greater Sydney Commission
  - ii Roads and Maritime Services
  - iii Transport for NSW
  - iv Sydney Airport Corporation Limited (SACL), Civil Aviation Safety Authority (CASA) and Airservices Australia (AsA)
  - v Department of Education
  - vi Office of Environment and Heritage
  - vii Office of Sport.

The purpose of this consultation is to identify any conflicts or modifications that may be required, given the potential impacts on regional infrastructure, so these can be incorporated in the Planning Proposal before community consultation.

- f A peer review of the Landscape Character and Visual Impact Assessment and independent commentary on the urban form and densities compliance with the ADGs be commissioned by Council and exhibited with the draft Planning Proposal to inform community consultation.
- g A Voluntary Planning Agreement, which details the infrastructure to be provided in support of the proposed redevelopment of Cook Cove and the timing of provision, be exhibited with the Planning Proposal.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Reasons for Recommendation

The panel notes that the land is identified in Sydney Regional Environmental Plan No. 33-Cooks Cove as Trade and Technology Zone (and public open space) based on its strategic location adjacent to Sydney Airport. The fundamental issue for consideration in progressing this Planning Proposal is whether there is strategic merit in changing the zone to allow a new suburb of some 12,000 population (estimated by proponent) by the establishment of significant residential development.

Should the proposal proceed in its current form, this strategic site would no longer be available for employment land uses associated with Sydney Airport or other large employment generating purposes in the future. This is notwithstanding that a smaller

area of mixed use zone is proposed. The proponent suggests that there are no strategic documents which would preclude the change of use from employment activities to high density residential. It is suggested by the proponent that the Bayside West Draft Land Use and Infrastructure Strategy justifies the change. However, it is unclear if there has been consultation with the Greater Sydney Commission.

Nonetheless, the Panel is not satisfied with the justification put forward in support of the higher residential density proposed for the site. In particular, it is noted that the Bayside local government area (LGA) is more than meeting its residential targets and will continue to do so based on approvals issued and future developments which are in the pipeline. Information provided by the Council shows that the short-term housing target for the LGA 2016-2021 of 10,150 new dwellings has already been exceeded based on development approvals and completions to May 2018. Of the long-term target of 28,050 new dwellings by 2036, it is anticipated that 19,598, or 69.9%, will be reached based on existing approvals, identified new residential precincts and planning proposals (pre and post Gateway) excluding Cook Cove.

The area of the Planning Proposal is constrained by: trusts; community land classification; flooding; aircraft noise; odour; road reservations; air quality; contaminated land; and the Obstacle Limitation Surface for the Airport. These constraints raise a fundamental question as to whether or not the land is suitable for high density residential development given the LGA is already achieving its housing targets, and there are priority residential precincts in the LGA. The Panel considers that the Planning Proposal contains insufficient justification for reducing the employment lands future gross floor area (GFA) from 270,000m<sup>2</sup> to 53,000m<sup>2</sup>, and increasing the overall GFA to 571,000m<sup>2</sup>.

The proposed maximum building height of 25 storeys appears to be at odds with the surrounding highest permissible building height of 46 metres, which approximates 12 storeys. The Planning Proposal provides no justification for this significant increase compared to the surrounding locality, nor is there justification for the proposed overall density of development proposed.

The opportunity cost of rezoning this relatively large parcel of land in single ownership currently zoned for employment generating purposes must be considered in the planning and economic context of the medium and longer term. The Panel considers that it has not been demonstrated that the loss of employment lands is warranted for the LGA or Region in a strategic planning context.

The Panel heard from a number of residents who were concerned about the role of Barton Park and the shortfall of playing fields for the district which will be created should the proposal proceed. Concerns were also raised about the restriction of public access to the area of public open space which will be occupied by the relocated golf course. The Panel shares these concerns and notes that the Council is to prepare an LGA wide open space strategy. Therefore, at this time the full ramifications in respect of proposed changes to open space and playing fields at Cook Cove are unknown.

Specifically for the inclusion of public land, the Panel notes that the Planning Proposal relies on the successful reclassification of public land, which is either Crown land, community land owned by Council, or land held in trust by Council. The Panel considers that the reclassification of public land should occur separately prior to the rezoning of adjacent lands to ensure that the reclassification accords with the intent and spirit and Objects of the Environmental Planning & Assessment Act 1979, as

amended. It is also considered that matters associated with land held in trust by Council must be resolved prior to any decision to reclassify or rezone.

The Panel is of the view that there is a need to retain the subject land for employment uses due to its strategic location and the constraints to residential development, apart from the issues associated with Crown Land and lands held in trust.

## **5.2 Cook Cove Planning Proposal - Reclassification - Additional information**

A site inspection was held on Tuesday, 7 August 2018.

### **Recommendation to Council**

That the Bayside Planning Panel receives and notes the content of this report.

<b>Name</b>	<b>For</b>	<b>Against</b>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## **6 Reports – Development Applications**

Nil

The Chairperson closed the meeting at 9.05 pm.

Robert Montgomery  
**Chairperson**



---

## Bayside Local Planning Panel

28/08/2018

Item No	4.2
Subject	<b>Minutes of the Bayside Local Planning Panel Meeting - 21 August 2018</b>
Report by	Michael Mamo, Director City Performance
File	SC17/786

---

### Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 21 August 2018 be confirmed as a true record of proceedings.

---

### Present

Jan Murrell, Chairperson  
Ross Bonthorne, Independent Specialist Member  
Stephen Moore, Independent Specialist Member  
Jesse Hanna, Community Representative

### Also present

Michael McCabe, Director City Futures  
Luis Melim, Manager Development Services  
Bruce Cooke, Acting Manager Governance & Risk  
Josh Ford, Coordinator Statutory Planning  
Ben Latta, Coordinator Development Assessment  
Christopher Mackey, Coordinator Development Assessment  
Andrew Ison, Senior Development Assessment Planner  
Lincoln Lawler, Senior Development Assessment Planner  
Fiona Prodromou, Senior Development Assessment Planner  
Sumeet Badhesha, Development Assessment Planner  
James Arnold, Consultant Planner from Arnold Urban  
Bill Nikolovski, IT Technical Support Officer  
Anne Suann, Governance Officer

---

The Chairperson opened the meeting in the Committee Room, Botany Town Hall, corner of Edward Street and Botany Road, Botany at 6.05 pm.

## 1 Acknowledgement of Traditional Owners

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, 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

Nil

### 5 Reports – Planning Proposals

#### 5.1 Post-Exhibition Report: Planning Proposal - 3 Macquarie Street & 3A Maloney Street, Rosebery (The Lakes Hotel)

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

#### Recommendation to Council

- 1 That the Bayside Local Planning Panel acknowledges no submissions were received during the public exhibition process.
- 2 The Bayside Local Planning Panel recommends, in accordance with Section 3.36(2) of the Environmental Planning & Assessment Act 1979, that the Council exercises its delegation and make the Local Environmental Plan amendment, as exhibited, for 3 Macquarie Street and 3A Maloney Street, Rosebery.

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

#### Panel Reason

The LEP allows the additional use of car parking for the adjoining hotel and the Panel is satisfied the impacts can be managed.

### 6 Reports – Development Applications

#### 6.1 SF18/1763 - DA-2017/1110 - Mutch Park, Wentworth Avenue, Pagewood

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

#### Determination

The development application DA-2017/1110 for the construction of a skate park and

associated works at Mutch Park, Pagewood is APPROVED pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*.

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

#### Reason for Determination

The Panel is satisfied that the skateboard facility is an appropriate use in Mutch Park and will not create adverse impacts or conflicts with adjoining land uses while at the same time providing a recreational facility for the community.

#### 6.2 S82-2018/1 - S82-2018/1 for No.13 and 15 Rye Avenue, Bexley

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

The following people spoke:

- Ms Naomi Daley, consultant planner, representing the applicant, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Jarrod Lamshey, architect, spoke for the officer's recommendation and responded to the Panel's questions.

#### Determination

- 1 The Application S82-2018/1, is a Division 8.2 Review of Determination for refusal of DA-2017/403. This determination is for the demolition of existing structures and construction of a two (2) storey childcare centre including basement level carpark and signage at No. 13-15 Rye Avenue Bexley and is APPROVED subject to the recommended conditions of consent and an additional condition for the operation of the centre to be included in the Plan of Management to provide advice to parents and carers of alternative routes for pickup and drop off during peak periods to ensure queuing to Stoney Creek Road does not become an issue.
- 2 That the objectors be notified of the Bayside Local Planning Panel decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Jesse Hanna

**Reason for Determination**

The Panel considers the amended plans the subject of this determination address the issues previously raised by the Panel and this 92 place centre will sit comfortably in the streetscape providing a transition from residential to the nursing home facility on the corner.

**6.3 SF18/1596 - DA2016/150 - 42 Church Avenue, Mascot**

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

The following person spoke:

- Mr Walter Gordon from Karimbla Constructions Services (NSW) Pty Ltd, applicant, was available to speak for the officer's recommendation. He expressed concern that this minor matter should be done under delegation to council staff.

**Determination**

- 1 The Bayside Local Planning Panel approves the S4.55(1A) Application to modify Development Consent No. 2016/150 to change the hours of construction at 42 Church Avenue, Mascot.
- 2 That any objectors be notified of the determination made by the Bayside Local Planning Panel.

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

**Reason for Determination**

The panel is satisfied the extension of hours can be appropriately managed to mitigate impacts.

**6.4 SF18/1608 - DA-2017/1155 - 671-683 Gardeners Road, Mascot**

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

The following person spoke:

- Mr Walter Gordon was available to speak for the officer's recommendation.

**Determination**

- 1 The Section 4.55(1A) application for the amendment of Conditions 7, 21 and 58, and deletion of Condition 22 is APPROVED subject to the following:
  - a amend Condition 7 to remove sub-section (a);
  - b amend Condition 58 to change the timing to read prior to the issue of the relevant Occupation Certificate.
- 2 The wording of Conditions 21 and 22 be retained as per the original development consent issued under DA-2017/1155, as they relate to two separate approved developments and areas of the site.

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

**Reason for Determination**

The panel is satisfied that the modification is minor and will not create adverse impacts.

**6.5 SF18/1801 - DA-2017/1165 - 10 Ivy Street, Botany**

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

The following person spoke:

- Mr Chris Pselletes, applicant, spoke for the officer's recommendation for approval and responded to the Panel's questions.

**Determination**

- 1 That the majority of the Panel considers that the proposed development would be satisfactory subject to a number of changes to the plans to satisfy Deferred Commencement conditions. This decision is not unanimous and the reasons are provided below.

The General Manager, or her nominee, is given delegation to prepare a Deferred Commencement condition and operational conditions. The deferred commencement is to give effect to the following changes :

- The enclosure of the front entrance courtyard is to be deleted.

- The roof enclosure must achieve a level of transparency to provide for a lightweight built form outcome.
- The pergola must remain open at all times and is to be of materials and detail and a height to match the existing pergola of the adjoining terrace. The pergola is to be set back a minimum of 1.2 m from the southern boundary with a planter to the edge of the building of 1.2 m.

2 That the objectors be notified of the determination.

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

**Reason for Determination**

The majority of the Panel is of the opinion that, with the above changes to the plans, the extension is reasonable in the circumstances of this case and would provide an appropriate fit in the streetscape without appearing bulky and be of materials compatible with the buiding.

The minority vote considered the enclosure of the rooftop terrace is inconsisent with the objectives of the floor space ratio standard and would create an overdevelopment of the site.

**6.6 DA-1997/49/F - 339-377 Forest Road, Bexley**

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

The following person spoke:

- Mr Talaat Nasralla, applicant, spoke for the officer’s recommendation and responded to the Panel’s questions.

**Determination**

1 A Deferred Commencement is granted. This requires the submission and approval by Council of a detailed landscape plan of the Bayview Street school frontage and verge from the corner to Tree No. 63. This plan is to include: the planting of trees and shrubs to provide a layered effect of three rows of planting (for example, Crepe Myrtle trees on the verge, Murraya hedge and Water Gums within the school grounds, however, final appropriate species are subject to Council’s approval); the method and details of site preparation including retention and ongoing management for Tree No. 63; drainage and irrigation works for the new vegetation and retaining walls and fencing. Options are also to be explored for a suitable management plan and alternative solutions in lieu of brickwork to replace the damaged brick fence

along Bayview Street to minimise damage to Tree No. 63 and its roots. The new vegetation must be provided with sufficient space to ensure their maturity and longevity. The layout of any car park must as a priority allow sufficient clearance for the new species of trees to thrive and replace the existing canopy.

To satisfy this Deferred Commencement amended plans detailing the above must be submitted within six months for the approval of Council.

The General Manager, or nominee, is given delegation to formulate appropriate conditions to give effect to the above and delegation to approve the deferred commencement if the above requirements are satisfied .

- 2 Only on satisfaction of the above Deferred Commencement conditions will the consent become operational for the removal of Trees Nos. 15, 46, 47, 48, 50 and 52 and any Camphor Laurel trees on site, subject to operational conditions including:
  - Within three (3) months of this consent (DA-1997/49/F) becoming operational remedial pruning and deadwood removal of Tree 63 shall be undertaken. A Consultant Arborist with a minimum AQF Level 5 qualifications in Arboriculture shall be appointed to supervise the remedial pruning and dead wood removal. These tree maintenance measures are to continue on a regular basis, as a duty of care by the school for a heritage site.
- 3 That the objectors be advised of the Bayside Local Planning Panel decision.

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

#### **Reason for Determination**

The Panel is of the opinion that no tree removal is to take place until a comprehensive plan and details are submitted for Council's approval to ensure appropriate replacement canopy trees and landscaping will be provided for the Bayview frontage. This is to also ensure the protection of Tree No. 63 and minimise impacts on the streetscape and the amenity of the area.

#### **6.7 DA-2015/56/A - 336-340 Rocky Point Road, Ramsgate**

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

The following person spoke:

- Mr Peter Pasad from Pyramid Consulting Pty Ltd, applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

### Determination

- 1 The Development Application No. 2015/56/A, being a Section 4.55(2) application to amend Development Consent Number 2015/56, is REFUSED pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons;
  - a The proposal as modified is unsatisfactory with respect to State Environmental Planning Policy 65, in relation to:
    - i Principle 1 - Context and Neighbourhood Character
    - ii Principle 2 - Built Form and Scale
    - iii Principle 3 – Density
    - iv Principle 5 – Landscape
    - v Principle 6 – Amenity
    - vi Principle 8 – Housing Diversity and Social Interaction.
  - b The proposal as modified is inconsistent with the aims and objectives of the Apartment Design Guide with respect of;
    - i 3D – Communal Open Space
    - ii 4D – Unit size and Layout
    - iii 4E – Private Open Space
    - iv 4G – Storage
  - c The proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.3 - Height of Buildings.
  - d The proposal as modified is inconsistent with the objectives and provisions of Rockdale LEP 2011, Clause 4.4 - Floor Space Ratio and is an overdevelopment of the site.
  - e The proposal as modified results in poor residential amenity on site and is not therefore in the public interest.
  - f The proposal as modified does not comply with the car parking requirements of Rockdale Development Control Plan 2011.
  - g The proposal as modified is contrary to the future desired character of the Ramsgate Town Centre and will set a significant undesirable precedent.
  - h The site is not suitable for the proposal as modified.
  - i Insufficient and inaccurate information has been provided by the applicant of which to facilitate a thorough assessment of the impacts of the proposal as modified.
  - j As per the provisions of Section 4.2 of the Environmental Planning and Assessment Act 1979, the works to which this application relates



have been carried out without first obtaining a development consent and without a development consent being in force.

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

**Reason for Determination**

The Panel finds the modifications are not warranted and the reduced amenity outcomes are unreasonable.

The Chairperson closed the meeting at 8.40 pm.

Jan Murrell  
**Chairperson**

---

**Bayside Local Planning Panel**

**28/08/2018**

Item No	5.1
Subject	<b>Planning Proposal 8 Princess Street, Brighton-Le-Sands</b>
Report by	Michael McCabe, Director City Futures
File	F18/395

---

## Summary

Council has received a draft Planning Proposal in relation to land at 8 Princess Street, Brighton-Le-Sands (subject site). The site is currently zoned SP3 – Tourist and is located immediately to the north-west of the Novotel Hotel and was formerly part of the Novotel landholdings. The properties to the north-west and south of the site are zoned B4 Mixed Use.

The draft Planning Proposal seeks to rezone the land from SP3 Tourist to B4 Mixed Use. Subsequent to the development of the hotel the site was developed for residential apartments, however, the zoning of the subject site was not amended to B4 Mixed Use. In order for the apartment building to accommodate residential apartments on the ground floor and be consistent with the adjacent residential flat buildings a change in zone to B4 Mixed Use is sought. No other changes to the development standards in the Rockdale Local Environmental Plan 2011 are sought.

The intended outcome of the draft Planning Proposal is to enable three inactive commercial tenancies located at the ground floor of an existing 9-storey shop top housing development to be used for the purposes of residential apartments. A review of why the tenancies have remained vacant indicates that it has relatively poor locational attributes, in summary:

- Competition from existing food-based retailing;
- Minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas;
- Visibility to passing traffic given the low levels of vehicle traffic in Princess Street;
- There are no other significant attractors to the subject site; and
- The site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre.

On the 26 June 2108, the draft Planning Proposal was considered by the Bayside Local Planning Panel (Panel). The Panel made the following recommendation to Council:

*“1 That pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EPAA) the draft Planning Proposal for land known as 8 Princess Street, Brighton-Le-Sands be submitted to the Department of Planning & Environment (DPE) for a Gateway determination; and*

*2 That should a Gateway determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.”*

The Panel noted the following reason for their recommendation:

*“The Panel is satisfied that the adjoining B4 zone could be extended over the subject*

*site and this is not contrary to the strategic planning for the area.”*

At the Council meeting of 8<sup>th</sup> August 2018, Council considered the draft Planning Proposal, including the Panel’s recommendations, and resolved:

*“That this matter be referred back to the Bayside Local Planning Panel and all the information pertaining to the previous Development Application for this property be made available to the Panel; including the breach of height and FSR controls that required a Clause 4.6 Variation.”*

Council noted that DA-2012/325 was supported by:

- (i) two written requests under Clause 4.6 Exceptions to development standards of the *Rockdale Local Environmental Plan 2011* (Rockdale LEP) to vary the height of buildings and floor space ratio (FSR) development standards; and
- (ii) written justification to reduce the provision of retail floor space required by the Rockdale DCP 2011.

In accordance with Council’s resolution of 8<sup>th</sup> August 2018, all the information pertaining to the previous development application DA-2012/325, is contained in **Attachment 1** and includes:

- The development assessment report and attachments presented to the ordinary meeting of Council on 5<sup>th</sup> December 2012;
- The clause 4.6 written requests in relation to building height and floor space ratio (FSR); and
- The applicant’s justification for the variation to the amount of retail floor space required under the Rockdale DCP 2011.

A summary of the Clause 4.6 Exceptions to development standards and the justification for the reduced retail floor space is provided under the heading ‘Planning History’ of this report.

---

## Officer Recommendation

- 1 That Bayside Local Planning Panel recommend to Council that pursuant to section 3.34 of the *Environmental Planning & Assessment Act 1979* (EPAA) the draft Planning Proposal for land known as 8 Princess Street, Brighton-Le-Sands be submitted to the Department of Planning & Environment (DPE) for a Gateway determination.
  - 2 That Bayside Local Planning Panel recommend to Council that should a Gateway determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.
-

## Background

### Applicant:

Lumex Property Group.

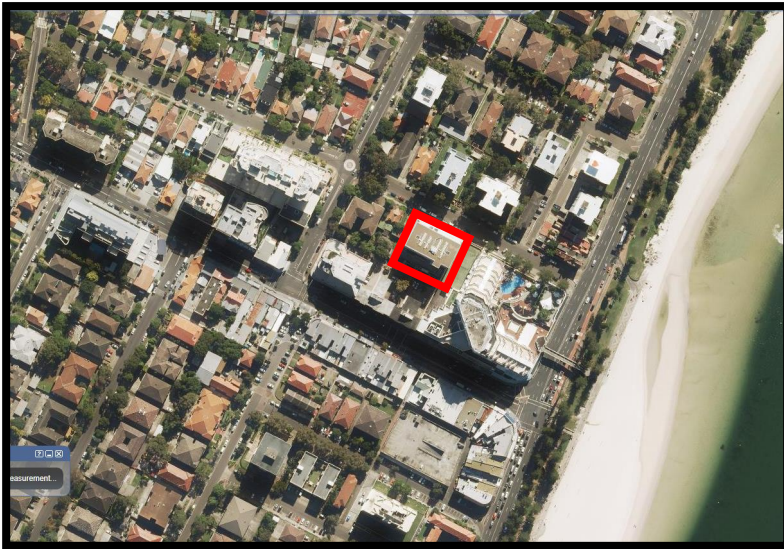
### Site description:

Lots subject to the draft Planning Proposal are shown in **Table 1**, below:

**Table 1:** Lots subject to draft Planning Proposal

Lot	SP	Address	Current zoning
4	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist
5	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist
70	92060	8 Princess Street, Brighton-Le-Sands	SP3 Tourist

The subject site has a total area of approximately 1505sqm and is bounded by Princess Street to the north; and a service laneway to the south; residential development to the west and by a hotel development (Novotel) to the east. The site currently contains a 9-storey shop top housing development (refer to aerial photograph at **Figure 1** (subject site outlined in red); and google street view image at **Figure 2**).



**Figure 1** – Aerial photograph  
(Source: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))



**Figure 2:** Subject site with ground floor commercial tenancies outlined in yellow  
(Source: [www.google/maps](http://www.google/maps) - Street view - image capture October 2017)

**Site Context:**

The site is located on the southern side of Princess Street and forms part of the Brighton-Le-Sands local centre.

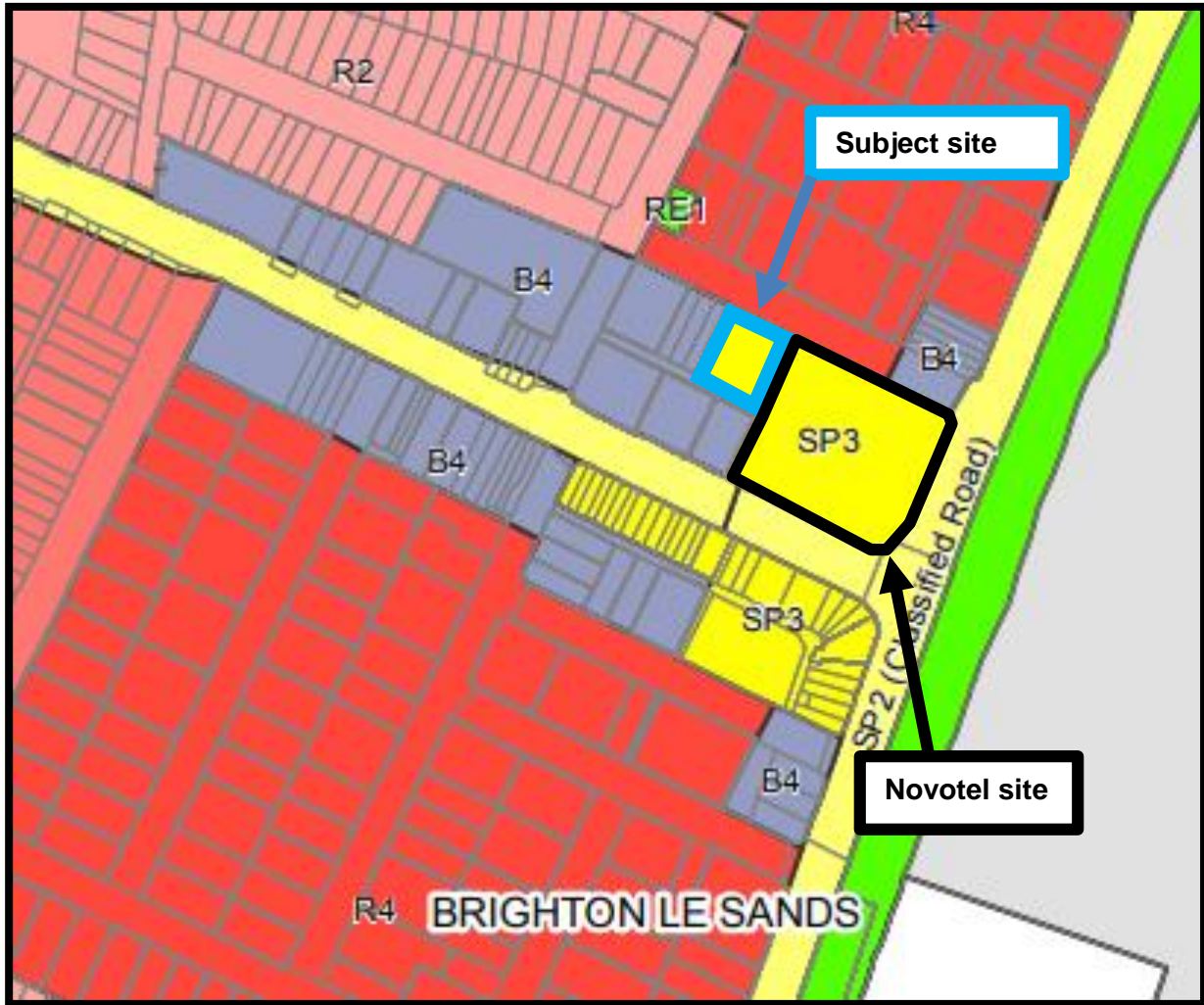
A context map for the site is provided in **Figure 3**, below:



**Figure 3:** Site context map  
(Source: Land & Property Information [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au))

Surrounding land use zones:

Land use zones surrounding the site comprise SP3 Tourist zoned land to the east; B4 Mixed Use zoned land to the south and west, and R4 High Density Residential zoned land to the north (Refer to **Figure 4**, overleaf).



**Figure 4** – Rockdale LEP 2011 Land Zoning Map LZN\_004 (Subject site – SP3 - Tourist)  
 (Source: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au))

### Planning History

In 1988, Council granted consent to the construction of the 15 storey Novotel Hotel Brighton Le Sands Parade, Brighton Le Sands adjacent to the subject site. In 2007, the owners of the Novotel Hotel purchased Nos 8-14 Princess Street (commonly known as 8 Princess Street, Brighton Le Sands).

Between early 2008 and early 2011, the owners of the site held a series of meeting with the former Rockdale City Council to discuss a possible extension of the existing Novotel Hotel onto the adjoining Princess Street site. During this time, discussions were also held with the then Department of Planning and Infrastructure (now the Department of Planning and Environment) and Council regarding the proposed lodgement of a Part 3A Concept Plan for the refurbishment of the existing hotel and its extension onto the subject site. In January 2009, the proposed hotel expansion project was declared to be project to which the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EPAA) applied, and the then Minister for Planning authorised the preparation of a Concept Plan.

A major development application (MP08\_0239 – Tourism (Hotel) Development) under the former Part 3A of the *Environmental Planning Assessment Act 1979* (EPAA) was lodged with the then Department of Planning for refurbishment works and hotel extension to the Novotel Hotel (Novotel site), and included the subject site as part of the major application. However,

the proposed hotel expansion did not proceed and the Part 3A declaration for the project was revoked.

In September 2011, a formal Pre-DA Meeting was held at Council to discuss the proposed redevelopment at the subject site for a mixed use development. At this time, Rockdale Local Environmental Plan 2000 was still in force and the proposed 'shop-top housing' development was prohibited in the 2(c) zone that applied to the site. However, the development concept for the site had been prepared based on the provision of draft Rockdale Local Environmental Plan 2011 and draft Rockdale Development Control Plan 2011, under which 'shop-top housing' would be permissible.

As part of the major application consultation and assessment process; and in the preparation of the Rockdale LEP 2011, the site was rezoned from Residential 2(c) to SP3 Tourist so as to be consistent with the concept plan.

The subject site has since been redeveloped for the purposes of a 9-storey shop top housing development, including 3 non-residential tenancies at ground floor, under DA2012/325, which was approved by the former Rockdale Council at its ordinary meeting of 5<sup>th</sup> December 2012.

As part of the development application, the applicant sought Clause 4.6 variations to the *Rockdale Local Environmental Plan 2011* (Rockdale LEP 2011) in relation to height of building and floor space ratio (FSR).

In relation to the variation to the height of buildings development standard, the development application sought a 1.05 metre variation to the 28 metre maximum height standard with a proposed maximum height of 29.05 metres. The variation was supported given that the non-compliance is contained wholly to the two (2) lift overruns positioned centrally on the roof of the building.

In relation to the variation to the floor space ratio development standard, the applicant sought a floor space ratio of 3.17:1, which exceeds the 3:1 statutory maximum by 262m<sup>2</sup> (5.1%). The variation was supported given that the development outcome was considered consistent with the established character of the areas, and meets the underlying FSR and height objectives and which preserve the amenity of existing surrounding residents and future occupants to the building.

The Development Application also sought to vary the retail floor space controls set out in the *Rockdale Development Control Plan 2011* (Rockdale DCP). The DCP requires a minimum 10% of the gross floor area of mixed use developments to be provided for retail and/ or commercial uses. The development did not achieve the minimum 10% retail floor space required, providing only 5.2%. The variation to the control was considered to result in an acceptable outcome as it was considered the proposal would still be able to satisfy the overarching objectives for Mixed Use Development:

- It will foster growth and improvement in the existing centre by providing a new high quality retail product that represents a viable leasing option for a wider section of the retail market;
- It will promote a range of employment uses and increase retail diversity;
- It will better contribute to the vitality and economic viability of Brighton Le Sands by providing a retail product that has a wider market appeal and is more likely to be occupied by tenants in the short term;
- It supports the creation of a safe and amenable public domain through the creation of a continuous active façade for the full width of the site;



- It supports the creation of an active interface between ground floor level of the site and Princess Street;
- It helps clearly define the extent of the public domain; and
- It maximises the flexibility and adaptability of the building to meet current and future demands.

Despite extensive marketing campaigns conducted over a period of several years, the owner was unable to lease the commercial tenancies for a variety of reasons, as detailed in the supporting Sales and Marketing Overview Letter (refer **Attachment 2**) and Shop Tenancy Assessment (refer **Attachment 3**) submitted with the Planning Proposal.

## DRAFT PLANNING PROPOSAL ASSESSMENT

### Summary of draft Planning Proposal

The draft Planning Proposal seeks to:

1. Rezone the land from SP3 Tourist to B4 Mixed Use.

The intended outcome of the draft Planning Proposal is to enable three inactive commercial tenancies located at the ground floor of an existing shop top housing development to be used for the purposes residential dwellings.

The proposed zoning will allow for residential uses at ground floor and provide a land use zone compatible with the Brighton-Le-Sands local centre.

A copy of the draft Planning Proposal is included at **Attachment 4**.

### Assessment of draft provisions

#### Proposed Zoning

The proposed B4 Mixed Use zoning permits residential flat buildings with consent and will enable the conversion of the ground floor tenancies to residential. The proposed B4 Mixed use zoning will be consistent with the functioning of the existing local centre and form a logical extension to the existing B4 Mixed Use zone. The site is not subject to *Rockdale Local Environmental Plan 2011* clause 6.11 Active Street Frontage and Residential Flat Buildings are permitted with consent in the B4 Zone.

#### Urban Context & Evaluation

The Planning Proposal indicates that the retail tenancies at ground floor are not able to be leased despite several leasing campaigns as summarised in the supporting Sales and Marketing Overview Letter (refer **Attachment 2**). As identified in the submitted Shop Tenancy Assessment prepared by Essential Economics (refer **Attachment 3**), the site has relatively poor overall locational attributes, in summary:

- i) Competition from existing food-based retailing;
- ii) Minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas;
- iii) Visibility to passing traffic given the low levels of vehicle traffic in Princess Street;
- iv) There are no other significant attractors to the subject site; and
- v) The site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre.

Council staff have reviewed the Planning Proposal and supporting Design Report (refer **Attachment 5**) and the following comments are provided:

- *The Eastern City District Plan, Planning Priority E6 – Creating and renewing Great Places and Local Centres* refers to streets as places that function in response to street typology and local conditions. The vacant tenancies at ground floor are not desirable for the performance or the safety of the local street, and do not contribute to the vitality or life of the street. Without any activation or passive surveillance at ground floor an inactive frontage has arisen from the above listed contributing factors, generating concerns around how the development is responding to *Crime Prevention Through Environmental Design* (CPTED) principles.
- The rezoning of the site to allow for ground floor residential tenancies will provide the passive surveillance required. The public and private interface will also allow for casual interaction and contribute to the vitality and life of the street.
- To improve the existing urban condition the Planning Proposal for 8 Princess Street, Brighton-Le-Sands, to be rezoned from SP3 Tourist to B4 Mixed Use, is supported on the grounds of addressing *Planning Priority E6* of the *Eastern City District Plan, CPTED* principles and universal urban design principles in relation to street activation.

## Justification

### Environmental Planning & Assessment Act 1979 (EPAA)

The NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* - issued under s3.33 (3) of the EPAA - provides guidance and information on the process for preparing Planning Proposals. The assessment of the submitted Planning Proposal by Council staff has been undertaken in accordance with the latest version of this *Guide* (dated August 2016).

### Section 9.1 Directions by the Minister

Section 9.1 Directions by the Minister (s9.1 directions) set out what a Relevant Planning Authority (RPA) must do if a s9.1 direction applies to a Planning Proposal, and provides details on how inconsistencies with the terms of a direction *may* be justified.

An assessment of the draft Planning Proposal against the applicable s9.1 directions is provided in **Table 2** below:

**Table 2:** Planning Proposal consistency with s9.1 directions.

Direction	Planning Proposal consistency with terms of direction	Consistent: Yes/ No (If No, is the inconsistency adequately justified?)
<b>1.1 Business and Industrial Zones</b>	<p><b>What a RPA must do:</b> A RPA must ensure that a Planning Proposal:</p> <p>(a) Give effect to the objectives of this direction, (i.e. encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified centres),</p>	YES

	<p>(b) Retain the areas and locations of existing business and industrial zones,</p> <p>(c) Not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) Not reduce the total potential floor space area for industrial uses in industrial zones, and</p> <p>(e) n/ a.</p> <p><u>Comment:</u> The Planning Proposal provides additional B4 mixed use zoned land in close proximity to an existing business zone, supporting the viability of the Brighton-Le-Sands local centre.</p>	
<b>2.3 Heritage Conservation</b>	<p><b>What a RPA must do:</b> A RPA must ensure that a Planning Proposal contains provisions that facilitate the conservation of heritage items, places, building works or precincts of environmental heritage significance to an area.</p> <p><u>Comment:</u> The site is not within a conservation area, does not contain a heritage item and is not in the vicinity of a heritage item.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	<b>YES</b>
<b>3.3 Home Occupations</b>	<p><b>What a RPA must do:</b> A Planning Proposal must permit home occupations to be carried out in dwelling houses without the need for development consent.</p> <p><u>Comment:</u> The B4 Mixed Use zone in the Rockdale LEP 2011 includes home occupations as development that may be carried out in dwelling houses without the need for development consent.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	<b>YES</b>
<b>3.4 Integrating Land Use and Transport</b>	<p><b>What a RPA must do:</b> A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i> (guidelines).</p> <p><u>Comment:</u> The Planning Proposal is considered consistent with the guidelines as the Planning Proposal enables residential development in close proximity to frequent public transport and a mix of uses including shops and services.</p> <p>No inconsistencies with the terms of the direction were identified.</p>	<b>YES</b>
<b>3.5 Development Near Licensed Aerodromes</b>	<p>No alteration to controls in relation to building height are proposed and the site is not affected by the Australian Noise Exposure Forecast. Therefore, no inconsistencies with the terms of the direction were identified.</p>	<b>YES</b>
<b>4.1 Acid Sulfate Soils</b>	<p><b>What a RPA must do:</b> The direction requires that a RPA must consider an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p> <p><u>Comment:</u></p>	<b>NO - Inconsistency justified.</b>

	<p>The Rockdale LEP 2011 Acid Sulfate Soils Map identifies the site as having Class 4 acid sulfate soils.</p> <p><b>Consistency</b>  <i>A Planning Proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a study prepared in support of the Planning Proposal.</i></p> <p><u>Comment:</u>            Clause 6.1 of the Rockdale LEP 2011 requires an acid sulfate soils management plan at DA stage, before carrying out any development on the land. The inconsistency with this direction is therefore considered minor and justifiable.</p>	
<p><b>5.10 Implementation of Regional Plans</b></p>	<p><b>What a RPA must do:</b>            Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p><u>Comment:</u>  <i>A Metropolis of Three Cities</i> is the Region Plan that applies to the five districts that make up the Greater Sydney Region.</p> <p>The Planning Proposal is consistent with the following objectives in the Region Plan:</p> <ul style="list-style-type: none"> <li>• Objective 10: Greater housing supply              The Planning Proposal increases the supply of housing.</li> <li>• Objective 14: integrated land use and transport creates walkable and 30-minute cities.              The Planning Proposal increases housing within a walkable catchment of Brighton-Le-Sands local centre and transport links that support this objective.</li> </ul>	<p><b>YES</b></p>
<p><b>7.1 Implementation of A Plan for Growing Sydney</b></p>	<p><b>What a RPA must do:</b>            A RPA must ensure that a Planning Proposal is consistent with A Plan for Growing Sydney.</p> <p><u>Comment:</u>            The draft Planning Proposal is consistent with the following directions and priorities contained in <i>A Plan for Growing Sydney</i>:</p> <ul style="list-style-type: none"> <li>• Direction 2.1: Accelerate housing supply across Sydney.              The delivery of new housing must be accelerated to meet the need for a bigger population and to satisfy a growing demand of different types of housing.</li> <li>• Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs. New urban renewal locations will be selected in or near centres on the public transport network. Locating new housing here will make it easier for people to get to jobs and services and take pressure off congested roads.</li> <li>• Direction 2.3: Improve housing choice to suit different needs and lifestyles.</li> <li>• Direction 3.1: Revitalise existing suburbs. Provision of new housing within Sydney’s established suburbs bring real benefits to communities and make good social and economic sense. Directing new housing to the existing urban areas will reduce the impact of development on the</li> </ul>	<p><b>YES</b></p>

	environment and protect productive rural land on the urban fringe.  No inconsistencies with the terms of the direction were identified.	
--	---	--

- **State Environmental Planning Policies (SEPPs)**

An assessment of the Planning Proposal against the relevant SEPPs is provided in **Table 3**, below.

**Table 3:** Relevant SEPPs

Name of SEPP	Compliance of Planning Proposal with SEPP	Complies Y/ N
SEPP No 65—Design Quality of Residential Apartment Development (SEPP 65)	The Planning Proposal was referred to Council’s Urban Designer, who raised no objection to the proposal in terms of its consistency with SEPP 65, noting that any future DA, should the Planning Proposal be supported, would be required to comply with SEPP 65 and accompanying Apartment Design Guide.	<b>YES</b>

There are no other SEPPs applicable to the Planning Proposal.

- **Sydney Regional Environmental Plans (SREPs)**

There are no SREPs applicable to the Planning Proposal.

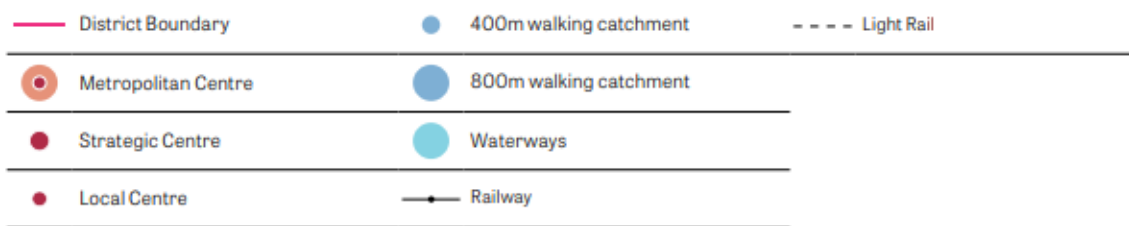
- **Strategic Planning Framework**

Regional, sub-regional and district plans and strategies include outcomes and specific actions for a range of different matters including housing and employment targets, and identify regionally important natural resources, transport networks and social infrastructure. An assessment of the Planning Proposals consistency with the strategic planning framework is provided in **Table 4**, below.

**Table 4:** Strategic Planning Framework

Name of Strategic Plan	Directions, priorities, objectives and actions	Planning Proposal consistency with Strategic Plan	Consistency Y/ N
<b>Regional Plans</b>			
Greater Sydney Region Plan	Objective 10 – Greater housing supply, which encourages the supply of housing in the right locations with access to shops, services and public transport.  Objective 14 – A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities. <i>“One of the principal elements in achieving the productivity outcomes is:</i>  <i>Co-locate activities in metropolitan, strategic and local centres and attract</i>	<u>Comment:</u> The draft Planning Proposal is consistent with objective 10 as additional housing supply is facilitated within walking distance of shops, services and public transport.  <u>Comment:</u> The Planning Proposal is located in the Brighton-Le-Sands local centre and potentiates additional housing within walking distance of shops and public transport links that support the objective.	<b>YES</b>

	<i>housing in and around centres to create walkable, cycle-friendly neighbourhoods.”</i>		
<b>District Plans</b>			
Eastern City District Plan (ECDP)	<ul style="list-style-type: none"> <li>Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.</li> <li>Planning Priority E6: Creating and renewing great places and local centres. The Planning Priority establishes 'Principles for local centres' and states that:  <i>“additional residential development within a five-minute walk of a centre focused on local transport, .... will help to create walkable local centres.”</i></li> </ul>	<p><u>Comment:</u> The Planning Proposal supports the role of the Brighton-Le-Sands local centre by increasing housing provision within walking distance of services and public transport.</p> <p><u>Comment:</u> Brighton-Le-Sands is identified as a local centre in the ECDP (refer to the extract from the ECDP at <b>Figure 5</b>, below).</p> <p>The Planning Proposal is consistent with the 'Principles for local centres' (p49 of the ECDP) through the increased provision of residential development in, or within walkable distance of, the centre.</p>	<b>YES</b>



The map illustrates the approximate five-minute walking catchment around local centres serviced by local transport and the approximate 10-minute walking catchment around a centre focused on a mass transit stop. Actual walking catchments of 5-10 minutes will depend on local connections and conditions and should be determined using a place-based approach within which housing, retail and commercial growth opportunities need to be balanced and planned for by councils.

**Figure 5: Eastern City District – centres**

(Source: Eastern City District Plan)			
Local plans			
Rockdale Community Strategic Plan (adopted 15 June 2011)	<p><u>Villages and Local Centres</u></p> <p><i>Redevelopment within these centres is encouraged as a means of increasing residential densities in close proximity to public transport and services. Redevelopment proposals would need to recognise the desired local character of the centre.</i></p> <p><u>Rockdale Tomorrow:</u></p> <p><i>Future growth is likely to occur in the centres of Rockdale, Wolli Creek, <b>Brighton Le Sands</b>, Bexley and Bexley North, which have the most significant opportunities for redevelopment through the presence of larger sites which are more readily able to be developed.</i></p>	<p><u>Comment:</u></p> <p>The Planning Proposal is generally consistent with the Plan to increase residential densities in close proximity to public transport.</p>	<p><b>YES</b></p>

## Other considerations

### Car parking:

The Rockdale Development Control Plan 2011 (Rockdale DCP) requires car parking at the rate of 1 space per 1 and 2 bed apartments. The indicative floor plan (refer **Attachment 6**) submitted with the Planning Proposal indicates that the ground floor of the development could potentially accommodate 1 x 1 bedroom apartment and 1 x 2 bedroom apartment, which equates to a car parking requirement of 2 spaces.

The existing approved retail ground floor component has a GFA of 160m<sup>2</sup>. The Rockdale DCP requires car parking at the rate of 1 space per 40m<sup>2</sup> GFA, equating to a car parking requirement of 4 spaces.

Accordingly, the Planning Proposal is acceptable in terms of car parking provision given the resultant decrease in car parking required.

## Conclusion

The current SP3 Tourist zoning for the site was informed by a major development application under the former Part 3A of the *Environmental Planning and Assessment Act 1979* to expand the adjoining Novotel hotel.

The expansion of the existing Novotel did not proceed, and the site was subsequently developed for the purposes of a 9-storey shop top housing development in accordance with

the permissible land uses in the SP3 Tourist zone. The existing development on the site has three commercial tenancies at ground floor.

Despite extensive marketing campaigns conducted over a period of several years, the owner was unable to lease the commercial tenancies for a variety of reasons, as detailed in the Planning Proposal and supporting reports submitted with the Planning Proposal.

The vacant tenancies have resulted in an inactive streetscape and the Planning Proposal seeks to rectify this unintended outcome by rezoning the site to B4 Mixed Use. It is anticipated that this will enable residential development at ground floor, which will provide casual surveillance and activation of the streetscape whilst retaining a zoning consistent with the primary function of the Brighton-Le-Sands local centre.

---

## Community Engagement

Should the Planning Proposal proceed through Gateway, community consultation will be undertaken in accordance with section 3.34 of the EPAA. The specific requirements for community consultation will be listed in the Gateway determination, including any government agencies that are to be consulted.

---

## Attachments

- 1 DA-2012 325 Report & Attachments [↓](#)
- 2 Sales & Marketing Overview Letter [↓](#)
- 3 Shop Tenancy Assessment [↓](#)
- 4 Planning Proposal [↓](#)
- 5 Design Report [↓](#)
- 6 Floor Plan [↓](#)



## Council Meeting

Meeting Date 05/12/2012

<b>Item Number:</b>	ORD09
<b>Property:</b>	6-14 PRINCESS STREET BRIGHTON LE SANDS
<b>Subject:</b>	CONSTRUCTION OF NINE STOREY MIXED USE DEVELOPMENT COMPRISING FOUR NON RESIDENTIAL TENANCIES, FIFTY NINE (59) RESIDENTIAL UNITS AND BASEMENT PARKING FOR SEVENTY ONE (71) VEHICLES
<b>File Number:</b>	DA-2012/325
<b>Owner:</b>	THAKRAL BRIGHTON HOTEL PTY LTD
<b>Applicant:</b>	JBA PLANNING
<b>Developer:</b>	-
<b>Location:</b>	SOUTHERN SIDE OF PRINCESS STREET BETWEEN THE GRAND PARADE AND MOATE AVENUE
<b>Date of Receipt:</b>	16/04/2012
<b>Previous Report to Council:</b>	Nil
<b>Report by:</b>	Manager - Development Services (Luis Melim)
<b>Contributors:</b>	
<b>Community Engagement</b>	Yes - Consult
<b>Financial Implications:</b>	No

### Precis

The assessment report was prepared by an independent planning consultant, Andrew Robinson Planning Services Pty Ltd because Council was a previous land owner of part of the site to which the application relates (report is attached). In accordance with Council's Code of Planning Practice, the application has been assessed by an external consultant and is referred to Council for determination.

*This application proposes the construction of a 9 storey shop-top housing development comprising 4 retail/business tenancies at ground level, 59 residential units over 8 levels and 2 basement parking levels to accommodate 71 cars, 8 motorcycles and 8 bicycles. The site is currently vacant and adjoins the 15 storey Novotel to the east and a single storey dwelling on a zero lot line to the west, that formerly comprised one half of a pair of semis. Saywell Lane runs along the rear of the site.*

*The proposed development is the first sizable project to be proposed under the new LEP provisions and the redevelopment of this site will play a key role in establishing the built form outcomes to be expected by Council in this precinct.*

*Notwithstanding, the proposal does not comply with the height and floor space ratio principal development standards under Rockdale Local Environmental Plan 2011 (RLEP). The applicant has made a request for a variation to these development standards under Clause 4.6 of the LEP, which allows for flexibility in the application of the development standards.*

*The proposal seeks a 1.05m variation to the 28m maximum height standard, with a proposed maximum height of 29.05m. However, the majority of the building is below the 28m height limit and the non-compliance is contained wholly to the two (2) lift overruns positioned centrally on the roof of the building.*

*The proposed floor space ratio of 3.17:1 exceeds the 3:1 statutory maximum by 262m<sup>2</sup> (5.1%). The applicant argues that significant effort has gone into the building design to ensure the achievement of a high quality development outcome that is consistent with the established character of the area, which meets the underlying FSR and height objectives and which preserves the amenity of existing surrounding residents and future occupants of the building.*

*The proposal also seeks variations to the side boundary setback and retail floor space controls set under Rockdale Development Control Plan 2011 (RDCP). These variations are discussed in the body of the report. However, it is considered that sufficient justification has been provided by the applicant to support a variation to these non-compliances.*

*Seven (7) submissions, including a 27 signature petition were received in response to the community consultation process. The issues raised in the submissions are discussed in the body of the report. However in summary, the issues include that the building is bulky and dominates the streetscape, the building exceeds the height limit, potential for adverse traffic impacts, insufficient setbacks, the potential for a wind tunnel effect, overshadowing and that the development is not in the public interest as a proposal with similar issues was refused by the Land & Environment Court in 2003.*

*Despite the non-compliances, on its merits the proposed development is considered to be an acceptable design solution for the site and is recommended for approval.*

### **Council Resolution**

---

#### **NOTE:**

Ms Anne Leighton, objector, addressed the Council and raised the following issues:

- development has no setback from the pavement;
- some properties in Princess Street have 3-9 metre setback;
- size of building exceeds the permitted height;
- building's sheer bulk will overshadow other properties;
- no landscaping;
- traffic congestion;
- health issues;
- parking issues.

Mr Benjamin Craig, applicant, addressed the Council and raised the following issues:

- proposed development has been subject on an extensive Design Review Panel process;
- supported by an independent planning expert and Council officers;
- proposed development complies with the vision, objectives and intent for the site and is consistent with the relevant planning controls and standards.

MOTION moved by Councillors Saravinovski and Bezic

- 1 That Council support the variation to the maximum height and floor space ratio requirements contained in clauses 4.3 and 4.4 of Rockdale Local Environmental Plan 2011 (RLEP 2011).
- 2 That the development application DA-2012/325 for the construction of a nine storey mixed use development comprising four non residential tenancies, fifty nine (59) residential units and basement parking for seventy one (71) vehicles at 6-14 Princess Street Brighton Le Sands be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 3 That the NSW Department of Planning be advised of Council's decision.
- 4 That the objectors be advised of Council's decision.

DIVISION

DIVISION on the MOTION called for by Councillors Saravinovski and Bezic

FOR THE MOTION

Councillors Bezic, Awada, Saravinovski, Kalligas, Nagi, Mickovski, Ibrahim, Tsounis and Poulos

## AGAINST THE MOTION

Councillors O'Brien and Barlow

The MOTION was ADOPTED 9 votes to 2.

**Officer Recommendation**

---

That voting on this matter be by way of a Division.

- 1 That Council support the variation to the maximum height and floor space ratio requirements contained in clauses 4.3 and 4.4 of Rockdale Local Environmental Plan 2011 (RLEP 2011).
- 2 That the development application DA-2012/325 for the construction of a nine storey mixed use development comprising four non residential tenancies, fifty nine (59) residential units and basement parking for seventy one (71) vehicles at 6-14 Princess Street Brighton Le Sands be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 3 That the NSW Department of Planning be advised of Council's decision.
- 4 That the objectors be advised of Council's decision.

**Report Background**

---



6-14 Princess Street Brighton Le Sands

**Community Engagement**

The development application has been notified in accordance with Council's Development Control Plan.

**Community Strategy**

The proposal is consistent with Council's Community Outcome "A Sustainable City" and Community Outcome objective:

- Sustainability and environmental management is integral to the City's infrastructure and function. With sustainability at its core, the City is vibrant, engaging and liveable.
- and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:
- Land Planning and Management - Promote high quality, well designed and sustainable development that enhances the City.

**Financial Implications**

There are no financial implications applicable to this report.

**Compliance Table**

Refer to the attached consultant's report.

---

[File Attachments](#)



6-14 Princess St - Consultants Report.pdf



6-14 Princess St BLS - Draft Dev Consent  
Notice.pdf



Site & Elevation Plans - 6-14 Princess St  
BLS.pdf

---

[Related document Links](#)

---

Subject:	PROPOSED SHOP-TOP HOUSING DEVELOPMENT COMPRISING A NINE STOREY MIXED USE DEVELOPMENT CONTAINING FOUR (4) NON-RESIDENTIAL TENANCIES, FIFTY NINE (59) RESIDENTIAL UNITS AND BASEMENT PARKING FOR SEVENTY ONE (71) VEHICLES
Property:	NOS. 6-14 PRINCESS STREET, BRIGHTON-LE-SANDS
File Number:	DA2012/325
Owner:	THAKRAL HOLDING LTD
Applicant:	JBA PLANNING PTY LTD
Report by:	CONSULTANT – ANDREW ROBINSON PLANNING SERVICES

### PRECIS

*This application proposes the construction of a 9 storey shop-top housing development comprising 4 retail/business tenancies at ground level, 59 residential units over 8 levels and 2 basement parking levels to accommodate 71 cars, 8 motorcycles and 8 bicycles. The site is currently vacant and adjoins the 15 storey Novotel to the east and a single storey dwelling on a zero lot line to the west, that formerly comprised one half of a pair of semis. Saywell Lane runs along the rear of the site.*

*The proposed development is the first sizable project to be proposed under the new LEP provisions and the redevelopment of this site will play a key role in establishing the built form outcomes to be expected by Council in this precinct.*

*Notwithstanding, the proposal does not comply with the height and floor space ratio principal development standards under Rockdale Local Environmental Plan 2011 (RLEP). The applicant has made a request for a variation to these development standards under Clause 4.6 of the LEP, which allows for flexibility in the application of the development standards.*

*The proposal seeks a 1.05m variation to the 28m maximum height standard, with a proposed maximum height of 29.05m. However, the majority of the building is below the 28m height limit and the non-compliance is contained wholly to the two (2) lift overruns positioned centrally on the roof of the building.*

*The proposed floor space ratio of 3.17:1 exceeds the 3:1 statutory maximum by 262m<sup>2</sup> (5.1%). The applicant argues that significant effort has gone into the building design to ensure the achievement of a high quality development outcome that is consistent with the established character of the area, which meets the underlying FSR and height objectives and which preserves the amenity of existing surrounding residents and future occupants of the building.*

*The proposal also seeks variations to the side boundary setback and retail floor space controls set under Rockdale Development Control Plan 2011 (RDCP). These variations are discussed in the body of the report. However, it is considered that sufficient justification has been provided by the applicant to support a variation to these non-compliances.*

*In support of the proposal, the applicant submits that:*

*“The proposed development will provide a better design and planning outcome for the site than would be achieved through strict compliance with the planning controls. The proposed variations of the development are as result of the constraints of the site and will not have any adverse environmental impacts. The amenity of surrounding residents will be maintained and a high quality development will be produced on the site which is currently vacant.”*

*The proposed development was referred to the Design Review Panel on two occasions. Firstly at Pre-DA stage and then again following lodgement of the application. At the second meeting, the Panel concluded (in part) that ‘although there are minor breaches of the height and FSR, the Panel supports the development on the basis of its architectural merit and minimal adverse impacts on the amenity of the neighbouring properties, streetscape and future residents’.*

*Seven (7) submissions, including a 27 signature petition were received in response to the community consultation process. The issues raised in the submissions are discussed in the body of the report. However in summary, the issues include that the building is bulky and dominates the streetscape, the building exceeds the height limit, potential for adverse traffic impacts, insufficient setbacks, the potential for a wind tunnel effect, overshadowing and that the development is not in the public interest as a proposal with similar issues was refused by the Land & Environment Court in 2003.*

*Despite the non-compliances, on its merits the proposed development is considered to be an acceptable design solution for the site and is recommended for approval.*

#### **Officer Recommendation**

1. That Council support the variations to the maximum height and floor space ratio requirements contained in clauses 4.3 and 4.4 of Rockdale Local Environmental Plan 2011 (RLEP 2011).
2. That the development application DA-2012/325 for the construction of a nine storey mixed use development comprising four non-residential tenancies, fifty nine (59) residential units and basement parking for seventy one (71) vehicles at 6-14 Princess Street Brighton Le Sands be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the NSW Department of Planning be advised of Council's decision.
4. That the objectors be advised of Council's decision.

#### **REASON FOR REFERRAL TO COUNCIL**

The application is referred to Council on the basis that Council was a previous land owner of part of the site to which the application relates. Therefore, in accordance with Council's Code of Planning Practice, the application has been assessed by an external consultant and is referred to Council for determination.

## BACKGROUND

In 1988, Council granted consent to the construction of the 15 storey Novotel Hotel Brighton Le Sands Parade, Brighton Le Sands adjacent to the subject site. Thakral Holdings Limited is the current owner of the Novotel Hotel. In 2007, Thakral Holdings Limited purchased the vacant site (Nos. 8-14 Princess Street, Brighton Le Sands) to the immediate west adjoining the Novotel.

Between early 2008 and early 2011, Thakral Holdings held a series of meetings with Rockdale City Council to discuss a possible extension of the existing Novotel hotel onto the adjoining Princess Street site. During this time, discussions were also held with the Department of Planning & Infrastructure (the Department) and Council regarding the proposed lodgement of a Part 3A Concept Plan for the refurbishment of the existing hotel and its extension onto the subject site. In January 2009, the proposed hotel expansion project was declared to be a project to which Part 3A of the EP&A Act applies, and the then Minister for Planning authorised the preparation of a Concept Plan.

However, in June 2011, Thakral Holdings advised Council that they would no longer be pursuing the hotel expansion due to a range of commercial and strategic reasons outside the control of Thakral Holdings.

On 23 September 2011, a formal Pre-DA Meeting was held at Council to discuss the proposed redevelopment of Nos. 6-14 Princess Street, Brighton-le-Sands for a mixed use development. The proposed development consisted of a part 9 storey, part 10 storey development containing 4 'Soho' style retail / commercial tenancies, each internally connected to a residential unit above, 57 residential units and 2 levels of basement parking to accommodate 63 cars.

At this time, Rockdale Local Environmental Plan 2000 was still in force and the proposed 'shop-top housing' development was prohibited in the 2(c) zone that applied to the site. However, the development concept for the site had been prepared based on the provisions of draft Rockdale Local Environmental Plan 2011 and draft Rockdale Development Control Plan 2011, under which 'shop-top housing' would be permissible.

The Pre-DA advice provided by Council raised a number of issues, most significantly that the proposal did not demonstrate consistency with the Draft LEP definition of 'shop-top housing' and as such, was prohibited in the SP3 Tourist zone. Other issues raised included:

- Proposal exceeds the 15.24m civil aviation height limit and therefore must be referred to the Sydney Airport Corporation Limited (SACL) for comment;
- Density and design of the proposed development is considered to result in poor amenity for the units, and is inconsistent with the controls contained in part 4.4 of DCP 2011 and the Residential Flat Design Code;
- The ground floor SOHO component is considered to be most accurately defined as a home business, home occupation or office use depending on the specific activities to be carried out. Proposed ground floor land use to be modified to a land use that is permissible in the SP3 zone (i.e. shop top housing);
- Proposed height is not in line with the strategic direction envisaged for Princess Street and should be reduced;



- The proposed FSR should be reduced to comply with the maximum permitted floor space ratio of 3:1;
- Front and side setbacks not supported and should be amended in accordance with DCP 2011; and
- The design of the building entry is to be enhanced so that it presents as a clearly defined element of the building in the street.

On the 3<sup>rd</sup> November 2011, the Pre-DA Concept Plan was considered by the Design Review Panel. At this meeting, in order to explain to the Panel their reasons for the non-compliances with the draft DCP controls, Thakral Holding's design team provided a detailed explanation of the design study that they had undertaken to arrive at the proposed scheme for the site.

The Panel acknowledged the thoroughness of the design study that had been undertaken, as well as the fact that the proposed development would only be permissible upon gazettal of the new LEP that would rezone the site to SP3 Tourist. Nevertheless, the Panel concluded that it supported the proposal 'in principle' subject to the following:

- *Meet the provisions of Draft Rockdale LEP 2011 in terms of FSR and height if the exceedance has any adverse overshadowing impacts;*
- *Reconfigure the ground floor plan to provide a more efficient and functional lobby space and remove the ramp in favour of on-grade access to the rear;*
- *Provide an awning along the street frontage;*
- *Improve the relationship between the indoors and outdoors by relocating the storage area, lowering the carpark and creating a more permeable edge to the new landscaped space; and*
- *Continue to develop the building aesthetics including expressing a stronger two storey base.*

#### **SUBJECT SITE**

The site comprises 5 allotments, the legal description being Lots 6, 7 and 8 in DP 435253; Lot 1 in DP 200686 and Lot 102 in DP 773760. The site is roughly square, with a frontage of 38.085m to Princess Street and depth of 40.215m. The site has a secondary frontage of 37.85m to Saywell Lane at the rear and the site has a total area of 1,527m<sup>2</sup>.

The site is currently vacant and overgrown with grass. There are no significant trees or structures that require removal / demolition. However, there is a small tree on the western boundary and small cluster of trees in the south-western corner of the site that would be removed. The site is relatively flat, however has a slight fall of approximately 0.34m from north to south. The highest point of the site is at RL 6.64m AHD in the south-eastern corner and the lowest point is at RL 6.3m AHD in the south-western corner of the site.

Geotechnical investigations carried out on behalf of the applicant indicate that the current soil and geotechnical conditions are varied from silty sands to sandstone. The upper level soils transform from moderately compacted to loose natural sands. At a depth of 1.2m to 6.5m below the surface level, the soils consist of medium dense sands which increase in density and turn to silt clay at 17.2m to 25m. At a depth of 32m the soil is characterised by

sandstone, and below 37m it becomes high strength sandstone. The water table was determined to be located approximately 6m below the ground level at RL 1.0m AHD.

## PROPOSAL

The Statement of Environmental Effects that accompanies the application indicates that the design of the proposed development has been amended in order to respond to the Pre-DA advice and the comments of the Design Review Panel. In this regard, the Statement advises that:

*'There has been an overall reduction in height and FSR in the final scheme to better align with the Council controls. The design of the building has been optimised to achieve the requirements of SEPP 65 and Council's DCP. The design of the proposed development has since been amended to respond to the DRP's comments and suggestions, in particular the height and FSR have been reduced to more closely align to the LEP controls.'*

*'The facade of the building has been strengthened with a double height facade emphasising the recessed shopfronts. The ramp has been amended to the communal open space and has been amended to contain a large lobby space where residents can interact.'*

The proposed development is described as follows:

- *a mixed use building with eight (8) residential levels and four (4) retail/business premises at ground level;*
- *59 residential apartments consisting of 12 x one bedroom and 47 x two bedroom apartments;*
- *71 car parking spaces, 8 bicycle and 8 motorcycle spaces across two basement levels;*
- *extension/augmentation of services and utilities to the development; and*
- *associated landscaping.*

Initially, the 4 retail/business tenancies were design to be 'Soho' style, each having an internal staircase to a residential unit above. However, as indicated to the applicant at both Pre-DA stage and following an initial assessment of the proposal, Council considered that the 'Soho' component was most accurately defined as a home business, home occupation or office use depending on the specific activities to be carried out. As such, the 'Soho' tenancies did not fall within the definition of 'retail or business premises' necessary to be considered as 'shop-top housing'. Therefore, the applicant has responded and removed the internal staircases in order to remove any uncertainty as to the permissibility of the proposed development. The ground floor retail/business tenancies constitute 256m<sup>2</sup> (5.2%) of the overall gross floor area.

The 59 residential units are distributed over levels 1 to 8, with the majority having living areas with a northerly aspect. Six (6) units have been designed so as to be adaptable in accordance with AS4299.

The building has been designed so that the single tower element is positioned on the northern half of the site, extending the full width of the site frontage. Two lifts in separate cores serve all floors of the development. The rear portion of the site provides a landscaped communal open space area over the basement parking. The communal open space is accessible from Princess Street via a central corridor. A gate and stairway also provides access to the site from Saywell Lane. The rear ground level landscaping comprises a range of shrubs, accent plants and ground covers, while a 2.8m deep soil zone along the Saywell Lane frontage will support larger trees including Scribbly Gum and Tuckeroos. A central area defined through the use of turf, pavers and timber decking will form the central component of the communal open space with a water feature proposed at the southern end of the deck acting as the central focal point. Tables and seating will be provided and a small semi-circular awning covered with Star Jasmine is proposed on the western edge of the communal area.

Across the site frontage, low level plantings and 2 Maczek are proposed to define the main pedestrian entry to the residential component and individual entries to the retail/business tenancies. Planting is also proposed in planter boxes on the outer edge of each of the residential balconies, in order to achieve a type of 'green wall' effect.

Vehicular access to the site will be via Princess Street and a single driveway located on the eastern side of the site. The proposed parking allocation includes 59 resident spaces and 12 visitor spaces, including 6 adaptable spaces. There are 8 motorcycle spaces and 8 bicycle spaces. A separate car wash bay is also provided.

A garbage storage room with twin compactors is proposed in the upper basement level. A further bin storage area is provided along the edge of the driveway.

Individual storage lockers for all residents are proposed in 2 areas on ground level at the rear of the retail/business tenancies, with access from each of the lift lobbies.

The 2 existing street trees along the site frontage are proposed to be removed and replaced with species to be selected by Council.

A summary of the proposed development is provided in the Table below:

Component	Proposal
Site Area	1,527m <sup>2</sup>
GFA	4,842m <sup>2</sup>
FSR	3.17:1
Height <ul style="list-style-type: none"> <li>• metres</li> <li>• storeys</li> </ul>	29.05m 9 storeys
Setbacks <ul style="list-style-type: none"> <li>• Front (north)                             <ul style="list-style-type: none"> <li>- Levels G-6</li> <li>- Levels 7-8</li> </ul> </li> <li>• South (rear)</li> <li>• East</li> <li>• West</li> </ul>	0m – 2.9m 2.9m 11m minimum Built to Boundary Built to Boundary
No. of Residential Units	59
No. of Retail/Business tenancies	4
Total No. of car parking spaces	71 + 8 motorcycle and 8 bicycle

Site Coverage	52%
Landscaped Area	40%

### EXISTING AND SURROUNDING DEVELOPMENT

Adjoining the eastern boundary of the site is the 15-storey Novotel Hotel Brighton Le Sands. The main entrance (Porte Cochure) to the Novotel is located on Princess Street. The street trees along Princess Street in front of the Novotel are heritage listed (Item I70) under Rockdale Local Environmental Plan 2011. The row of Terraces located on the corner of Princess Street and The Grand Parade also heritage listed under Rockdale LEP.

To the immediate south of the site are 6 storey mixed use buildings that front Bay Street and back onto Saywell Lane. Saywell Lane serves as a vehicular access to these buildings as well as the loading area for the Novotel. The orientation of the majority of the units in these buildings is to the south towards Bay Street. However, there are some units located at the rear of these buildings that are oriented to the north and therefore, have an outlook towards the site. On the corner of Bay Street and Moate Avenue there is an 8-9 storey mixed use building.

Adjoining the western boundary of the site is a single storey cottage that was formerly one half of a duplex. As such, the eastern wall of this cottage is located on the boundary of the subject site. Next to this cottage are an intact single-storey duplex and then a 4 storey residential flat building which has a dual frontage to Moate Avenue and Princess Street. All of these properties also have a frontage to Saywell Lane. Further to the west on the opposite side of Moate Avenue is an 11 storey mixed use development occupied by a Coles supermarket at ground level with multi storey parking, community space and residential units above.

The northern side of Princess Street is predominantly characterised by residential flat buildings of varying heights. Directly opposite the site the two residential flat buildings are 7 and 8 storeys in height. With the exception of 1 remaining single storey dwelling, the remainder of the residential flat buildings on the northern side of Princess Street are 2-3 storeys in height.

### PLANNING CONSIDERATION

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979 and the matters below require the consideration of Council.

#### Section 79C (1) Matters for Consideration - General

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

#### Environmental Planning And Assessment Act 1979

##### Integrated Development

The site is located in a Groundwater Protection Zone and during excavation for the basement levels it is likely that the water table will be breached. As such, the application was determined to be 'Integrated Development' pursuant to Section 91A of Part 4, Division 5 of the Environmental Planning and Assessment Act 1979 and required referral to the

Department of Environment, Climate Change and Water within the NSW Office of Water as a concurrence authority.

The application was referred on 15 May 2012. However a response has not been received. Notwithstanding, in accordance with Section 62 of the Environmental Planning and Assessment Regulation 2000, where a response is not received within 40 days of the referral, concurrence may be assumed and the application may be determined as if the concurrence authority has no objections to the proposal, or requires any conditions to be imposed on any consent.

Having regard to the above, the concurrence of the Department of Environment, Climate Change and Water has been assumed in this instance.

**State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)**

Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated and is satisfied that the land is suitable for the proposed use.

The application is accompanied by a Stage 1 Environmental Site Assessment that examines the potential for contamination on the site. This assessment has determined that the historical use of the site and the surrounding area did not indicate that there were any obvious on-site or nearby off-site activities which would result in contamination. Further, based on the general history of Sydney, there is the potential for imported fill material or buried building waste containing asbestos. Notwithstanding, the Assessment concludes that a Stage 2 Environmental Assessment be undertaken to include soil and groundwater sampling and analysis in order to characterise the soil/bedrock profile, provide a waste classification for off-site disposal of excavated material and to assess the potential to encounter Acid Sulfate Soils during excavation.

Following a request by Council, the applicant has provided a Preliminary Acid Sulfate Soil Management Plan that concludes that the risk of generating acid sulphate conditions following disturbance of the natural soils is low to moderate. However, the Management Plan sets out a methodology for minimising the potential environmental impacts in the event that positive acid sulphate soils are encountered during excavation.

A condition has been included in the draft conditions of consent to require implementation of the Acid Sulfate Soil Management Plan in the event that acid sulphate soil conditions are encountered. A condition has also been included to require a Stage 2 Environmental Site Assessment to be undertaken prior to the issue of a Construction Certificate. In the unlikely event that the Stage 2 Investigations finds that the site does contain contaminants, then a Remedial Action Plan will need to be prepared and implemented during excavation.

Having regard to the above, Council can be satisfied that it has fulfilled its statutory obligations under the SEPP.

**State Environmental Planning Policy - Building Sustainability Index (BASIX)**

The application is accompanied by a BASIX Certificate (No. 412889M\_02) that demonstrates that the proposed development will achieve the specified Thermal Comfort and Water and Energy Reduction targets. Subject to the incorporation of all of the 'commitments' set out in the BASIX Certificate, the proposed development will satisfy the sustainability obligations under the SEPP. A condition has been included in the draft conditions of consent to ensure

that the BASIX requirements are adhered to. As such, the proposal is considered satisfactory having regards to this policy.

The commitments made result in the reduction in energy and water consumption shown below.

- Reduction in Energy Consumption - 30%
- Reduction in Water Consumption - 40%
- Thermal Comfort – Pass

**State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65)**

As required under SEPP 65, the application is accompanied by a Design Verification Statement stating that the proposed development has been designed in accordance with the best practise design principles set out in SEPP 65, under the guidance of registered Architects.

In accordance with Clause 30 of the SEPP, the consent authority must take into consideration the following:

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

The proposal has been referred to the Design Review Panel on two occasions. At Pre-DA stage the Panel gave 'in-principle' support to the scheme, subject to the issues discussed earlier in the report. The proposed development was referred to the Design Review Panel on 7 June 2012 following formal lodgement of the application. The Panel concluded:

*'Although there are minor breaches of the height and FSR, the Panel supports the development on the basis of its architectural merit and minimal adverse impacts on the amenity of the neighbouring properties, streetscape and future residents. If the applicant could find a way of locating the storage area elsewhere and including an area for residents/visits etc adjacent to the proposed landscaped area that would be wonderful.'*

Notwithstanding the Panel's preference to have the storage areas relocated, it is noted that the DRP report makes the following comment:

*'Whilst the storage area has been retained at the rear of the ground floor, the redesign of the entry and see-through foyer has improved the amenity and potential of the ground floor as an attractive meeting and welcoming place.'*

The applicant provided a response to the Panel's request for relocation of the storage area, advising that:

*'The ground level storage is a key feature of the building and is highly important to achieving a high quality of residential amenity for future occupants. Relocation of these storage areas to within the basement would require further excavation below the water table and would introduce further construction challenges and significant additional cost that the project is unable to shoulder. Storage on ground level is also considered appropriate in this instance as a full level of ground floor retail is considered unfeasible in this location.'*

The applicant's response has been given due consideration and it is agreed that in the circumstances, the location of the storage areas at ground level is appropriate in this instance. The use of the southern side of the ground floor level for residential use is unsuitable and the local market conditions suggest that there will be little demand for retail/business tenancies larger than this proposed in this location. The applicant's opinion that larger retail/business tenancies *will not be financially viable in the current market as retail tenants that require such a large amount of space are typically looking to locate on more prominent sites with greater exposure to passing traffic* is considered to have merit.

Accordingly, it is considered that the proposed location of the ground level storage areas be accepted.

b. The design quality of the residential flat building when evaluated in accordance with the ten design quality principles

The proposed development has been considered in the context of the 10 design quality principles by the Design Review Panel and in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 - Context

The proposed development is consistent with the desired future character of the area.

Principle 2 - Scale

In response to the recommendations of the Panel, the scale of the building has been reduced from 9-10 storeys to 9 storeys with a corresponding reduction in FSR. The building is compact and well designed and is considered to be consistent with the desired future character of the area.

It is noted that the building has a roof line below the RLEP 2011 height limit of 28m but has two lift overruns which exceed the height limit by 1.05m.

On the basis of the overall merits of the development and the relative minimal overshadowing and visual impact of the lift towers, the excess height of the lift overruns is considered to be acceptable.

Principle 3 - Built Form

The building is articulated as two vertical forms, with a contemporary facade unified by a two storey podium. The top two levels a slightly set back from the street. The Panel supports the overall siting and built form, in particular the definition of the continuous street edge along Princess Street.

Principle 4 - Density

On assessing the layout and amenity of the apartments, the Panel is satisfied that the small increase in the permissible FSR (3.17:1 instead of 3:1) is acceptable.

Principle 5 - Resource, energy and water efficiency

The proposal meets the water, energy and thermal comfort targets set under BASIX. Water sensitive urban design (WSUD) measures have been incorporated in the development such as water harvesting for irrigation and WC flushing.

#### Principle 6 - Landscape

The landscape design for the rear garden has the potential to provide a functional and attractive setting for the site.

#### Principle 7 - Amenity

The units are compact and well designed and offer a variety of functional configurations, each with a private balcony. The majority of kitchens and bathrooms are internal, although they are generally well placed and acceptable in the context of the functional amenity of the units.

#### Principle 8 - Safety and Security

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. The NSW Police undertook a 'Safer by Design' analysis of the proposal and have recommended a number of conditions of consent aimed at enhancing the safety and security of the development.

#### Principle 9 - Social Dimensions

The unit mix and typologies will cater for a range of social groups and includes units capable of being adapted, promoting diversity, affordability and access to housing choice.

#### Principle 10 – Aesthetics

The proposal is generally well designed and responds well to its context and location.

#### c. The Residential Flat Design Code

The Residential Flat Design Code, published by the NSW Government, expands on the 10 design quality principles described in SEPP 65, providing detailed practical guidance for the design of residential flat buildings.

The proposed development has been assessed against the relevant criteria of the Residential Flat Design Code and is considered to perform adequately with respect to the design issues contained within the Code, such as cross flow ventilation, building separation, solar access and overall energy efficiency.

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

The site is zoned SP3 – Tourist under the provisions of Rockdale LEP 2011. The objective of the SP3 – Tourist zone is *to provide for a variety of tourist-oriented development and related uses*. Development for the purpose of 'shop top housing' is permissible with consent. Shop top housing means *one or more dwellings located above ground floor retail premises or business premises*. The proposed development falls within the definition of shop top housing, as it proposes 59 residential units above 4 ground floor non-residential tenancies.



A summary of the relevant statutory provisions under Rockdale LEP 2011 is provided in the table below:

LEP Clause	Proposal	Compliance
Clause 2.2 – Zoning - Zoned SP3 - Tourist	The proposed development constitutes 'shop-top' housing and is permissible with development consent.	Yes
Clause 4.3 – Height of Buildings - max. height of 28m	The proposed development has a maximum height of 29.05m (exceeds by 1.05m).	No
Clause 4.4 – Floor Space Ratio - max. FSR of 3:1	The proposed development has a floor space ratio of 3.17:1 (exceeds by 262m <sup>2</sup> or 5.1%).	No
Clause 6.1 – Acid Sulfate Soils - Acid Sulfate Soils Management Plan to be submitted.	A Preliminary Acid Sulfate Soils Management Plan was submitted. Condition imposed to require finalisation and implementation of plan prior to commencing work.	Yes
Clause 6.4 – Airspace Operations - Affected by the 15.24m height Civil Aviation Regulation.	Sydney Airport Corporation Limited (SACL) has issued approval to the proposed building height.	Yes

Further to the above table, the LEP clauses that are of relevance to the proposed development are discussed below.

#### Clause 4.3 – Height of Buildings

The Building Height Map referred to in Clause 4.3 prescribes a maximum building height of 28m for this site. The majority of the building is below the 28m height limit. However, the two lift overruns positioned centrally on the roof of the building exceed this height development standard by 1.05m.

A request for a variation to this standard has been made under the provisions of Clause 4.6 of the LEP, arguing that due to the minimal nature of the departure and central positioning of the lift wells, strict compliance with the height standard is unreasonable and that despite the non-compliance, there will be no adverse impacts in terms of building bulk and scale or overshadowing as a consequence of the additional height.

This issue is discussed in more detail below.

#### Clause 4.4 – Floor Space Ratio

The Floor Space Ratio Map referred to in Clause 4.4 prescribes a maximum floor space ratio of 3:1 for this site. The proposed development has a floor space ratio of 3.17:1 and therefore exceeds the FSR development standard by 262m<sup>2</sup> (5.1%).

This issue is discussed in more detail below.

#### Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the LEP is intended to provide a degree of flexibility in the application of development standards to development proposals. As indicated above, the proposed

development exceeds the 28m maximum building height in two (2) locations and exceeds the floor space ratio by 5.1%.

In accordance with the requirements of Clause 4.6, the applicant has provided written justification as to the merits of allowing variations to the height and floor space ratio development standards. The justification is predicated on the applicant's opinion that:

- Despite the lift overruns exceeding the maximum height limit, the development still meets the objectives of the height standard; and
- The minor increase to the floor space ratio will not significantly increase the intensity of the development nor will it result in any adverse impact on the amenity of existing residents.

In accordance with the requirements of Clause 4.6 of the LEP, the applicant's justification seeks to demonstrate:

- *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (in accordance with Clause 4.6(3)(a));*
- *That there are sufficient environmental planning grounds to justify contravening the development standard (in accordance with Clause 4.6(3)(b)); and*
- *That the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone (in accordance with Clause 4.6(4)(a)(ii));*

Clause 4.6(4)(b) requires the concurrence of the Director-General to be obtained prior to granting consent to a development that contravenes a development standard. However, as advised in Planning Circular PS 08-003, the Director-General's concurrence can be assumed in respect of any environmental planning instrument that adopts Clause 4.6 of the Standard Template LEP. Accordingly, concurrence can be assumed in this instance.

Having made an assessment of the justification provided by the applicant, it is considered that there are sufficient grounds to permit a variation to the maximum building height limit in this instance. In summary:

- Aside from the two lift overruns, the remainder of the building, including the building parapet, is at or below 28m and is therefore compliant with the building height development standard prescribed by the Rockdale LEP 2011.
- The proposed development is consistent with the scale of built form envisaged for this site under Rockdale LEP 2011.
- The 1.05m non-compliance of the lift overruns is relatively minor, representing a 3.75% increase over the height limit affecting approximately 3% of the site area. As such, the extent of the non-compliance is inconsequential when considered in the context of the overall building height and surrounding built form. Further, the lift overruns will not have any substantial overshadowing impacts and do not cause the building to be overly bulky or adversely affect any surrounding development. These protruding elements of the building are considered to be compatible with the form and scale of nearby development, due to the wide variety of building forms evident in the local built environment.

- The non-compliant lift overruns are sufficiently setback from the site boundaries so that they do not have an adverse visual impact, or noticeably add bulk to the overall building when viewed from the public domain.
- Strict compliance with the development standard would not necessarily alter the design approach or outcome for the site, and would not significantly improve the building's relationship to its surrounding.
- The shadow diagrams indicate that the mid-winter shadows cast by the non-compliant lift overruns are wholly contained within the shadows cast by the building element below, so that despite the non-compliance, there will be no additional overshadowing impacts to adjoining and surrounding buildings as a consequence of the lift overruns.
- The Design Review Panel was supportive of the height non-compliance, noting that in the context of the project, the non-compliance is only of a minor nature.

Similarly, it is considered that there are sufficient grounds to permit a variation to the maximum floor space ratio standard in this instance. In summary:

- The proposed FSR for the development represents a 5.1% increase over the numerical standard prescribed under the Rockdale LEP 2011. This additional FSR is considered to be a minor deviation that has minimal effect to the overall bulk and scale of the proposed development.
- Despite the proposed development exceeding the maximum numerical FSR development standard, a comprehensive design process has been implemented to ensure the achievement of a development outcome that effectively responds to its surroundings and minimises potential impacts on surrounding residents. The proposed design was selected on the basis that it most effectively preserves the amenity currently enjoyed by existing residential properties.
- The site conditions constrain development to the front half of the site and force a smaller building footprint for the tower component of the development.
- Requiring the development to strictly adhere to the development standard would not enhance the relationship between the proposed building and its immediate surrounds.
- Proposed development is still consistent with the overarching FSR objective and the zone objectives for the site.

Accordingly, it is recommended that the request for an exemption to the maximum building height and maximum floor space ratio development standards made under Clause 4.6 of the LEP be supported in this instance.

**Clause 5.10** of the LEP relates to heritage conservation and requires Council to give consideration to the likely impact development may have on the significance of heritage items or heritage conservation areas. There are six 'street trees' at the eastern end of Princess Street and a 'row of terraces' on the corner of Princess Street and the Grand Parade that are listed as local heritage items under Rockdale LEP 2011.

The proposed development does not have a direct interface with either of these items. However, it is noted that the building facade incorporates landscaped elements and two street trees are proposed along Princess Street. In this way, the landscape character of the

street will be maintained and it is unlikely that the proposed development or landscaping will result in any negative impacts to the heritage significance of the listed 'street trees'. The bulk and scale of the development is consistent with the surrounding built form and therefore will not pose any impacts on the heritage significance of the 'row of terraces'.

#### Clause 6.1 – Acid Sulfate Soils

The site is located within an area classified as Class 4 on Council's Acid Sulfate Soils map. Clause 6.1 of the LEP states that in relation to works more than 2 metres below the natural ground surface, development consent must not be granted for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

The applicant has submitted a Preliminary Acid Sulfate Soil Management Plan that concludes that the risk of generating acid sulphate conditions following disturbance of the natural soils is low to moderate. However, the Management Plan sets out a methodology for minimising the potential environmental impacts in the event that positive acid sulphate soils are encountered during excavation.

As discussed earlier in the report, a condition has been included in the draft conditions of consent to require implementation of the Acid Sulfate Soil Management Plan in the event that acid sulphate soil conditions are encountered. A condition has also been included to require a Stage 2 Environmental Site Assessment to be undertaken prior to the issue of a Construction Certificate. In the unlikely event that the Stage 2 Investigations finds that the site does contain contaminants, then a Remedial Action Plan will need to be prepared and implemented during excavation.

Accordingly, the requirements of Clause 6.1 have been satisfied.

#### Clause 6.2 – Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. As such, there is the potential for these earthworks to have a detrimental impact on soil stability and/or drainage patterns in the locality. A series of conditions aimed at minimising and/or ameliorating any adverse impacts have been included in the recommended conditions of consent. Subject to compliance with these conditions, the proposed development is considered to be consistent with the objectives and requirements of this Clause.

#### Clause 6.4 – Airspace Operations

The site is affected by the 15.24m building height Civil Aviation Regulation. Accordingly, the proposal was referred to Sydney Airports Corporation Limited (SACL) for comment. SACL has granted approval to the proposed building height subject to a number of conditions. The recommended conditions have been included in the draft conditions of consent provided with this report.

#### Clause 6.7 – Stormwater

The proposed stormwater system has been approved by Council's Development Engineer and is consistent with the requirements of this clause.

Clause 6.12 – Essential Services

Utility Services are available on the site. Notwithstanding, conditions of consent are proposed that require consultation with relevant utility service providers to ensure the appropriate provision of utilities on the site.

**Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))**

There are no draft Environmental Planning Instruments affecting the site or proposed development.

**Provisions of Development Control Plans (S.79C(1)(a)(iii))**Rockdale Development Control Plan 2011

Rockdale Development Control Plan 2011 contains detailed provisions and controls that supplement the provisions of the LEP. Part 4 of the DCP provides general principles applicable to all development types and Part 5 provides controls specific to residential flat and mixed use developments.

The proposal has been assessed against the relevant objectives and controls under Rockdale Development Control Plan 2011 and associated documents including the Technical Specifications for Parking, the Technical Specifications for Stormwater, and requirements for Waste Minimisation and Management and Landscaping.

Following an assessment of the proposed development against the general principles contained within Part 4, the following matters require discussion:

Communal Open Space

The DCP requires shop top housing containing 12 or more dwellings to provide a communal space area at a rate of 5m<sup>2</sup> for each dwelling. The communal open space should generally be north facing and have a minimum area of 40% that will receive sunlight at 1pm on 21 June. The communal open area complies with the DCP, providing over twice the required minimum area. However, due to the orientation of the site the communal open space is located on the southern side of the building. As such, based on the shadow diagrams provided for midday and 3pm in mid-winter, it appears that less than 40% of the communal open space will receive sunlight at 1pm. From the shadow diagrams, it is estimated that at midday in mid-winter, approximately 10% will receive sunlight. By 3pm this increases to approximately 50%. Therefore, it is projected that at 1pm, approximately 20-25% of the communal area will receive sunlight. Notwithstanding, when compared to the September / March shadows, it is estimated that the 40% requirement would be achieved.

It is noted that all of the residential units have generous private open space provided in balconies, with 80% of primary balconies being north facing. Forty seven (47) of the 59 units also have a secondary balcony providing additional private open space. Therefore, it is considered that despite a reduced amount of solar access to the communal open space area during the winter months, the majority of residents will have access to north facing private open space, with good levels of solar access. It is considered that this sufficiently compensates for the reduced solar access to the communal area.

Housing Diversity / Unit Mix

The DCP recommends a dwelling mix for shop top housing as follows:

Dwelling Type	% of Total Dwellings
3 bedroom and/or more	10% - 20%
2 bedroom	50% - 75%
1 bedroom and/or studio	10% - 30%

The dwelling mix for 1 and 2 bedroom units complies with the above percentages. However, no 3 bedroom units are proposed.

Nevertheless, the DCP states that the dwelling mix may be refined having regard to:

- The location of the development in relation to public transport, public facilities, employment areas, schools and retail areas;
- Population trends; and
- Whether the development is for the purpose of public housing, or the applicant is a community housing or not-for-profit organisation.

Having regard to the above criteria, the applicant submits that the proposed dwelling mix is appropriate as:

- *the proposed development has good public transport links, with a bus route to the city located nearby and Rockdale Train Station;*
- *the development is located in the cultural hub of Brighton Le Sands beach and the retail strip of Bay Street and therefore has good access to the services, facilities and businesses on offer in this area;*
- *Australian Bureau of Statistics (ABS) information shows that the majority of households (57%) in the Rockdale Local Government Area are made up of 1 to 2 people; and*
- *ABS figures show an increase of 1.5% in couples without children from 2001 to 2006.*

The applicant's justification aligns with the intent of the DCP and despite providing no 3 bedroom units will provide an acceptable housing choice relative to the expected resident demographic for the locality.

Car Parking

Based on the applicable rates under the DCP, the following on-site parking provision is required:

Parking Type	Spaces Required	Spaces Provided	Complies
Resident	59	59	Yes
Visitor	12	12	Yes
Retail	6	Nil	No
Motorcycle	4	8	Yes
Bicycle	6	8	Yes

Therefore, due to the absence of dedicated retail parking, the proposal is 6 spaces deficient. However, the DCP makes provision for the sharing of parking within mixed use developments where it can be demonstrated that a temporal parking demand between uses exists. The required method of demonstrating the existence of a temporal parking demand is through the submission of a 'Shared Parking Register', prepared in accordance with the template provided in Council's Technical Specification for Traffic, Parking and Access.

A 'Shared Parking Register' has not been submitted with the application. Instead, a report prepared by the applicant's Traffic Consultant presents an argument that the shared parking arrangement would be suitable as the peak demand for the retail parking spaces occurs during the day, whereas the peak demand for resident visitor parking occurs at night or on weekends.

The Rockdale Traffic Development Advisory Committee (RTDAC) was not prepared to accept the proposed shared parking on the basis that parking is at a premium in this location and the additional strain could not be absorbed. However, it is noted that the ability for shared parking to be provided in mixed use developments has been consistently permitted by Council since the coming into force of the DCP. It is also noted that rather than providing a visitor space that doubles as a car wash bay, as required under the DCP, a separate car wash bay is provided. Therefore, the visitor parking will not be constrained by the occasional use by residents for car washing.

Therefore, it is considered appropriate that a shared parking allocation be permitted for this development. However, in order to meet the DCP criteria, it is recommended that the preparation and submission of a 'Shared Parking Register' prior to the issue of a Construction Certificate be required as a condition of consent.

Following an assessment of the proposed development against the controls contained within Part 5, the following areas of non-compliance with the mixed use controls DCP have been identified in the assessment:

#### Side Boundary Setback

The development proposes nil setbacks to both side the boundaries of the site. The DCP requires the lower levels (generally the non-residential component) of mixed use premises to be built to the side boundaries in order to achieve a consistent street wall. Therefore, on the eastern side of the site, where the Novotel is located on a zero lot line with the site boundary, the proposed zero lot line complies with the DCP. However, where a site adjoins an allotment zoned residential or open space, a minimum side setback of 1.5m should be provided. On the western side of the site, the zone changes to residential. As such, the DCP requires a minimum 1.5m setback.

The applicant was requested to provide a setback to this western side. However, the applicant provided a detailed response arguing that the provision of a side setback would have a poor built form outcome and that the proposed nil setback was more appropriate. The applicant's response is partially reproduced below:

*'The site is located in an area of transition, with Brighton le Sands commercial centre directly to the south and residential flat buildings to the north on the opposite side of Princess Street. The proposed development is the first major development proposal along Princess Street since the gazettal of the Rockdale LEP and has therefore been designed to be consistent with the existing and future development context which is*

*largely shaped by the Novotel Building to the east and intended future development to the west.*

*As set out in the SEPP 65 Design Verification Report (SJB Architects) a number of alternative options were considered in determining the most appropriate built form for the site. Several of these options clearly illustrate that options involving a side boundary setback were considered during the design process but were dismissed on the basis that they resulted in inferior development outcomes to that currently proposed. More specifically it is noted that:*

- *Option C which includes a setback in accordance with the DCP will result in a building that is too deep to satisfy SEPP 65. This option also fails to meet the RFDC building separation requirements thereby severely limiting the ability to modulate and articulate the western elevation through fenestration and balconies. This option would result in the creation of an unusable dead space between two buildings framed by full height blank facades. The end result would be both unsightly and unattractive and would significantly detract from the quality of the built form along Princess Street.*
- *Option E demonstrates that provision of a setback in accordance with the RFDC building separation requirements will result in a building envelope that fails to respond to its surroundings and which has a greater overshadowing impact on adjacent sites. Setbacks of this magnitude will also substantially impact the feasibility of the proposed development and is likely stifle any future redevelopment proposal on the adjoining site to the west.*

*In light of the above it can be seen that the proposed building design and layout, and particularly the proposed built to boundary wall along the western boundary, has been a deliberate design strategy in response to existing and future anticipated conditions of adjoining development. The built to boundary setback facilitates a superior design outcome that supports full activation of Princess Street and avoids the creation of unsightly dead spaces between buildings that would occur if setbacks were introduced along this common boundary.*

*The proposed built to boundary solution has been designed in consultation with the adjoining landowner, who has also indicated their intention to redevelop their site in the future with a built to boundary design that is complimentary to the proposed development.*

*The above methodology and design philosophy was presented to the Design Review Panel (DRP) on two separate occasions, the most recent being on the 7th June 2012. At both meetings the DRP outlined their strong support for the built to boundary wall solution along the site's western boundary. This is confirmed in their most recent report in which they state:*

*"As discussed in the previous report, the Panel supports the overall siting of the built form, in particular the definition of the continuous street edge along Princess Street."*

*Whilst the proposed side boundary setback does not comply with the numerical standard set out in the Rockdale DCP 2011, the proposed development is considered to provide an acceptable design outcome as the scheme still positively achieves the DCP objectives, namely:*

- *It will result in the introduction of a well designed contemporary building that responds to its local context and environmental conditions, which are defined by*



*the transition between the commercial centre to the south and the residential flat buildings to the north;*

- *It supports the creation of a safe and amenable public domain that is vibrant and active, and which is not characterised by dead spaces between buildings;*
- *It helps to create a well defined and legible public domain;*
- *It protects and preserves the amenity of existing and future neighbouring residential uses, particularly through minimising overshadowing impacts on existing adjacent buildings;*

*It facilitates development of a high standard of architectural merit and design;*

- *It ensures that future residential buildings will have adequate privacy and access to sunlight; and*
- *It supports the future orderly and economic development of land on the adjoining site.*

*In light of above, the proposed built to boundary setback is considered to represent an appropriate and acceptable outcome for the site and no change is proposed to the building design in this regards.'*

The applicant's point of view has been given due consideration and taking into account the fact that the Design Review Panel was also supportive of the proposed zero lot line, in this instance, a variation to the side boundary setback to the western side is warranted.

#### Retail Floorspace

The DCP requires a minimum 10% of the gross floor area of mixed use developments to be provided for retail and/or commercial uses.

The proposed development does not achieve the minimum 10% retail floor space requirement, providing only 5.2%. Originally the proposal contained only 238m<sup>2</sup> (4.9%). However, in response to a request by Council to increase the retail floor space the ground floor retail component was redesigned and the floor space increased to 256m<sup>2</sup>, equating to 5.2% of the development's overall GFA. Although this is still well short of the 10% requirement, the applicant is of the opinion that provision of the full 10% would be unwarranted and that due to the somewhat isolated location of the site away from other commercial uses, there is a distinct possibility that larger retail units in this location would be left vacant for long periods of time at the detriment of the project and the street.

The applicant provided the following justification in support of a variation:

*'As one of the major retail owners in Brighton le Sands including Bayside Plaza and the Novotel Brighton, Thakral (the applicant) have an acute understanding of the local market conditions and drivers and can advise that they are currently experiencing significant difficulty in finding quality tenants for their existing retail units. This is even the case along Bay Street and the Grand Parade, both of which areas are considered prime retail strips in Brighton Le Sands. At present Thakral have reluctantly had to reduce the size of the food court in Bayside Plaza from 2000m<sup>2</sup> to 700m<sup>2</sup> and*

*currently have two (2) vacancies on Bay Street that have little prospect of being leased in the short term.*

*Given the proposed ground floor retail space is situated away from the main retail area, based on Thakral's up to date data and market knowledge there are justifiable concerns with Council's request to expand the size of the ground floor space in accordance with the DCP requirement. As the Rockdale DCP 2011 is a blanket control it fails to take into consideration site specific context and is not informed by up to date market analysis. Should larger retail units be incorporated within this development then it is Thakral's firm belief that these units will not be financially viable in the current market as retail tenants that require such a large amount of space are typically looking to locate on more prominent sites with greater exposure to passing traffic.*

*Smaller retail units are therefore the preferred option in this instance as they provide a more sustainable and realistic alternative to Bay Street in what is a presently struggling 'bricks and mortar' retail sector. The sizing and type of product proposed for this scheme has been a deliberate decision by Thakral to provide a retail product that offers affordable smaller options that appeal to a wider retail market, and which are more flexible and viable from a leasing perspective. Similarly the inclusion of a connection between the ground floor space and apartments on Level 1 was also a deliberate development strategy aimed at delivering a product that is not presently available in the area.*

*In addition to the above, while the proposed retail space does not represent 10% of the developments overall GFA, the scheme is still considered to provide an acceptable outcome as it continues to satisfy the overarching DCP objectives for Mixed Use Development, specifically we note that:*

- It will foster growth and improvement in the existing centre by providing a new high quality retail product that represent a viable leasing option for a wider section of the retail market;*
- It will promote a range of employment uses and increase retail diversity;*
- It will better contribute to the vitality and economic viability of Brighton le Sand by providing a retail product that has a wider market appeal and is more likely to be occupied by tenants in the short term;*
- It supports the creation of a safe and amenable public domain through the creation of a continuous active facade for the full width of the site;*
- It supports the creation of an active interface between ground floor level of the site and Princess Street;*
- It helps clearly define the extent of the public domain; and*
- It maximise the flexibility and adaptability of the building to meet current and future demands.*

*In light of the above it is considered that despite non-compliance with the numerical DCP development standard, the level of retail development is appropriate for the site as it better responds to current market conditions, is more likely to attract future*

*occupiers in the short term, and satisfies the DCP objectives for Mixed Use development.'*

The applicant's justification is considered to have sufficient merit to warrant a variation. The site is located away from the Brighton le Sands commercial strip, where it is less likely to attract retail tenants. As pointed out by the applicant, it is agreed that there are certain instances where the 'blanket' controls of the DCP do not fit every situation. It would be unreasonable to require the provision of the full 10% of retail floor space in this location if, once constructed, the tenancies remain unoccupied for long periods of time. The proposed smaller tenancies may be more attractive as office space for uses that do not rely on street presence and may be more readily occupied.

**Provisions of Draft Development Control Plans (S.79C(1)(a)(iv))**

There are no draft Development Control Plans affecting the site or proposed development.

**Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iii))**

The application does not propose a Planning Agreement under Section 93F of the Act.

**Provisions of Regulations (S.79C(1)(a)(iv))**

The Regulations require notification to relevant authorities that may have an interest in the application. The proposal has been notified to Sydney Airport Corporation Limited (SACL), The Department of Environment, Climate Change and Water and the NSW Police Service. As indicated earlier, the Department of Environment, Climate Change and Water. The recommendations provided by the other authorities are included in the draft Notice of Determination.

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

**Impact of the Development (S.79C(1)(b))**

Traffic & Parking

On-site parking provision has been discussed earlier in the report.

A Traffic & Parking Assessment was submitted with the application and provides an assessment of the existing traffic conditions of the surrounding road network, assesses the parking requirements and traffic impacts of the development and discusses the access and internal design arrangements arising from the proposed development. The report concludes that:

- the design of the proposed basement car park is consistent with Council's Technical Specification for Traffic, Parking and Access and the relevant Australian Standards for Off Street Car Parking (AS 2890.1:2004 and AS2890.6:2009);
- the proposed layout of the underground parking is expected to operate satisfactorily;

- the site is conveniently located to public transport services and walking and cycling facilities;
- the provision of 8 bicycle spaces exceeds the requirements established in Rockdale DCP. In addition to this, the storage located at ground level is capable of storing bicycles;
- the provision of kerbside loading and a dedicated garbage collection area is considered satisfactory based on the site layout. One on-street car parking space to be signposted as a time restricted loading zone is proposed to accommodate the servicing requirements for the ground floor commercial tenancies.; and
- the site is expected to generate up to 44 vehicle movements in any weekday peak hour, with SIDRA traffic analysis confirming that there is adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development.

Council's Development Engineer has reviewed the Traffic & Parking Assessment and has no objections.

#### Access

Six (6) units within the development have been allocated as adaptable units in accordance with the requirements of AS4299 and 6 adaptable car spaces utilising the required central 'shared zone' have been provided in the basement in proximity to the lifts. All common areas of the development have been designed in accordance with the requirements of AS 1428.1.

An Accessibility Report has been submitted with the application and demonstrates that the design of the proposed development has been designed to provide equitable access, including access to all common amenities within the building. The proposed development is considered to satisfy the relevant provisions of the BCA and the DDA Access Code.

#### Overshadowing

Shadow Diagrams for mid-winter, mid-summer and the Equinox have been submitted with the application and indicate the shadows to be cast by the proposed development will not result in any significant overshadowing impacts on adjoining or surrounding properties.

The location of the residential tower on the northern half of the site maximises solar access, while minimising overshadowing impacts on the residential properties to the south. The most significant overshadowing impact to the south will be experienced at 9:00am in mid-winter, when shadows will be cast over a small portion of the residential buildings to the south that back onto Saywell Lane. However, these shadows will only have an impact for a short period of time and will not unreasonably affect the amenity of the affected residents.

It is noted that all surrounding residential properties will receive adequate solar access in accordance with SEPP 65.

#### Acoustic Impacts

An Acoustic Assessment was submitted with the application and concludes that the existing external noise environment would not pose any significant impacts on the amenity for residents of the proposed building. The site will not be subjected to significant road noise due

to the existing buildings that surrounding the site. Notwithstanding, the proposed standard glazing will provide sufficient acoustic attenuation from any road related noise, particularly from Traffic on the Grand Parade.

The site is also located outside the Australian Noise Exposure Forecast 20 (ANEF) contour and as such, no specific attenuative treatments in accordance with Australian Standard AS2021:2000 for Aircraft Noise Intrusion are required.

The assessment indicates that the mechanical ventilation required for the building services will result in some degree of internal noise impacts. However, the report makes recommendations for a range of attenuative measures that if implemented, will minimise the impacts associated with noise from the mechanical plant.

The Acoustic Assessment Report also outlines several measures to be implemented in order to manage construction related noise. These management measures will be detailed in a Construction Management Plan submitted prior to the issue of a Construction Certificate and will need to be implemented and maintained during the construction phase.

In order to ensure that these noise attenuation measures are implemented and maintained, a condition to this effect has been included in the recommended conditions of consent.

#### Wind Impacts

A Wind Assessment was submitted with the application and details the analysis undertaken to determine the likely impact that the building may have on the local environment and wind conditions. The report concludes that in the existing wind environment the proposed building will have a minor influence on the local wind conditions. The existing wind environment is characterised as being windy around the base of the buildings, but is generally considered acceptable.

It is also noted that the proposed development is a similar size to the surrounding buildings and is likely to have a positive impact on the localised wind environment as a consequence of developing the currently vacant site which allows for sweeping winds.

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

The site is considered to be suitable for the proposed development and residential land use. It is located in proximity to the Brighton le Sands commercial centre and has the capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed shop top housing development is considered appropriate in that:

- the site is zoned to accommodate this type and form of development;
- notwithstanding the minor non-compliances discussed in the report, the nature and form of the proposed development is generally consistent with the development controls which apply to the site;
- the size and dimensions of the land are suitable for the scale of the proposed development;

- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development is unlikely to result in any adverse traffic impacts;
- the proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation; and
- 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.

Additional conditions of consent are included in the draft conditions of consent aimed at further minimising any potential impacts on neighbouring properties, particularly during the construction phase.

#### **Public Submissions (S.79C(1)(d))**

The application was notified in accordance with Council's Development Control Plan 2011. Seven (7) submissions, including a 27 signature petition were received in response to the notification process. The issues raised in the submissions are discussed below:

**Issue:** *The building is bulky and dominates the streetscape.*

**Comment:** The proposed development is consistent with the intended built form for this site. The building envelope controls for this site differ from those applicable to the high density residential zone opposite the site on the northern side of Princess Street and to the immediate west of the site. As such, a different built form from traditional residential flat buildings will be realised.

**Issue:** *The building exceeds the height limit.*

**Comment:** The issue of the building height has been discussed earlier in the report and it is considered that despite the minor non-compliance to the height development standard, the development as proposed is acceptable. The two lift overruns, which are the only building elements that exceed the height limit will not result in any substantive adverse impacts in terms of building bulk and scale or overshadowing as a consequence of the additional height.

**Issue:** *Insufficient setbacks are provided and a landscaped front garden should be provided similar to the existing developments in Princess Street.*

**Comment:** As indicated above, the building envelope controls that apply to the site differ from those that apply to the high density residential zone opposite and to the immediate west of the site. The proposed front setback is in accordance with the DCP which stipulates that *'Development is to be built to the street alignment with a zero setback. The uppermost floor level may be set back. If there is a predominant parapet line in the street, a setback from this line may be required to achieve a cohesive streetscape.'*

It is acknowledged that the proposal seeks to vary the side boundary setbacks. This issue has been discussed earlier in the report and it is considered that in these particular

circumstances the provision of a 3m side setback will result in a poor design outcome and a substandard amenity for future residents.

**Issue:** *Increased traffic and parking demand will exacerbate the existing situation.*

**Comment:** On-site resident and visitor parking is provided within the basement levels in accordance with the parking rates set out in Rockdale DCP 2011. The Traffic and Parking Assessment submitted with the application provides details of the traffic modelling that was undertaken in order to assess whether the surrounding road network had adequate capacity to cater for the anticipated traffic and parking demands of the proposed development. Having regard to the findings of this assessment it is considered that the proposal will not have an unreasonable impact on traffic and parking in the vicinity of the site.

**Issue:** *Additional garbage bins will further exacerbate traffic congestion in Princess Street and conflict with bus movements to the Novotel on collection days.*

**Comment:** A dedicated bin holding area has been provided along the length of the driveway ramp. The proposed method of collection is that the full garbage bins will be brought from the waste and recycling storage room to the on-site holding area by the building's waste caretaker prior to collection day. Council's garbage contractors will then transfer the bins to the collection truck and return them to the holding area. As such, bins will not be left on the street, eliminating the potential for exacerbated traffic congestion due to bins being left on the street.

**Issue:** *The building will cause a wind tunnel effect along Princess Street.*

**Comment:** A Wind Report that makes an assessment of the likely wind environment post-construction was submitted with the application. The report sets out the methodology and results of the detailed analysis and modelling of the wind conditions. The report concludes that the building will have a minor influence on local wind conditions. However, the report also states that wind conditions at pedestrian level are expected to be similar to those currently experienced along the street.

**Issue:** *The developer should pay for any damage caused to nearby properties during construction.*

**Comment:** As is the usual practise where a proposal involves excavation in the vicinity of property boundaries, a condition requiring a Pre and Post construction Dilapidation Report to be prepared has been included in the recommended conditions of consent. This condition requires any damage to adjoining properties that is determined to have been caused by the construction works to be rectified by and at the expense of the developer.

**Issue:** *What provision has been made for a lowering of the water table, flooding and stormwater drainage?*

**Comment:** It is anticipated that dewatering will be carried out during the excavation and/or construction phases and the basement will be designed to be capable of resisting hydrostatic uplift pressures. The dewatering methodology and detailed design of the basement will be required with the Construction Certificate application and will need to be carried out so as to have no adverse effects on the water table and groundwater beyond the site. The site is not flood affected and in terms of stormwater management, Council's Development Engineer is satisfied that the stormwater drainage design is in accordance with Council's Technical Specifications.

**Issue:** *No. 16 Princess Street may become unstable during excavation / construction.*

**Comment:** As discussed above, a Pre and Post construction Dilapidation Report of the surrounding properties will be required to be undertaken and any damage to adjoining properties that is determined to have been caused by the construction works to be rectified by and at the expense of the developer. Further, the applicant has advised that a Construction Management Plan and Method Statement will be prepared for the proposed development and all necessary measures will be implemented to ensure there is no disruption to No.16 Princess Street.

**Issue:** *The site may contain hazardous materials such as imported fill and asbestos.*

**Comment:** The Stage 1 Environmental Site Assessment submitted with the application examines the potential for contamination on the site and determined that the historical use of the site and the surrounding area did not indicate that there were any obvious on-site or nearby off-site activities which would result in contamination. Notwithstanding, soil from the site will be monitored and tested during excavation and appropriate measures will be put in place in the unlikely event that hazardous materials are uncovered during initial excavation works. The requirement for a Stage 2 Environmental Assessment to be undertaken prior to issue of a Construction Certificate has been included as a condition in the recommended conditions of consent.

**Issue:** *The development is not in the public interest and a previous five storey proposal was refused by the Court in 2003 due to insufficient setbacks, overshadowing, traffic impacts, loss of privacy and overdevelopment.*

**Comment:** The proposed development has been designed in accordance with the statutory controls under the recently gazetted Rockdale LEP 2011, which embodies the current desired built form and urban character in this locality. The statutory controls that applied to the site at the time of the 2003 Court case were different from those under the current LEP.

**Issue:** *The building will cause overshadowing to the buildings on the southern side of Saywell Lane.*

**Comment:** Shadow diagrams were submitted with the application and indicate the extent of shadows to be cast by the proposed development during mid-winter, summer and the equinox. Having regard to these shadow diagrams, it is considered that the proposed building will not result in an unacceptable adverse impact on the buildings on the southern side of Saywell Lane.

**Issue:** *Residents were not notified of the change in zoning to allow shops.*

**Comment:** Prior to gazettal in December 2011, the draft LEP was placed on public exhibition in accordance with the statutory requirements and the community was invited to view the LEP and make submissions. The draft LEP set out the proposed rezoning of the subject site, as well as the land uses that would be permissible in this zone. Shop top housing was listed as a land use that was 'permissible only with development consent' in the SP3 – Tourist zone.



**Public Interest (S.79C(1)(e))**

The proposed development is not known to contradict any public State or Federal Government policy. The proposed development is considered to be in the wider public interest for the following reasons:

- it is consistent with the objects of the Environmental Planning and Assessment Act 1979, specifically because it represents the economic and orderly development of land;
- the proposal generally satisfies the objectives and intent of Rockdale Local Environmental Plan 2011 and Rockdale DCP 2011;
- the proposal provides a responsive design in terms of its relationship to adjoining development and establishes an appropriate streetscape and human scale through sound urban design principles;
- the design incorporates a number of ESD initiatives that will achieve a high standard of environmental design and sustainability;
- the proposal provides a satisfactory response to the design principles set out in SEPP 65; and
- the proposal provides the community with additional retail/business space, as well as additional high quality housing, taking advantage of the sites proximity to local and regional facilities, public transport and open space areas.

**CONCLUSION**

The proposed development has been assessed against the requirements of Section 79C of the Environmental Planning and Assessment Act, 1979. The application involves the demolition of all existing structures and the construction of a 9 storey shop top housing development containing 4 retail/business tenancies, 59 residential units and associated parking and landscaping.

The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.

Although generally consistent with the objectives and relevant statutory requirements under Rockdale LEP 2011, the proposal is subject to requests for variations to the maximum building height and floor space ratio development standards prescribed under Clauses 4.3 and 4.4 of Rockdale LEP 2011.

As discussed in the body of the report, the proposed variations are considered to be well founded and worthy of support in the circumstances and on the merits of the proposal, having regard to the provisions of Clause 4.6 of Rockdale LEP 2011. The areas of non-compliance with the relevant controls under Rockdale DCP 2011 have also been discussed in the body of the report and on merit, are considered to be worthy of support.

The proposed development is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms

of creating small retail/business tenancies, as well as accommodation for an additional resident population that will benefit from the sites location in proximity to services and facilities and who will, in turn, support local businesses and services.

Having regard to this assessment it is recommended that the application be approved subject to appropriate conditions of consent.

**NOTICE OF APPROVAL FOR DEVELOPMENT**

Section 81 (1)(A) of the Environmental Planning and Assessment Act, 1979

Approval Date	
Authority	Council
Reference	DA-2012/325
Contact	Michael Maloof 9562 1686

JBA Planning  
C/- Thakral  
Level 2, 77 Berry St  
NORTH SYDNEY NSW 2060

**DRAFT**

**Property:** 6-14 Princess Street, BRIGHTON LE SANDS NSW 2216  
Lot 1 DP 200686, Lot 102 DP 773760 & Lots 6, 7 & 8 in DP 435253

**Proposal:** Construction of nine storey mixed use development comprising four non residential tenancies, fifty nine (59) residential units and basement parking for seventy one (71) vehicles

The above development is approved subject to the following conditions:

**GENERAL CONDITIONS**

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

1. The term of this consent is limited to a period of **three** (3) 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.

Architectural Plans Numbered	Revision	Drawn by	Dated	Received by Council on
A-0201-A-0212	6	SJB Architects	28/8/12	30/8/12
A-0501-A-0504	6	SJB Architects	28/8/12	30/8/12
A-0601-A-0602	6	SJB Architects	28/8/12	30/8/12
A-0991	6	SJB Architects	23/8/12	30/8/12

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 412889M\_02 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
**Note:** For further information please see <http://www.basix.nsw.gov.au>.
6. A separate development application shall be submitted for the Strata Subdivision.
7. A separate development application shall be submitted for the specific use/uses of the retail/business tenancies. Additional conditions may be imposed on any such consent.  
**Note:** Parking and loading provisions in a mixed use development may preclude certain uses.
8. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
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. 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.
11. 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**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments      1 space per apartment

**Non-Allocated Spaces**

Residential Visitor Spaces      12 spaces  
 Car wash bays      1 car wash bay

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*.

## NSW POLICE

The following conditions are specific to the NSW Police requirements:

12. 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.
13. A lighting maintenance policy shall be established for the development. Details to be provided prior to the issue of the Construction Certificate.
14. 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.
15. As malicious damage (graffiti) is often an offence committed at such developments, strong consideration is to be given to the use of graffiti resistant materials, particularly on fences and all ground floor areas. Details to be provided prior to the issue of the Construction Certificate.
16. 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:

17. Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment.
18. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
19. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
20. 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.

21. Residents and tenants of the development are ineligible for parking permits in any Resident Parking Scheme that either exists or is proposed to be created by Council for any street surrounding the development. This restriction is required to be included into the Strata By-Laws of the development at the time of Strata Subdivision.
22. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
- i) permit stormwater to be retained by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
23. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.
- The Registered Proprietor will:
- i) permit stormwater to be temporarily detained by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make 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. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained and pumped by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
25. The 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 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.
  27. All external glazing shall have a maximum reflectivity of 20%.
  28. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
  29. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
  30. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1:2004.
  31. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
  32. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
  33. Hot and cold water hose cocks shall be installed to the garbage room.
  34. Services or utility systems shall not be located in the garbage room.
  35. The development shall be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report by Renzo Tonin & Associates (NSW) Pty Ltd, dated 26 March 2012 and received by Council on 20 April 2012.

36. The development shall have an impact isolation between floors which achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report by Renzo Tonin & Associates (NSW) Pty Ltd, dated 26 March 2012 and received by Council on 20 April 2012.
37. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building.
38. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
39. Balustrades shall be constructed from a solid/opaque material to a minimum height of 1000mm.  
The top of the balustrade shall be a minimum height of 1200mm.
40. 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.
41. Adopt and implement all recommendations contained in the Acoustic Assessment Report prepared by Renzo Tonin & Associates (NSW) Pty Ltd dated 26 March 2012 Ref: TF447-01FO2 (REV1) received by Council on 20 April 2012.

#### PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

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

42. A 'Shared Parking Register' prepared in accordance with Rockdale Development Control Plan 2011 is to be submitted to and approved by Council prior to issue of the Construction Certificate.
43. As per the recommendation of the Stage 1 Environmental Site Assessment dated July 2009, prepared by Environmental Investigation Services (EIS) and submitted with the development application, a Stage 2 Environmental Site Assessment, including soil and groundwater sampling is to be prepared and submitted with the Construction Certificate application.  
The Stage 2 Environmental Site Assessment will serve to characterise the fill and natural soil/bedrock and provide a waste classification for off-site disposal of soil and bedrock.
44. The Preliminary Acid Sulfate Soil Management Plan dated 21 August 2012, prepared by Environmental Investigation Services (EIS) is to be enhanced so as to constitute a Final Acid Sulfate Soil Management Plan. The Final Acid Sulfate Soil Management Plan is to be submitted with the construction certificate application. In the event that Acid Sulfate Soil conditions are encountered during the excavation/construction works, then the strategies outlined in the Management Plan are to be implemented.
45. A Footpath Reserve Restoration Deposit of \$13,514.70 shall be paid to Council prior to the issue of a construction certificate. 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). 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. 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.

- 46. A footpath inspection fee of \$146.90 shall be paid to Council with lodgement of the Construction Certificate with Council, or by the PCA when submitting the copy to Council.
- 47. A fee is payable to Council for a Soil and Water Management Sign (811) of \$15.45. 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.
- 48. An environmental enforcement fee of 0.25% of the cost of the works shall be paid to Council prior to the issue of a construction certificate in accordance with Rockdale Council's City Plan (adopted fees and charges).
- 49. 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.
- 50. 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 of \$230.00 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.
- 51. The connection of stormwater drainage pipes to the existing kerb inlet pit in Princes Street must be inspected by Council prior to backfilling. A payment of \$292.75 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 \$349,220.51 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	\$279,748.75
Community Services & Facilities	\$ 23,545.11
Town Centre & Streetscape Improvements	\$ 8,899.37
Pollution Control	\$ 34,916.52
Plan Administration & Management	\$ 2,110.76

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

53. 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.
54. 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.
55. The building shall be constructed of a masonry or brick wall construction with coloured finishes as per the approved schedule of finishes. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
56. Compliance with Council's Development Control Plan (DCP) 2011. Access in accordance with Australian Standard 4299 must be provided to and within six (6) residential units, and between these units and their allocated car parking space. 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 1.02, 1.05, 2.02, 2.05, 3.02 and 3.05. Please note that compliance with this condition requires the relevant units to be constructed to comply with all the essential (Type C) requirements of AS4299.  
**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.
57. 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.
58. Compliance with Council's Development Control Plan (DCP) 2011. Compliance with this condition requires a minimum of six (6) carparking space/s to be provided. The car spaces shall be identified and reserved at all times and be in the vicinity to lifts or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions of 3 x 5.5 metres and all spaces shall have an uninterrupted minimum headroom clearance of 2.5 metres free of all obstructions, such as service pipes, fittings etc for use by vehicles fitted with roof mounted wheelchair racks.
59. The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

60. The applicant shall confer with Ausgrid to determine if installation of electricity conduits in the footway is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
61. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
62. The relocation of the existing electricity supply pole in the Princess Street road reserve is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.
63. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre 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. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.  
  
The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.
64. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
65. 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 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.
66. 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.

67. The mechanical ventilation system shall comply with the requirements of the Building Code of Australia, and/or relevant standards AS1668.1-1998 The Use of Ventilation and Air-conditioning in Buildings Part 1: Fire and Smoke Control in Multi-compartment Buildings, and/or AS 1668.2 - 2002: The Use of Ventilation and Air-conditioning in Buildings Part 2: Ventilation Design for Indoor Air Contaminant Control.  

The system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate. A copy of the certificate shall be provided to the Principal Certifying Authority (PCA). A copy shall also be provided to Council if Council is not the PCA.
68. Prepare a detailed acoustic assessment of mechanical services equipment as recommended in Section 5 of Acoustic Assessment Report prepared by Renzo Tonin & Associates (NSW) Pty Ltd dated 26 March 2012 Ref: TF447-01FO2 (REV1) and received by Council on 20 April 2012. This report shall be prepared by a suitably qualified and experienced acoustic consultant and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
69. The low level driveway must be designed to prevent inflow of water from the Princess Street 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.
70. Any part of the proposed building located in the vicinity of the existing pipeline shall be constructed on a pier and beam type foundation, piers shall be located outside the boundary of the drainage easement and to extend to a depth of no less than 300mm below the pipeline invert. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
71. Any part of the proposed building within 3m of the proposed detention tank or absorption trench 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.
72. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
73. A dedicated car wash bay is required. A tap 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.
74. 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, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans.

## PRIOR TO COMMENCEMENT OF WORKS

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

75. 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.
76. 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.
77. 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 Organisation 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.  

Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.
78. 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.
79. 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.
80. 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.
81. The site shall be secured by a 1500 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
82. 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.

83. 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,
- a hoarding or fence shall be erected between the work site and the public place.
- When necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
84. 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.
85. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to commencement of works.
86. 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.
87. 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.

88. 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.
89. 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.

90. 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) after excavation for, and before the placement of, any footing, and
  - ii) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - iii) prior to covering any stormwater drainage connections, and
  - iv) 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.
91. 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.
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.
95. 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.
96. 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.
97. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
- i) spraying water in dry windy weather
  - ii) cover stockpiles
  - iii) fabric fences
98. 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.
99. 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.
100. 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.
101. 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.
102. 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.
103. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
104. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
105. Building 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.

106. Owners/Applicants/Builders are required to confine access to building and demolition sites to no more than two 3m driveways, and provide a footpath protection pad over Council's footpath at these points (see attached detail). 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.
107. Removal of the street tree to enable construction of the new vehicle crossing is approved, subject to a replacement tree being planted by Council in a suitable location.
- As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.

#### 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.

108. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
109. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
110. 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.
111. 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.

112. 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.
113. 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.
114. 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.
115. 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.
116. 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.
117. 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.
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. The vehicular entry in Princess Street to be clearly marked and signposted "entry" from the street and "exit" internally.
120. 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".
121. 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.
122. The width of the double driveway at the boundary shall be a maximum of 6 metres. Note: Council's Vehicular Entrance Policy restricts the width of the vehicular entrance over the footpath to a maximum of 4.5 metres.
123. A convex mirror is to be installed at the point of egress from the basement to provide increased sight distance for vehicles.

124. 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.
125. The provision of a 0.9 metre wide right of footway in favour of Rockdale City Council along the boundary with Saywell Lane. The right of footway is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council.
- Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.
126. Seventy one (71) off-street car 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.
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. Testing and evaluation of the wall insulation system is to be carried out at post construction stage by a suitably qualified acoustical engineer to show an Acoustical Star Rating of 5 has been achieved in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report submitted to Council with the Development Application. A report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.
130. Testing and evaluation of the floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer to show that an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) and in accordance with the report submitted

to Council with the Development Application has been achieved. A report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.

131. The noise mitigation measures specified in the Acoustic Assessment Report prepared by Renzo Tonin & Associates (NSW) Pty Ltd dated 26 March 2012 Ref: TF447-01FO2 (REV1) and received by Council on 20 April 2012, shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
132. 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.
133. 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.
134. The stormwater drainage system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate.
135. 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.
136. 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.
137. All modular drainage cell installations must be inspected, and a compliance certificate under Part 4A of the Environmental Planning and Assessment Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.
138. 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.
139. There shall be no encroachment of paths, fencing or other improvements onto the drainage easements without Council approval.
140. 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.

141. 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.
142. 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.
143. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
144. The owner of the premises shall inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
145. The overflow from the rainwater tank shall be directed to the storm water system.
146. 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".
147. A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

## INTEGRATED DEVELOPMENT/EXTERNAL AUTHORITIES

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

### 148. **Sydney Airports Corporation Limited**

Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 35.7 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 9217.

### **Bird and Obstacle Hazard Management**

To minimise the potential for bird habitation and roosting, the Proponent must ensure the following plans are prepared prior to construction commencing:

- Landscape Plan which only includes non-bird attracting plant species;
- Site Management Plan which minimises the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- The proposed development incorporates anti-bird roosting measures to discourage bird habitation.

The Proponent must consult with Sydney Airport Corporation Limited on the preparation of each plan.

All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

## ROADS ACT

149. 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.
150. 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.
151. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Saywell Lane will be required to be undertaken at the applicant's expense:
- i) construct a 375 mm diameter pipeline from the existing Council drainage pit along Moate Avenue to a new pit to be constructed along Saywell Lane;
- Note:** Detailed plans of the works 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.
152. 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.

153. 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.
154. 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 \$440.70 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) Before backfilling drains;
    - c) 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).

- 155. 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.
- 156. 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.
- 157. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (**not kikuyu**) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

#### DEVELOPMENT CONSENT ADVICE

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand **their** requirements **before** commencement of any work.
- b. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass **all** matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- c. 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.

- d. 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.
- e. 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.
- f. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

---

#### 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 years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is

DA-2012/325

---

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.

---

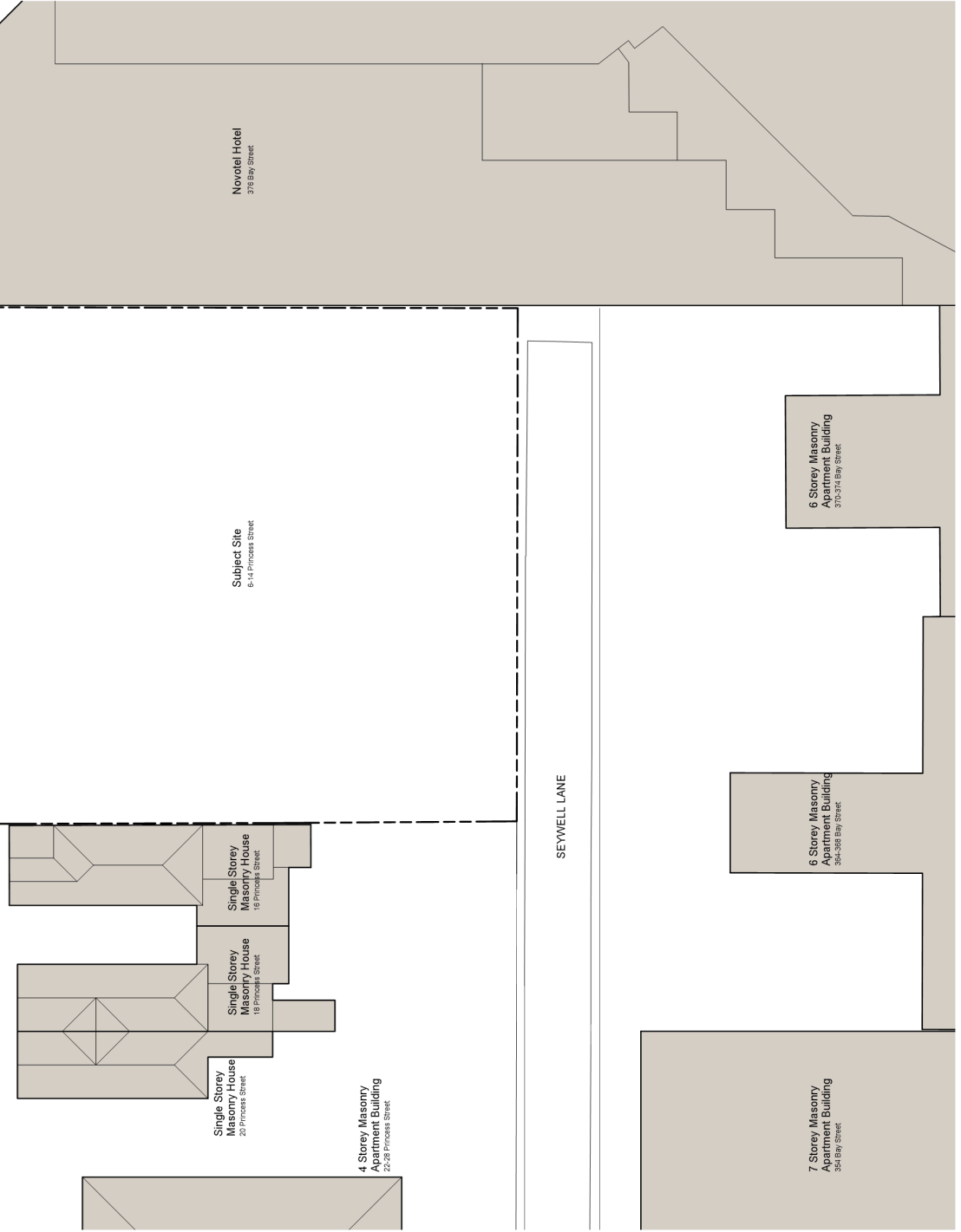
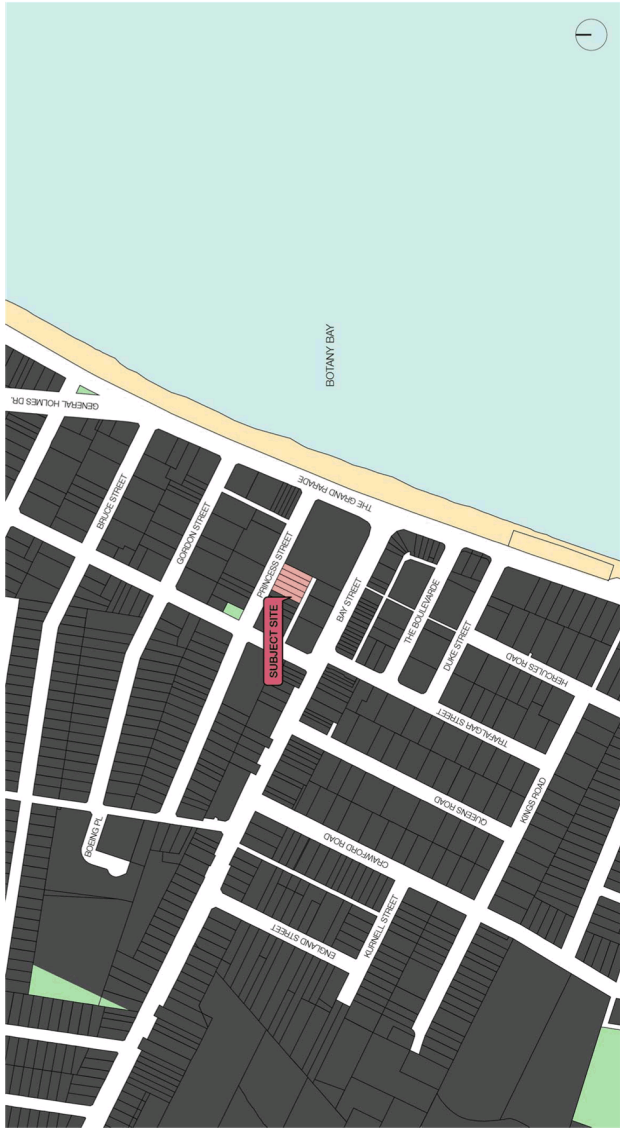
Should you have any queries please contact Michael Maloof on 9562 1686.

Luis Melim  
**Manager - Development Services**

In providing and affixing this document to the relevant application, the Applicant acknowledges that it is providing this document to the Council for its use in the exercise of its functions under the Resource Management Act 1991 and the Resource Management Act Regulations 2002. The Applicant agrees that it is providing this document for the Council's use and that it is providing this document for the Council's use and that it is providing this document for the Council's use.

**FOR APPROVAL**

Rev.	Date	Revision	By	CHK
1	14/02/2011	Initial Design		
2	20/03/2011	Final Design		
3	20/03/2011	Final Design		
4	20/03/2011	Final Design		
5	20/03/2011	Final Design		
6	20/03/2011	Final Design		



**Project**  
 Mixed-Use Development  
 6-14 Princess St.  
 Brighton-Le-Sands  
 for  
 Thakral Holdings Limited

**Drawing Name**  
 Location Plan, Site  
 Plan



Date	28/08/12	Scale	1 : 200	Sheet Size	@ A1
Reg No.	BS	Drawn	BS	CHK	AH
Job No.	4799	Drawing No.	A-0101	Revision	06



**BS Architects**  
 Level 2, 400 Crown St  
 Sydney NSW  
 T 61 2 9392 9611  
 F 61 2 9392 9622  
 www.bsarch.com.au

In providing and offering this document for review, the Architect and the Client acknowledge that the Architect is not providing any warranty, express or implied, for the use of this document for any purpose other than that for which it was prepared. The Architect's liability is limited to the professional services provided by the Architect and shall not extend to any other matter. The Architect shall not be liable for any loss or damage, including consequential, special, or exemplary damages, arising out of or in connection with the use of this document. The Architect's liability shall be limited to the professional services provided by the Architect and shall not extend to any other matter. The Architect shall not be liable for any loss or damage, including consequential, special, or exemplary damages, arising out of or in connection with the use of this document.

Normalized Architects  
 Adam Haddad 7188 John Prater 7004

Rev.	Date	Revision	By	CHK
1	21.03.2011	Concept Plan		
2	05.03.2011	Revised Concept Plan		
3	08.03.2011	Final Concept Plan		
4	10.03.2011	Final Concept Plan		
5	20.03.2011	Final Concept Plan		
6	20.03.2011	Final Concept Plan		

FOR APPROVAL

Project  
 Mixed-Use Development  
 6-14 Princess St.  
 Brighton-Le-Sands  
 for  
 Thakral Holdings Limited

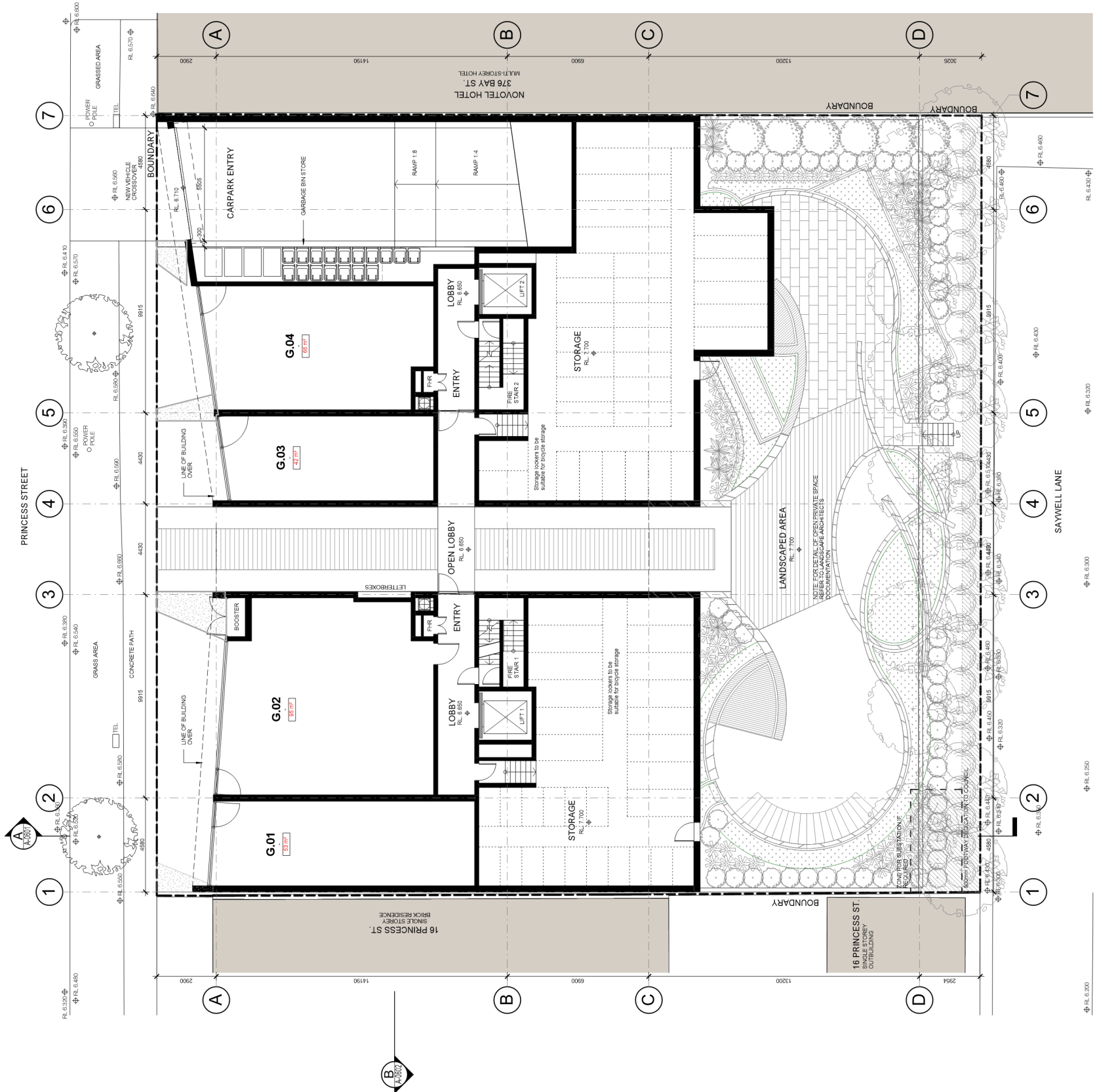
Drawing Name  
 Floor Plan Ground



Date	28/08/12	Scale	1:100	Sheet Size	@ A1
Rev. No.	BS	Drawn	BS	CHK	AH
Job No.	4799	Drawing No.	A-0203	Revision	06



THAKRAL HOLDINGS LIMITED  
 Level 2, 400 Crown St.  
 Sydney NSW  
 T 61 2 8392 9611  
 F 61 2 8392 9622  
 www.thakral.com.au



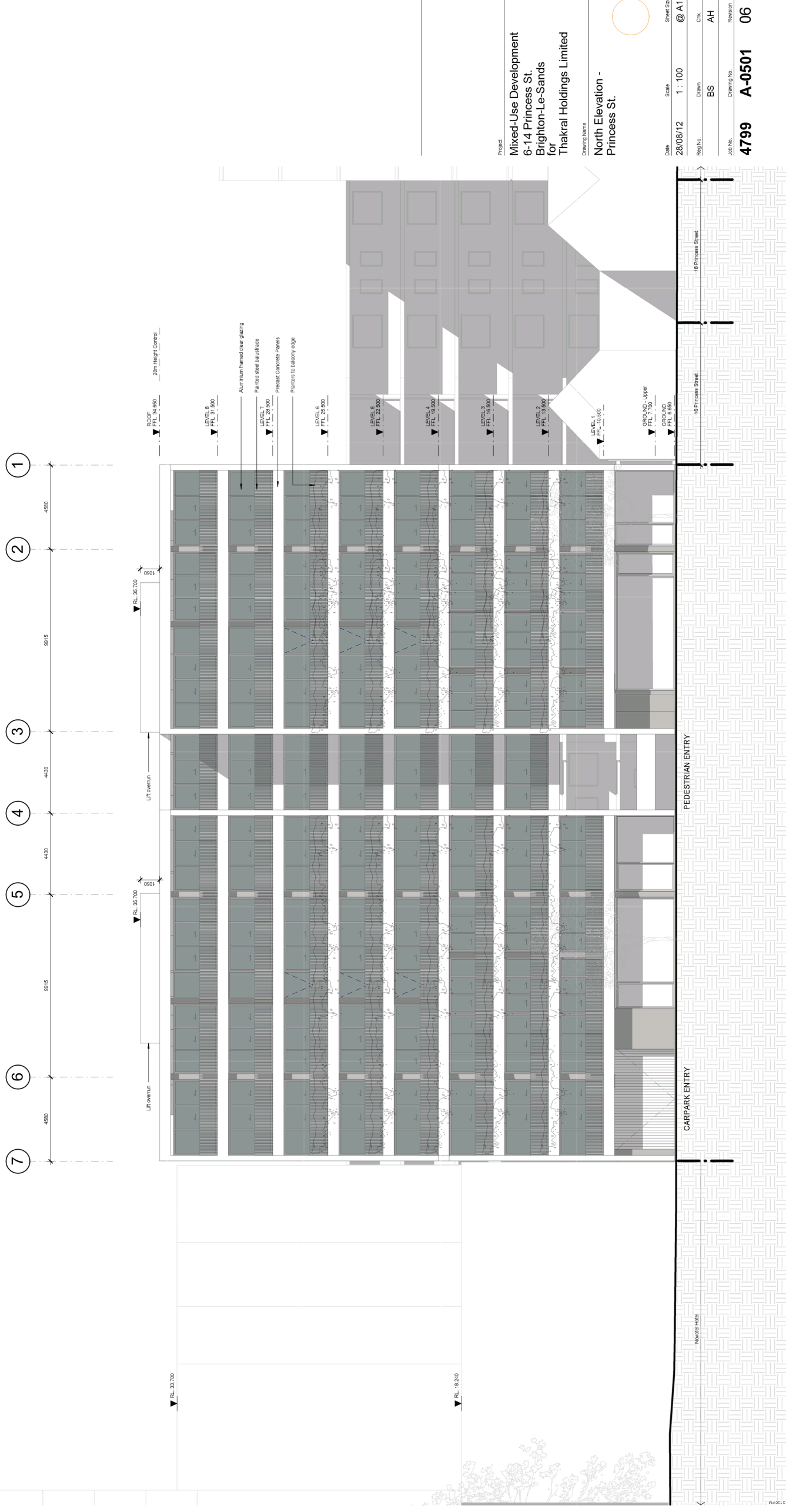


In executing and affixing this document the architect agrees that he/she is not liable for any errors or omissions in the drawings or specifications prepared by him/her or any other person employed by him/her or any other person who may be engaged by him/her in the execution of the project. The architect's liability is limited to the professional services rendered by him/her and he/she shall not be liable for any errors or omissions in the drawings or specifications prepared by him/her or any other person employed by him/her or any other person who may be engaged by him/her in the execution of the project. The architect's liability is limited to the professional services rendered by him/her and he/she shall not be liable for any errors or omissions in the drawings or specifications prepared by him/her or any other person employed by him/her or any other person who may be engaged by him/her in the execution of the project.

Normalized Architects  
 Adam Haddad 7188 Jaber Fakhri 7004

Rev.	Date	Revision	By	CHK
1	14/02/2011	Initial Design		
2	14/02/2011	Final Design		
3	20/03/2011	Final Design		
4	20/03/2011	Final Design		
5	20/03/2011	Final Design		
6	20/03/2011	Final Design		

FOR APPROVAL



Project  
 Mixed-Use Development  
 6-14 Princess St.  
 Brighton-Le-Sands  
 for  
 Thakral Holdings Limited

Drawing Name  
 North Elevation -  
 Princess St.

Date  
 28/08/12

Scale  
 1:100

Sheet Size  
 @ A1

Reg No.  
 BS

Drawn  
 BS

CHK  
 AH

Job No.  
 4799

Drawing No.  
 A-0501

Revision  
 06

Normalized Architects  
 Level 2, 400 Crown St.  
 Sydney NSW  
 T 61 2 8389 8611  
 F 61 2 8389 8622  
 www.na.com.au







Level 30, Grosvenor Place  
225 George Street  
Sydney NSW 2000

PO R61 Royal Exchange  
NSW 1225  
www.colliers.com.au

MAIN +61 2 9257 0222  
FAX +61 2 9257 0288  
MOB +61 400 222 666  
EMAIL peter.seeto@colliers.com



16 May 2017

Mau Huynh  
Director  
Lumex Property Group Pty Ltd  
PO BOX 20  
Homebush West NSW 2140

Dear Mau Huynh,

We write to you regarding the sales and leasing campaign we conducted for the three retail tenancies at 8 Princess Street, Brighton-Le-Sands. We have been engaged by Lumex to assist in the sale or lease of the three tenancies for a period of 6 months, and have received minimal interest in the properties and recommended that the campaign be suspended. A brief summary of the campaign and an overview of the enquiries received is provided below.

As is standard practice for sales and leasing campaigns, a suite of mediums were adopted to market the tenancies. These mediums included:

- Online advertising (Real commercial, Commercial Real estate listing, company websites)
- Advertising in print media (the St George and Sutherland Shire Leader and the Sydney Morning Herald)
- E-flyer distribution
- Signboard at the site

In addition to the promotion of the tenancies through these mediums, I utilised the existing database available at Cushman and Wakefield and Colliers to distribute information regarding the tenancies. Through this database, a total of 6234 individuals were contacted by private email.

As a result of this campaign, sum 90 enquiries were received. These enquiries related to a number of potential uses, including offices, massage businesses and gymnasiums. These uses were not considered appropriate or desirable on the site for a number of reasons, including the lack of activation they would deliver and as such, these uses were discounted and the discussions with the respective tenants were not progressed to formal offers.

Overall, the sales and leasing campaign was conducted for a period of 6 months as set out above, limited interest was received in the tenancies and no suitable formal offers were provided. In light of the length of time dedicated to the campaign, and the lack of interest resulting from our efforts, it was my recommendation that the active campaign be ceased.

In my opinion, the tenancies are not located in a desirable position for non-residential uses which we believe are ordinarily suitable for such a site, such as a café or retail premise. The tenancies are removed from the core retail/commercial strip of Bay Street and Grand Parade, resulting in substantially less foot traffic which is unattractive to potential tenants. Furthermore, the context of the tenancies on Princess Street is largely residential, with limited attraction for non-residential uses due to concerns about noise impacts and potential complaints limiting or affecting operations.

I trust the above information is sufficient to demonstrate the campaign undertaken and lack of interest shown in the sale and lease of the tenancies.

Regards,

  
**Peter Seeto**  
Director  
Sales and Investments – Retail  
Phone 0400 222 666

Land Economists, Property & Hotel Consultants, Valuers, Property Managers, Real Estate Agents, Auctioneers  
Colliers International (NSW) Pty Limited | ABN 65 001 401 681



ESSENTIAL ECONOMICS

## **6-14 Princess St, Brighton-Le-Sands Shop Tenancy Assessment**

Prepared for

Lumex Property Group

c/o Ethos Urban

by

Essential Economics Pty Ltd

**April 2018**

**Authorship**

<b>Report stage</b>	<b>Author</b>	<b>Date</b>	<b>Review</b>	<b>Date</b>
Draft report	Sean Stephens Malcolm Spence	23 February 2018	Client	
Final report	Sean Stephens	16 April 2018		

**Disclaimer**

Although every effort has been made to ensure the accuracy of the material and the integrity of the analysis presented herein, Essential Economics Pty Ltd accepts no liability for any actions taken on the basis of the contents of this report.

The information in this report has been prepared specifically for the stated client. This document should not be used or replicated in any way by any other party without first receiving written consent from Essential Economics Pty Ltd.

**Contact details**

For further details please contact Essential Economics Pty Ltd at one of our offices:

96 Pelham Street  
Carlton  
Victoria 3053  
Australia  
PH +61 3 9347 5255  
FAX +61 3 9347 5355

Level 26 / 44 Market Street  
Sydney  
New South Wales 2000  
Australia  
PH +61 2 9089 8654

EMAIL [mail@essentialeconomics.com](mailto:mail@essentialeconomics.com)

WEB [www.essentialeconomics.com](http://www.essentialeconomics.com)

ABN 92 079 850 427

Our Reference: 17255

## Contents

<b>Introduction .....</b>	<b>1</b>
<b>Executive Summary .....</b>	<b>3</b>
<b>1 Brighton-Le-Sands Description and Context .....</b>	<b>5</b>
1.1 Location and Accessibility .....	5
1.2 Brighton-Le-Sands Town Centre .....	6
1.3 Population, Demographics and Retail Spending .....	6
1.4 Implications for Subject Site.....	9
<b>2 Subject Site Analysis.....</b>	<b>10</b>
2.1 Location.....	10
2.2 Site Description .....	11
2.3 Surrounding Land Uses .....	11
2.4 Accessibility.....	13
2.5 Description of Shop Tenancies.....	14
2.6 Implications for Subject Site.....	16
<b>3 Leasing Considerations .....</b>	<b>17</b>
3.1 Leasing History .....	17
3.2 Comments on Leasing Program .....	18
3.3 Implications for Subject Site.....	19
<b>4 Location Assessment .....</b>	<b>20</b>
4.1 Methodology and Criteria.....	20
4.2 Implications for Subject Site.....	21

## INTRODUCTION

---

### Background

Lumex Property Group Pty Ltd (Lumex) completed construction of a mixed use building at 6-14 Princess Street in 2015. The property comprises below ground parking, ground floor retail/commercial space and apartments on above ground levels 1-8.

While the apartments have been sold and are fully occupied, the ground floor retail/commercial tenancies have failed to attract market interest. Several real estate agents have been engaged at various times to lease the tenancies, without success.

In view of the difficulty in securing tenants for the ground floor space, Lumex has approached Bayside Council to seek approval to convert the retail/commercial space to a residential use. This conversion will require a change to the planning permit that currently applies to the property.

Council requires evidence to be supplied with a planning proposal. In email correspondence, Council have specified supporting evidence to include:

- *Land use analysis – analysis of existing uses within the centre and the demand (or otherwise) for tourist related uses and subsequently the zoning;*
- *Evidence of tenant interest – documentation showing that the owner has exhausted all reasonable efforts to secure tenants for the shop fronts;*
- *Impact analysis – details on the proposed future uses of the ground floor space and the impact it may have in regards to the surrounding context;*
- *Traffic and parking analysis – this could be coupled with the ‘impact analysis’ and should include a look at whether the proposed future use of the ground floor space will have a significant impact on traffic movement in and out of the site as well as the surrounding area. This should also include information on whether there is sufficient space for parking (depending on the use).*

As additional evidence Ethos Urban, on behalf of Lumex, are seeking an independent market appraisal of the ground floor retail/commercial space to assess the likelihood of securing long term sustainable tenancies. Essential Economics is engaged to undertake this independent appraisal.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

## Objectives

The objective of this report is to broadly assess the potential for retail or commercial tenants to occupy the ground floor tenancies at 6-14 Princess St, taking into account:

- General location and retail market characteristics
- Site specific features.

## This Report

This report contains the following chapters:

- 1 **Brighton-Le-Sands** discusses the suburb, its location, provision of retail shops and services, and population and demographic characteristics.
- 2 **Site Analysis** describes the ground floor tenancies at 6-14 Princess Street, key adjacencies, vehicle and pedestrian access, and improvements undertaken by the owner.
- 3 **Leasing History** provides evidence of leasing campaigns and interest in the tenancies.
- 4 **Location Assessment** measures broad retail potential of the site using a scorecard methodology.

## EXECUTIVE SUMMARY

---

- 1 The Blue Apartments (or the 'subject site') were developed in 2015 and are located at 6-14 Princess Street Brighton-Le-Sands approximately 13km south-west of the Sydney CBD. Centred on Bay Street, the Brighton-Le-Sands activity centre is one of three main activity centres located in the City of Bayside. The centre is a well-known dining destination, particularly on weekends. In contrast to other large street-based centres, Brighton-Le-Sands has a relatively low share of shops in non-food categories.
- 2 The population of Brighton-Le-Sands has experienced some moderate growth over the past decade associated with infill residential development opportunities, including at the subject site. The rate of population growth is expected to slow over the next decade.
- 3 Overall retail spending per capita by residents of Brighton-Le-Sands is approximately 3% below the Greater Sydney average, although spending is slightly above average for cafes and restaurants and takeaway food. The demographics of the suburb are slightly older than average, with a high share of lone person households. The median individual income is slightly below average.
- 4 The location of the Blue Apartments is on the southern side of Princess Street, one block north of Bay Street and the high activity areas of the Brighton-Le-Sands centre. Located in the SP3 Tourist Zone, the development of the apartments was required to incorporate ground floor shops. It is understood the application of the SP3 Tourist Zone to the subject site reflects the historical potential for expansion to the adjacent Novotel Brighton Beach. That potential no longer exists.
- 5 Princess Street is primarily residential in nature at this location, with low levels of vehicle and pedestrian traffic. The Novotel Brighton Beach immediately to the east, at best, provides only very limited levels of activity which would benefit tenants at the subject site. Similarly, the nearby Coles and Bay Street shopping strip do not generate activity in Princess Street which would create sales and visitation for potential tenants at the subject site.
- 6 The ground floor shops at the Blue Apartments have been designed in a manner which meets contemporary tenant expectations. This includes commercial grade paving in the outdoor areas, exhaust fans and grease traps installed to accommodate a commercial kitchen, and a flexible layout to maximise attractiveness to possible operators. From a tenancy design perspective only, the shops are suitable to a range of potential users.
- 7 A leasing program for the ground floor shops has been underway since mid-2015, without success. Cushman and Wakefield, Colliers International and LJ Hooker Commercial are well-regarded commercial agencies who have been unable to lease the tenancies over a period of 2.5 years. This is despite reductions in the asking rent, and improvements (exhaust system and grease trap) designed to attract tenants. Feedback from the leasing agents has identified the poor locational attributes of the site as the key reason for a lack of tenant interest.



6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

- 8 Applying a scorecard methodology to a set of 12 criteria commonly applied in locational advice, identifies that the subject site has relatively poor overall locational attributes. In particular, the subject site has very low ratings for factors including:
- Competition (extensive competition already exists for food-based retailing on Bay Street)
  - Pedestrian Traffic (the subject site has minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas)
  - Visibility to Passing Traffic (low levels of vehicle traffic in Princess Street and complex access arrangements from The Grand Parade)
  - Adjacencies (the adjacent Novotel provides very limited activity to the subject site, no other significant attractors are in the immediate vicinity with the exception of Coles which has no interface or sight line to the Blue Apartments)
  - Critical mass/destinational appeal (the subject site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre).
- 9 Overall, it is our view that the subject site has below-average attributes for the operation of successful ground-floor retailing, which indicates:
- A low desirability for potential tenants
  - Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site
  - A high 'vacancy risk' for the shop tenancies.

# 1 BRIGHTON-LE-SANDS DESCRIPTION AND CONTEXT

This Chapter of the report describes the broad locational context for the subject site at 6-14 Princess Street, Brighton-Le-Sands.

## 1.1 Location and Accessibility

Brighton-Le-Sands is located 13km south-west of the Sydney CBD, on the western shore of Botany Bay within the City of Bayside.

As shown in Map 1.1, the suburb is bordered by: Bestic Street in the north; Botany Bay in the east; President Avenue in the south; and an irregular boundary in the west, including part of Memorial Fields, West Botany Street and Muddy Creek.

**Map 1.1 Brighton-Le-Sands Suburb Outline**



Source: BingMaps with MapInfo

The Grand Parade, runs north-south along the eastern border of the suburb, adjacent to the beach. The Grand Parade is 2 or 3 lanes in either direction through Brighton-Le-Sands, depending on the prevailing parking restrictions. Along with the Princess Highway further west, the Grand Parade is the main north south arterial route connecting the suburb with other parts of Sydney.

Bay Street runs east-west through Brighton-Le-Sands, connecting with Rockdale in the west.

The suburb is not served by rail, although a bus operates to Rockdale Station. Otherwise, State Transit provides a limited bus service linking Brighton-Le-Sands to Sydney CBD and Miranda.

## 1.2 Brighton-Le-Sands Town Centre

The Brighton-Le-Sands town centre is one of the three main activity centres located in the City of Bayside (the other being Rockdale and Wollli Creek).

Bay Street and The Grand Parade comprise the main commercial and retail areas of the town centre. Both sides of Bay Street between The Grand Parade and Crawford Road feature ground floor shops facing onto relatively wide footpaths. The southern side of Bay Street mainly comprises two level buildings, while the northern side has a number of multi-storey apartment and commercial buildings.

The western side of The Grand Parade between The Boulevard and Princess Street also has ground floor shop uses.

Novotel Brighton Beach is located on the northern side of The Grand Parade and Bay Street intersection. The 296 room 4.5 star hotel benefits from water views, frontage to The Grand Parade and Brighton-Le-Sands beach, and proximity to Sydney Airport.

The Brighton-Le-Sands town centre is well known as a multi-cultural food destination, particularly for numerous Greek cafes, restaurants and businesses. Accordingly, the retail mix on Bay Street and The Grand Parade has a high share of cafes, restaurants, food and convenience stores.

In contrast, the share of shops in non-food categories (such as apparel, homewares, general merchandise) is well-below that for similar sized street-based activity centres in Sydney.

A small Coles supermarket, located on the corner of Princess Street and Moate Avenue, is the only significant national brand store in the centre.

## 1.3 Population, Demographics and Retail Spending

### *Population Trends and Forecasts*

The population of Brighton-Le-Sands has experienced consistent growth in recent years, increasing from 7,950 residents in 2006 to 9,100 residents in 2017. Over the period to 2031, the population of the suburb is forecast to increase further to approximately 10,350 residents.

A summary of historic and forecast population trends for Brighton-Le-Sands is shown in Table 1.1.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT**Table 1.1 Brighton-Le-Sands Population Trends and Forecasts**

	2006	2011	2017	2021	2026	2031
<b>Population (No.)</b>						
Brighton-Le-Sands	7,800	8,480	9,100	9,600	10,000	10,350
<b>Average Annual Growth (%)</b>						
Brighton-Le-Sands		1.7%	1.2%	1.3%	0.8%	0.7%
<b>Average Annual Growth (No.)</b>						
Brighton-Le-Sands		+140	+100	+130	+80	+70

Source: Essential Economics and published sources

**Retail Spending**

Estimates of per capita retail spending by residents of Brighton-Le-Sands have been prepared with reference to the *MarketInfo* retail spending model. *MarketInfo* is a micro-simulation model which uses data from the ABS Household Expenditure Survey, the ABS Census of Population and Housing, ABS Australian National Accounts, and other relevant sources.

Average per capita retail spending in 2017 for residents of Brighton-Le-Sands is summarised in Table 1.2 and compared with the metropolitan Sydney average. The retail spending data is presented in four major spending category groupings.

- **Food, Liquor and Groceries** – includes spending on fresh food, groceries and take home liquor. This main category is relevant to supermarket based shopping.
- **Food catering** – includes cafes, restaurants and take-away food.
- **Non-Food** - includes apparel, homewares, bulky merchandise and general merchandise
- **Services** – such as hairdressers, beauty salons etc.

**Table 1.2 Per Capita Retail Spending by Brighton-Le-Sands Residents, 2017 (\$2017)**

	Food, Liquor and Groceries	Food Catering	Non Food	Services	Total Retail
<b>Per Capita Spending (\$2017)</b>					
Brighton-Le-Sands	\$5,560	\$2,160	\$5,100	\$510	<b>\$13,330</b>
<i>Greater Sydney Average</i>	<i>\$5,470</i>	<i>\$2,110</i>	<i>\$5,620</i>	<i>\$510</i>	<i><b>\$13,710</b></i>
<b>Variation from Greater Sydney Average (%)</b>					
Brighton-Le-Sands	+1.6%	+2.4%	-9.3%	+0.0%	<b>-2.8%</b>

Source: MarketInfo, Essential Economics

Total spending per capita by residents of Brighton-Le-Sands on retail goods and services in 2017 was \$13,330 per capita, or 2.8% lower than the Greater Sydney average of \$13,710.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

However, for food catering spending, which includes cafes, restaurants and takeaway food outlets, per capita spending by residents of Brighton-Le-Sands is +2.4% above the Greater Sydney average. This indicates an above average propensity of residents living in the area to dine out.

### **Socio-Economic Characteristics**

According to the 2016 ABS Census of Population and Housing, the suburb of Brighton-Le-Sands is characterised by:

- Personal income levels (\$36,850) marginally below the Greater Sydney average (\$37,460)
- An older age profile with a median age of 40.1 years in the suburb relative to the Greater Sydney average of 36.4 years
- A lower than average share of family households, and a higher proportion of lone person households
- An above average share of dwellings rented (45.9%) relative to the Greater Sydney benchmark (35.1%).

**Table 1.3 Brighton-Le-Sands Socio-Economic Characteristics, 2016**

	Brighton-Le-Sands	Greater Sydney
<b>Income</b>		
Median individual income (annual)	\$36,850	\$37,460
Variation from Greater Sydney median	-1.6%	na
% of persons (15 years or older) earning \$1,000pw or more	35.1%	37.3%
<b>Age Structure</b>		
Median Age (years)	40.1	36.4
<b>Household Composition</b>		
<i>Couple family with no children</i>	23.0%	23.8%
<i>Couple family with children</i>	26.3%	37.5%
Couple family - Total	49.4%	61.3%
One parent family	12.5%	11.1%
Other families	1.3%	1.3%
Family Households - Total	63.2%	73.7%
Lone person household	32.2%	21.7%
Group Household	4.6%	4.6%
Average household size	2.3	2.8
<b>Tenure Type (Occupied Private Dwellings)</b>		
Owned outright	30.8%	30.0%
Owned with a mortgage	22.5%	34.2%
Rented	45.9%	35.1%

Source: 2016 ABS Census of Population and Housing

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

#### 1.4 Implications for Subject Site

A review of the locational context for the subject site indicates the suburb of Brighton-Le-Sands which is experiencing moderate rates of population growth, although this is expected to slow over coming years. Overall levels of per capita retail spending are 3% below the Greater Sydney average, with income levels of local residents also marginally below the Greater Sydney average.

The Brighton-Le-Sands town centre, centred on Bay Street, is one the three main activity centres located in the City of Bayside. On weekends, the town centre has high volumes of people visiting the numerous cafes and restaurants, while during the week the centre has much lower levels of activity. A significant range of food-related shops are already located in the Brighton-Le-Sands town centre, indicating any such tenants for the subject site would be operating in a highly competitive environment.

## 2 SUBJECT SITE ANALYSIS

This Chapter of the report considers the locational context and features of the ground floor tenancies at the subject site of 6-14 Princess Street, Brighton-Le-Sands.

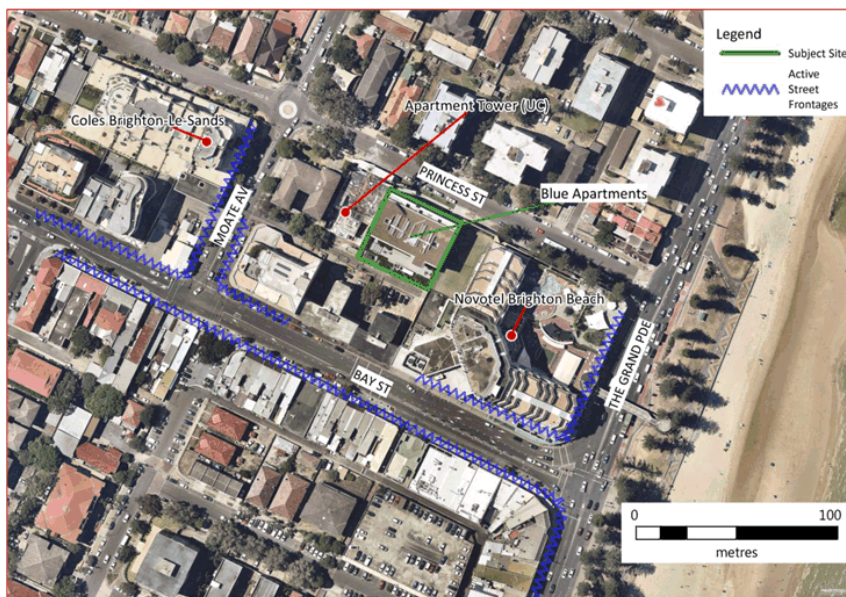
### 2.1 Location

The subject site, called the ‘Blue’ apartment building, is located on the southern side of Princess Street between The Grand Parade in the east and Moate Avenue in the west. Immediately east is the Novotel Brighton Beach, while to the west is a residential apartment building currently under-construction.

Immediately opposite the site on the northern side of Princess Street are residential uses, primarily apartments.

The subject site is located one block north of the main commercial area in Bay Street.

**Map 2.1 Blue Apartments Location and Site Context**



Source: Essential Economics with Nearmap and MapInfo  
UC – under construction

## 2.2 Site Description

The three tenancies considered in this report are located on the ground floor of the 8-level Blue apartment tower.

Construction of the Blue Apartments was completed in September 2015. The building comprises a total of 67 1-bed, 2-bed and 3-bed apartments. All dwellings have been sold to owner-occupiers or investors.

Below ground parking is provided for residents with an entry point at the eastern end of the building. Pedestrian entry is provided centrally to the site, while the three ground floor tenancies are located at the western end of the site, farthest from the Novotel Brighton Beach.

Parking has been reserved for prospective tenants of the ground floor shops.

## 2.3 Surrounding Land Uses

### Novotel

The Blue Apartments are immediately adjacent to the Novotel Brighton Beach, a 296 room hotel. The hotel serves business travellers and tourists, and offers facilities for meetings and events, including weddings. In 2015, the hotel was sold to new owners and indications from the sale campaign at that time are the facility has relatively strong occupancy levels.

In common with the four and five star hotel market, the Novotel Brighton Beach includes dining and bar facilities which aim to maximise guest spending within the building. Furthermore, although an entrance to the hotel is provided from Princess Street, this provides only limited exposure to the Blue apartment building. An internalised retail mall links the hotel foyer to Bay Street.

Active uses fronting The Grand Parade are located at the ground-level of the Novotel building, including a large restaurant and a number of cafes/takeaway outlets. These businesses have direct sightlines to Botany Bay and the Brighton-Le-Sands beach.

In contrast, the shop tenancies in the Blue Apartment building front what is primarily a quiet residential street.

For this reason, we do not believe that it is reasonable to expect that guests and visitors to the Novotel Brighton Beach can be considered to be a strong and consistent source of sales and patronage to potential shop tenants at the subject site.

### Apartment Tower (Under Construction)

A new apartment block is currently under construction immediately west of the Blue Apartments at 16-20 Princess Street. This development will be comparable in height and scale to the Blue Apartments, although it will not include ground floor shop tenancies.



6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

The apartment tower at 16-20 Princess Street is located in the R4 High Density Residential Zone which does not require active ground floor shops. In contrast, the immediately adjacent subject site is located within the SP3 Tourist Zone which does encourage ground floor active uses.

This difference in the planning zone applying to each site is inconsistent with the relatively similar locational and development context for both sites.

**Coles Brighton-Le-Sands**

Further to the west at the south-west corner of Princess Street and Moate Street, a Coles supermarket is located on the ground floor of an apartment building. The Coles generates substantial customer traffic, by virtue of it being the only major supermarket in the neighbourhood, although the overall size of the store (2,200m<sup>2</sup>) is well-below the typical size of a full range Coles supermarket (3,000m<sup>2</sup>-plus).

Supermarket shopping is largely based on convenience. A key convenience is the ability to park near the supermarket, shop at the supermarket and other complementary nearby shops (often with a trolley), then take bought items back to the car.

This convenience would not be facilitated by the relative locations of Coles and shops in the Blue apartment building, even if Blue shops could offer complementary goods or services.

Accordingly, it is not reasonable to expect that Coles would be a significant driver of customer traffic to shops on the ground floor of the Blue Apartments.

**Bay Street**

Bay Street is the primary 'spine' of the Brighton-Le-Sands activity centre and is comprised of shops located on both sides of the street extending approximately 400 metres from The Grande Parade in the east to Francis Avenue in the west.

As previously noted, the centre has a higher than average share of food-based tenancies including cafes, restaurants and takeaway stores. In this sense, any similar outlets located at the Blue Apartment building would be operating in a highly competitive environment, with an extensive range of alternative operators located in the nearby, and much higher profile, Bay Street.

As shown in Map 2.1, the subject site has a northern aspect to Princess Street and is effectively one block removed from Bay Street. No mid-block pedestrian through-links are available, and no continuous active frontage links the subject site to the shops in Bay Street. A site visit confirms that the level of pedestrian activity in Princess Street and in front of the subject site is very low, compared with the level of activity and vibrancy in Bay Street.

The Bay Street strip includes numerous food-based tenants including cafes and restaurants. Importantly, despite the relative success of the centre as a dining and entertainment destination, some tenancies in the street are vacant (see Photo 2.1 as an example). This indicates that:

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

- The vacant tenancies on Bay Street are likely to be preferred by operators seeking to locate at Brighton-Le-Sands, and
- The current leasing conditions in the area do not support full occupancy in the prime commercial Bay Street strip, let alone the more secondary location of the Blue Apartments in Princess Street.

Despite the relative proximity of the Blue Apartments to the Bay Street centre, the synergies between both locations are limited. That is, the subject site is relatively isolated from the visitation generated by the wider Brighton-Le-Sands activity centre, and thus any tenants at the Blue Apartments site will not benefit from customer traffic generated by traders in Bay Street.

**Photo 2.1 Vacant Shop Tenancies in Bay Street**



## 2.4 Accessibility

### Vehicle Traffic

The Grand Parade carries both northbound and southbound traffic. However, vehicles travelling south are unable to turn right into Princess Street. Cars would need to turn right at Bay Street, right at Moate Avenue then right again into Princess Street.

Cars travelling north on The Grand Parade can turn directly left into Princess Street, although no left turn is permitted between 9pm to 2am on Friday, Saturday and Sunday.

Furthermore, on-street parking, while available, is limited.

Overall, the quality of vehicle access and the levels of passing vehicle traffic to the ground floor shops at the Blue Apartments could be best described as poor to fair.

### **Pedestrian Traffic**

Ample footpath space is located on both sides of Princess Street near the Blue Apartments. Those pedestrians passing the shops located at the subject site would be easily able to see and visit the tenancies.

However, as discussed in Section 2.3, no consistent and regular drivers of pedestrian traffic exist which are able to generate patronage to the shops at the subject site.

As is the case for vehicle traffic, the volume and consistency of pedestrian traffic in front of the Blue Apartments shop tenancies can be best described as poor to fair.

## **2.5 Description of Shop Tenancies**

The layout of the three ground floor tenancies in the Blue apartment building are shown in Map 2.2, while Photo 2.2 show the street-frontage of the tenancies.

In relation to the tenancies we note the following aspects:

- **Frontage.** All three shops have generous frontages onto Princess Street, and are set back 3.25m from the building line.
- **Tenancy Size.** The three shop tenancies have a combined floorspace of 166m<sup>2</sup>, comprising of Shop 1, 44m<sup>2</sup>; Shop 2, 73m<sup>2</sup> and Shop 3, 49m<sup>2</sup>. The design of the three tenancies allows for combining adjacent tenancies if required. That is, the shops are configured in such a way that one, two or three tenants could operate from the site subject to tenant demand. This flexibility is 'best practice' from a leasing perspective as it maximises the attractiveness of the tenancies to a wider variety of potential operators.
- **Outdoor Area.** An outdoor seating area is available outside each tenancy, which is particularly useful given the northern aspect of the site and thus consistent access to sunshine. The paving at the front of the shops and extending onto the footpath is commercial grade, and suitable for external seating and high levels of traffic.
- **Fit-out.** Although the tenancies are currently in 'shell' condition (i.e. empty), exhaust fans and a grease trap have been installed to service potential commercial kitchen operators. In effect, the landlord has already undertaken some improvements to the shop tenancies to attract potential food operators.
- **Carparking.** Three basement car spaces have been reserved for potential tenants, with bollards protecting those spaces from casual use by residents and visitors.

In terms of target tenant types, the shops have physical attributes that would accommodate:

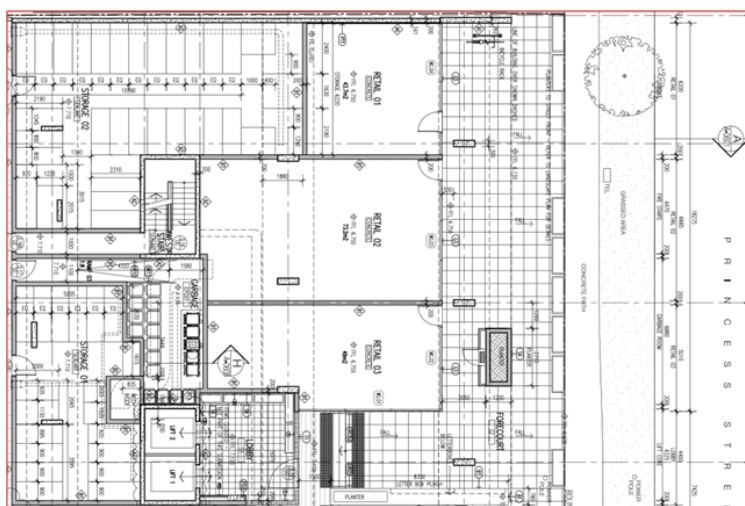
- Small restaurant, café, take-away food (cooked on the premises), deli or sandwich shop.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

- Small convenience store.
- Small liquor store.
- Non-food retail, such as toys, clothing boutique, hairdresser, beauty salon etc
- Commercial uses, such as real estate agency.

These shop spaces could be suitable for independent specialty traders or small chains. The shops would not attract interest from nationally branded retailers, who generally seek sites with higher exposure.

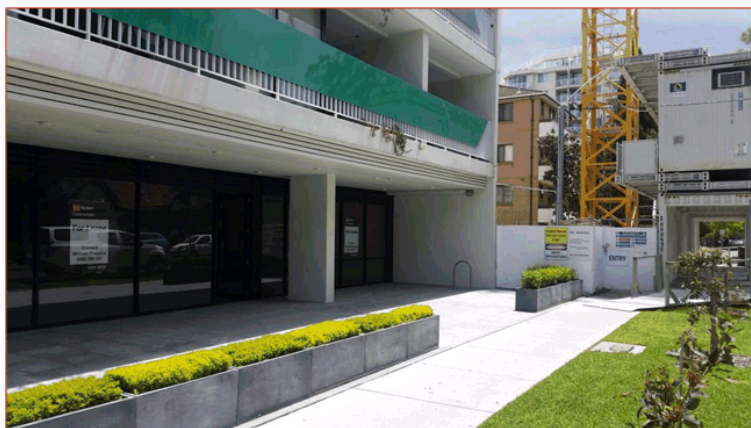
**Map 2.2** Layout of Blue Apartments Ground Floor Tenancies



Source: SJB Architects

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

Photo 2.2 Blue Apartments Ground Floor Tenancies



## 2.6 Implications for Subject Site

In terms of physical attributes only, the existing shop tenancies at the subject site are appropriate for a range of potential tenants, and have attributes and features likely to be attractive to possible operators.

However, that the spaces have not been leased suggests strongly that other factors, principally locational issues, are not conducive to sustaining a viable retail or commercial use at the site.

These locational issues are further discussed in Chapter 4 of this report.

### 3 LEASING CONSIDERATIONS

This Chapter of the report considers the leasing program implemented for the shop tenancies at the subject site.

#### 3.1 Leasing History

On completion of the Blue Apartments building in September 2015, a leasing program was implemented for the shop tenancies. Notwithstanding the leasing program, the shops remain untenanted to this day.

A summary of the leasing program, based on information made available by the client and a review of online real estate data, is as follows:

##### Cushman and Wakefield

The original leasing program was undertaken by Cushman and Wakefield. A global commercial real estate services company, Cushman and Wakefield has a strong commercial real-estate leasing team in Sydney, with a specialisation in small and mid-scale commercial developments.

It is understood that the leasing program undertaken by Cushman and Wakefield in 2015 included advertising in the Sydney Morning Herald and St George Leader and other print media, emails to C&W database, site signage and an online listing.

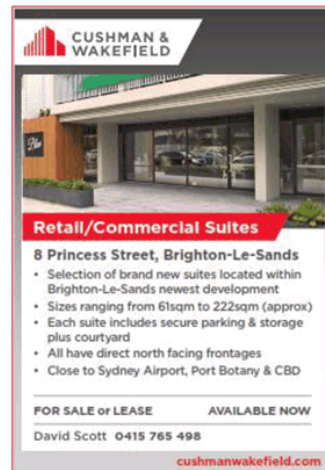
Given the lack of initial interest from prospective tenants, in early-2016 Cushman and Wakefield was replaced as the leasing agent by Colliers International. I understand that appointing a new agent was a response to the lack of tenant interest, rather than any specific issues with the quality of representation from Cushman and Wakefield.

##### Colliers International

Colliers International is one of the largest Commercial real estate agencies in Australia, with a market share of 16.5% of total commercial real estate transactions in 2016 (Source IBISWorld).

In early-2016 Colliers International implemented a 6-month leasing strategy for the shop tenancies at the subject site, including:

- Website advertising – including Colliers website, Real Commercial etc
- Print media – SMH and St George and Sutherland Leader newspapers



6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

- Distribution of E-Flyer to prospective tenants
- Email contact with tenant database
- On-site sign boards

A total of 90 enquiries to the Colliers campaign did not result in any suitable candidates to lease the shop tenancies at the subject site.

In a letter to Lumex (16 May 2017), Colliers concluded:

*“Overall, the sales and leasing campaign was conducted for a period of 6 months as set out above, limited interest was received in the tenancies and no suitable formal offers were provided. In light of the length of time dedicated to the campaign, and the lack of interest resulting from our efforts, it was my recommendation that the active campaign be ceased.*

*In my opinion, the tenancies are not located in a desirable position for non-residential uses which we believe are ordinarily suitable for such a site, such as a cafe or retail premise. The tenancies are removed from the core retail/commercial strip of Bay Street and Grand Parade, resulting in substantially less foot traffic which is unattractive to potential tenants. Furthermore, the context of the tenancies on Princess Street is largely residential, with limited attraction for non-residential uses due to concerns about noise impacts and potential complaint limiting or affecting operations.”*

#### **LJ Hooker Commercial**

Given the lack of interest generated from the leasing campaigns operated by the previous two ‘corporate’ commercial leasing agents, the local office of LJ Hooker Commercial was engaged to continue the leasing program in June 2017.

LJ Hooker Commercial tends to operate from smaller regional offices who have a closer relationship with the local business community within the area that they serve.

Since June 2017, LJ Hooker Commercial has continued to market the property to potential tenants, with only six formal enquiries made in the past 6-months. None of these inquiries have proceeded to a formal commitment to lease the shops.

### **3.2 Comments on Leasing Program**

The leasing program undertaken for the ground floor shops at the subject site has been comprehensive, with three well-regarded commercial agencies unable to lease the tenancies over a period exceeding 2.5 years.

Feedback from the leasing agents, including written advice from Colliers International, is that the tenancies lack the locational attributes able to attract commercial tenants.

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT

It is understood that the asking rental level for the shops has been reduced over the period since June 2015, in response to the lack of tenant interest. The current asking rent for the shops is at a discount to that being achieved in Bay Street.

Furthermore, the leasing agents for the subject site have successfully leased space at other locations controlled by the client.

### 3.3 Implications for Subject Site

Overall, the leasing program implemented for the ground floor shops at the Blue Apartments is consistent with normal industry expectations. Three well-known and competent leasing agencies have been engaged to undertake the leasing program, and available evidence suggests that all agents have made genuine efforts to attract tenants to the site.

The lack of interest in the site for potential tenants is not associated with the specific layout and design of the tenancies, rather the leasing agents have identified the poor locational attributes of the site as a key reason for a lack of tenant interest. The asking rents and leasing terms being sought by the owner for the shops are reasonable in the context of standard tenant expectations.



## 4 LOCATION ASSESSMENT

This Chapter undertakes a locational assessment for the subject site at the Blue Apartments in Brighton-Le-Sands with the application of criteria normally applied to commercial location decisions in private client advice by our firm.

### 4.1 Methodology and Criteria

An important consideration in the trading performance of any shop or retail outlet is the relative locational and design merits of the individual tenancy in which the outlet operates.

Two factors which are usually fundamental to business success in the retail industry are exposure and accessibility to potential customers.

A scorecard methodology can be used to assess the merits of shop tenancies for potential operators. A summary of 12 location criteria which are commonly applied in locational advice to clients is summarised in Table 4.1, with the relative performance of the subject identified according to each measure. In general, developers/landlords/tenants are seeking sites with an average score of 3 (average) or better.

**Table 4.1 Location Assessment Criteria**

Criteria	Considerations	Subject Site Score <sup>a</sup>
Retail Spending	Per capita food and non-food retail spending	3 - Average
Socio-Economic Profile	Are demographics of local population supportive of potential tenants	3 - Average
Resident Population	Is the local population stable, declining or growing.	3 - Average
Daytime population	Number of daytime workers and/or students	2- Below Average
Visitor spending	Visitors on weekends or during holidays	3 -Average
Significant retailers	Exposure to customers generated by national brand major, mini major and specialty stores	2- Below Average
Competition	Is the location well-placed relative to local competitors	1 - Very Low
Vehicle traffic and parking	Ease or difficulty of accessing the site by car. Availability of parking. Volume of passing vehicle traffic.	2 – Below Average
Pedestrian traffic	Ease or difficult of accessing the site for pedestrians. Volume of pedestrian traffic.	1 - Very Low
Visibility to passing traffic	Sight lines, signage opportunities	1 – Very Low
Adjacencies	Benefit of adjacent land uses to retail traders	1 – Very Low
Critical mass/destination appeal	Number and size of surrounding shops. Local attractiveness of site for shoppers.	1 – Very Low
<b>Overall Average</b>		<b>1.9 Below Average</b>

Source: Essential Economics

a. 1=Very Low, 2=Below Average, 3=Average. 4=Above Average, 5=Very High

6-14 PRINCESS STREET BRIGHT-LE-SANDS  
SHOP TENANCY ASSESSMENT**4.2 Implications for Subject Site**

An average of score of 1.9 has been assessed for the subject site, which reflects locational attributes well-below average and indicates:

- A low desirability for potential tenants
- Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site
- A high 'vacancy risk' for the shop tenancies.

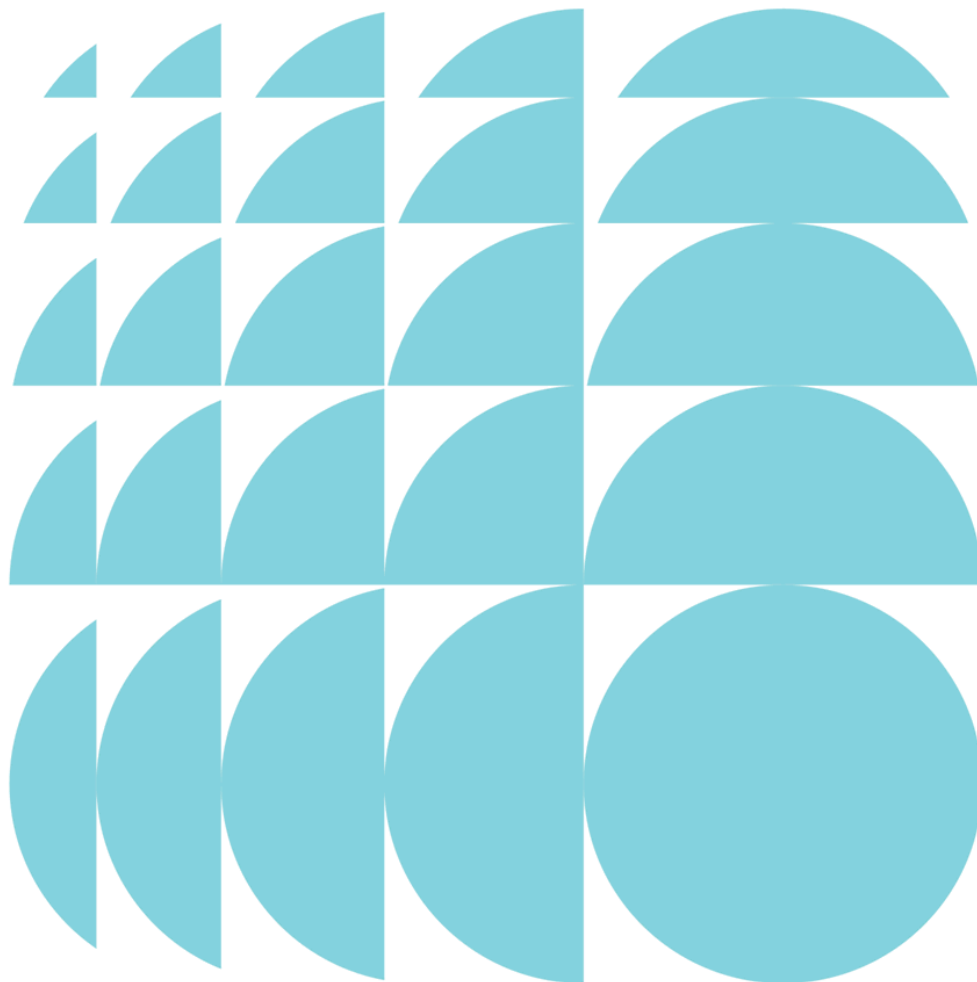
# ETHOS URBAN

## Planning Proposal

8 Princess Street, Brighton-Le-Sands  
Rezoning from SP3 Tourist to B4 Mixed Use

Submitted to Bayside Council  
On behalf of Lumex Property Group Pty Ltd

09 April 2018 | 17060



**CONTACT**

James McBride Principle JMcBride@ethosurban.com 02 9409 4954

Reproduction of this document or any part thereof is not permitted without prior written permission of Ethos Urban Pty Ltd.

This document has been prepared by:



Jo Zhu & James McBride 26/03/2018

This document has been reviewed by:



Ben Craig 26/03/2018

Reproduction of this document or any part thereof is not permitted without written permission of Ethos Urban Pty Ltd. Ethos Urban operates under a Quality Management System. This report has been prepared and reviewed in accordance with that system. If the report is not signed, it is a preliminary draft.

VERSION NO.	DATE OF ISSUE	REVISION BY	APPROVED BY
-------------	---------------	-------------	-------------

Ethos Urban Pty Ltd  
 ABN 13 615 087 931  
 www.ethosurban.com  
 173 Sussex Street, Sydney  
 NSW 2000 t 61 2 9956 0952

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

1.0	Introduction	3
1.1	The Site	3
1.2	Background	3
1.3	Description of the Planning Proposal	4
1.4	Rationale for the Proposal	4
2.0	Objectives or Intended Outcomes	5
3.0	Explanation of Changes	5
4.0	Justification	6
4.1	Need for the planning proposal	6
4.2	Relationship to Strategic Planning Framework	7
4.3	Environmental, social and economic impact	11
4.4	State and Commonwealth interests	17
5.0	Community Consultation	17
6.0	Project Timeline	18

### Figures

Figure 1	Site Location	3
Figure 2	Existing Zoning Map	5
Figure 3	Proposed Zoning Map	6
Figure 4	Anticipated Apartment Layout	12

### Tables

Table 1	Table Caption Proposal's consistency with the goals of A Plan for Growing Sydney	7
Table 2	Table Caption Proposal's consistency with Our Greater Sydney 2056	7
Table 3	Proposal's consistency with the relevant priorities and actions of the Eastern City District Plan	8
Table 4	Proposal's consistency with the outcomes of the Rockdale City Community Strategic Plan	8
Table 5	Table Caption Consistency with SEPPs	9
Table 6	Consistency with applicable Ministerial Directions	10
Table 7	Assessment of the proposal's consistency with the objective of the ADG	12
Table 8	Table Caption Approximate project timeline	18

### Appendices

- A. Indicative Architectural Drawings  
*SJB*
- B. Sales and Marketing Overview Letter  
*Colliers*
- C. Traffic Impact Assessment  
*GTA*
- D. Retail Tenancy Economic Assessment  
*Essential Economics*

## 1.0 Introduction

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to the *Rockdale Local Environmental Plan 2011* ('Rockdale LEP 2011'). It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment guidelines, including 'A Guide to Preparing Local Environment Plans' and 'A Guide to Preparing Planning Proposals'.

### 1.1 The Site

The site to which this planning proposal relates is located at 8 Princess Street, Brighton-Le-Sands and is legally described as SP92060. The subject strata units located on the ground floor are Lot 70, Lot 4 and Lot 5 within SP92060. **Figure 1** illustrates the subject site.



The Site

**Figure 1 Site Location**

Source: Nearmap

### 1.2 Background

In 1988, development consent (DA175/87) was granted by Council for the construction of a 15-storey hotel – the Novotel Hotel Brighton Le Sands – at the Grand Parade, Brighton Le Sands. Thakral Holdings Limited is the current owner of the Novotel Hotel.

Recently in 2007, Thakral Holdings Limited purchased the vacant site (8-14 Princess Street, Brighton Le Sands) to the immediate west adjoining the Novotel.

Between early 2008 and early 2011, a series of meetings were held at Rockdale City Council to discuss a possible extension of the existing Novotel hotel onto the subject site. During this time, discussions were also held with the Department of Planning & Infrastructure (the Department) and Council regarding the proposed lodgement of a Part 3A Concept Plan for the refurbishment of the existing hotel and its extension onto the subject site. In January 2009, the proposed hotel expansion project was declared to be a project to which Part 3A of the EP&A Act applies, and the then Minister for Planning authorised the preparation of a Concept Plan.

As part of the comprehensive LEP process, the site was re-zoned from Residential 2(c) under the preceding Rockdale LEP 2000 to SP3 Tourist under the Rockdale LEP 2011, which would appear to be in response to the declaration of the Part 3A Concept Plan.

In June 2011, Thakral advised the Council that a hotel expansion onto the subject site would not be pursued for a range of commercial and strategic reasons outside the control of Thakral Holdings. Accordingly, Thakral Holdings pursued a 'shop top housing' development of the site and lodged a Development Application on 20 April 2012. During the course of the DA assessment, the current landowner, Lumex Property Group acquired the site.

The existing development at the site, being a shop top housing building, was approved by (the former) Rockdale City Council on 12 December 2012 as part of DA-2012/325. A shop top housing building was proposed under DA-2012/325 as a result of the prohibition of residential flat buildings within the SP3 Tourist zone which applies to the site.

DA-2012/325 provided consent for the construction and use of a 9-storey mixed-use development comprising three (3) non-residential tenancies, 67 residential units and basement parking for 71 vehicles. The building was completed and occupied in September 2015.

### 1.3 Description of the Planning Proposal

This planning proposal seeks to amend the zoning of land at 8 Princess Street, Brighton-Le-Sands (legally known as SP 92060) from SP3 Tourist to B4 Mixed Use in the Land Zoning Map of the Rockdale LEP 2011.

No amendment to the existing building height or floor space ratio development standards is proposed.

### 1.4 Rationale for the Proposal

The rationale for this planning proposal is that the site is currently being underutilised and is not contributing to the amenity of Brighton-Le-Sands. The landowner has actively marketed the three ground level tenancies for either leasing or sale through a national specialist commercial real estate agent, Cushman and Wakefield and thereafter engaging Colliers and LJ Hooker to extend the campaign. During the past 2.5 years since its completion, no reasonable offers were received for the purchase or leasing of the space. A letter providing an overview of the sales and marketing campaign is provided at **Appendix B**.

Shortly after construction of the exiting building in September 2015, the non-residential tenancies were advertised for lease or sale through a comprehensive marketing campaign involving:

- online listings on Real Commercial;
- listings within the Sydney Morning Herald and the St George and Sutherland Shire Leader newspapers;
- notifications of an e-flyer within a national database for commercial real estate agents; and
- onsite sign boards.

The three tenancies are subdivided into separate titles, each with a regular and highly usable shape. The tenancies were marketed as 'empty shells' (i.e. no fit out), allowing for flexibility in their final use. Furthermore, the design of each tenancy was maximised for retail exposure, with floor to ceiling glazing towards Princess Street. Building upgrades were also completed for a 1,000 Litre Grease arrester and mechanical exhaust, allowing for reduced fit out costs for food and beverage operators utilising the spaces.

Despite the above and an asking rent reduction, interest in the tenancies was still limited, as outlined in the letter provided at **Appendix B**. Colliers note the following key factors contributing to the lack of commercial interest:

- a lack of foot traffic along Princess Street;
- reduced critical mass of other retail operations immediately surrounding the site;
- potential conflict of non-residential and residential uses, particularly in regard to noise and hours of operation; and
- a shortage of customer parking (particularly on weekends) in the surrounding street network.

Given the long term vacancy status of the site, Essential Economics were engaged to undertake an independent market appraisal of the ground floor retail/commercial space to determine its future financial viability (attached in **Appendix D**). The report finds that the subject site has below-average attributes for the operation of successful ground-floor retailing based on 12 commonly applied locational assessment criteria. The assessment result also confirms that the poor locational attributes of the site is one of the key reasons for a lack of interest.

In light of the above, this planning proposal is necessary to facilitate the conversion of the non-residential tenancies to residential apartments. All reasonable efforts have been exhausted to secure the occupation of these tenancies for commercial purposes, therefore it is considered necessary to allow for an alternative use which is in demand and will allow for the ground level to contribute to the streetscape and activity in the locality.

It is noted that the conversion of the ground floor commercial tenancies to residential apartments will be subject to a subsequent Development Application.

**2.0 Objectives or Intended Outcomes**

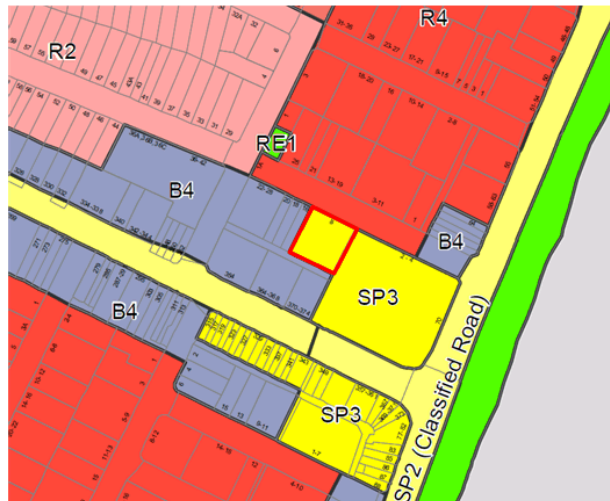
The key objective and intended outcome of the planning proposal is to amend the *Rockdale LEP 2011* to enable the infill redevelopment of three vacant non-residential tenancies at the subject site. The infill of these three non-residential tenancies will allow for the delivery of two residential apartments.

The broader objectives of this planning proposal are to:

- Amend the zoning of the land from SP3 Tourist to B4 Mixed Use to in order to permit residential uses on the ground floor;
- Enhance the degree to which the existing building integrates with the immediate surrounds, which predominantly consists of residential uses;
- Provide a comparatively enhanced level of street front activation and urban design outcome through the occupation of the lower levels of the building; and
- Establish additional opportunities for housing within the Brighton-Le-Sands centre, in turn offering residents the opportunity to live within immediate access to key services, amenities, and infrastructure within walking distance.

**3.0 Explanation of Changes**

The proposed outcome, as outlined at **Section 2.0**, will be achieved by amending Sheet LZN\_004 Land Zoning Map of Rockdale LEP 2011 as follows:

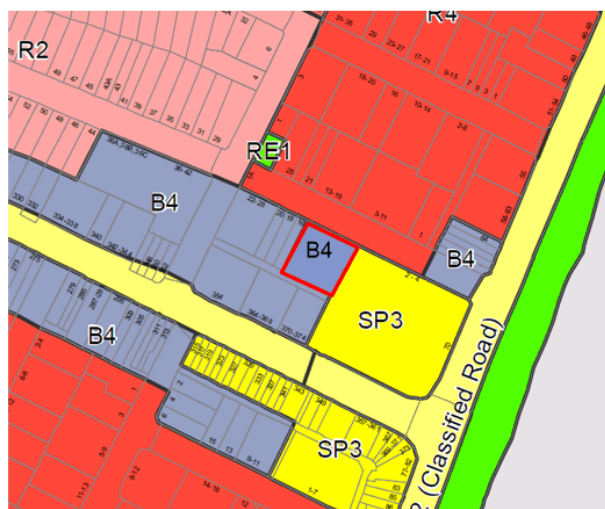


**Figure 2 Existing Zoning Map**

Source: *Rockdale LEP 2011*



8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018



**Figure 3 Proposed Zoning Map**

Source: Ethos Urban

## 4.0 Justification

### 4.1 Need for the planning proposal

#### 4.1.1 Is the planning proposal a result of any strategic study or report?

This planning proposal is not in direct response to any strategic study or report, but more broadly implements the goals and aspirations of the adopted metropolitan and district strategic plans. The relationship of the proposal with the relevant strategic planning documents is addressed in Section 4.2 below.

The need for the planning proposal has mainly arisen from a lack of interest in the non-residential tenancies and the long-term vacancies (2.5 years), given a number of constraints. As such, it is more appropriate to rezone the site to B4 Mixed Use to allow for residential flat buildings given the prolonged vacancy of the ground floor commercial tenancies.

The future provision of residential uses on the ground level in lieu of the non-residential tenancies will also result in an improvement to the contribution of the building in the streetscape, particularly given the vacant nature of the current tenancies. Currently, the vacant tenancies present a blank response to the street, being empty shells with no visual interest or activity provided. The future envisaged residential apartments will enable a level of activation to the ground level and will ensure that the presentation of the building is purposeful rather than vacant tenancies.

#### 4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the most appropriate means of achieving the objectives and intended outcomes outlined at Section 2.0. Currently, the zoning of the site does not permit residential flat buildings, meaning that ground level tenancies within the existing building are required to be utilised for non-residential uses. As such, there is a clear need for an amendment to the current permissible uses on the site to permit the conversion of the ground level non-residential tenancies to residential apartments.

The planning proposal will amend the zoning of the site from SP3 Tourist zone to a B4 Mixed Use zoning in order to permit 'residential flat buildings' on the site. The proposed rezoning will respond to the underlying commercial zone of the Brighton-Le-Sands Town Centre and will be commensurate with uses foreshadowed in the zone.

An alternative to the amendment sought with the planning proposal would be to amend Schedule 1 'Additional permitted uses' to insert "residential flat buildings" as a permissible use on the land without amending the existing SP3 Tourist zone. This alternative would not provide a desirable outcome for the site as it will create an unnecessary provision in the LEP and is not reflective of the underlying objective of the SP3 zone which is to promote tourist related uses. It is noted that given the recent re-development of the site, it is considered that the SP3 Tourist zoning of the site is effectively redundant.

Overall, the amendment to the zoning of the site pursuant to the Rockdale LEP 2011 is the most efficient and time effective approach to meet the intended outcomes of the planning proposal.

**4.2 Relationship to Strategic Planning Framework**

**4.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?**

The planning proposal is consistent with the objectives and actions of the relevant regional, sub-regional or district strategic plans as set out below.

**A Plan for Growing Sydney**

The proposed amendment to the Rockdale LEP 2011 is consistent with the goals outlined under *A Plan for Growing Sydney* as discussed in **Table 1** below.

**Table 1 Table Caption Proposal's consistency with the goals of A Plan for Growing Sydney**

Goal	Comment
GOAL 1: A competitive economy with world-class services and transport	The planning proposal will not affect the achievement of a competitive economy with world-class services and transport. The subject tenancies have been marketed for over 2.5 years for leasing or sale without any success. As such, it is evident that the commercial/retail tenancies do not contribute to a competitive economy in their current form. These tenancies are expected to contribute to the economy when converted to residential apartments.
GOAL 2: A city of housing choice, with homes that meet our needs and lifestyles	The proposed amendment of the Rockdale LEP 2011 will facilitate additional housing within the locality.
GOAL 3: A great place to live with communities that are strong, healthy and well connected	The planning proposal will facilitate the improvement of the current building, allowing for the replacement of vacant non-residential tenancies with residential apartments. These new apartments will enhance the streetscape and increase community members, offering opportunities for a strengthened sense of community.
GOAL 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources	The proposal will facilitate the conversion of vacant non-residential tenancies to residential apartments, ensuring that the land is utilised to its full potential and housing is consolidated in a location with close proximity to existing services, facilities and infrastructure.

**Greater Sydney Region Plan - Vision to 2056**

The Greater Sydney Commission (GSC) has published a finalised new Greater Sydney Region Plan titled *Our Greater Sydney 2056 A metropolis of three cities*, aligns the metropolitan plan for the Greater Sydney with the more targeted district plans. The planning proposal is consistent with the Directions of *Our Greater Sydney 2056* as set out in **Table 2** below.

**Table 2 Table Caption Proposal's consistency with Our Greater Sydney 2056**

Priority	Comment
A city for people Celebrating diversity and putting people at the heart of planning	The planning proposal will accommodate the growing population of Sydney and contribute to a healthy resilient community.
Housing the city Giving people housing choices	The additional residential apartments facilitated through the planning proposal will accommodate new residents, contributing to the housing target of the Eastern City.

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

Priority	Comment
A city of great places Designing places for people	The planning proposal will increase capacity for residential development and will improve viability and sustainability of the place, while enhancing the street interface.
A well-connected city Developing a more accessible and walkable city	The site is located in an identified local centre with close proximity to Kogarah Health and Education Precinct and Bayside West Precincts urban renewal area. The proposal will allow for additional housing in a well located area to support the local centre and contribute to a more accessible and walkable city.

#### Eastern City District Plan

The proposed amendment to the Rockdale LEP 2011 is consistent with the priorities and actions for the eastern city outlined within the adopted Eastern City District Plan. The proposal's consistency with the relevant priorities is set out in **Table 3** below.

**Table 3 Proposal's consistency with the relevant priorities and actions of the Eastern City District Plan**

Priority	Comment
Planning Priority E5: Providing housing supply, choice and affordability with access to jobs and services	The planning proposal will allow for future residential apartments in an accessible location with access to jobs and services. These apartments will contribute to housing target, choice and diversity in the locality.
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage	The additional residential apartments facilitated through the planning proposal will provide a unique housing proposition, being courtyard apartments accessed directly from the street in a local centre. These apartments will provide diversity to the building and more broadly contributing to greater choice in the housing market.
Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city	The planning proposal will support the principle of integrating land use and transport by facilitating the provision of residential apartments in close proximity to existing facilities and services, allowing residents to live within 30 minutes of existing infrastructure, facilities, services and employment.

#### 4.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

The planning proposal is consistent with the Rockdale City Community Strategic Plan. The Community Strategic Plan sets out the vision for the local area until 2025, establishing four key outcomes. **Table 4** sets out the consistency of the proposal with these outcomes and the relevant objective.

**Table 4 Proposal's consistency with the outcomes of the Rockdale City Community Strategic Plan**

Outcome	Comment
Outcome 1 – Rockdale is a welcoming and creative City with active, healthy and safe communities	The planning proposal will contribute to this outcome by facilitating residential apartments which will allow people to live in the Brighton-Le-Sands centre. The integration of new housing in this centre will allow people to live a healthy and active lifestyle.
Outcome 2 – Rockdale is a City with a high quality natural and built environment and valued heritage in liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond.	The proposal will facilitate improvements to the existing building, being the enhancement and activation of the ground floor plate. This will ultimately contribute to the quality of the built environment.
Objective 2.2 Our City has a well managed and sustainable built environment, quality and diverse development with effective housing choice	The planning proposal will facilitate the conversion of non-residential tenancies into residential apartments, contributing to greater housing choice in the locality.
Outcome 3 – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning	The planning proposal seeks to permit the use of vacant non-residential tenancies for use as residential apartments. Ultimately, this will allow for a greater population in the locality, in turn enhancing the local economy.
Outcome 4 – Rockdale is a City with engaged communities, effective leadership and access to decision making.	The planning proposal will not affect the ability for effective leadership and access to decision making.

#### 4.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The consistency of the planning proposal to applicable SEPPs is discussed in **Table 5** below.

**Table 5** Table Caption Consistency with SEPPs

No.	Title	Consistency with planning proposal
1	Development Standards	Not applicable as per Clause 1.9 of the Rockdale LEP 2011.
14	Coastal Wetlands	Not applicable
19	Bushland in Urban Areas	Not applicable
21	Caravan Parks	Not applicable
26	Littoral Rainforests	Not applicable
30	Intensive Aquaculture	Not applicable
33	Hazardous and Offensive Development	Not applicable
36	Manufactured Home Estates	Not applicable
44	Koala Habitat Protection	Not applicable
47	Moore Park Showground	Not applicable
50	Canal Estate Development	Not applicable
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
55	Remediation of Land	The site was deemed suitable for residential uses under DA-2012/325. The findings of this original assessment are considered to remain valid.
62	Sustainable Aquaculture	Not applicable
64	Advertising and Signage	Not applicable
65	Design Quality of Residential Apartment Development	Consistency with the principles of SEPP 65 and accompanying Apartment Design Guide will be further demonstrated in a future development application for the change of use. A high level overview of the proposals consistency with these matters and residential amenity more generally is set out in <b>Section 4.3.2</b> below.
70	Affordable Housing (Revised Schemes)	Not applicable
71	Coastal Protection	Not applicable
-	(Affordable Rental Housing) 2009	Not applicable
-	(Building Sustainability Index: BASIX) 2004	Detailed compliance with SEPP (BASIX) will be demonstrated in a future separate development application for the change of use facilitated by this planning proposal.
-	(Exempt and Complying Development Codes) 2008	SEPP (Exempt and Complying Development Codes) 2008 may apply to the future development, however is not relevant to this planning proposal.
-	(Housing for Seniors or People with a Disability) 2004	Not applicable
-	(Infrastructure) 2007	Not applicable
-	(Kosciuszko National Park Alpine Resorts) 2007	Not applicable
-	(Kurnell Peninsula) 1989	Not applicable
-	(Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
-	(Miscellaneous Consent Provisions) 2007	Not applicable
-	(Penrith Lakes Scheme) 1989	Not applicable
-	(Rural Lands) 2008	Not applicable
-	(State and Regional Development) 2011	Not applicable

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

No.	Title	Consistency with planning proposal
-	(State Significant Precincts) 2005	Not applicable
-	(Sydney Drinking Water Catchment) 2011	Not applicable
-	(Sydney Region Growth Centres) 2006	Not applicable
-	(Three Ports) 2013	Not applicable
-	(Urban Renewal) 2010	Not applicable
-	(Western Sydney Employment Area) 2009	Not applicable
-	(Western Sydney Parklands) 2009	Not applicable

#### 4.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

The consistency of the planning proposal to the relevant Ministerial Directions for Local Environmental Plans under Section 9.1 of the *Environmental Planning and Assessment Act 1979* is discussed in **Table 6** below.

**Table 6 Consistency with applicable Ministerial Directions**

No.	Title	Consistency with planning proposal
<b>1. Employment and Resources</b>		
1.1	Business and Industrial Zones	The planning proposal seeks to amend the zoning of the site from SP3 Tourist zone to B4 Mixed use under the Rockdale LEP 2011. This amendment will permit residential flat buildings on the site and will encourage greater variety and choice of housing types close to facilities and services.
1.2	Rural Zones	Not applicable
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable
1.4	Oyster Aquaculture	Not applicable
1.5	Rural Lands	Not applicable
<b>2. Environment and Heritage</b>		
2.1	Environmental Protection Zones	Not applicable
2.2	Coastal Protection	Not applicable
2.3	Heritage Conservation	Not applicable
2.4	Recreation Vehicle Areas	Not applicable
<b>3. Housing, Infrastructure and Urban Development</b>		
3.1	Residential Zones	The planning proposal seeks to amend the zoning of the site from SP3 Tourist zone to B4 Mixed use under the Rockdale LEP 2011. This amendment will permit residential flat buildings on the site and will encourage greater variety and choice of housing types close to facilities and services.
3.2	Caravan Parks and Manufactured Home Estates	Not applicable
3.3	Home Occupations	Not applicable
3.4	Integrating land use and Transport	The planning proposal will support the principle of integrating land use and transport by facilitating the provision of residential apartments in close proximity to existing facilities and services.
3.5	Development near Licensed Aerodromes	Not applicable
3.6	Shooting ranges	Not applicable
<b>4. Hazard and Risk</b>		
4.1	Acid Sulfate Soils	Not applicable
4.2	Mine Subsidence and Unstable Land	Not applicable
4.3	Flood Prone Land	Not applicable

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

No.	Title	Consistency with planning proposal
4.4	Planning for Bushfire Protection	Not applicable
<b>5. Regional Planning</b>		
5.1	Implementation of Regional Strategies	The planning proposal is of minor significance in terms of regional planning and is consistent with the objectives of the adopted Greater Sydney Region Plan and Sydney Eastern District Plan.
5.2	Sydney Drinking Water Catchments	Not applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5	Development on the vicinity of Ellalong	(Revoked)
5.6	Sydney to Canberra Corridor	(Revoked)
5.7	Central Coast	(Revoked)
5.8	Second Sydney Airport: Badgerys Creek	Not applicable
5.9	North West Rail Link Corridor Strategy	Not applicable
<b>6. Local Plan Making</b>		
6.1	Approval and Referral Requirements	The planning proposal does not relate to matters which are likely to require the referral or approval from a public authority.
6.2	Reserving land for Public Purposes	Not applicable
6.3	Site Specific Provisions	The planning proposal seeks to amend the site zoning on the zoning map and will not involve amendments to any site-specific clause. Further, no amendments are proposed to the existing development standards for the site.
<b>7. Metropolitan Planning</b>		
7.1	Implementation of A Plan for Growing Sydney	The planning proposal is of minor significance in terms of metropolitan planning and supports the goals of A Metropolis of Three Cities.
7.2	Implementation of Greater Macarthur Land Release Investigation	Not applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not applicable
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable

#### 4.3 Environmental, social and economic impact

##### 4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal will not result in any impact on critical habitat or threatened species, populations or ecological communities, or their habitats, given the site's urban location.

**4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

It is not anticipated that there will be any significant environmental effects as a result of the planning proposal. Potential environmental effects requiring further consideration are addressed below.

**Residential Amenity**

The planning proposal will facilitate the future conversion of three commercial tenancies to potentially two residential apartments subject to a separate Development Application. The residential amenity of these apartments in accordance with SEPP 65 and the Apartment Design Guide has been considered.

**Figure 2** illustrates the potential layout of two apartments prepared by SJB Architects. The configuration will allow for 1 x one bedroom unit and 1 x two bedroom unit. The indicative layout demonstrates that each unit will achieve natural light and will be afforded a functional floor layout with direct access to a private courtyard.



**Figure 4 Anticipated Apartment Layout**  
Source: SJB Architects

SJB has designed the anticipated layouts in reference to the nine principles of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) and the accompanying Apartment Design Guide ('the ADG'). **Table 7** outlines the consistency of the proposal with the design criteria of the ADG.

**Table 7 Assessment of the proposal’s consistency with the objective of the ADG**

Design Criteria	Proposal
Part 3 Siting the Development	
3D Communal and Public Open Space	
<i>Objective</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	✓
<i>Design Criteria</i> Communal open space has a minimum area equal to 25% of the site	✓
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	✓ (Refer to Shadow Diagrams at Attachment A)

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

Design Criteria	Proposal												
<b>3E Deep Soil Zones</b>													
<p><u>Objective</u> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p>	✓												
<p><u>Design Criteria</u> Deep soil zones are to meet the following minimum requirements:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Site Area</th> <th>Min. Dimensions</th> <th>Deep Soil Zone*</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table> <p>* % of site area</p>	Site Area	Min. Dimensions	Deep Soil Zone*	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	✓
Site Area	Min. Dimensions	Deep Soil Zone*											
Less than 650m <sup>2</sup>	-	7%											
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m												
Greater than 1,500m <sup>2</sup>	6m												
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m												
<b>3F Visual Privacy</b>													
<p><u>Objective</u> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p>	✓												
<p><u>Design Criteria</u> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms &amp; Balconies</th> <th>Non-habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	✓
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms											
Up to 12m (4 storeys)	6m	3m											
Up to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
<b>3K Bicycle and Car Parking</b>													
<p><u>Objective</u> Car Parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</p>	✓												
<p><u>Design Criteria</u> For development in the following locations: on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</p> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p>	✓												
<b>Part 4 Designing the Buildings</b>													
<b>4A Solar and Daylight access</b>													
<p><u>Objective</u> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>	✓												
<p><u>Design Criteria</u></p>	✓ (76% overall)												



<b>3F Visual Privacy</b>											
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.											
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	✓										
<b>4B Natural Ventilation</b>											
<u>Objective</u> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	✓										
<u>Design Criteria</u> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	✓ (76%)										
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	N/A										
<b>4C Ceiling Height</b>											
<u>Objective</u> Ceiling height achieves sufficient natural ventilation and daylight access	✓										
<u>Design Criteria</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	✓										
<table border="1" style="width: 100%;"> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> </tbody> </table>	Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope			
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area										
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope										
These minimums do not preclude higher ceilings if desired.											
<b>4D Apartment Size and Layout</b>											
<u>Objective</u> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	✓										
<u>Design Criteria</u> Apartments are required to have the following minimum internal areas:	✓										
<table border="1" style="width: 100%;"> <thead> <tr> <th>Apartment Type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <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> </tbody> </table>	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>	
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>										
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.											
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	✓										
<u>Objective</u> Environmental performance of the apartment is maximised	✓										

4C Ceiling Height																
<p><u>Design Criteria</u> Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>	Further discussion provided below.															
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	Further discussion provided below.															
<p><u>Objective</u> Apartment layouts are designed to accommodate a variety of household activities and needs</p>	✓															
<p><u>Design Criteria</u> Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p>	✓															
<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p>	✓															
<p>Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments</p>	✓															
<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	✓															
4E Private Open Space and Balconies																
<p><u>Objectives</u> Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p>	✓															
<p><u>Design Criteria</u> All apartments are required to have primary balconies as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Internal area</th> </tr> </thead> <tbody> <tr> <td>Studio apartment</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartment</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartment</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartment</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling Type	Minimum Area	Minimum Internal area	Studio apartment	4m <sup>2</sup>	-	1 bedroom apartment	8m <sup>2</sup>	2m	2 bedroom apartment	10m <sup>2</sup>	2m	3+ bedroom apartment	12m <sup>2</sup>	2.4m	✓
Dwelling Type	Minimum Area	Minimum Internal area														
Studio apartment	4m <sup>2</sup>	-														
1 bedroom apartment	8m <sup>2</sup>	2m														
2 bedroom apartment	10m <sup>2</sup>	2m														
3+ bedroom apartment	12m <sup>2</sup>	2.4m														
<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	✓															
4F Common Circulation and Spaces																
<p><u>Objective</u> Common circulation spaces achieve good amenity and properly service the number of apartments</p>	N/A															
<p><u>Design Criteria</u> The maximum number of apartments off a circulation core on a single level is eight.</p>	N/A															
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	N/A															
4G Storage																
<p><u>Objective</u> Adequate, well designed storage is provided in each apartment</p>	✓															
<p><u>Design Criteria</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> </tr> </thead> <tbody> <tr> <td>Studio apartment</td> <td>4m<sup>2</sup></td> </tr> <tr> <td>1 bedroom apartment</td> <td>6m<sup>2</sup></td> </tr> <tr> <td>2 bedroom apartment</td> <td>8m<sup>2</sup></td> </tr> <tr> <td>3+ bedroom apartment</td> <td>10m<sup>2</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Minimum Area	Studio apartment	4m <sup>2</sup>	1 bedroom apartment	6m <sup>2</sup>	2 bedroom apartment	8m <sup>2</sup>	3+ bedroom apartment	10m <sup>2</sup>	✓					
Dwelling Type	Minimum Area															
Studio apartment	4m <sup>2</sup>															
1 bedroom apartment	6m <sup>2</sup>															
2 bedroom apartment	8m <sup>2</sup>															
3+ bedroom apartment	10m <sup>2</sup>															

### Apartment Depth

The two future residential apartments would be provided with a combined habitable living, dining and kitchen depth of 8.4m, marginally exceeding the 8m maximum depth recommended under Objective 4D-2 of the ADG.

Notwithstanding this minor variation, the future room depth is acceptable given the subject apartments will overall achieve a suitable level of residential amenity. The exceedance of 0.4m over the recommended depth is marginal and compliance would not result in a significant level of added amenity.

The internal area of each apartment has been designed to exceed minimum requirements, ensuring that a satisfactory degree of solar access and ventilation is achieved. Both apartments will also have access to a large private outdoor space which will promote surveillance of the street given its location on the ground plane.

It is also noted that the primary habitable areas within each apartment, including the living, dining and bedroom areas, have been located closest to the external face of the building to ensure a high level of solar access and daylight.

### Traffic and Parking

A Traffic and Parking Assessment has been prepared by GTA Consultants ('GTA') and is provided at **Appendix C**.

With respect to the supply of car parking, GTA has determined that:

*'...the proposed development changes [facilitated by this Planning Proposal] will not affect the overall parking provision of the approved DA when assessed against [Rockdale Development Control Plan] 2011 requirements'.*

The Rockdale DCP 2011 stipulates that one parking space per one or two-bedroom apartment is required within a residential flat building. As the five (5) retail parking spaces approved under DA-2012/325 will no longer be required for retail use, these would be proposed to be converted for residential uses. Overall, no additional parking will be provided to the site. The planning proposal will also remain consistent with the current arrangements for visitor parking.

Furthermore, GTA has determined that any impact on the surrounding road network as a result of this planning proposal would be negligible. Within the *Guide to Traffic Generating Developments*, the Roads and Maritime Service recognises that residential apartments generate less traffic than retail premises, therefore the traffic generation of the site would likely decrease.

#### 4.3.3 How has the planning proposal adequately addressed any social and economic effects?

The proposed development will result in positive social and economic effects for the local area through the generation of local employment opportunities during construction and post-construction and through provision of additional housing stock.

The site currently accommodates three commercial tenancies on the ground level which have remained vacant since the completion of the development in September 2015. These ground floor retail/commercial tenancies have failed to attract market interest. In particular, Cushman and Wakefield, Colliers International and LJ Hooker Commercial are well-regarded and capable commercial agencies who have been unable to lease the tenancies over a period of 2.5 years, even after a reduced asking rent in response to the lack of interest.

In order to achieve a positive and sustainable outcome and in response to an unsuccessful market campaign, the landowner engaged Essential Economics to undertake an independent market appraisal of the ground floor retail/commercial space to assess the viability and likelihood of securing long term sustainable tenancies (refer to **Appendix D**).

The report finds that despite the design of the ground floor space is suitable to a range of potential tenants, the poor locational attributes of the site is the key reason for a lack of tenant interest based on the feedback. It analysed the site's location context, local provision of retail shops and services, local population and demographic characteristics, and its leasing program history. Essential Economics concludes that the subject site has *below-average attributes* for the operation of successful ground-floor retailing, which is confirmed by the following indications of the assessment result:

- A low desirability for potential tenants

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

- *Poor locational attributes which may undermine the long-term trading success of any tenants which are attracted to the site*
- *A high 'vacancy risk' for the shop tenancies.*

In particular, the subject site has very low ratings of 1.9 out of 5 to a set of 12 criteria commonly applied in locational advice for factors including:

- *Competition (extensive competition already exists for food-based retailing on Bay Street)*
- *Pedestrian Traffic (the subject site has minimal levels of pedestrian traffic and no direct sight lines to highly trafficked areas)*
- *Visibility to Passing Traffic (low levels of vehicle traffic in Princess Street and complex access arrangements from The Grand Parade)*
- *Adjacencies (the adjacent Novotel provides very limited activity to the subject site, no other significant attractors are in the immediate vicinity with the exception of Coles which has no interface or sight line to the Blue Apartments)*
- *Critical mass/destinational appeal (the subject site is located a block north of Bay Street and derives no benefit from the activity levels and visitation generated from the Brighton-Le-Sands activity centre).*

The conclusion is further supported by the demographics data of the suburb which is characterised by a slightly older than average population, with a high percentage of lone person households and below average medium individual income. Following the two and half years vacancy, it is evident that the long term financial viability of the ground floor retail/commercial tenancies is highly at risk

The planning proposal responds to the undesirable traits of the site with respect to facilitating commercial ground floor uses and will facilitate the conversion of these tenancies into residential apartments.

#### **4.4 State and Commonwealth interests**

##### **4.4.1 Is there adequate public infrastructure for the planning proposal?**

The proposal is intended to facilitate the delivery of two additional residential apartments within the existing building. This minimal increase in residential density is not expected to result in any significant strain on existing infrastructure such as local roads, public transport schools or the existing mixed use centre of Brighton-Le-Sands.

Any potential required amplification/upgrade of existing services will be further investigated in the separate planning application for the construction and use of the residential apartments.

##### **4.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation has not yet occurred with any State and Commonwealth public authorities given the stage of the planning proposal. Any feedback provided with the Gateway determination will be taken into consideration and addressed in the final planning proposal.

## **5.0 Community Consultation**

Community consultation will be undertaken in accordance with section 57 of the EP&A Act. This planning proposal will be publicly exhibited for at least 28 days following the LEP Gateway determination. It is expected that all exhibition material will be available on Council's website. Public notice of the public exhibition is expected to be given in local papers and on Council's website.

All submissions received during the exhibition period will be considered in the finalisation of the planning proposal.

8 Princess Street, Brighton-Le-Sands | Planning Proposal | 09 April 2018

## 6.0 Project Timeline

**Table 8** Table Caption Approximate project timeline

Task	Timing
Date of Gateway determination	August 2018
Anticipated timeframe for the completion of required technical information	September 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	November 2018
Commencement and completion dates for public exhibition period	September – October 2018
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	November 2018 – January 2019
Timeframe for the consideration of a PP following exhibition	November 2018 – January 2019
Consideration of PP by Council (Council Meeting)	February 2019
Date of submission to the department to finalise the LEP	February 2019
Anticipated date RPA will make the plan (if delegated) or Anticipated date RPA will forward to the department for notification	March 2019
Anticipated publication date	March 2019

SJB Architects



# Design Report

8 Princess Street  
Brighton Le Sands

4 April 2017 | Version 1.0

SJB Architects

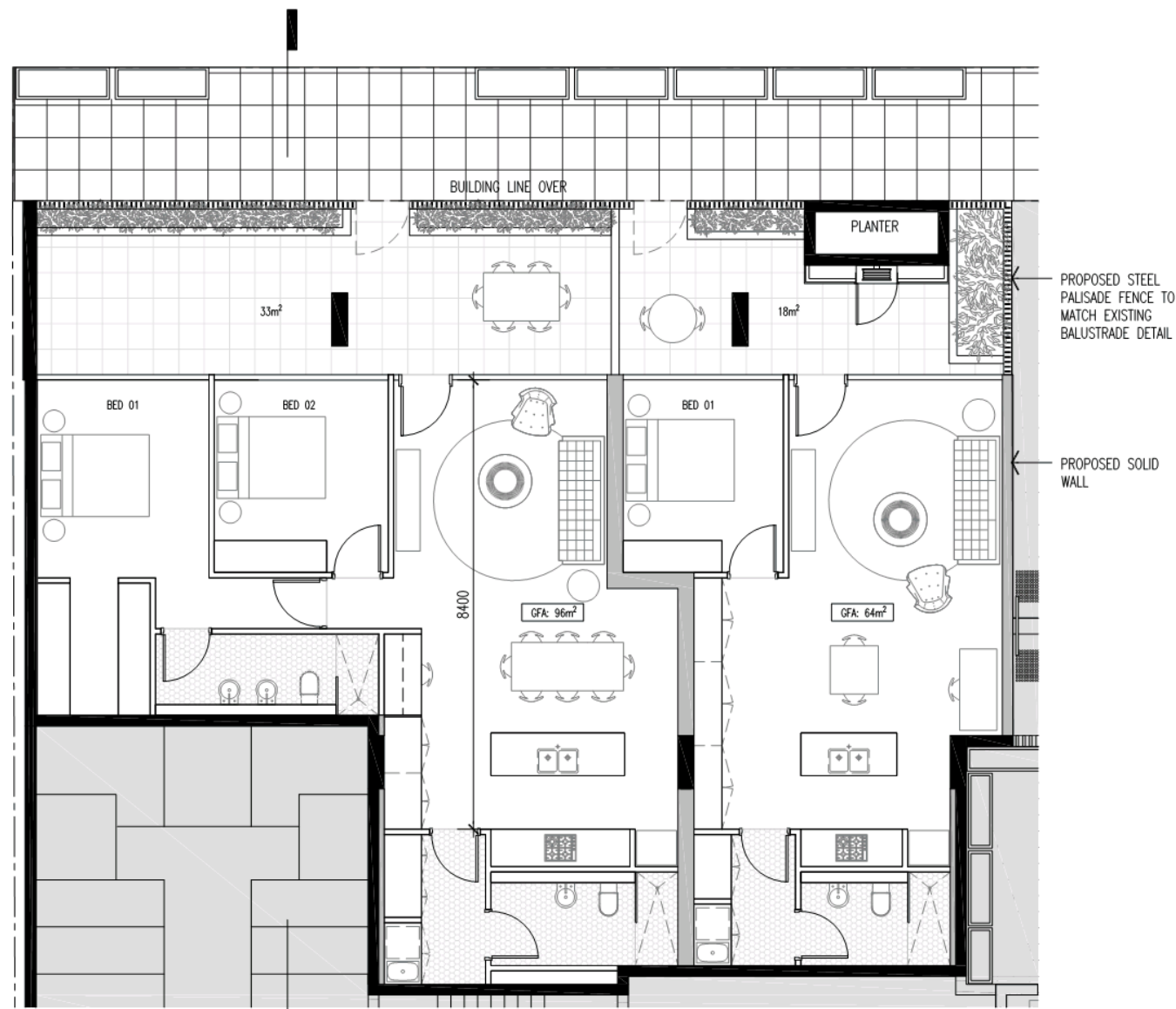


Design Report  
8 Princess Street  
Brighton Le Sands

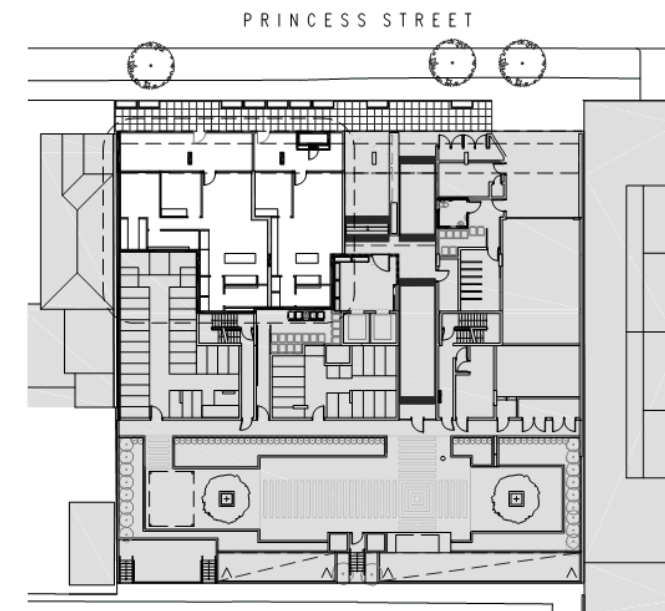
5627  
Date issued: 4 April 2017  
Version: 1.0  
Prepared by: PC  
Checked by: GS

**Contact Details**  
SJB Architects  
Level 2, 490 Crown Street  
Surry Hills NSW 2010  
Australia

T: 61 2 9380 9911  
architects@sjb.com.au  
www.sjb.com.au



Floor Plan - Proposed Apartment Layout



Existing Floor Plan - Ground Floor

Project	Job No.	Scale
LUMEX	5627	1:100 @ A3
6-14 Princess Street		



Drawing	Revision	SJB Architects
SK01	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
Proposed Apartment Layout	04/04/17	T 61 2 9390 9911 sjb.com.au
		SJB Architecture (NSW) Pty Ltd ACN 061 094 724
		Adam Haddow 7188 John Pradel 7004




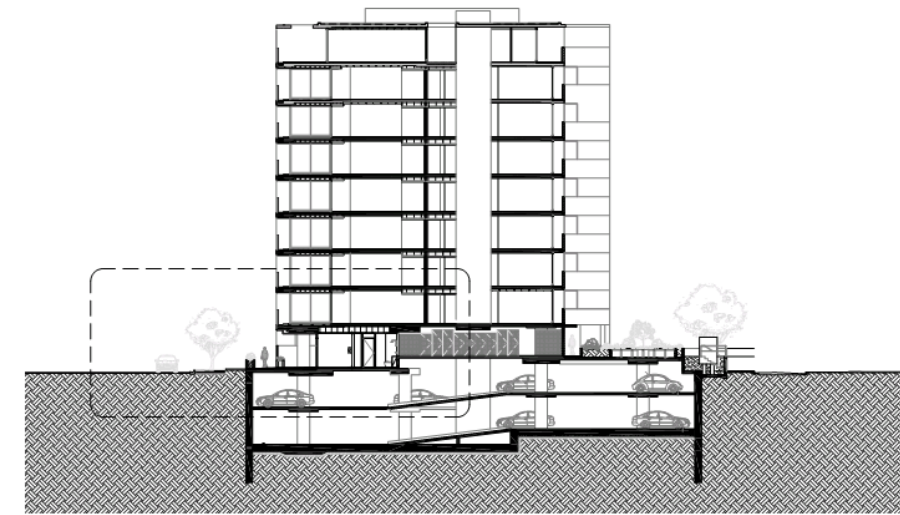




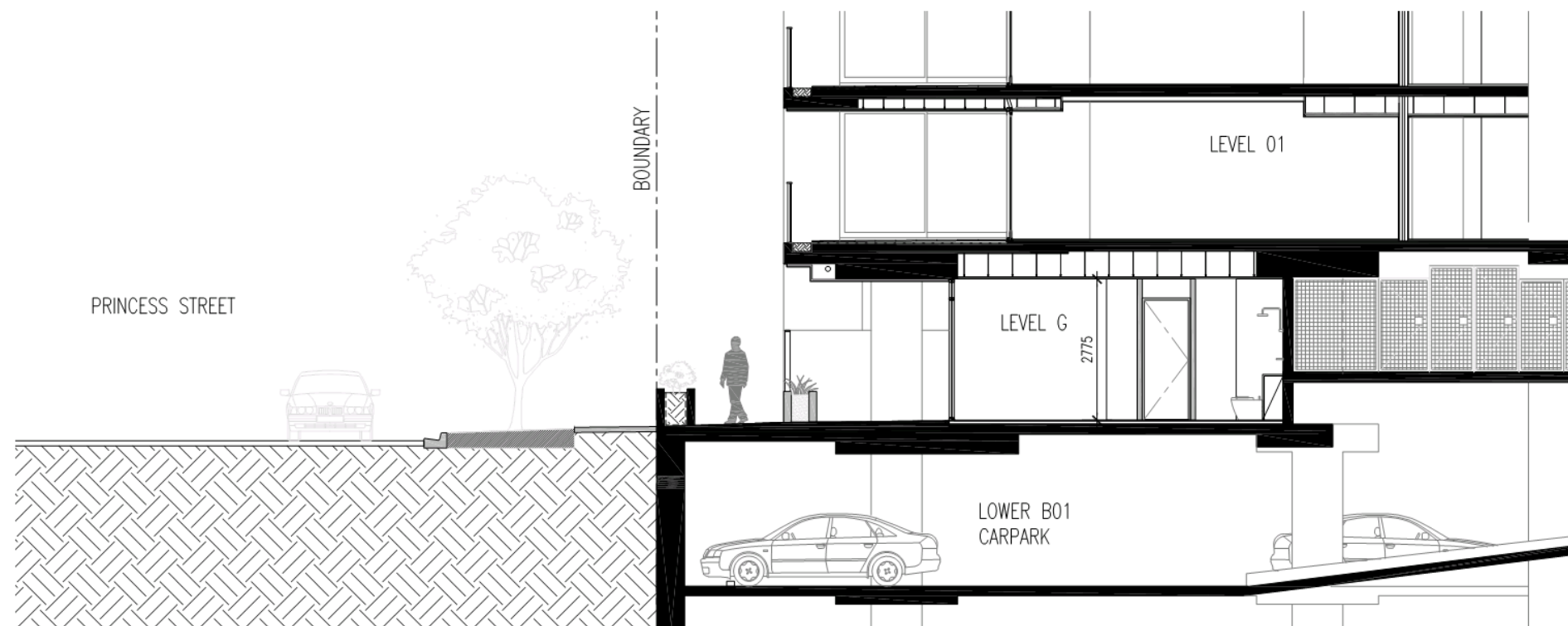
Project	Job No.	Scale
LUMEX	5627	1:100 @ A3
6-14 Princess Street		1 2 3 4 5

Drawing	Revision	SJB Architects
SK02	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
North Elevation	04/04/17	T 61 2 9390 9911 sjb.com.au
		SJB Architecture (NSW) Pty Ltd ACN 081 094 724
		Adam Haddow 7188 John Pradel 7004





Existing Section

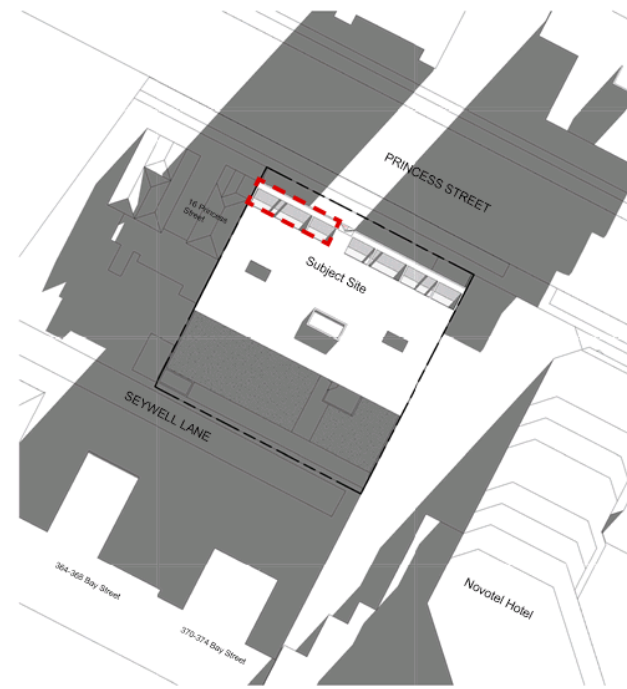


Section - Proposed Apartment Section

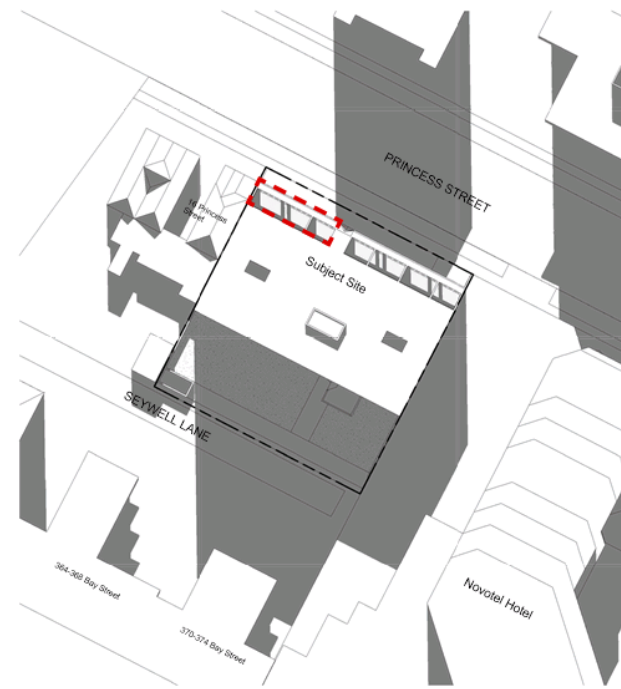
Project	Job No.	Scale
LUMEX	5627	1:100 @ A3
6-14 Princess Street		

Drawing	Revision	SJB Architects
SK03	1.0	Level 2, 490 Crown Street, Surry Hills NSW 2010
Section	04/04/17	T 61 2 9390 9911 sjb.com.au
		SJB Architecture (NSW) Pty Ltd ACN 061 094 724
		Adam Haddow 7166 John Pradel 7004





Shadow Diagram - Winter 9am



Shadow Diagram - Winter 12pm



Shadow Diagram - Winter 3pm

**Solar Analysis**

Achieves a minimum of 2 hours of direct sunlight on at least 1sq.m of living room glazing between 9am to 3pm, June 21st.

Approved Total: 51/67 (76%)

Proposed Total: 53/69 (76%)

**Cross Ventilation**

Approved Total: 53/67 (79%)

Proposed Total: 53/69 (76%)

Project	Job No.	Scale	
LUMEX	5627	1:100 @ A3	
6-14 Princess Street			

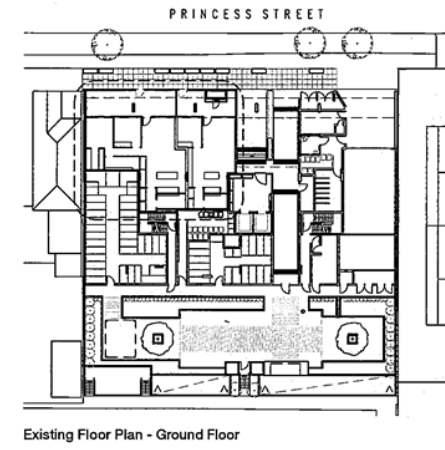
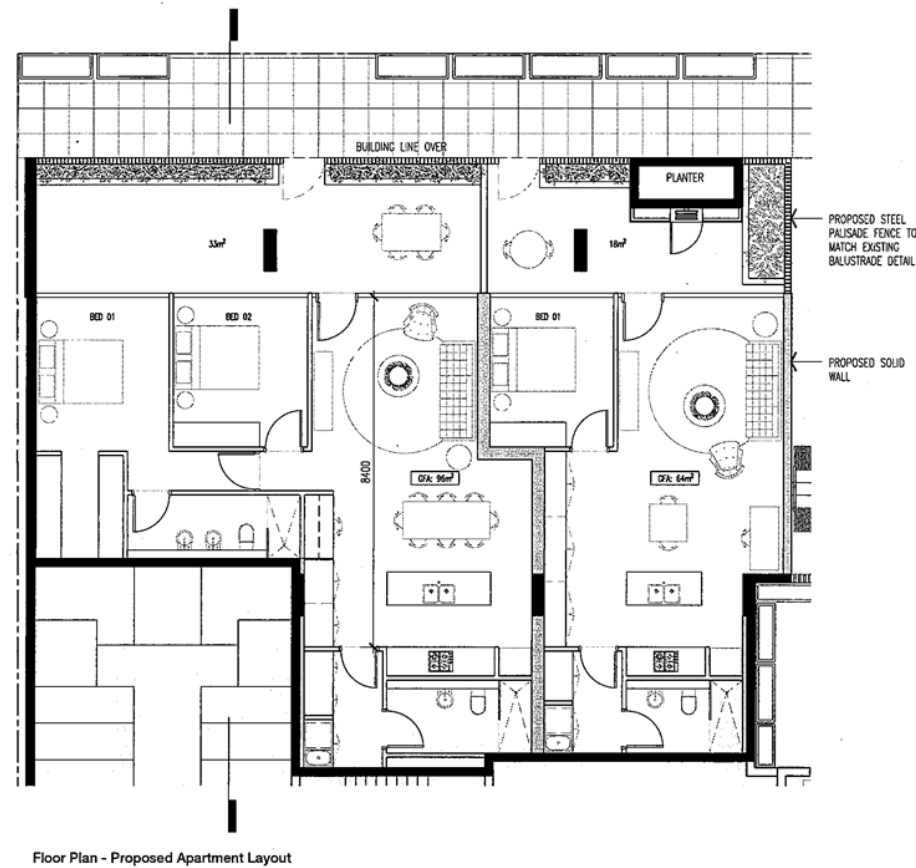
Drawing	Revision	SJB Architects Level 2, 490 Crown Street, Surry Hills NSW 2010 T 61 2 9390 9911 sjb.com.au SJB Architecture (NSW) Pty Ltd ACN 061 094 724 Adam Haddow 7166 John Pradel 7004	
SK04	1.0		
Shadow Diagrams	04/04/17		

SJB Architects



**Contact Details**  
SJB Architects  
Level 2, 490 Crown Street  
Surry Hills NSW 2010  
Australia

T: 61 2 9380 9911  
architects@sjb.com.au  
www.sjb.com.au



Project: LUMEX  
6-14 Princess Street

Job No.: 5827


Scale: 1:100 @ A3



Drawing: SK01  
Proposed Apartment Layout

Revision: 1.0  
04/04/17

SJB Architects  
Level 2, 490 Crown Street, Surry Hills NSW 2010  
T 61 2 9392 9511 sjb.com.au  
SJB Architecture (NSW) Pty Ltd ACN 091 094 724  
Adam Haddock 7188 John Prater 7004



**Bayside Local Planning Panel**

**28/08/2018**

Item No	6.1
Application Type	Development Application
Application No	SF18/1824
Lodgement Date	19/01/2018
Property	<b>DA-2016/150/04 - 42 Church Avenue, Mascot</b>
Ward	Mascot
Owner	Karimbla Properties (No. 45) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Removal of Condition 144 relating to ongoing maintenance.
No. of Submissions	0
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

---

**Officer Recommendation**

That the Section 4.55(1A) application for removal of Condition 144 relating to ongoing maintenance be APPROVED subject to the following:

- a Deletion of Condition 144.
-

## Location Plan



## Attachments

Planning Assessment Report [↓](#)

## Application Details

---

<b>Application Number:</b>	DA-2016/150/04
<b>Date of Receipt:</b>	19 January 2018
<b>Property:</b>	42 Church Avenue, Mascot
<b>Lot &amp; DP/SP No:</b>	Lot 3 in DP 376752
<b>Owner:</b>	Karimbla Properties (No. 45) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd
<b>Proposal:</b>	Removal of Condition 144 relating to ongoing maintenance
<b>Recommendation:</b>	Approval subject to amended conditions
<b>Value:</b>	Nil
<b>Zoning:</b>	B4 Mixed Use under Botany Bay Local Environmental Plan 2013
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Andrew Ison, Senior Development Assessment Planner
<b>Date of Report:</b>	28 August 2018

## Key Issues

---

The key issue relates to the removal of a condition that imposes responsibility of maintenance for Council land on the private land owner.

## Recommendation

---

1. That the Section 4.55(1A) application for removal of Condition 144 relating to ongoing maintenance is **APPROVED** subject to the following:
  - (a) Deletion of Condition 144.



## Site Description

---

The subject site is commonly known as 42 Church Avenue, Mascot (Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP 1014063). The site is rectangular in shape, has a total area of 11,104m<sup>2</sup>, and the mixed use development is currently under construction. The surrounding area is characterised primarily by various forms of residential, commercial and industrial developments and uses. The subject site is located on the southern side of Church Avenue, on the corner of Bourke Street to the east.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

## Description of approved development and proposed modifications

---

### **Approved Development DA-2016/150**

Development Application (DA) 2016/150 was approved on 20 July 2017 by the Sydney Central Planning Panel for the following:

- Construction of a mixed use development incorporating a 4 storey podium with four x 14-storey towers containing residential units, retail space, child care centre, private recreation facilities, basement and above ground 'sleeved' car parking and 35,532m<sup>2</sup> of gross floor area;
- Landscaping and dedication of land along the Church Avenue frontage;
- Construction of southern half of a new east-west street along the northern alignment of the site;
- Landscaping and dedication of a new public park;
- Associated excavation, earthworks and landscaping; and
- Land subdivision.

**Proposed Modification DA-2016/150/02**

This application refers to the amendment of Condition 101(c) to change the hours of construction.

At the time of writing this report, this application was to be reported to the 21 August Bayside Local Planning Panel meeting.

**Approved Modification DA-2016/150/03**

On 25 September 2017, Council approved under delegated authority a modification under the former Section 96(1) provisions (now Section 4.55(1)) as follows:

- Amend Condition 130(b) to reflect the correct FSR of 3.32:1 that is applicable for the development; and
- Amend Condition 152 to reflect the current application.

**Proposed Modifications DA-2016/150/04**

The applicant seeks the following:

- The deletion of condition 144, which is currently worded as follows:

*Ongoing maintenance of the road verges and footpaths and nature strips in Church Avenue and Galloway 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.*

The applicant has stated that the condition imposes responsibility of maintenance for Council land on the private land owner. It is considered that this is not a valid condition and therefore it is proposed to delete the condition.

**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(1A) – Modifications involving minimal environmental impact**

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 the consent if:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact,*

It is considered to be of minimal environmental impact as it relates to the deletion of an operational condition and involves no physical changes to the approved development.

- (b) *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*

As discussed above, the proposed modification involves no physical changes to the approved 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*

It was considered that notification was not required to be carried out in accordance with Part 2 of the Botany Bay Development Control Plan (DCP) 2013.

(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.*

No submissions have been received.

## **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:

#### **Botany Bay Local Environmental Plan 2013 (LEP)**

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application. Given that the subject application makes proposes no physical amendments to the approved development, there are no relevant provisions to the assessment of this application.

### **S.4.15(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**

The following Development Control Plan is relevant to this application:

#### **Botany Bay Development Control Plan 2013**

Given that the subject application makes proposes no physical amendments to the approved development, there are no relevant provisions to the assessment of this application.

### **S.4.15(1)(a)(iv) - Provisions of regulations**

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

### Removal of Condition 144

The applicant has justified the removal of this condition on the basis of imposing the requirements of Council on the private land owner and/or future owner's corporation for the maintenance of the public domain.

This matter has been referred to Council's Landscape Architect for review. The removal of this condition is supported on the basis of Condition 135, which relates to the applicant entering into an agreement with Council for the payment of a bond after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council.

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

The proposed amendment does not alter the conclusions that were resolved and approved within DA-2016/150 (as amended).

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. No submissions were received.

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

Granting approval to the proposed modification will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

### **Section 94 Contributions**

The proposed modification does not change any Section 94 Contributions that are payable, and as prescribed in the original development consent (as amended).

---

### **Conclusion**

Development Application No. 2016/150/04 for the removal of Condition 144 at 42 Church Avenue, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to modified conditions of consent.

**Attachment****Schedule 1 – Conditions of Consent****Premises: 42 Church Avenue, Mascot****DA No: 2016/150/04****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

<b>Plans</b>	<b>Author</b>	<b>Dated / Received by Council</b>
DWG No. 0001 Rev B-Cover Sheet	Crone Architects	Dated 13 February 2017; Received 24 February 2017
DWG No. 0002 Rev A-Site Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0003 Rev A-Setback and Storey Height Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0004 Rev A-Existing Plan		Dated 28 July 2016; Received 24 February 2017
DWG No. 0005 Rev B-GA Parking Level 01-(Basement L01)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0006 Rev C-GA Ground Level		Dated 3 May 2017; Received 11 May 2017
DWG No. 0007 Rev B-GA Level 01		Dated 13 February 2017; Received 24 February 2017
DWG No. 0008 Rev B-GA Level 02		Dated 13 February 2017; Received 24 February 2017
DWG No. 0009 Rev B-GA Level 03		Dated 13 February 2017; Received 24 February 2017
DWG No. 0010 Rev B-GA Level 04		Dated 13 February 2017; Received 24 February 2017
DWG No. 0011 Rev B-GA Level 05		Dated 13 February 2017; Received 24 February 2017
DWG No. 0012 Rev B-GA Level 06		Dated 13 February 2017; Received 24 February 2017
DWG No. 0013 Rev B-GA Level 07		Dated 13 February 2017; Received 24 February 2017
DWG No. 0014 Rev B-GA Level 08		Dated 13 February 2017; Received 24 February 2017
DWG No. 0015 Rev B-GA Level 09		Dated 13 February 2017; Received 24 February 2017
DWG No. 0016 Rev B-GA Level 10		Dated 13 February 2017; Received 24 February 2017

DWG No. 0017 Rev B-GA Level 11	Dated 13 February 2017; Received 24 February 2017
DWG No. 0018 Rev B-GA Level 12	Dated 13 February 2017; Received 24 February 2017
DWG No. 0019 Rev B-GA Level 13	Dated 13 February 2017; Received 24 February 2017
DWG No. 0020 Rev A-GA Level 14 (Plant)	Dated 28 July 2016; Received 24 February 2017
DWG No. 0021 Rev A-GA Roof Level	Dated 28 July 2016; Received 24 February 2017
DWG No. 0022 Rev C-North Elevation (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0023 Rev C-East Elevation (A+B)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0024 Rev B-South Elevation (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0025 Rev B-West Elevation (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0026 Rev C-North Section/Elevation (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0027 Rev C-South Section/Elevation (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0028 Rev B-East Section/Elevation (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0029 Rev B-West Section/Elevation (A+B)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0030 Rev B-Section 01 (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0031 Rev C-Section 02 (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0032 Rev B-Section 03 (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0033 Rev B-GFA Plans	Dated 13 February 2017; Received 24 February 2017
DWG No. 0034 Rev A-GFA Plans	Dated 28 July 2016; Received 24 February 2017
DWG No. 0035 Rev A-GFA Plans	Dated 28 July 2016; Received 24 February 2017
DWG No. 0036 Rev D-Shadow Analysis- Winter Solstice	Dated 3 May 2017; Received 11 May 2017
DWG No. 0037 Rev D-Shadow Analysis- Winter Solstice	Dated 3 May 2017; Received 11 May 2017
DWG No. 0043 Rev B-ADG Cross Ventilation	Dated 13 February 2017; Received 24 February 2017

DWG No. 0044 Rev B-ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0045 Rev B-ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0046 Rev B-ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0047 Rev B-ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0048 Rev A-Materials Board		Dated 28 July 2016; Received 24 February 2017
DWG No. 0049 Rev A-BASIX Specification		Dated 28 July 2016; Received 24 February 2017
DWG No. 0051 Rev A-Perspective View 02		Dated 28 July 2016; Received 24 February 2017
DWG No. 0052 Rev A-Landscape Diagrams		Dated 13 February 2017; Received 24 February 2017
DWG No. 0053 Rev C-Shadow Analysis-Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0054 Rev C-Shadow Analysis-Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0055 Rev A-NE Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0056 Rev A-NW Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0057 Rev A-NE Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0058 Rev A-NW Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0060 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0061 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0062 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0063 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0059 Rev A-Basement Storage/Bicycle Parking/Media Cupboard		Dated 13 February 2017; Received 24 February 2017
DWG No. CS-000 Rev C-Cover Sheet, Drawing Register and Legend		Dated 11 May 2017; Received 11 May 2017

DWG No. FI-200 Rev E-Planting Plan- Ground Level	Urbis Pty Ltd	Dated 11 May 2017; Received 11 May 2017
DWG No. FI-201 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-202 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-203 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-204 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-210 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-211 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-212 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
Survey Plan- Sheets 1+2	LTS Lockley Registered Surveyors	Dated 12 September 2014; Received 29 August 2016
Civil Works Package- Rev B	At&I	Dated 2 May 2016; Received 24 February 2017
41176DP- Plan of Subdivision	Matthew Graham Smith	Dated 2014; Received 29 August 2016

Reference Document(s)	Author	Dated / Received by Council
ND 1502- Landscape Design Development Application Report	Urbis	Dated 2 May 2017; Received 11 May 2017
Letter to Council responding to additional information	Meriton Property Services Pty Ltd	Dated 4 May 2017; Received 11 May 2017
Response Matrix outlining Landscaping issues	Meriton Property Services Pty Ltd	Received 11 May 2017
Addendum Report – Arboricultural- Ref: 3504	TALC	Dated 6 February 2017; Received 24 February 2017
Traffic Impact Assessment Rev B- Ref: 248258	ARUP	Dated 17 February 2017; Received 24 February 2017
Clause 4.6 variation to the FSR development standard	Meriton Property Services Pty Ltd	Received 24 February 2017



Clause 4.6 variation to the height development standard	Meriton Property Services Pty Ltd	Received 18 May 2017
Reflectivity and Glare Assessment- Ref: 610.14464-R011-v1.0	SLR	Dated 23 January 2017; Received 24 February 2017
Response Matrix to additional information request by Council	Meriton Property Services Pty Ltd	Received 24 February 2017
Response to Council DA Traffic Issues	ARUP	Dated 17 February 2017; Received 24 February 2017
Design Statement for DA submission- Ref: CA3392	Crone Architects	Dated 7 July 2016; Received 29 August 2016
DCP Compliance Table	Meriton Property Services Pty Ltd	Received 29 August 2016
BASIX Certificate No. 741493M	Prepared by Efficient Living Pty Ltd	Dated 3 August 2016; Received 29 August 2016
Acoustic Report- Ref: 2016.1100.1/2807A/R0/TA	Acoustic Logic	Dated 28 July 2016; Received 29 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 26 August 2016; Received 29 August 2016
Access Report- Rev 2- MTN-017	Wall to Wall Design + Consulting	Dated 28 August 2016; Received 29 August 2016
Building Code of Australia Compliance Assessment Report- 1423-80-Rev 00	AE&D Group	Dated 13 July 2016; Received 29 August 2016
Qualitative Environmental Wind Assessment Report- Ref: 610.14464	SLR	Dated 28 July 2016; Received 29 August 2016
Arboricultural Assessment Report	TALC	Dated 9 June 2017; Received 10 July 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated July 2016; Received 29 August 2016
Civil Infrastructure Development Application Report- Rev 01- Ref: 16-363-01	At&I	Dated August 2016; Received 29 August 2016
Remediation Action Plan- Ref: 73894.01	Douglas Partners	Dated July 2014; Received 29 August 2016
Detailed Site Investigation for Contamination- Ref: 73894.00	Douglas Partners	Dated July 2014; Received 29 August 2016
Geotechnical Investigation- Ref: GEOTLCOV25225AA-AC	Coffey	Dated 25 November 2014; Received 29 August 2016
Flood Report Rev 1	Calibre Consulting	Dated 27 July 2016; Received 29 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 20 July 2016; Received 29 August 2016

Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 29 August 2016; Received 29 August 2016
Advice regarding retail spaces on first floor	Urbis	Dated 5 June 2017; Received 20 June 2017
Letter addressing reasons for deferral	Meriton Property Services Pty Ltd	Dated 20 June 2017; Received 20 June 2017

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the relevant Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 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 each relevant BASIX Certificate for each building in the development are fulfilled.
  - a) Note:
 

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.
    - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid has identified the following assets to be affected by the development works:
- a) Close Proximity of overhead and/or underground cable/s on public land
    - i) Ausgrid require that due consideration be given to the compatibility of proposed development existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, electric and magnetic fields (EMF), noise, visual amenity and other matters that may impact on Ausgrid or the development.
  - b) In general, conditions to be adhered to by the developer include, but are not limited to, the following:
    - i) Any work undertaken near Overhead Power lines needs to be done in accordance with:
      - WorkCover Document ISSC 23 “Working Near Overhead Power Lines”
      - Ausgrid Network Standards
      - Ausgrid Electrical Safety Rules
    - ii) The location of underground cables by using *Dial before you dig* and comply with the requirements of Ausgrid’s Network Standard 156: *Working near or around underground cables* before any excavation works are undertaken
    - iii) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid’s Network Standard 143.
  - c) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).
  - d) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrids network.

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

8

- 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 51.0 metres Australian Height Datum (AHD).
  - c) In the 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, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
  - d) 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.
  - e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
  - f) "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)). The height of the prescribed airspace at this location is 51 metres above AHD.
  - g) Planning for Aircraft Noise and Public Safety Zones: 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). 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.
- (a) Application for Approval of Crane Operation
- (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
  - (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
  - (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
  - (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).

- (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

- 9 A strip of land has been dedicated as Public Road by private subdivision (DP1014063) along the Bourke Street frontage of the subject property, as shown by yellow colour on the attached aerial – “X”. The subject property is further affected by a road proposal at the corner of Bourke Street and Church Avenue, as shown by pink colour on the attached aerial – “Y”.

Roads and Maritime raises no objection to the development proposal provided all buildings and structures, together with any improvements integral to the future use of the site are clear of the land required for road.

- 10 The proponent is to be advised that the subject property is within a broad area under investigation for:
- a) The proposed F6 Project. In this regard, further information can be obtained at [www.rms.ndw.gov.au/projects/motorwaydevelopment](http://www.rms.ndw.gov.au/projects/motorwaydevelopment) or by contacting F6 Corridor Study Team via – Email: [motorwaydevelopment@rms.nsw.gov.au](mailto:motorwaydevelopment@rms.nsw.gov.au) or by calling 1800789297.
  - b) The contractor for the Westconnex new M5 Project has now been announced and the contractors current design requirements for this project do not require this property. Please note however the detailed design for the project has not been finalised and accordingly land requirements may be subject to change.
  - c) The proposed Westconnex M4-M5 Link Project.

For more information on the Westconnex project, please call 1300660248, email [info@westconnex.com.au](mailto:info@westconnex.com.au) or visit the project website [www.westconnex.com.au](http://www.westconnex.com.au)

In addition to the above, Roads and Maritime has reviewed the development application and provides the following comments for Council’s consideration in the determination of the application:

- 11 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 12 The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS289.20- 2002 for heavy vehicle usage.

The following conditions are imposed by **Sydney Water**:

13 Water

- a) The trunk water system has adequate capacity to service this development area. The existing 200mm water main in Church Avenue can service the proposed development.

14 Wastewater

- a) The trunk wastewater system has adequate capacity to service this development area. The existing 300mm wastewater main in Church Avenue can service the proposed development.

15 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au). Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 5241 or e-mail [david.demer@sydneywater.com.au](mailto:david.demer@sydneywater.com.au)

16 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications 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.

17 Building Plan Approval

The developer must have building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or nex1 to assets).

The following conditions are imposed by **Sydney Trains**:

18 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:

- a) Geotechnical Investigation prepared by Coffey dated 25 November 2014 (Ref: GEOTLCOV25225AA-AC);
- b) Potential Impacts on Sydney Trains Tunnel prepared by Coffey dated 1 May 2017 (Ref: 754-SYDGE197961-AB Rev 5);

- c) Dewatering Management Plan prepared by Coffey dated 13 February 2017 (Ref: 754-SYDGE197961AD);
- d) Survey Plans (Drawings Nos 21976 C Sheets 1-4) prepared by B&P Surveyors;
- e) Bulk Excavation Plan- Drawing No. E-1500 dated August 16 prepared by Karimbla Construction Services;
- f) Correspondence titled "Calculations for 900mm diameter foundation piles end bearing on Class III Shale" prepared by CD Group dated 26 April 2017.

The Principal Certifying Authority is not to issue the Construction Certificate until the measures detailed in the documents approved/certified by Sydney Trains under this Condition are incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

- 19 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, Excavation and Demolition Plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.

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.

- 20 If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction 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.
- 21 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".
- 22 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.
- 23 If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/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 corridor. 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.

- 24 A tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the tunnel monitoring plan, and if required, that it has been endorsed.
- 25 Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- 26 No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- 27 Prior to the issuing of an Occupation Certificate the Applicant is to submit 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 easements, unless agreed to be these authorities. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- 28 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and 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.
- 29 If required, prior to the issue of a Construction Certificate 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 works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- 30 Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 31 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 including loading details for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 32 Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.



- 33 Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

The following conditions are imposed by **Water NSW**:

- 34 The following General Terms of Approval apply:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing

restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
- i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their

development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).

- k) A copy of a valid consent for the development shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

- u) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
  - i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- v) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

- 35 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (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 afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.
- 36 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.
- 37 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Structural Engineer having regard to foundations/structures of the locality
- 38 Prior to the commencement of any demolition, excavation or remediation 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.
- 39 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.
- 40 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 41 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
  - b) Induction training for on-site personnel;
  - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
  - e) Disconnection of Gas and Electrical Supply;
  - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
  - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - h) Waterproofing of any exposed surfaces of adjoining buildings;
  - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
  - j) Working hours, in accordance with this Development Consent;
  - k) Confinement of demolished materials in transit;
  - l) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
  - n) Sewer – common sewerage system ad08.
- 42 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 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:  
to a public sewer; or  
if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

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 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 45 Prior to the commencement of any works, 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.
- 46 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 47 The Remedial Action Plan (RAP) shall be updated by a suitably qualified and experienced contaminated land consultant to reflect the current proposed development layout and to incorporate any new information of soil and groundwater found in any additional sampling and analysis.
- The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.
- 48 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 49 A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council.
- 50 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.
- 51 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 52 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

- report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 53 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 54 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 55 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED**. The amount of Common Law liability shall be unlimited.
- 56 Prior to the commencement of excavation or any building works, 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.
- 57 The Applicant has permission to remove the following trees:
- Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7, Tree #8, Tree #9, Tree #10, Tree #11, Tree #12, Tree #13, Tree #14, Tree #15, Tree #16, Tree #17, Tree #18, Tree #19, Tree #20, Tree #21, Tree #22, Tree #23, Tree #24, Tree #25, Tree #26, Tree #27, Tree #28, Tree #29, Tree #30, Tree #31, Tree #32, Tree #33, Tree #34, Tree #35, Tree #36, Tree #37, Tree #38, Tree #39, Tree #40, Tree #41, Tree #42, Tree #43, Tree #44, Tree #45, Tree #46, Tree #47, Tree #48, Tree #49, Tree #50, Tree #51, Tree #52, Tree #53, Tree #54, Tree #55, Tree #56, Tree #57, Tree #58, Tree #59, Tree #60, Tree #61, Tree #62, Tree #63, Tree #64, Tree #65, Tree #66, Tree #67, Tree #68, Tree #69, Tree #70, Tree #71, Tree #72, Tree #73 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (*dated 9<sup>th</sup> June 2017*). **Note:** Trees are not permitted to be removed until the Construction Certificate has been issued.
- Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- a) A qualified Arborist with their own public liability insurance must be engaged.
  - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
  - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.



Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

58 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Church Street and Bourke Road, road reserve. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- c) Distance from the manholes shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

*Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.*

59 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - i) The additional load on the system, and
  - ii) The relocation and/or adjustment of the services affected by the construction.
- c) As part of this development, the Ausgrid lighting poles along Bourke Road and Church St, will need to be decommissioned and new lighting poles shall be constructed satisfying P2 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
- d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the relevant 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.

- 60 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 practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

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

- 61 The applicant must prior to the issue of any Construction Certificate, pay the following fees:

(a)	Development Control	\$2,940.00
(b)	Waste Levy	\$12,391.20;
(c)	Builders Security Deposit	\$629,880.00 (Condition No. 65)
(d)	Section 94 Contributions	\$5,194,622.36 (Condition No. 66)

- 62 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$629,880.00** (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.

- 63 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$5,194,622.36** is payable as calculated below:

#### ***City of Botany Bay Section 94 Contributions Plan 2016***

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

a)	Community Facilities- Citywide	\$798,693.83
b)	Recreation Facilities- Mascot Precinct	\$81,027.65
c)	Recreation Facilities- Citywide	\$3,469,129.18
d)	Transport Management- Citywide	\$326,870.05
e)	Transport Management- Mascot	\$459,437.20
f)	Administration	\$59,518.46

**TOTAL: \$5,194,622.36**

The total Section 94 Contribution of **\$5,194,622.36** is to be paid to Council prior to the issue of any Construction Certificate.

**Note:** The Section 94 Contributions 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.

- 64 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:
- a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
  - b) The northern patios/courtyards of the ground floor apartments of Building A and D along Galloway Street (northern setback) are to be setback 3 metres from the site boundary to comply with the 3 metre setback requirement under Part 9A of the BBDPCP 2013;
  - c) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
  - d) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
  - e) A loading dock management plan of the ground floor loading dock is to be prepared demonstrating the management of the loading dock during operations. This is to be provided to the Council and the Principal Certifying Authority prior to issue of the Occupation Certificate.
  - f) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
  - g) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
  - h) The first floor level must be designed as flexible space to allow for future adaption. It must have a minimum floor to ceiling height of 3.3 metres.
  - i) The residential/commercial (dual use) first floor flexible space is to include design features which allow for future adaptability of this space for employment generating activities.
- 65 Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of the relevant Construction Certificate.
- 66 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant 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.
- 67 The drawings for the construction certificate for the basement and above ground car park shall show the following parking requirements:

<b>Car Parking Rates</b>	<b>Required</b>
0.6 space / 1 bed unit	54.6 spaces
0.9 space / bed unit	156.6 spaces
1.4 space / bed unit	105 spaces
1 visitor space / 7 dwellings	48.6 spaces
Retail Spaces	20 spaces
Child Care Centre	29.5 spaces
<b>TOTAL REQUIRED</b>	<b>415 spaces (rounded up)</b>
<b>TOTAL PROVIDED</b>	<b>510 spaces</b>

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate.

- 68 Prior to the issue of the relevant Construction Certificate, any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:

- (a) 10 metres/second along commercial/retail streets;
- (b) 13 metres/second along main pedestrian streets, parks and public places; and
- (c) 16 metres/second in all other streets.

- 69 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 28/07/2016, Report reference number 20161100.1/2807A/R0/TA** 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.

**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.

- 70 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 Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 71 Prior to the issue of the relevant 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.
- 72 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.
- 73 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,

- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

74 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, if access from **Bourke Road** is 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 the New South Wales Roads and Maritime Services, and
- 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.

*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.*

75 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) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and

- b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 76 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) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
- b) All service vehicles shall enter the property front in front out,
- c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
- d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 77 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) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 10 August 2016, Australian Standards AS 2890.6, SEPP 65 Design Code 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.
- 78 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 79 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the

stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the “State of Nature” condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,**

- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay’s SMTG,
  - c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney’s Water’s requirements are that the water quality improvement should meet or exceed the target as described in the “Botany Bay & Catchment Water Quality Improvement Plan” which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - e) The submission of detailed calculations including computer modelling where required supporting the proposal.
- 80 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.
- 81 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
  - b) Management of acid sulfate affected excavated material;
  - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
  - d) Run-off control measures for the acid sulfate affected soil.
- This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.
- 82 The **private domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council’s Landscape Architect prior to the issue of the Occupation Certificate. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:



- a) Along Galloway Street deep soil landscaping setback shall be increased to three (3) metres forward of patios. Landscaping shall include a mix of medium and large canopy trees.
  - b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - c) Canopy trees are required to be incorporated within the landscape setback along Galloway Street frontage and Church Avenue frontage.
  - d) A mix of medium sized, deciduous and evergreen trees are to be used extensively within the level 4 communal park. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
  - e) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
  - f) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
  - g) Indicate the location of all basement structures relative to the landscape areas.
  - h) Areas of paving, schedule of materials, edge treatments, tactiles, playground and fitness equipment details, and sectional construction details. Use of WSUD initiatives or materials is required to be indicated.
- 83 The **public domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate for public domain works. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:
- a) The clear delineation of all public domain areas as follows:
    - i) Galloway Street and Church Avenue footpath areas –
    - ii) The ground level Public park located between Building D and Building A
  - b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - c) Street trees are required along Church Avenue, Galloway Street and within the new community park south of Galloway Street.
  - d) All street trees are to be in accordance with Council's Street Tree Master Plan.
  - e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.

- f) Canopy trees are to be used extensively within the community park. Deciduous trees are to be incorporated in strategic locations to allow solar access and improve amenity. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 10 Part 4.6).
- g) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- i) The public park shall include a combination of seating in addition to blade seating walls. Incorporate picnic settings to improve amenity.
- j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new ground level community park. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- n) A detailed public art proposal.
- o) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- p) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- q) Indicate the location of all basement structures relative to the landscape areas.
- r) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report.

## **DURING WORKS**

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
  - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
  - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 85 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 make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (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.
- 86 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 87 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.
- 88 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.
- 89 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. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 90 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;

- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The updated Remedial Action Plan (RAP).
- 91 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 92 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 93 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 94 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.
- 95 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
- 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.
- 96 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and

- c) Protection of the Environment Operations Act 1997.
- 97 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 98 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.
- 99 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.
- 100 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.
- 101 The following shall be complied with during construction and demolition:
- (a) Construction Noise
- (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- (b) Level Restrictions
- (i) Construction period of 4 weeks and under:
- (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
- (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
- (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
- (i) Monday to Friday 07:00am to 05:00pm
- (ii) Saturday 08:00am to 01:00pm
- (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing
- (i) All possible steps should be taken to silence construction site equipment.
- 102 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged

- due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 103 During excavation 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.
- 104 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 105 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.
- 106 The public footpaths in Church Avenue, Galloway Street and Bourke Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 107 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 108 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 109 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - 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.

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

- 110 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 111 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
  - a) 317 residential spaces
  - b) 49 visitors spaces
  - c) 20 retail spaces
  - d) 29 child care centre spaces
  - e) 1 carwash bay located on the ground floor car park levelAny excess parking is to be allocated to an apartment.
- 112 Prior to the issue of the relevant Occupation Certificate, at least 72 bicycle spaces are to be provided in the car park.
- 113 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.
- 114 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing and new stormwater drainage infrastructure on **Church Street, Bourke Road, and Galloway St.**

The camera and its operation shall comply with the following:

  - a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,

- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- c) Distance from the manholes shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

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

- 115 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 116 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Church St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
  - b) On Church St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
  - c) On Church St, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,
  - d) On Bourke Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
  - e) On Bourke Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
  - f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 117 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.
- 118 Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be



imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

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

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

119 Prior to the issue of any Occupation Certificate, the following is to be complied with:

- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:
  - i. Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes,
  - ii. Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
  - iii. Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

120 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority).

The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

- 121 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development. A separate SAS shall be provided for any land dedication to council, such as parks or roadways and the site audit statement shall not be subject to any ongoing management measures. This shall be provided to issue of any applicable Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate or applicable dedication of land to Council. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 122 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 any 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.

123

- a) The Stratum subdivision of the development shall be the subject of a further Development Application to Council; and
- b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:
  - i) 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 Development Consent No. 16/150.
  - ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 16/150.
  - iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.
  - iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic 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 in accordance with a Plan of Management.
  - v) Responsibilities to ensure that 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.

- vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
  - vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
  - viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
  - ix) 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;
  - x) Maintenance of required acoustic measures of Development Consent No. 16/150; and
  - xi) CCTV surveillance of all public areas within the development site.
- 124 That before entering a lease/occupancy agreement, 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.
- 125 Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 126 Prior to the issue of the relevant Occupation Certificate, 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.
- 127 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 128 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 129 Prior to the issue of any Occupation Certificate, 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.
- 130 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:

- (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and
- (b) A Floor Space Ratio (FSR) of ~~3.2:1~~ 3.32:1 and height of 51m AHD as approved under this Development Consent No. 16/150, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate. (DA-16/150/03)
- (c) The development as built, stands within Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.
- 131 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 132 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 133 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 134 The Applicant is to submit payment for a Public Works Defects Liability Bond of \$250,000.00 for all hard structures, paving, drainage and so on within the public domain. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
- 135 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgment of a bond in the sum of \$100,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
- 136 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been

installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of an Occupation Certificate.

- 137 The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.
- 138 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 139 The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.
- 140 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 141 The use of the child care centre is subject to a separate development application for its fitout.
- 142 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.
- 143 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 144 ~~Ongoing maintenance of the road verges and footpaths and nature strips in Church Avenue and Galloway 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. (DA-2016/150/04)~~
- 145 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

- (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 146 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.
- 147 All loading and unloading associated with the retail tenancy is to be undertaken within the ground floor of Building B.
- 148 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 149 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 150
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
  - (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 151 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 152 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/150 dated as 29 August 2016 *and further amended by DA-16/150/03 dated 22 September 2017* and that any alteration, variation, or extension to the use, would require further Approval. (DA-16/150/03)



## Bayside Local Planning Panel

28/08/2018

Item No	6.2
Application Type	Section 4.55(1A) Application to modify Development Consent No. 2016/150 regarding to the approved unit mix
Application No	SF18/1783
Lodgement Date	13/02/2018
Property	<b>DA-2016/150/05 - 42 Church Avenue Mascot</b>
Ward	Mascot
Owner	Karimbla Property (No. 45) Pty Ltd
Applicant	Karimbla Construction Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2016/150 to modify the approved mixed use development regarding car parking, GFA and unit mix.
No. of Submissions	Nil
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

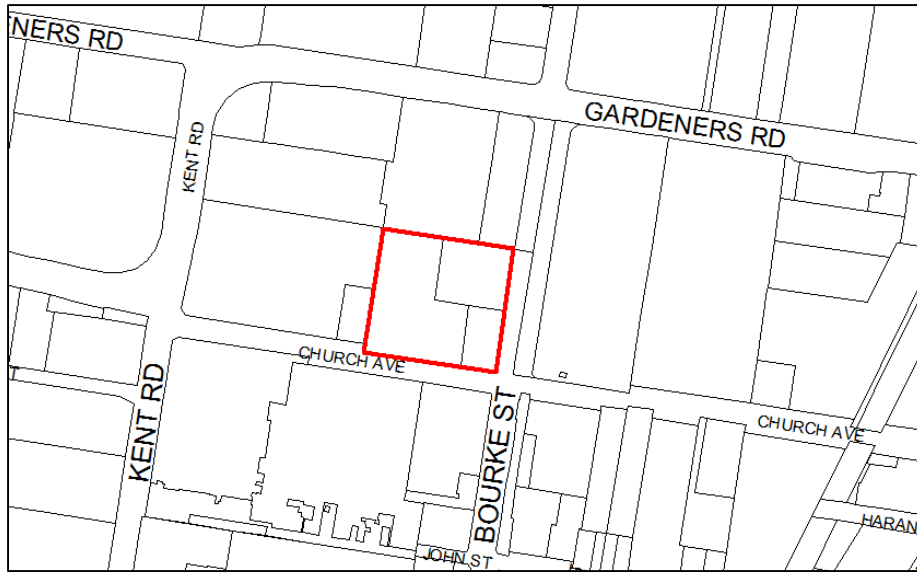
## Officer Recommendation

That the Section 4.55(1A) application to modify Development Consent No. 2016/150 to modify the approved mixed use development regarding car parking, GFA and unit mix at 42 Church Avenue Mascot, be APPROVED by the Bayside Local Planning Panel subject to the following:

- a amend Condition No. 1 to reflect the updated plans;
- b amend Condition Nos. 67 to reflect the updated car parking rates;
- c add Condition No. 111A to tie in the unit mix, car parking and FSR approved in DA-2017/1166 and DA2017/1238; and
- d amend Condition No. 152 to reflect the subject application.

## Location Plan





## Attachments

Planning Assessment Report [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

---

### Application Details

<b>Application Number:</b>	16/150/05
<b>Date of Receipt:</b>	13 February 2018
<b>Property:</b>	42 Church Avenue Mascot Lot 2 in DP 1187426
<b>Owners:</b>	Karimbla Properties (No. 45) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd
<b>Proposal:</b>	Section 4.55(1A) Application to modify Development Consent No. 2016/150 to modify the approved mixed use development regarding car parking, GFA and unit mix
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	N/A
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	2 August 2018

### Key Issues

---

Development Application No. 16/150 was approved by the Sydney Eastern City Planning Panel on 20 July 2017 for the construction of a mixed use development incorporating a 4 storey podium with four x 14 storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 36,819sqm of gross floor area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park, associated excavation, earthworks and landscaping and land subdivision. The subdivision of the site involves three new lots which include the development site, Church Avenue street widening will be a separate lot and Galloway Street to the north and the public park to be dedicated to Council will be another lot.

Bayside Council received Modification Application No. 16/150/05 on 13 February 2018 seeking consent to modify the approved mixed use development regarding to car parking, GFA and unit mix.

The application was placed on public exhibition for a fourteen (14) day period from 8 March to 22 March 2018. No objections were received.

There are no key concerns raised as part of this proposal as the modification continues to be acceptable in regards to the approved bulk and scale of development. There is a slight increase in the FSR by 13sqm as the unit mix results in one less car parking space required

Item Bayside Planning Panel Meeting  
28/08/2018

for the units proposed. The additional car parking space has been included as GFA however the overall FSR has not been changed from 3.32:1.

It is key to note that the site has had two separate development applications after the parent DA (DA-16/150) was approved. DA-2017/1166 was approved by the BPP for an additional 27 units on the site whereas DA-2017/1238 was approved with additional retail proposed on the ground floor along the southern elevations. With each development application, there were changes to the number of car parking and an overall increase in the FSR of the development. While this application relates purely to the original DA, the assessment will take into consideration what has been approved subsequently and an appropriate condition of consent has been included to tie in all three consents so that there is no overlap in regards to the works approved.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

## Recommendation

---

It is recommended that the Bayside Planning Panel:

1. Approve Section 4.55(1A) Application to modify Development Consent No. 2016/150 to modify the approved mixed use development regarding car parking, GFA and unit mix at 42 Church Avenue Mascot, subject to the conditions of consent attached to this report; and
2. Approve the modification to the conditions of consent as follows:
  - a) Amend Condition No. 1 to reflect the updated plans;
  - b) Amend Condition Nos. 67 to reflect the updated car parking rates;
  - c) Add Condition No. 111A to tie in the unit mix, car parking and FSR approved in DA-2017/1166 and DA2017/1238; and
  - d) Amend Condition No. 152 to reflect the subject application.

## Background

---

### History

- Development Application No. 2016/150 was approved by the Sydney Central Planning Panel on 20 July 2017 for the construction of a mixed use development incorporating a 4 storey podium with four x 14 storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 36,819sqm of gross floor area (FSR of 3.32:1); landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park, associated excavation, earthworks and landscaping and land subdivision.

Item Bayside Planning Panel Meeting  
28/08/2018

The subdivision of the site involves three new lots which include the development site, Church Avenue street widening will be a separate lot and Galloway Street to the north and the public park to be dedicated to Council will be another lot.

- Section 4.55(1A) Application was lodged with Council on 4 August 2017 for the modification of 101(c) to allow for the extension of construction hours. This application is currently under assessment (DA-16/150/02).
- Section 4.55(1) Application was lodged with Council on 22 September 2017 for the modification of Condition No. 130(b). This was approved under delegated authority on 22 September 2017 (DA-16/150/03).
- Section 4.55(1A) Application was lodged with Council on 19 January 2018 to delete Condition No. 144. This application is currently under assessment (DA-16/150/04).
- Section 4.55(1A) Application was lodged with Council on 28 June 2018 to modify the approved development to increase the size of the terrace to Unit G37 and relocation of the mailroom. This application is currently under assessment (DA-16/150/06).
- Development Application No. 2017/1166 was approved on 14 December 2017 by the Bayside Planning Panel for alterations to the approved building by deleting the childcare centre and replacement with 27 additional apartments. An FSR of 3.41:1 (37,903sqm) was approved for the site with a total of 367 units. Two of the originally proposed units was not supported by the Panel therefore the Panel requested that they were converted to a community room. The number and size of the retail tenancies did not change as part of this proposal.
- Development Application No. 2017/1238 was approved on 8 May 2018 by the Bayside Planning Panel for changes to approved development to add retail tenancies to the Church Avenue and Bourke Street frontages, increasing the retail floor area from 512sqm to 1,037sqm. The overall FSR that was approved was 38,172sqm which results in an FSR of 3.44:1.

### Site Description

The subject site is legally known as 42 Church Avenue, Mascot and forms three parcels of land described as Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.

The subject site is located on the western side of Bourke Street between Gardeners Road to the north, Kent Road to the west and Church Avenue to the south. Galloway Street is a new street currently under construction and runs along the northern boundary of the site. The site is approximately 120 metres to the north-west of Mascot Train Station.

The site has a total area of 11,104sqm with a 108.5 metres street frontage to Church Avenue, a 101.5 metre street frontage to Bourke Street, a 101.9 metres western boundary length and a 109.1 metre northern boundary length. The site is generally flat.

Item

Bayside Planning Panel Meeting  
28/08/2018

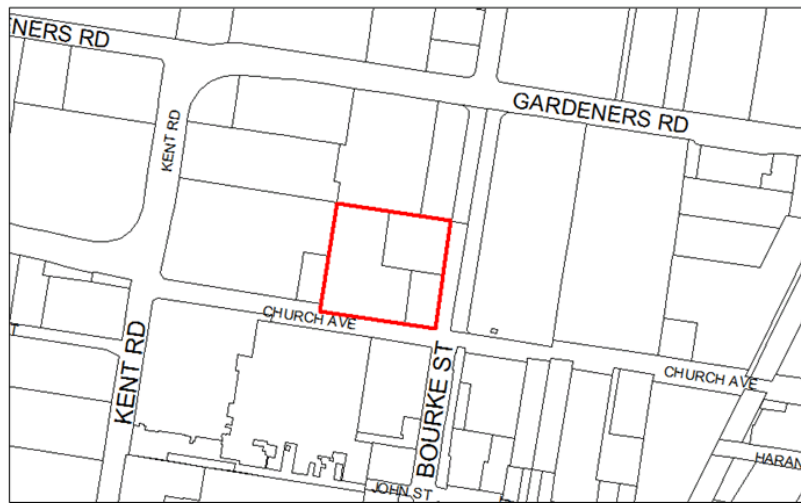


Figure 1. Locality Plan

The site is currently demolished of all structures with construction well underway. The corner of the south-western side of the development is impacted by road widening. The site is located within the 20-25 ANEF zone and is within 25 metres of the Sydney Trains easement for underground rail (Airport Tunnel).

The site is within the B4 Mixed Use zone of the BBLEP 2013 and is within Urban Block 1 of the Mascot Station Town Centre Precinct within Part 9A of the BBDCP 2013. The table below lists the relevant details of the surrounding mixed-use developments.

**Approved Development**

The site has been subject to a number of applications as listed above which have modified the approved built form of the development. The current application relates to the parent development application that was assessed within Development Application No. 2016/150 which approved the construction of a mixed use development incorporating a 4 storey podium with four x 14 storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 36,819sqm of gross floor area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park, associated excavation, earthworks and landscaping and land subdivision.

The subsequent development applications approved under DA-2017/1166 and DA-2017/1238 resulted in an overall approved GFA of 38,172sqm which results in an FSR of 3.44:1. The development has incorporated additional retail on the southern elevation at ground level and residential units on the southern elevation between Levels 1 to 3 and replacement of the childcare centre with units. Two of the proposed units were converted to a community room as was conditioned by the Bayside Planning Panel. Therefore for the purposes of assessing this application, the subsequent two applications and changes to the unit mix, FSR and car parking have been included.

Item Bayside Planning Panel Meeting  
28/08/2018

### Description of the Proposed S.4.55 (1A) Modifications

The subject proposal seeks consent to alter the unit mix as follows as part of DA-16/150:

Unit Type	Approved Mix (under 2016/150)	Proposed Mix (under 2016/150/05)	Change
1 bedroom units	91 (27%)	88 (26%)	-3
2 bedroom units	174 (51%)	181 (53%)	7
3 bedroom units	75 (22%)	71 (21%)	-4
<b>Total</b>	<b>340</b>	<b>340</b>	<b>0</b>

The modifications to the unit mix propose minor changes to the car parking required on the site as well as the overall GFA. The modifications reduce the number of car parking spaces required for the units by one therefore the one car space is included as part of GFA. The additional GFA is 13sqm therefore the overall GFA will increase from 36,819sqm to 36,832sqm. This results in an FSR of 3.32:1 which is what was originally approved therefore no change in the overall FSR.

### Assessment of the Proposed 4.55(1A) Modifications

The proposed modification seeks to amend the approved unit mix, as described in the table above, by reducing the number of one bedroom units by 3, increase the number of two bedroom units by 7 and reduce the number of three bedroom units by 4. The overall number of units has not been modified to what was approved under DA-16/150.

The proposed changes are contained to Units 107 and 122 on Level 1, Units 208 and 222 on Level 2, Units 308 and 322 on Level 3 and Unit 402 on Level 4. The specified changes to each unit are as follows:

- Unit 107- approved as a 3 bedroom unit (108sqm unit size and 27sqm POS) is converted to a two bedroom unit (88sqm unit size and 18sqm POS)
- Unit 122- approved as a one bedroom unit (66sqm unit size and 26sqm POS) is converted to a two bedroom + study unit (93sqm unit size and 30sqm)
- Unit 208- approved as a 3 bedroom unit (109sqm unit size and 24sqm POS) is converted to a two bedroom unit (88sqm unit size and 18sqm POS)
- Unit 222- approved as a one bedroom unit (66sqm unit size and 24sqm POS) is converted to a two bedroom + study unit (98sqm unit size and 29sqm)
- Unit 308- approved as a 3 bedroom unit (108sqm unit size and 25sqm POS) is converted to a two bedroom unit (88sqm unit size and 18sqm POS)
- Unit 322- approved as a one bedroom unit (72sqm unit size and 24sqm POS) is converted to a two bedroom + study unit (98sqm unit size and 29sqm)
- Unit 402- approved as a 3 bedroom unit (100sqm unit size and 47sqm POS) is converted to a two bedroom unit (92sqm unit size and 47sqm POS)

When taking into consideration what has been approved as part of DA-16/150, the proposal will result in a unit mix decrease of 1% for one bedroom units from 27% to 26%, an increase

Item Bayside Planning Panel Meeting  
28/08/2018

of 2% for two bedroom units from 51% to 53% and a decrease of 1% in the amount of three bedroom units provided. The unit mix controls within the BBDCP 2013 restrict the amount of one bedroom units to a maximum of 25%. The number of approved one bedrooms is higher than the maximum, the proposal seeks to reduce the number rather than increase it. This is considered acceptable. The change in the unit mix allows for flexibility in the reconfiguration of the units and continues to have unit sizes that are larger than the minimum ADG sizes.

The number of car parking spaces provided within the development amounts to 510 car spaces (approved under DA-16/150). The unit mix as proposed results in one less car parking space required for the change of unit mix. Based on the ADG parking control, the following car parking is generated from the development as approved in the parent DA and as proposed under the subject application:

Parking	DA-16/150	DA-16/150/05
1 bed = 0.6 spaces	54.6	52.8
2 bed = 0.9 spaces	156	162.9
3 bed = 1.4 spaces	105	99.4
Visitor spaces= 1/7 units	48.6	48.6
<b>Total</b>	<b>365</b>	<b>364</b>

The proposal does not seek to physically delete the car parking space from the car parking levels therefore the additional space is to be included as part of GFA. The car space contributes to 13sqm of additional floor space which will increase the overall approved GFA from 36,819sqm to 36,832sqm. The overall FSR approved was 3.32:1 and this has not been changed as part of this application.

When taking into consideration what has been approved as part of DA-2017/1166 and DA-2017/1238, the following breakdown applies:

Unit Type	Approved Mix (under 2016/150)	Approved Mix (under DA-2017/1166)	Proposed Mix
1 bedroom units	91 (27%)	113 (31%)	110 (30%)
2 bedroom units	174 (51%)	177 (48%)	184 (50%)
3 bedroom units	75 (22%)	77 (21%)	73 (20%)
<b>Total</b>	<b>340</b>	<b>367</b>	<b>367</b>

When looking at the development as a whole and what the latest round of amendments would produce, the proposal will continue to result in a decrease in the number of one bedrooms approved in the recent development applications. While the unit mix is over the 25% maximum rate as required in the BBDCP 2013, the subject application seeks to reduce this number rather than increase it. The unit mix proposed is acceptable when considering the nature of the proposal is directly opposite Mascot Station and the car parking complies with the proposal.

The changes as listed above will result in the following changes to the overall FSR approved and the car parking approved.

	DA-16/150	DA-2017/1166	DA-2017/1238	DA-16/150/05
<b>FSR</b>	36,819sqm (3.32:1)	37,903sqm (3.41:1)	38,172sqm (3.44:1)	38,185sqm (3.44:1)
<b>Car Parking</b>	510 spaces	439 spaces	432 spaces	No physical change

While there is an increase to the FSR approved in the secondary development applications, the proposed modification relates to the parent DA therefore the conditions of consent that

Item Bayside Planning Panel Meeting  
28/08/2018

relate to each DA will continue to apply. A condition will be imposed to tie in all three development applications to allow to coexist and operate concurrently.

#### Modifications to Conditions

The following conditions are proposed to be amended:

- Condition No. 1 will be modified to reflect the proposed plans that were subject to this and DA-2017/1166 and DA-2017/1238;
- Condition Nos. 67 is to be modified to reflect the approved changes to the car parking numbers associated with the development;
- Condition No. 152 is to be modified to reflect the subject modification application.
- Add Condition No. 111A to tie the approved Development Applications for the site together therefore the condition will be worded as follows:
  - The FSR, unit mix and car parking shall be consistent with the terms and conditions of DA-16/150 (as modified), DA-2017/1166 and DA-2017/1238 (as modified).

#### **Statutory Considerations**

---

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

#### **S4.15(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:

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

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

Development Application No. 16/150 was approved as integrated development as the proposal approved basement car parking that would intercept the groundwater table. General Terms of Approval were placed in the consent relating to excavation of the basement level. The subject application does not change the envelope of the basement level approved therefore the subject application is not integrated development and does not need to be referred to Water NSW.

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

Item	Bayside Planning Panel Meeting 28/08/2018
------	--



The development is in close proximity to the rail corridor, with Mascot Station located close to the site. The original application for the built form was referred to Sydney Trains who provided appropriate conditions relating to excavation near the rail corridor. As the subject application does not propose any changes to the excavation of the basement and the building, the application did not need to be referred to Sydney Trains for comments.

**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 not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

**State Environmental Planning Policy No. 55 – Remediation of Land**

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

Consideration of SEPP No. 55 was carried out within the assessment of DA-16/150. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

**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. Due to the proposed modifications being predominately encased within the approved built form approved under DA-16/150, the development application was not required to be presented to the Design Review Panel. The applicant submitted a Design Verification Statement which has been conditioned in the consent.

**Botany Bay Local Environmental Plan 2013 (BBLEP)**

The provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013 have been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
Land use Zone	-	The site is zoned B4 Mixed Use under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposal involves additional retail premises are 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 following objectives of the B4 zone:

Item Bayside Planning Panel Meeting  
28/08/2018

Principal Provisions of BBLEP 2013	Complies Yes/No	Comment
		<ul style="list-style-type: none"> <li>To provide a mixture of compatible land uses.</li> <li>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.</li> </ul>
What is the height of the building?	N/A	<p>The maximum building height for the site is 44 metres.</p> <p>The approved development within DA-16/150 was approved with a maximum building height of 45.8 metres (RL 51).</p> <p>There is no change to the height of the development as part of this application.</p>
What is the proposed FSR?	Accepted	<p>The maximum FSR allowed on the site is 3.2:1 (35,532sqm).</p> <p>Approved: 36,819sqm (3.32:1)</p> <p>Proposed: 36,832sqm (3.32:1)</p> <p>Increase in GFA of 13sqm based on car parking space.</p>
Is the site within land marked "Area 3" on the FSR Map	N/A	The subject site is not identified as being within "Area 3" on the FSR map.
Is the land affected by road widening?	Yes	The subject site is affected by RMS widening of the splay on the corner of Church Avenue and Bourke Street. This was considered in DA-16/150 and does not change this as part of this application.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The subject site is not identified as a Heritage Item or within a Heritage Conservation Area.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <p>6.1 – Acid sulfate soils (ASS)          6.2 – Earthworks          6.3 – Stormwater management          6.8 - Airspace operations          6.9 – Development in areas subject to aircraft noise          6.15 – Active Street Frontages          6.16 – Design excellence</p>	N/A	DA-16/150 approved the built form therefore ASS, excavation, stormwater management, airspace, aircraft noise, active street frontage and design excellence has been considered as part of that application and as there is no amendments relating to these issues, assessment of these issues is not warranted.

Item

Bayside Planning Panel Meeting  
28/08/2018

This assessment is based on the approved development under DA-16/150 and does not take into consideration the approved GFA/FSR approved under DA-2017/1166 and DA-2017/1238. The assessment of the proposal against the objectives and requirements of the BBLEP 2013 have been met and are considered acceptable in this case.

#### Botany Bay Development Control Plan (BBDCP) 2013

The most relevant and applicable clauses of the BBDCP 2013 are considered in the assessment of this development proposal and are provided below.

##### *Part 3A – Parking and Access*

The overall number of car parking spaces has not physically been reduced and continues to comply with the car parking requirement for residential spaces that is prescribed by the RMS rates as the development is within 800 metres to a train station. The car parking that has been approved for the commercial tenancies and visitor spaces has not been modified as part of this application.

##### *Part 4C – Residential Flat Buildings*

###### Part 4C.7 – Mixed Uses

Part 4C.7 – Mixed Use of the Botany Bay DCP 2013 provides controls relating to mixed use developments. The proposed unit mix will reduce the number of one and three bedroom units and increase the number of two bedroom units across the development. The unit mix changes are limited to 7 units therefore the changes are not considered significant. The proposal was approved with a departure to the maximum 25% one bedroom unit control as 27% of the development was approved as one bedroom units. The subject application seeks to lower the amount of one bedroom units to 26% therefore closer to what Council originally established in the control. The impacts of the unit mix is inconsequential and continues to maintain a good variety of unit types within the development. The units that are sought to be changed are larger in size than the minimum unit sizes provided under the ADG. Therefore based on the above information and the assessment provided in the report, the unit mix change is acceptable.

##### *Part 9A – Mascot Station Town Centre Precinct*

The site is located within Urban Block 1 of the Mascot Station Town Centre. Part 9A.3.2 of the BBDCP 2013 provides guidelines relating to the desired future character of Urban Block 1. The proposed unit mix change and any other subsequent change will not result in any departure in the controls prescribed under Part 9 of the BBDCP 2013.

#### **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.

Item Bayside Planning Panel Meeting  
28/08/2018

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

The proposal does not alter the conclusions that were resolved and approved within DA-16/150, DA-2017/1166 and DA-2017/1238. The unit mix does not impact on the flooding, zone of influence with the railway and the groundwater issues.

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

**S.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 8 March to 22 March 2018. No submissions were received during the public notification period.

**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.

**Conclusion**

---

Modification Application No. 16/150/05 was received on 13 February 2018 seeking consent to modify the approved mixed use development regarding to unit mix and subsequent changes to car parking and GFA.

The proposed changes result in substantially the same changes as the approved development and the proposed unit mix and 13sqm increase in GFA will not have any significant impact on the surrounding properties.

While the proposal is considered under the parent DA for the site, the conclusions made on the approvals at DA-2017/1166 and DA-2017/1238 should be taken into consideration and therefore a condition has been added to tie in the other consents to the parent DA.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is permissible within the B4 – Mixed Use zone and is considered to result in a development which is suitable in the context. Therefore, the application is recommended for approval, subject to conditions of consent.

---

**Attachment****Schedule 1 – Conditions of Consent**

Item	Bayside Planning Panel Meeting 28/08/2018
------	--

Premises: 42 Church Avenue, Mascot

DA No: DA-16/150/05

**GENERAL CONDITIONS**

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

Plans	Author	Dated / Received by Council
DWG No. 0001 Rev <b>B C</b> - Cover Sheet	Crone Architects	<del>Dated 13 February 2017;</del> <del>Received 24 February 2017</del> Dated 3 August 2018; Received 6 August 2018
DWG No. 0002 Rev A- Site Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0003 Rev A- Setback and Storey Height Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0004 Rev A- Existing Plan		Dated 28 July 2016; Received 24 February 2017
DWG No. 0005 Rev B- GA Parking Level 01- (Basement L01)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0006 Rev C- GA Ground Level		Dated 3 May 2017; Received 11 May 2017
DWG No. 0007 Rev <b>B C</b> - GA Level 01		<del>Dated 13 February 2017;</del> <del>Received 24 February 2017</del> Dated 3 August 2018; Received 6 August 2018
DWG No. 0008 Rev <b>B C</b> - GA Level 02		<del>Dated 13 February 2017;</del> <del>Received 24 February 2017</del> Dated 3 August 2018; Received 6 August 2018
DWG No. 0009 Rev <b>B C</b> - GA Level 03		<del>Dated 13 February 2017;</del> <del>Received 24 February 2017</del> Dated 3 August 2018; Received 6 August 2018
DWG No. 0010 Rev <b>B C</b> - GA Level 04		<del>Dated 13 February 2017;</del> <del>Received 24 February 2017</del> Dated 3 August 2018; Received 6 August 2018
DWG No. 0011 Rev B- GA Level 05		Dated 13 February 2017; Received 24 February 2017
DWG No. 0012 Rev B- GA Level 06		Dated 13 February 2017; Received 24 February 2017
DWG No. 0013 Rev B- GA Level 07		Dated 13 February 2017; Received 24 February 2017
DWG No. 0014 Rev B- GA Level 08		Dated 13 February 2017; Received 24 February 2017
DWG No. 0015 Rev B- GA Level 09		Dated 13 February 2017; Received 24 February 2017
DWG No. 0016 Rev B- GA Level 10		Dated 13 February 2017; Received 24 February 2017

Item

Bayside Planning Panel Meeting  
28/08/2018

DWG No. 0017 Rev B- GA Level 11	Dated 13 February 2017; Received 24 February 2017
DWG No. 0018 Rev B- GA Level 12	Dated 13 February 2017; Received 24 February 2017
DWG No. 0019 Rev B- GA Level 13	Dated 13 February 2017; Received 24 February 2017
DWG No. 0020 Rev A- GA Level 14 (Plant)	Dated 28 July 2016; Received 24 February 2017
DWG No. 0021 Rev A- GA Roof Level	Dated 28 July 2016; Received 24 February 2017
DWG No. 0022 Rev C- North Elevation (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0023 Rev C- East Elevation (A+B)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0024 Rev B- South Elevation (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0025 Rev B- West Elevation (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0026 Rev C- North Section/Elevation (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0027 Rev C- South Section/Elevation (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0028 Rev B- East Section/Elevation (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0029 Rev B- West Section/Elevation (A+B)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0030 Rev B- Section 01 (B+C)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0031 Rev C- Section 02 (A+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0032 Rev B- Section 03 (C+D)	Dated 3 July 2017; Received 5 July 2017
DWG No. 0033 Rev B- GFA Plans	Dated 13 February 2017; Received 24 February 2017
DWG No. 0034 Rev A- GFA Plans	Dated 28 July 2016; Received 24 February 2017
DWG No. 0035 Rev A- GFA Plans	Dated 28 July 2016; Received 24 February 2017
DWG No. 0036 Rev D- Shadow Analysis- Winter Solstice	Dated 3 May 2017; Received 11 May 2017
DWG No. 0037 Rev D- Shadow Analysis- Winter Solstice	Dated 3 May 2017; Received 11 May 2017
DWG No. 0043 Rev B- ADG Cross Ventilation	Dated 13 February 2017; Received 24 February 2017
DWG No. 0044 Rev B- ADG Solar Access	Dated 13 February 2017; Received 24 February 2017
DWG No. 0045 Rev B- ADG Solar Access	Dated 13 February 2017; Received 24 February 2017

Item

Bayside Planning Panel Meeting  
28/08/2018

DWG No. 0046 Rev B-ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0047 Rev B-ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0048 Rev A-Materials Board		Dated 28 July 2016; Received 24 February 2017
DWG No. 0049 Rev A-BASIX Specification		Dated 28 July 2016; Received 24 February 2017
DWG No. 0051 Rev A-Perspective View 02		Dated 28 July 2016; Received 24 February 2017
DWG No. 0052 Rev A-Landscape Diagrams		Dated 13 February 2017; Received 24 February 2017
DWG No. 0053 Rev C-Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0054 Rev C-Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0055 Rev A- NE Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0056 Rev A- NW Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0057 Rev A- NE Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0058 Rev A- NW Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0060 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0061 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0062 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0063 Rev A-Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0059 Rev A-Basement Storage/Bicycle Parking/Media Cupboard		Dated 13 February 2017; Received 24 February 2017
DWG No. CS-000 Rev C-Cover Sheet, Drawing Register and Legend		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-200 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-201 Rev E-Planting Plan- Ground Level	Urbis Pty Ltd	Dated 11 May 2017; Received 11 May 2017
DWG No. FI-202 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017

Item

Bayside Planning Panel Meeting  
28/08/2018

DWG No. FI-203 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-204 Rev E-Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-210 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-211 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-212 Rev A-Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
Survey Plan- Sheets 1+2	LTS Lockley Registered Surveyors	Dated 12 September 2014; Received 29 August 2016
Civil Works Package- Rev B	At&I	Dated 2 May 2016; Received 24 February 2017
41176DP- Plan of Subdivision	Matthew Graham Smith	Dated 2014; Received 29 August 2016

(DA-16/150/05)

Reference Document(s)	Author	Dated / Received by Council
ND 1502- Landscape Design Development Application Report	Urbis	Dated 2 May 2017; Received 11 May 2017
Letter to Council responding to additional information	Meriton Property Services Pty Ltd	Dated 4 May 2017; Received 11 May 2017
Response Matrix outlining Landscaping issues	Meriton Property Services Pty Ltd	Received 11 May 2017
Addendum Report – Arboricultural- Ref: 3504	TALC	Dated 6 February 2017; Received 24 February 2017
Traffic Impact Assessment Rev B- Ref: 248258	ARUP	Dated 17 February 2017; Received 24 February 2017
Clause 4.6 variation to the FSR development standard	Meriton Property Services Pty Ltd	Received 24 February 2017
Clause 4.6 variation to the height development standard	Meriton Property Services Pty Ltd	Received 18 May 2017
Reflectivity and Glare Assessment- Ref: 610.14464-R011-v1.0	SLR	Dated 23 January 2017; Received 24 February 2017
Response Matrix to additional information request by Council	Meriton Property Services Pty Ltd	Received 24 February 2017
Response to Council DA Traffic Issues	ARUP	Dated 17 February 2017; Received 24 February 2017
Design Statement for DA submission- Ref: CA3392	Crone Architects	Dated 7 July 2016; Received 29 August 2016
DCP Compliance Table	Meriton Property Services Pty Ltd	Received 29 August 2016

Item

Bayside Planning Panel Meeting  
28/08/2018



BASIX Certificate No. 741493M	Prepared by Efficient Living Pty Ltd	Dated 3 August 2016; Received 29 August 2016
Acoustic Report- Ref: 2016.1100.1/2807A/R0/TA	Acoustic Logic	Dated 28 July 2016; Received 29 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 26 August 2016; Received 29 August 2016
Access Report- Rev 2- MTN-017	Wall to Wall Design + Consulting	Dated 28 August 2016; Received 29 August 2016
Building Code of Australia Compliance Assessment Report- 1423-80-Rev 00	AE&D Group	Dated 13 July 2016; Received 29 August 2016
Qualitative Environmental Wind Assessment Report- Ref: 610.14464	SLR	Dated 28 July 2016; Received 29 August 2016
Arboricultural Assessment Report	TALC	Dated 9 June 2017; Received 10 July 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated July 2016; Received 29 August 2016
Civil Infrastructure Development Application Report- Rev 01- Ref: 16-363-01	At&I	Dated August 2016; Received 29 August 2016
Remediation Action Plan- Ref: 73894.01	Douglas Partners	Dated July 2014; Received 29 August 2016
Detailed Site Investigation for Contamination- Ref: 73894.00	Douglas Partners	Dated July 2014; Received 29 August 2016
Geotechnical Investigation- Ref: GEOTLCOV25225AA-AC	Coffey	Dated 25 November 2014; Received 29 August 2016
Flood Report Rev 1	Calibre Consulting	Dated 27 July 2016; Received 29 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 20 July 2016; Received 29 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 29 August 2016; Received 29 August 2016
Advice regarding retail spaces on first floor	Urbis	Dated 5 June 2017; Received 20 June 2017
Letter addressing reasons for deferral	Meriton Property Services Pty Ltd	Dated 20 June 2017; Received 20 June 2017

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the relevant Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 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:

Item Bayside Planning Panel Meeting  
28/08/2018

- i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 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 each relevant BASIX Certificate for each building in the development are fulfilled.
- a) Note:
- 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.
  - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid has identified the following assets to be affected by the development works:
- a) Close Proximity of overhead and/or underground cable/s on public land
    - i) Ausgrid require that due consideration be given to the compatibility of proposed development existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, electric and magnetic fields (EMF), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Item Bayside Planning Panel Meeting  
28/08/2018

- b) In general, conditions to be adhered to by the developer include, but are not limited to, the following:
  - i) Any work undertaken near Overhead Power lines needs to be done in accordance with:
    - WorkCover Document ISSC 23 “Working Near Overhead Power Lines”
    - Ausgrid Network Standards
    - Ausgrid Electrical Safety Rules
  - ii) The location of underground cables by using *Dial before you dig* and comply with the requirements of Ausgrid’s Network Standard 156: *Working near or around underground cables* before any excavation works are undertaken
  - iii) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid’s Network Standard 143.
- c) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).
- d) The developer is to ensure that the proposed works do not contravene Ausgrid’s technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid’s network.

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

8

- 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 51.0 metres Australian Height Datum (AHD).
- c) In the 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, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- d) 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

Item Bayside Planning Panel Meeting  
28/08/2018

- the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
  - f) "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)). The height of the prescribed airspace at this location is 51 metres above AHD.
  - g) Planning for Aircraft Noise and Public Safety Zones: 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). 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.
- (a) Application for Approval of Crane Operation
- (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
  - (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
  - (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
  - (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
  - (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
  - (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
  - (vii) The "Important Notes" must be read and accepted.
  - (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

Item	Bayside Planning Panel Meeting 28/08/2018
------	--

- 9 A strip of land has been dedicated as Public Road by private subdivision (DP1014063) along the Bourke Street frontage of the subject property, as shown by yellow colour on the attached aerial – “X”. The subject property is further affected by a road proposal at the corner of Bourke Street and Church Avenue, as shown by pink colour on the attached aerial – “Y”.

Roads and Maritime raises no objection to the development proposal provided all buildings and structures, together with any improvements integral to the future use of the site are clear of the land required for road.

- 10 The proponent is to be advised that the subject property is within a broad area under investigation for:
- a) The proposed F6 Project. In this regard, further information can be obtained at [www.rms.ndw.gov.au/projects/motorwaydevelopment\\_or\\_by\\_contacting\\_F6 Corridor Study Team](http://www.rms.ndw.gov.au/projects/motorwaydevelopment_or_by_contacting_F6_Corridor_Study_Team_via) via – Email: [motorwaydevelopment@rms.nsw.gov.au](mailto:motorwaydevelopment@rms.nsw.gov.au) or by calling 1800789297.
  - b) The contractor for the Westconnex new M5 Project has now been announced and the contractors current design requirements for this project do not require this property. Please note however the detailed design for the project has not been finalised and accordingly land requirements may be subject to change.
  - c) The proposed Westconnex M4-M5 Link Project.

For more information on the Westconnex project, please call 1300660248, email [info@westconnex.com.au](mailto:info@westconnex.com.au) or visit the project website [www.westconnex.com.au](http://www.westconnex.com.au)

In addition to the above, Roads and Maritime has reviewed the development application and provides the following comments for Council’s consideration in the determination of the application:

- 11 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 12 The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS289.20- 2002 for heavy vehicle usage.

The following conditions are imposed by **Sydney Water**:

- 13 Water
- a) The trunk water system has adequate capacity to service this development area. The existing 200mm water main in Church Avenue can service the proposed development.
- 14 Wastewater

Item Bayside Planning Panel Meeting  
28/08/2018

- a) The trunk wastewater system has adequate capacity to service this development area. The existing 300mm wastewater main in Church Avenue can service the proposed development.

15 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au). Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 5241 or e-mail [david.demer@sydneywater.com.au](mailto:david.demer@sydneywater.com.au)

16 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications 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.

17 Building Plan Approval

The developer must have building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or nex1 to assets).

The following conditions are imposed by **Sydney Trains**:

- 18 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
- a) Geotechnical Investigation prepared by Coffey dated 25 November 2014 (Ref: GEOTLCOV25225AA-AC);
  - b) Potential Impacts on Sydney Trains Tunnel prepared by Coffey dated 1 May 2017 (Ref: 754-SYDGE197961-AB Rev 5);
  - c) Dewatering Management Plan prepared by Coffey dated 13 February 2017 (Ref: 754-SYDGE197961AD);
  - d) Survey Plans (Drawings Nos 21976 C Sheets 1-4) prepared by B&P Surveyors;

Item

Bayside Planning Panel Meeting  
28/08/2018

- e) Bulk Excavation Plan- Drawing No. E-1500 dated August 16 prepared by Karimbla Construction Services;
- f) Correspondence titled "Calculations for 900mm diameter foundation piles end bearing on Class III Shale" prepared by CD Group dated 26 April 2017.

The Principal Certifying Authority is not to issue the Construction Certificate until the measures detailed in the documents approved/certified by Sydney Trains under this Condition are incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

19 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, Excavation and Demolition Plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.

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.

20 If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction 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.

21 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".

22 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.

23 If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/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 corridor. 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.

24 A tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal

Item Bayside Planning Panel Meeting  
28/08/2018

- Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the tunnel monitoring plan, and if required, that it has been endorsed.
- 25 Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- 26 No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- 27 Prior to the issuing of an Occupation Certificate the Applicant is to submit 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 easements, unless agreed to be these authorities. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- 28 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and 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.
- 29 If required, prior to the issue of a Construction Certificate 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 works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- 30 Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 31 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 including loading details for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 32 Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.

Item Bayside Planning Panel Meeting  
28/08/2018



- 33 Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

The following conditions are imposed by **Water NSW**:

- 34 The following General Terms of Approval apply:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when

Item

Bayside Planning Panel Meeting  
28/08/2018

an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
- i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

Item

Bayside Planning Panel Meeting  
28/08/2018

- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
- k) A copy of a valid consent for the development shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any

Item

Bayside Planning Panel Meeting  
28/08/2018

management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

- u) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
  - i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- v) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

- 35 The proposed development shall comply with the following:
  - (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (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 afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.
- 36 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

Item Bayside Planning Panel Meeting  
28/08/2018

commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.

- 37 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Structural Engineer having regard to foundations/structures of the locality
- 38 Prior to the commencement of any demolition, excavation or remediation 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.
- 39 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.

Item

Bayside Planning Panel Meeting  
28/08/2018

- 40 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 41 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
- n) Sewer – common sewerage system ad08.

Item

Bayside Planning Panel Meeting  
28/08/2018

- 42 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 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:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 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 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 45 Prior to the commencement of any works, 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.
- 46 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 47 The Remedial Action Plan (RAP) shall be updated by a suitably qualified and experienced contaminated land consultant to reflect the current proposed development layout and to incorporate any new information of soil and groundwater found in any additional sampling and analysis.

Item

Bayside Planning Panel Meeting  
28/08/2018

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

- 48 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 49 A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council.
- 50 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.
- 51 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 52 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 53 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 54 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 55 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED.** The amount of Common Law liability shall be unlimited.
- 56 Prior to the commencement of excavation or any building works, 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%

Item Bayside Planning Panel Meeting  
28/08/2018



of the total cost of the development, however this is a State Government Fee and can change without notice.

- 57 The Applicant has permission to remove the following trees:

Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7, Tree #8, Tree #9, Tree #10, Tree #11, Tree #12, Tree #13, Tree #14, Tree #15, Tree #16, Tree #17, Tree #18, Tree #19, Tree #20, Tree #21, Tree #22, Tree #23, Tree #24, Tree #25, Tree #26, Tree #27, Tree #28, Tree #29, Tree #30, Tree #31, Tree #32, Tree #33, Tree #34, Tree #35, Tree #36, Tree #37, Tree #38, Tree #39, Tree #40, Tree #41, Tree #42, Tree #43, Tree #44, Tree #45, Tree #46, Tree #47, Tree #48, Tree #49, Tree #50, Tree #51, Tree #52, Tree #53, Tree #54, Tree #55, Tree #56, Tree #57, Tree #58, Tree #59, Tree #60, Tree #61, Tree #62, Tree #63, Tree #64, Tree #65, Tree #66, Tree #67, Tree #68, Tree #69, Tree #70, Tree #71, Tree #72, Tree #73 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 9<sup>th</sup> June 2017). **Note: Trees are not permitted to be removed until the Construction Certificate has been issued.**

Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:

- a) A qualified Arborist with their own public liability insurance must be engaged.
- b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
- c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

- 58 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Church Street and Bourke Road, road reserve. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- c) Distance from the manholes shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written

acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

*Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.*

- 59 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system, and
    - ii) The relocation and/or adjustment of the services affected by the construction.
  - c) As part of this development, the Ausgrid lighting poles along Bourke Road and Church St, will need to be decommissioned and new lighting poles shall be constructed satisfying P2 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
  - d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
  - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the relevant 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.

- 60 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 practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

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

- 61 The applicant must prior to the issue of any Construction Certificate, pay the following fees:

(a) Development Control \$2,940.00

Item Bayside Planning Panel Meeting  
28/08/2018

- (b) Waste Levy \$12,391.20;
- (c) Builders Security Deposit \$629,880.00 (Condition No. 65)
- (d) Section 94 Contributions \$5,194,622.36 (Condition No. 66)

62 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$629,880.00** (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.

63 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$5,194,622.36** is payable as calculated below:

**City of Botany Bay Section 94 Contributions Plan 2016**

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

a) Community Facilities- Citywide	\$798,693.83
b) Recreation Facilities- Mascot Precinct	\$81,027.65
c) Recreation Facilities- Citywide	\$3,469,129.18
d) Transport Management- Citywide	\$326,870.05
e) Transport Management- Mascot	\$459,437.20
f) Administration	\$59,518.46
<b>TOTAL:</b>	<b>\$5,194,622.36</b>

The total Section 94 Contribution of **\$5,194,622.36** is to be paid to Council prior to the issue of any Construction Certificate.

**Note:** The Section 94 Contributions 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.

64 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:

- a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
- b) The northern patios/courtyards of the ground floor apartments of Building A and D along Galloway Street (northern setback) are to be setback 3 metres from the site boundary to comply with the 3 metre setback requirement under Part 9A of the BBDCP 2013;

- c) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
  - d) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and sunlight. It is recommended that study nooks are located within the open planned area of the apartments;
  - e) A loading dock management plan of the ground floor loading dock is to be prepared demonstrating the management of the loading dock during operations. This is to be provided to the Council and the Principal Certifying Authority prior to issue of the Occupation Certificate.
  - f) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
  - g) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
  - h) The first floor level must be designed as flexible space to allow for future adaption. It must have a minimum floor to ceiling height of 3.3 metres.
  - i) The residential/commercial (dual use) first floor flexible space is to include design features which allow for future adaptability of this space for employment generating activities.
- 65 Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of the relevant Construction Certificate.
- 66 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant 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.
- 67 The drawings for the construction certificate for the basement and above ground car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	<del>54.6</del> 52.8 spaces
0.9 space / bed unit	<del>156.6</del> 162.9 spaces
1.4 space / bed unit	<del>105</del> 99.4 spaces
1 visitor space / 7 dwellings	48.6 spaces

Item

Bayside Planning Panel Meeting  
28/08/2018

Car Parking Rates	Required
Retail Spaces	20 spaces
Child Care Centre	29.5 spaces
<b>TOTAL REQUIRED</b>	<b>415-414 spaces (rounded up)</b>
<b>TOTAL PROVIDED</b>	<b>510 spaces</b>

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate. **(DA-16/150/05)**

- 68 Prior to the issue of the relevant Construction Certificate, any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:
- (a) 10 metres/second along commercial/retail streets;
  - (b) 13 metres/second along main pedestrian streets, parks and public places; and
  - (c) 16 metres/second in all other streets.

- 69 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 28/07/2016, Report reference number 20161100.1/2807A/R0/TA** 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.

**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.

Item

Bayside Planning Panel Meeting  
28/08/2018

- 70 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 Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 71 Prior to the issue of the relevant 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.
- 72 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.
- 73 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any 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,

Item

Bayside Planning Panel Meeting  
28/08/2018

- 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.
  - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 74 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, if access from **Bourke Road** is 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 the New South Wales Roads and Maritime Services, and
  - 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.

*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.*

Item

Bayside Planning Panel Meeting  
28/08/2018

- 75 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) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
  - b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 76 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) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
  - b) All service vehicles shall enter the property front in front out,
  - c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
  - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
  - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 77 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) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 10 August 2016, Australian Standards AS 2890.6, SEPP 65 Design Code 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.
- 78 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

Item

Bayside Planning Panel Meeting  
28/08/2018



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

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
  - b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
  - c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - e) The submission of detailed calculations including computer modelling where required supporting the proposal.
- 80 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.
- 81 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:

Item Bayside Planning Panel Meeting  
28/08/2018

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

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

82 The **private domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Occupation Certificate. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:

- a) Along Galloway Street deep soil landscaping setback shall be increased to three (3) metres forward of patios. Landscaping shall include a mix of medium and large canopy trees.
- b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- c) Canopy trees are required to be incorporated within the landscape setback along Galloway Street frontage and Church Avenue frontage.
- d) A mix of medium sized, deciduous and evergreen trees are to be used extensively within the level 4 communal park. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
- e) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
- f) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- g) Indicate the location of all basement structures relative to the landscape areas.
- h) Areas of paving, schedule of materials, edge treatments, tactiles, playground and fitness equipment details, and sectional construction details. Use of WSUD initiatives or materials is required to be indicated.

83 The **public domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction

Item Bayside Planning Panel Meeting  
28/08/2018

Certificate for public domain works. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:

- a) The clear delineation of all public domain areas as follows:
  - i) Galloway Street and Church Avenue footpath areas –
  - ii) The ground level Public park located between Building D and Building A
- b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- c) Street trees are required along Church Avenue, Galloway Street and within the new community park south of Galloway Street.
- d) All street trees are to be in accordance with Council's Street Tree Master Plan.
- e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- f) Canopy trees are to be used extensively within the community park. Deciduous trees are to be incorporated in strategic locations to allow solar access and improve amenity. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 10 Part 4.6).
- g) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- i) The public park shall include a combination of seating in addition to blade seating walls. Incorporate picnic settings to improve amenity.
- j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new ground level community park. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite.

Item

Bayside Planning Panel Meeting  
28/08/2018

Locations to be clearly identified on plan. Provide sectional construction details and elevations.

- m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- n) A detailed public art proposal.
- o) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- p) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- q) Indicate the location of all basement structures relative to the landscape areas.
- r) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report.

#### **DURING WORKS**

84

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

85 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 make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (including damage caused by, but not limited to, delivery

Item Bayside Planning Panel Meeting  
28/08/2018

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.

- 86 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 87 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.
- 88 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.
- 89 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. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 90 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The updated Remedial Action Plan (RAP).
- 91 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 92 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water

Item Bayside Planning Panel Meeting  
28/08/2018

for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

- 93 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 94 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.
- 95 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
- 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.
- 96 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
- 97 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 98 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.
- 99 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.

Item Bayside Planning Panel Meeting  
28/08/2018

- 100 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.
- 101 The following shall be complied with during construction and demolition:
- (a) Construction Noise
    - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - (b) Level Restrictions
    - (i) Construction period of 4 weeks and under:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - (c) Time Restrictions
    - (i) Monday to Friday 07:00am to 05:00pm
    - (ii) Saturday 08:00am to 01:00pm
    - (iii) No demolition or construction to take place on Sundays or Public Holidays.
  - (d) Silencing
    - (i) All possible steps should be taken to silence construction site equipment.
- 102 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 103 During excavation 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.
- 104 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a

Item Bayside Planning Panel Meeting  
28/08/2018

minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

- 105 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.
- 106 The public footpaths in Church Avenue, Galloway Street and Bourke Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 107 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 108 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 109 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - 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

Item Bayside Planning Panel Meeting  
28/08/2018



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.

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

- 110 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 111 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 317 residential spaces
  - b) 49 visitors spaces
  - c) 20 retail spaces
  - d) 29 child care centre spaces
  - e) 1 carwash bay located on the ground floor car park level

Any excess parking is to be allocated to an apartment.

**111A *The FSR, unit mix and car parking shall be consistent with the terms and conditions of DA-16/150 (as modified), DA-2017/1166 and DA-2017/1238 (as modified). (DA-16/150/05)***

- 112 Prior to the issue of the relevant Occupation Certificate, at least 72 bicycle spaces are to be provided in the car park.
- 113 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.
- 114 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing and new stormwater drainage infrastructure on **Church Street, Bourke Road, and Galloway St.**
- The camera and its operation shall comply with the following:
- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
  - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,

Item Bayside Planning Panel Meeting  
28/08/2018

- c) Distance from the manholes shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

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

- 115 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 116 Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Church St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
  - b) On Church St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
  - c) On Church St, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,
  - d) On Bourke Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
  - e) On Bourke Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
  - f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.
- 117 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.

Item

Bayside Planning Panel Meeting  
28/08/2018

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

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

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

119 Prior to the issue of any Occupation Certificate, the following is to be complied with:

- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:
  - i. Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes,
  - ii. Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
  - iii. Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

120 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and

Item Bayside Planning Panel Meeting  
28/08/2018

- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

- 121 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development. A separate SAS shall be provided for any land dedication to council, such as parks or roadways and the site audit statement shall not be subject to any ongoing management measures. This shall be provided to issue of any applicable Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate or applicable dedication of land to Council. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 122 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 any 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.

123

- a) The Stratum subdivision of the development shall be the subject of a further Development Application to Council; and
- b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:
  - i) 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 Development Consent No. 16/150.
  - ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 16/150.
  - iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.
  - iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic 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 in accordance with a Plan of Management.

Item Bayside Planning Panel Meeting  
28/08/2018

- v) Responsibilities to ensure that 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.
  - vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
  - vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
  - viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-statement;
  - ix) 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;
  - x) Maintenance of required acoustic measures of Development Consent No. 16/150; and
  - xi) CCTV surveillance of all public areas within the development site.
- 124 That before entering a lease/occupancy agreement, 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.
- 125 Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 126 Prior to the issue of the relevant Occupation Certificate, 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.
- 127 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic

Item Bayside Planning Panel Meeting  
28/08/2018

- engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 128 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 129 Prior to the issue of any Occupation Certificate, 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.
- 130 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and
  - (b) A Floor Space Ratio (FSR) of ~~3.2:1~~ **3.32:1** and height of 51m AHD as approved under this Development Consent No. 16/150, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate. **(DA-16/150/03)**
  - (c) The development as built, stands within Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.
- 131 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 132 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 133 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 134 The Applicant is to submit payment for a Public Works Defects Liability Bond of \$250,000.00 for all hard structures, paving, drainage and so on within the public domain. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

Item Bayside Planning Panel Meeting  
28/08/2018

- 135 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgment of a bond in the sum of \$100,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
- 136 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of an Occupation Certificate.
- 137 The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.
- 138 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 139 The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.
- 140 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 141 The use of the child care centre is subject to a separate development application for its fitout.
- 142 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.

Item Bayside Planning Panel Meeting  
28/08/2018

- 143 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 144 Ongoing maintenance of the road verges and footpaths and nature strips in Church Avenue and Galloway 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.
- 145 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 146 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.

Item

Bayside Planning Panel Meeting  
28/08/2018



- 147 All loading and unloading associated with the retail tenancy is to be undertaken within the ground floor of Building B.
- 148 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 149 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 150
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
- (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 151 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 152 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/150 dated as 29 August 2016 and further amended by DA-16/150/03 dated 22 September 2017 **and as further modified by DA-16/150/05 dated 13 February 2018** and that any alteration, variation, or extension to the use, would require further Approval. (DA-16/150/03)(**DA-16/150/05**)

Item

Bayside Planning Panel Meeting  
28/08/2018

**Bayside Local Planning Panel**

**28/08/2018**

Item No	6.3
Application Type	Modification to approved residential flat development
Application No	SF18/1792
Lodgement Date	06/06/2018
Property	<b>DA-16/143/06 - 130-150 Bunnerong Road Eastgardens</b>
Ward	Botany Bay
Owner	Karimbla Properties (No. 39) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition Nos. 66 and 93(d).
No. of Submissions	N/A
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

---

**Officer Recommendation**

- 1 That the Bayside Local Planning Panel refuse the request for deletion of Condition No. 93(d) relating to the reconstruction of the road pavement prior to the issue of the relevant Occupation Certificate.
  
  - 2 That the Section 4.55(1A) Application to modify Development Consent No. DA-16/143 at UB5E of 130-150 Bunnerong Road, Eastgardens, be APPROVED by the Bayside Local Planning Panel subject to the following:
    - a amend Condition No. 66 for the period that Council contains the tree preservation bond from 24 months to 6 months from the relevant Occupation Certificate;
    - b amend Condition No. 112 to refer to this Section 4.55(1A) Application.
-

## Location Plan



## Attachments

Planning Assessment Report [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

---

### Application Details

---

<b>Application Number:</b>	16/143/06
<b>Date of Receipt:</b>	6 June 2018
<b>Property:</b>	130-150 Bunnerong Road Eastgardens Lot 2 in DP 1187426
<b>Owners:</b>	Karimbla Properties (No. 39) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd
<b>Proposal:</b>	Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition Nos. 66 and 93(d)
<b>Recommendation:</b>	Approve, subject to modified conditions.
<b>Value:</b>	Nil
<b>No. of submissions:</b>	N/A
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	3 August 2018

### Key Issues

---

Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition No. 66 which relates to the length of the tree preservation bond and Condition No. 93(d) which relates to the construction of the road reserve both prior to the issue of the Occupation Certificate at UB5E at 130-150 Bunnerong Road Eastgardens, was submitted to Council on 6 June 2018.

The application did not require public notification under Part 2 – Notification and Advertising of the BBDCP 2013 as the proposed modification was considered minor.

Key issues with this application relates to the applicant seeking to modify Condition No. 66 for the period that Council contains the tree preservation bond from 24 months to 6 months after practical completion until it is refunded back to the applicant. Rather than practical completion, the condition will be modified to 6 months of the relevant occupation certificate. In regard to Condition No. 93(d), Council's Development Engineer has reviewed the application and does not support the removal of the condition as the applicant has not provided sufficient reasons for the modification of this condition. It is up to the applicant/developer to justify that the works have been completed to the satisfaction of Council at the time of requesting the Occupation Certificate. Therefore Condition No. 93(d) is not supported for removal.

The modification application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended

approval of modification of Condition No. 66 however no support for modification for Condition No. 93(d).

## Recommendation

---

It is RECOMMENDED that the Bayside Planning Panel:

1. Approve the Section 4.55(1A) Modification Application to modify Development Consent No. 16/143 to amend Condition No. 66 which relates to the length of the tree preservation bond at UB5E of 130-150 Bunnerong Road, Eastgardens;
2. Refuse deletion of Condition No. 93(d) relating to the reconstruction of the road pavement prior to the issue of the relevant Occupation Certificate; and
3. Resolve to modify Development Consent No. 16/143 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 as follows:
  - a) Amend Condition No. 66 for the period that Council contains the tree preservation bond from 24 months to 6 months from the relevant Occupation Certificate;
  - b) Amend Condition No. 112 to refer to this Section 4.55(1A) Application.

## Background

---

### History

#### Stage 1 Masterplan

Integrated Development Application No. 14/96 was received by Council on 5 May 2014 for the redevelopment of the site for a staged mixed use development involving subdivision and concept approval for the location of public road network, private access ways through the site, on-site stormwater detention including water sensitive urban design (WSUD), Building Envelopes and Building Heights facilitating approximately 2,733 dwellings on site, parking spaces in above ground and basement facilities, and provision of 8,000sqm of public open space. The Capital Investment Value CIV for these works was \$128,431,190.00, therefore the former Joint Regional Planning Panel (JRPP) was the consent authority. On 28 August 2014, this application was referred to the JRPP in accordance with Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act) as it has a CIV in excess of \$20 million (Reference No. 2014/SYE/105).

On 12 September 2014, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's 'deemed refusal' of the application. The application was considered at a series of Section 34 conferences, whereby a series of amended plans were considered. Council and the applicant reached a Section 34 agreement and the appeal was upheld. On 7 August 2015 the development consent was issued.

The Stage 1 Masterplan consent is a concept approval and does not grant consent for any demolition, remediation, excavation or building works. It is noted however that remediation works have commenced on-site as Category 2 works under the State Environmental Planning Policy No. 55 – Remediation of Land. The approval is limited to the massing, modulation,

Item Bayside Planning Panel Meeting  
28/08/2018

overall siting and setbacks, maximum height of buildings, maximum GFA, uses, maximum FSR, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers, and minimum car parking provisions.

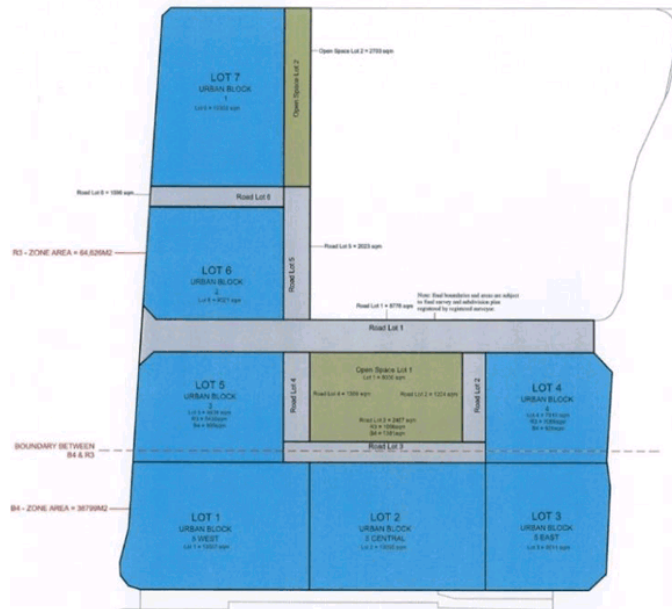


Figure 1. Approved Master plan concept subdivision plan DA-14/96

A number of modifications have been carried out to the Stage 1 Consent which include modifications to include reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of the two childcare centres, reduction in podium height and provision of an additional level within the 6 tower forms in response to the reduced podium height, slight boundary adjustments to the subdivision, timing of deliverance of infrastructure projects, change in unit mix, size and northern setbacks at UB4 and UB3 and subsequent changes to the conditions of consent.

**Subject Urban Block**

The subject site forms one of seven urban blocks within the site. The overall Stage 1 Masterplan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north and Westfield Drive to the south. The subject site is located on the south-eastern corner of the entire site and has a total site area of 9,196sqm.

Item Bayside Planning Panel Meeting  
28/08/2018



Figure 2. Location of UB5E within the overall site



Figure 3. Aerial Map of the subject urban block (UB5E)

Item

Bayside Planning Panel Meeting  
28/08/2018

### Approved Development

- DA-16/143- The proposed development as carried out on UB5E which the former JRPP was approved on 16 February 2017 for the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above. There is a total of 202 apartments approved within the development. A total GFA of 22,403sqm (FSR of 2.49:1) was approved and a total height of 53.6 metres (RL 75.6m) to the plant rooms was approved. The proposal included tree removal and landscaping across the site.
- DA-16/143/02- Section 4.55(1A) Modification to modify Development Consent No. 16/143 to align the development with the adjoining UB4 development including adjustment to the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements was approved by the Sydney Eastern City Planning Panel on 18 May 2018.
- DA-16/143/03- Section 4.55(2) Application to modify Development Consent No. 16/143 to amend the approved residential flat building development to introduce rooftop terraces/gardens to the top and podium level apartments, increase in rooftop plant room sizes and internal configuration of a number of units at UB5E was approved by the Sydney Eastern City Planning Panel on 18 April 2018.
- DA-16/143/05- Section 4.55(1A) Application to modify Development Consent No. 16/143 to relating to the deletion of Condition No. 67 relating to landscape agreement and bond. This application is under assessment.
- DA-16/143/07- Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition No. 1, 61 and 64 relating to the revised arborist report. This application is under assessment.

### Description and Assessment of the Proposed S.4.55 (1A) Modifications

The applicant seeks to modify two conditions which are Condition No. 66 and Condition No. 93(d).

#### Condition No. 66:

Condition No. 66 relates to modifying the period in which the tree preservation bond can be returned to the applicant/developer after an appropriate time. The condition currently reads as follows:

- 66 *The Applicant is to submit payment for a Tree Preservation Bond of \$170,000.00 to ensure protection of the trees listed in the arborist report in Condition No. 1 above from damage during construction. The duration of the Bond shall be for a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of retained trees by Council. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time during construction, then all or part thereof of the bond shall be forfeited.*

Item Bayside Planning Panel Meeting  
28/08/2018



The applicant seeks to modify the condition so that the time restriction is modified from 24 months after the issue of the occupation certificate to 6 months after Practical Completion. The applicant has provided the following justification for reducing the time period of the tree preservation bond:

*“As specified within Clause 4.17(6) of the EP&A Act 1979, the time period that may be applied for the remedying of any defects in public works is 6 months. The clause states the following:*

*A development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of any one or more of the following:*

- (a) making good any damage caused to any property of the consent authority (or any property of the Planning Ministerial Corporation) as a consequence of the doing of anything to which the consent relates,*
- (b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,*
- (c) remedying any defects in any such public work that arise within 6 months after the work is completed.”*

As demonstrated within Section 4.17 of the Act, the legislation does allow any security deposits that have been imposed within consents relating to remedying any defects to public works, such as tree retention, to be kept with Council for a minimum period of 6 months. The wording of the condition demonstrates that damage within 6 months of the completion of the works is to be rectified therefore Council is not required to keep the bond for a period longer than 6 months as the assessment criteria only restricts it to that time period. Council has no issues in reducing the timeframe period of the tree preservation bond from 24 months to 6 months. Council will not amend the condition to reflect practical completion as these works have not been outlined to Council but rather Council will amend the condition to reflect the relevant occupation certificate.

Condition No. 93(d):

Condition No. 93(d) relates to the demolition of the existing road pavement and its reconstruction for the full width of the adjacent development prior to the issue of the relevant Occupation Certificate.

The condition is worded as follows:

*93 Prior to the issue of the relevant Occupation Certificate, the applicant shall carry out the following works:*

- (a) On Bunnerong Road, adjacent to the development, reconstruct the existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and*
- (b) On Bunnerong Road, adjacent to the development, demolish the existing concrete footpath and construct a new footpath as per Council's Infrastructure and Landscape Architect specifications,*
- (c) On Bunnerong Road, adjacent to the development, demolish the existing Stormwater Inlet Pit and construct a new Stormwater Inlet Pit with a 2.4 metre Lintel and a Steel Galvanised Gate, as per Council's Infrastructure specifications, and*

Item Bayside Planning Panel Meeting  
28/08/2018

***(d) On Bunnerong Road, adjacent to the development, demolish the existing road pavement and reconstruct the road pavement for the full width as per Council's Infrastructure and Pavement Engineer's specifications.***

The applicant has stated that the reason to delete 93(d) is that the footpath has recently been installed and is in a good condition. Other conditions of consent adequately cover any requirement to make good public domain areas damaged during the course of development.

The justification provided by the applicant relates to Condition 93(a) and not 93(d). Regardless of which of the conditions that are proposed to be modified, the conditions were originally imposed by Council's Development Engineer. There are no other consents that relate to the road pavement and surrounding footpaths that have been approved that require these elements to be ripped up.

Council's Development Engineer has reviewed the proposed modification to Condition No. 93(d) and is not satisfied in its removal as the applicant has not provided sufficient reasons for the modification of this condition. It is up to the applicant/developer to justify that the works have been completed to the satisfaction of Council at the time of requesting the Occupation Certificate. Therefore Condition No. 93(d) is not supported for removal.

#### **Statutory Considerations**

---

#### **SECTION 4.55(1A) CONSIDERATIONS (previously Section 96(1A))**

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to modifications to conditions, and as such, the modifications will result in substantially the same development as approved under DA-16/143 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to conditions, therefore the modification application is substantially the same development to which consent was originally granted.

- c) *It has notified the application in accordance with (i) the regulations, if the regulations so require, and (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***

Item

Bayside Planning Panel Meeting  
28/08/2018



The application refers to modifications to conditions therefore there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application.

#### **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 modifications relate to modifications of conditions relating to timing of tree preservation bond and reconstruction of road pavement and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-16/143.

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

The suitability of the site was addressed in the original approval of DA-16/143.

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

No objections were received as the application was not required to be notified under Part 2 – Notification and Advertising of the BBDCP 2013.

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

The proposed amendments to Condition No. 66 will have no significant adverse impact upon the public interest.

### **Conclusion**

---

The Section 4.55(1A) Application seeks to modify Development Consent No. 16/143 which approved the demolition and construction of a mixed use development. The modifications relate to conditions of consent regarding to the timing of a refund of the tree preservation bond as well construction of the road pavement prior to the issue of the Occupation Certificate. The development as modified, is substantially the same development that was originally approved or as modified. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Council is in support of approving Condition No. 66 however does not support the removal of Condition No. 93(d) as there is insufficient information provided to Council by the applicant to demonstrate that the road pavement can satisfactorily be retained.

---

Item

Bayside Planning Panel Meeting  
28/08/2018

**Attachment****Schedule 1 – Conditions of Consent**

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 16/143/06

**SCHEDULE OF CONSENT CONDITIONS**

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

Plans	Author	Dated / Received by Council
DA-000 Rev C F- Cover page- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017 Received 19 February 2018
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-002 Rev B- Building Articulation Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-100 Rev E G- Parking Level	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-101 Rev E G- Ground Floor Plan	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-102 Rev E F- Level 1 Plan	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-103 Rev E G- Level 2 Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017 Received 19 February 2018
DA-104 Rev C E- Level 3 Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 13 November 2017; Received 15 November 2017
DA-105 Rev C E- Level 4 Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 13 November 2017; Received 15 November 2017
DA-106 Rev C D- Level 5 Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017 Received 19 February 2018

Item

Bayside Planning Panel Meeting  
28/08/2018

Plans	Author	Dated / Received by Council
DA-107 Rev C F- Level 6-7 Plan- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-108 Rev C G- Level 8-14- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-109 Rev A D- Level 15 Plan- S96 penthouse and roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-110 Rev B- Roof Terrace Plan- S96 roof terraces	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018
DA-111 Rev F- Roof Plan- S96 roof terraces	Nettleton Tribe	Dated 6 February 2018 Received 3 April 2018
DA-201 Rev D J- North Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-202 Rev D J- South Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 19 February 2018
DA-203 Rev D J- East Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018
DA-204 Rev D J- West Elevation- S96 roof terraces	Nettleton Tribe	Dated 19 December 2016 Received 4 January 2017 Dated 6 February 2018 Received 3 April 2018 (no change to the materials approved on 4 January 2017 in relation to the ground floor entrance into Building B)
DA-301 Rev D C- Amended DA- Rooftop terraces- Sections 01	Nettleton Tribe	Dated 30 January 2017 Received 31 January 2017 Dated 29 March 2018 Received 3 April 2018
DA-301 Rev H – Sections 01	Nettleton Tribe	Dated 20 June 2017; Received 6 July 2017
DA-302 Rev B F- Sections 02	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017
DA-430 Rev D G- GFA Area Plans- S96 roof terraces	Nettleton Tribe	Dated 6 January 2017 Received 7 January 2016 Dated 21 November 2017 Received 19 February 2018

Item

Bayside Planning Panel Meeting  
28/08/2018

<b>Plans</b>	<b>Author</b>	<b>Dated / Received by Council</b>
DA-501 Rev A- Ventilation Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-506 Rev A- East and West Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-507 Rev A- North Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-602 Rev A- Solar Point Perspective Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-603 Rev A- Solar Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-604 Rev A- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-609 Rev B- External Finishes	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-801 Rev B- Survey Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1001 Rev A- Deep Soil Calculation	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1101 Rev A- Privacy and Screening	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
L-000-CS Rev D- Cover sheet, drawing register and legend	Urbis	Dated 21 December 2016 Received 4 January 2017
L-500-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-501-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-502- PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-503-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-504-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-505-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-506-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-507-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-508-PL Rev B- Level 5 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-509-PL Rev A- Planting Schedule	Urbis	Dated 14 December 2016 Received 4 January 2017
L01- Rev B- Level 5 Private Terrace Landscape Plans	Urbis	Dated 13 February 2018 Received 19 February 2018

Item

Bayside Planning Panel Meeting  
28/08/2018

Plans	Author	Dated / Received by Council
L02- Rev B-Typical Details and Plant Schedule	Urbis	Dated 13 February 2018 Received 19 February 2018
L-SK01 Rev B- Tree Retention Study (including shoring and piling)	Urbis	Dated 23 January 2017 Received 25 January 2017
L-SK01 Rev B- Tree Retention Study (basement level)	Urbis	Dated 23 January 2017 Received 23 January 2017

(DA-16/143/03) (DA-16/143/02)(DA-16/143/06)

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-011 Rev 2	Wall to Wall	Dated 8 August 2016; Received 17 August 2016
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Noise Impact Assessment Report Ref: 610.13932-R1	SLR	Dated 15 July 2016; Received 17 August 2016
Architectural Design Statement	Nettleton Tribe	Dated 2 November 2016; Received 9 November 2016
ADG Compliance Table Ref: 4574	Nettleton Tribe	Dated 15 July 2015; Received 17 August 2016
Aeronautical Impact Assessment Ref: J0469 V1.0	The Ambidji Group Pty Ltd	Dated 8 August 2016; Received 17 August 2016
Arboricultural Assessment Report	TALC (Tree and Landscape Consultants)	Dated 31 January 2017; Received 1 February 2017
Thermal Comfort and BASIX Assessment Ref: 9941 Rev A C	Efficient Living	<del>Dated 22 July 2016;</del> <del>Received 17 August 2016</del> Dated 26 September 2017 Received 19 February 2018
Building Code of Australia Compliance Assessment Report Ref: 1423.88 Rev 00	AED Group	Dated July 2016; Received 17 August 2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated April 2016; Received 17 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 9 August 2016 Received 17 August 2016
Geotechnical Investigation Report Ref: GEOTLCOV24928AB-AF	Coffey Geotechnics Pty Ltd	Dated 8 August 2014; Received 17 August 2016
Landscape Report Ref: ND1501	Urbis	Dated 21 December 2016 Received 4 January 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 11 July 2016; Received 17 August 2016
Updated Remediation Action Plan Ref: 71631.12	Douglas Partners	Dated September 2013; Received 17 August 2016
Proposed Remediation Action Plan Amendment – Revision 1 Ref: 85009 Rev 1	Douglas Partners	Dated 2 September 2015; Received 17 August 2016

Item

Bayside Planning Panel Meeting  
28/08/2018



Reference Document(s)	Author	Dated / Received by Council
Site Audit Report and Site Audit Statement Ref: 6019040414_SAR_JC_NSW05	AECOM	Dated 31 March 2014; Received 17 August 2016
Reflectivity and Glare Assessment Ref: 610.13932-R6	SLR	Dated 14 July 2016; Received 17 August 2016
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 17 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 11 August 2016; Received 17 August 2016
Stormwater Report Ref: 13-155-5400 Rev 01	At&I	Dated July 2016; Received 17 August 2016
Stage 2 Traffic and Transport Report Ref: 237575	ARUP	Dated 19 July 2016; Received 17 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 4 August 2016; Received 17 August 2016
Qualitative Wind Assessment Ref: 610.13932.R5 L02-v0.1 5E S.96	SLR	Dated 14 July 2016; Received 17 August 2016 Dated 12 February 2018 Received 19 February 2018
Response Matrix and Cover letter to additional information issues	Meriton Property Services Pty Ltd	Received 9 November 2016 and 4 January 2017
Clause 4.6 variation to vary height development standard	Meriton Property Services Pty Ltd	Dated 7 December 2016; Received 7 December 2016
Solar Perspective diagrams approved at Stage 1	-	Dated 16 December 2014; Received 4 January 2017
Solar Access Assessment- Stage 1 consent	SLR	Dated 7 December 2014; Received 4 January 2017
Statement of Environmental Effects Section 96 Application	Meriton Property Services Pty Ltd	Dated 13 February 2018; Received 19 February 2018
SEPP 65 and ADG Design Verification Statement- Rooftop terraces	Nettleton Tribe	Dated 11 April 2018; Received 11 April 2018
SEPP 65 and ADG Design Verification Statement- S.96 application	Nettleton Tribe	Dated 10 May 2018; Received 10 May 2018

(DA-16/143/03) (DA-16/143/02)

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 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:

Item Bayside Planning Panel Meeting  
28/08/2018

- (i) Has appointed a principal certifying authority; and
  - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
  - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 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 each relevant BASIX Certificate for each building in the development are fulfilled.
- (a) Note:
- 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.
  - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard141.
- 8 Ausgrid requires the following conditions with respect to Chamber substations. For a chamber station within the property or within 6m of the development, the substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian

Item Bayside Planning Panel Meeting  
28/08/2018

Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment. For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
  - (a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
  - (b) Ausgrid Network Standards
  - (c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrids Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
- 11 Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- 12 The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site). The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- 13 The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- 14 The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- 15 The proponent must ensure obstacle lighting is maintained in serviceable condition and any outage immediately reported to SACL.
- 16 Separate approval must be sought under the Regulations 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 Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- 17 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.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

Item Bayside Planning Panel Meeting  
28/08/2018

- 18 Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structure, together with any improvements integral to the future use of the site is wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
- 19 All demolition and construction vehicles are to be contained wholly within the site as a construction zone and will not be permitted on Bunnerong Road.
- 20 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- 21 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
 Sydney Asset Management  
 Roads and Maritime Services  
 PO Box 973 Parramatta CBD 2124  
 Telephone 88492114 Fax 88492766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owners of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- 22 A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

The following conditions are imposed by **Sydney Water**:

Sydney Water does not object to the proposed development, subject to the following:

23 Stormwater

Sydney Water requires the removal of Sydney Water stormwater assets within the development site and the construction of a new chamber over Sydney Water's stormwater culvert at Westfield Drive. Sydney Water would not be prepared to take ownership of any drainage works within the development site. Detailed requirements will be provided in the *Asset Creation Process*, as part of the Section 73 application phase.

For further information regarding stormwater requirements for this development application, please contact Jeya Jeyadevan of Land and Waterways on 02 8849 6118 or email [jeya.jeyadevan@sydneywater.com.au](mailto:jeya.jeyadevan@sydneywater.com.au).

24 Water

- a) The existing water mains along the eastern boundary of this site are the 375mm and 250mm, cross connected by a 100mm main in Bunnerong Road.
- b) The existing network will have sufficient capacity to provide water supply to the development area by connecting to the existing 250mm main in Bunnerong Road, with a new cross connection between both 250mm and 375mm mains. This point is shown overleaf.

Item Bayside Planning Panel Meeting  
 28/08/2018

- c) Water reticulation within the site need to be extended from the connection point in Bunnerong Road and to be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).
- d) Detailed drinking water requirements will be assessed at the Section 73 application phase.

25 Wastewater

- a) The proposed development will be serviced by the 375mm main intersecting the development site.
- b) Detailed wastewater requirements will be provided at the Section 73 application phase.

26 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au)

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

- 27 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.
- 28 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the

Item Bayside Planning Panel Meeting  
28/08/2018

- development and for a minimum one (1) month period after the completion of the development, where necessary.
- 29 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 30 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:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 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.
- 31 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 32 Prior to the commencement of any works, 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.
- 33 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 34 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 35 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 36 In order to ensure that the trees listed in the arborist report in Condition 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:

Item Bayside Planning Panel Meeting  
28/08/2018

- a) Engage an Arborist to undertake any necessary tree root pruning and canopy pruning to trees to be retained.
- b) Trees required to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Arborist Report/Landscape Plan.
- c) Prior to commencing any works the trees shall be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until all construction is complete and not altered without the consent of Council's Tree Officer.
- d) The TPZ is to be mulched with leaf mulch to a depth of 100mm and a temporary automatic drip irrigation system installed for the entire construction delivery twice weekly deep watering. Drippers to be installed at 300mm intervals to the entire root zone of all trees.
- e) If there is insufficient space to erect fencing in a particular area during construction, and as approved by Council, wrap the trunk with hessian or similar to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings with strapping or wire (not nails).
- f) Before any works commence on site, the Applicant is required to contact Council for an inspection of the TPZ's. Council approval is required prior commencement of any work.
- g) All Construction Certificate plans, specifications and CMP shall show the trees required to be retained and the TPZ.

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

- 37 Prior to the issue of the relevant Construction Certificate, construction plans are to show for all two and three bedroom apartments the floor surface of the entry, kitchen floor and internal storage areas to be of readily maintainable and water-resistant material (not carpet).
- 38 Prior to the issue of the relevant Construction Certificate, construction plans are to show all two and three bedroom apartments to include a fixed study desk or study nook where a separate study room has not been provided.
- 39 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 40 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
  - (a) 1 Bedroom apartments 6m<sup>3</sup>
  - (b) 2 Bedroom apartments 8m<sup>3</sup>
  - (c) 3 Bedroom apartments 10m<sup>3</sup>

At least 50% of the required storage is to be located within the apartment.
- 41 Prior to the issue of any Construction Certificate, the following fees are to be paid:-
 

(a)	Development Control	\$12,900.00
(b)	Damage Deposit	\$314,700.00 (See below)
(c)	Section 94 Contributions	\$2,714,611.95 (See below)

Item Bayside Planning Panel Meeting  
28/08/2018

- (d) Long Service Levy See below
- 42 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$2,714,611.95 in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:
- |    |                       |                |
|----|-----------------------|----------------|
| a) | Community Facilities  | \$466,913.255  |
| b) | Recreation Facilities | \$2,022,385.90 |
| c) | Transport Management  | \$190,022.836  |
| d) | Administration        | \$35,289.955   |
- The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.
- 43 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 44 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$314,700.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 45 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.
- 46 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to 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,



- (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.
  - (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
  - (l) The methodology to control dust on site.
- 47 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). The plan shall:
- (a) be prepared by a RMS accredited consultant,
  - (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
  - (c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.
- 48 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
  - (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the

Item

Bayside Planning Panel Meeting  
28/08/2018

- roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 49 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
  - (b) All service vehicles to leave the access way into the public roads in a forward direction.
  - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
  - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
  - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 50 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 19 July 2016, Australian Standards AS 2890.6, SEPP 65 Design Code 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.
- 51 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 52 Prior to the issue of the relevant 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 (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 lighting poles along Bunnerong Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V2

Item

Bayside Planning Panel Meeting  
28/08/2018

lighting requirements any other requirements as specified by Council, RMS and any other service provider,

- (d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider and is to be completed prior to the issue of the final Occupation Certificate, and
- (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the commencement of these works.

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.

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

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

- (a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- (e) The submission of detailed calculations including computer modelling where required supporting the proposal.

- 54 Prior to the issue of the relevant Construction Certificate, the recommendations of the Qualitative Wind Assessment Report from SLR referred to in this consent are to be incorporated into the design in order to ensure compliance with the Councils maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1 of the DCP 2013) as follows:

- a) 10 metres/second along commercial/retail streets;

Item Bayside Planning Panel Meeting  
28/08/2018

- b) 13 metres/second along main pedestrian streets, parks and public places; and
  - c) 16 metres/second in all other streets.
- 55 The building shall be designed in accordance with the Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy', and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Suitably endorsed construction plans and specifications addressing these criteria's shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
- 56 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. 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 (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).
    - (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 LAeq 50dB(A) day time and LAeq 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 LAeq 65dB(A) day time/night time.
    - (iv) 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.
- 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.
- 57 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. 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.
- 58 Prior to the issue of the relevant Construction Certificate, the electrical kiosk and fire booster assembly (and similar utilities) must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and is to comply with Ausgrid and the Fire Brigade Requirements..
- 59 Prior to the issue of the relevant Construction Certificate, an independent review by an appropriately qualified person demonstrating consistency of the development with the Crime Prevention Through Environmental Design (CPTED) principles and strategies to be submitted to the Principal Certifying Authority.

Item Bayside Planning Panel Meeting  
28/08/2018

- 60 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.
- 61 Prior to the issue of any Construction Certificate, a correctly scaled Tree Retention Plan shall be submitted to and approved by the Bayside Council's Landscape Architect, which clearly indicates the 13 trees to be retained in the Westfield Drive setback and references the Arborist report. These trees are:
- a) 27 to 29 – 3 x 17 metre high *E. microcorys*
  - b) 30 – 18m high *E. punctata*
  - c) 47 and 50 – 2 x 15 metre high *E. botryoides*
  - d) 51 and 52 – 2 x 17 metre high *E. microcorys*
  - e) 54 to 58 – 5 x 16m high *E. microcorys*
- 62 Prior to the issue of any Construction Certificate, the Applicant shall provide a Tree Impact Assessment and Management Plan for approval by Council's Tree Management Officer and is required to address the following as a minimum:
- a) Demonstrate how the proposal complies with AS4970-2009 – Protection of Trees on Development Sites for trees to be retained and AS4373-2007 - Pruning of Amenity Trees in respect to canopy pruning;
  - b) Description of measures to ameliorate potential impacts to trees to be retained. This is to include measures to ameliorate potential impacts that the proposed building works and piling/shoring Clearance Line may have on the trees to be retained in the Westfield Drive setback and evidence that the trees can be retained without detrimental impact;
  - c) Address how the trees are to be managed during construction to negate any impacts to the trees;
  - d) Recommendations for remedial or other works to the trees during or post construction including watering regime, fertilising etc;
  - e) Supporting evidence such as photographs.
- 63 Prior to the issue of any Construction Certificate, the detailed sections through the Westfield Drive setback are to be revised to delete the 1-1.3 metre increase in soil levels throughout which is not supportive of tree retention. The natural ground line/soil levels must be maintained throughout the setback. Revised sections 1 and 2 are required to indicate this and the landscape plan, construction management plan and any other detailed plan updated accordingly. The sections are to be submitted to and approved by the Bayside Council's Landscape Architect.
- 64 The landscape areas shown on the plans by Urbis, Issue D, shall be the subject of detailed construction level documentation to be submitted to and approved by the Bayside Council's Landscape Architect prior to the issue of the relevant Construction Certificate. The plans shall address the following:
- (a) Thirteen (13) existing significant canopy trees in the Westfield Drive setback shall be retained and protected. These trees are as follows:  
27 to 29 – 3 x 17 metre high *E. microcorys*

Item Bayside Planning Panel Meeting  
28/08/2018

30 – 18m high *E. punctate*  
 47 and 50 – 2 x 15 metre high *E. botryoides*  
 51 and 52 – 2 x 17 metre high *E. microcorys*  
 54 to 58 – 5 x 16m high *E. microcorys*

- (b) The above trees shall be clearly transposed to the landscape plan and numbered to correspond with the Arborist report.
- (c) Existing ground levels are to be maintained in the Westfield Drive setback. Levels shall not be altered.
- (d) The landscape plan shall indicate all proposed utility lines within the setbacks to ensure there is no conflict with retained trees or proposed trees. If a proposed utility line conflicts with an existing tree the utility will be required to be relocated.
- (e) A planting/landscape design that includes not only tree retention but new significant, large canopy tree plantings on all frontages of the site, and in particular the Bunnerong Roadsetback and through to the Westfield Drive setback. There shall be a variety of tree heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80-90%) being evergreen species. Species should be shade tolerant where appropriate. All trees must be of an appropriate scale to complement and ameliorate the built form and massing and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Bunnerong Road setback and soften buildings as a component of the streetscape and public domain.
- (f) Replacement large canopy trees are required in the Bunnerong Roadsetback, minimum pot size 1000 litre. Ex-ground stock may be required. *E. punctata* is not to be specified.
- (g) Shrubs of varying height shall be used throughout all setbacks including at the base of buildings to visually ground buildings and screen edges and facades. Lawn shall be minimized in favour of extensive mass planted areas using shrubs of varying heights and shade tolerant species as suitable. Feature/specimen architectural type planting is favoured and plants suitable to the residential setting and the visually enhance the Bunnerong Road building setback as a significant component of the streetscape and public domain.
- (h) A planting plan to depict all plant locations, groupings and centres/spacings. There is to be a dense, layered planting of trees and shrubs of varying height and feature in all landscaped areas.
- (i) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape hardworks/materials such as retaining walls and paving as well as maintenance periods. Sectional construction details.
- (j) Details for all fencing, retaining walls or structures visible within the public domain of all frontages – sectional details and materials. NOTE : the use of retaining walls and pavements in the Bunnerong Road setback shall be minimized to allow ample lateral space for root establishment or large trees without confinement by barriers. Details of other landscape elements such as furniture and pedestrian amenity/security lighting within street setbacks.
- (k) All setbacks are to be under common ownership to allow survival and maintenance of the landscape scheme long term. Private terraces are outside the landscape setbacks.
- (l) All setbacks are to be automatically irrigated.

Item

Bayside Planning Panel Meeting  
 28/08/2018

Landscaping shall be installed in accordance with the Council approved landscape plan only, prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained at all times in accordance with the final Council approved landscape documentation, the conditions of consent and Council's Landscape Technical Guidelines at all times.

- 65 Prior to the issue of the relevant Construction Certificate, a public domain improvements plan shall be submitted for approval by Bayside Council's Landscape Architect for Bunnerong Road and Westfield Drive, inclusive of the landscaped island at the base of the Westfield exit ramp. The plan shall also include the internal roads public domain details to the west and north of the site. The plan shall include but not be limited to street tree planting (in accordance with the STMP), footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards and bike racks and ground level shrub landscaping. The plan shall be in accordance with any Council public domain detail. specification or requirement. NOTE : Minimum pot size for street trees is 400 litre. Civil drawings shall include levels and detailed footpath construction sections.
- 66 The Applicant is to submit payment for a Tree Preservation Bond of \$170,000.00 to ensure protection of the trees listed in the arborist report in Condition No. 1 above from damage during construction. The duration of the Bond shall be for a period of **24 6** months after issue of the **relevant** Occupation Certificate. At the completion of the **24 6** month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of retained trees by Council. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time during construction, then all or part thereof of the bond shall be forfeited. **(DA-16/143/06)**
- 67 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$40,000.00, for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.
- The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.
- The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

#### **CONDITIONS WHICH MUST BE SATISFIED DURING WORKS**

- 68 Construction operations shall comply with the following:
- (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.

Item Bayside Planning Panel Meeting  
28/08/2018

- (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
  - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
  - (e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
  - (f) 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.
  - (g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 69 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 70 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).
- 71 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, 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 make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (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.
- 72 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

Item

Bayside Planning Panel Meeting  
28/08/2018



- 73 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.
- 74 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 75 The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's 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 10dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - c) Time Restrictions
    - i) Monday to Friday 07:00am to 06:00pm;
    - ii) Saturday 07:00am to 03:00pm
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) Silencing
    - i) All possible steps should be taken to silence construction site equipment.
- 76 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Soil and Water Management Plan if required under this consent;
  - (b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
  - (c) Protection of the Environment Operations Act 1997.
- 77 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation

Item Bayside Planning Panel Meeting  
28/08/2018

must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.

- 78 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The Remedial Action Plan '*Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW*' prepared by Douglas Partners, Project 71631.12, dated September 2013 and
  - e) The '*Proposed Remediation Action Plan Amendment – Revision 1 Part 130 - 150 Bunnerong Road, Pagewood*' prepared by Douglas Partners, Project 85009 Rev 1 dated 2 September 2015.
- 79 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the '*Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW*', Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 80 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 81 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.
- 82 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines; and
  - (b) Protection of the Environment Operations Act 1997; and
  - (c) Protection of the Environment Operations (Waste) Regulation 2014.
  - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 83 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse,

Item Bayside Planning Panel Meeting  
28/08/2018

Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

- 84 Results of the monitoring of relevant field parameters pertaining to conditions of this consent 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.
- 85 An experienced Landscape Contractor shall be engaged to undertake the landscape installation and shall be provided with a copy of both the final approved landscape drawing and conditions of approval to satisfactorily construct the landscape to Council requirement.
- 86 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, including setbacks, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. 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.
- 87 In order to ensure that the trees listed in the arborist report in Condition No. 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:
- a) All TPZ's are a "No-Go" zone. There shall be no access, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, no washing down of concrete mixers or tools, no chemicals mixed/disposed of, **no excavation or filling**, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
  - b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
  - c) Comply with all recommendations of the Tree Management Plan to be submitted as a condition of approval and any other Council requirement.
  - d) Excavation within the TPZ and within 3 metres outward of the canopy dripline of any tree to be retained shall be carried out manually using hand tools to minimise root damage or disturbance.
  - e) Tree roots 35mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection.
  - f) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy or root pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
  - g) Masonry boundary fencing/walls or built structures shall not be located within the setback. If unavoidable they are to be to Council approval and be of piered or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 35mm diameter or greater is in the location of a pier and the root cannot be cut without

Item

Bayside Planning Panel Meeting  
28/08/2018

compromising the tree (after Council inspection and advice), the pier will need to be relocated and the root bridged.

- h) There shall be no pavements or change in levels in the Westfield Drive setback.
- i) There shall be **no trenching for new subsurface utilities** or the location of new overhead services within the primary root zone or canopy of any of the trees to be retained in the Westfield Drive setback. Any utilities close proximity to trees must accommodate tree roots without damage or pruning.
- j) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at any time during or at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

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

- 88 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 89 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
  - (a) Minimum 315 ~~349~~ residential spaces
  - (b) 20 ~~24~~ visitors spaces
  - (c) 1 car share space within the car park.

(DA-16/143/02)
- 90 Prior to the issue of the relevant Occupation Certificate, at least 41 bicycle spaces are to be provided in the car park.
- 91 Any damage not shown in the photographic survey submitted to Council as per the submitted report in Condition No. 45 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 the damage deposit.
- 92 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 93 Prior to the issue of the relevant Occupation Certificate, the applicant shall carry out the following works:
  - a) On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and
  - b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,

Item Bayside Planning Panel Meeting  
28/08/2018

- c) On Bunnerong Road, adjacent to development, demolish existing Stormwater Inlet Pit and construct new Stormwater Inlet Pit with a 2.4metre Lintel and a Steel Galvanised Grate, as per Council's Infrastructure specifications, and
  - d) On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.
- 94 Prior to the issue of the relevant 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.
- 95 Prior to the issue of the relevant Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
  - (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.
- 96 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.
- 97 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 98 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant/Contractor to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the issue of the Occupation Certificate. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 99 The Applicant is to submit payment of a New Street Tree Maintenance Bond of \$25,000.00. The duration of the Bond shall be limited to a period of 12 months after final Council approval of planting of the new street trees. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.

Item

Bayside Planning Panel Meeting  
28/08/2018

New street trees shall be sourced from a reputable supplier that grows to NATSPEC/Australian Standard and located and installed in accordance with the Council approved public domain plan. Two hold point inspections by Council's Tree Officer is required:

- a) prior planting trees to ensure plant stock is suitable and
- b) post planting prior to the maintenance and bond period commencing.

100 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:

- 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.

101 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

102 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

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

103 The use of studies as bedrooms is prohibited.

Item Bayside Planning Panel Meeting  
28/08/2018

- 104 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.
- 105 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 12 month defects period after final Council approval of planting. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual fertilising, mulch replenishment every 3 months minimum and weekly weed removal around the base but does not include trimming or pruning the trees under any circumstances.
- 106 Ongoing maintenance of 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.
- 107 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.
- 108 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- 109 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.
- 110 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.
- 111 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 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.

- 112 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/143 dated as 17 August 2016 and as further modified by DA-16/143/03 dated 22 December 2017 and as further modified by DA-16/143/02 dated 6 July 2017 **and as further modified by DA-16/143/06 dated 6 June 2018** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-16/143/03) (DA-16/143/02) (**DA-16/143/06**)

Item

Bayside Planning Panel Meeting  
28/08/2018



**Bayside Local Planning Panel****28/08/2018**

Item No	6.4
Application Type	Modification to approved residential flat development
Application No	SF18/1794
Lodgement Date	18/06/2018
Property	<b>DA-16/143/07 - 130-150 Bunnerong Road, Eastgardens</b>
Ward	Botany Bay
Owner	Karimbla Properties (No. 39) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	To modify Development Consent No. 16/143 to amend Condition Nos. 1, 61 and 64 at UB5E of 130-150 Bunnerong Road, Eastgardens.
No. of Submissions	N/A
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

---

**Officer Recommendation**

That the Section 4.55(1A) Modification Application to modify Development Consent No. 16/143 to amend Condition Nos. 1, 61 and 64 at UB5E of 130-150 Bunnerong Road, Eastgardens, be APPROVED by the Bayside Local Planning Panel subject to the following:

- a amend Condition No. 1 to refer to the updated Arborist Report prepared by Tree Wise Men;
  - b amend Condition No. 61 to reflect the updated arborist report and the updated identification of the trees on the site;
  - c amend Condition No. 64 which relates to the detailed construction documentation to reflect the updated arborist report;
  - d amend Condition No. 112 to refer to this Section 4.55(1A) Application.
-

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Revised Arborist Report [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

---

### Application Details

---

<b>Application Number:</b>	16/143/07
<b>Date of Receipt:</b>	18 June 2018
<b>Property:</b>	130-150 Bunnerong Road Eastgardens Lot 2 in DP 1187426
<b>Owners:</b>	Karimbla Properties (No. 39) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd
<b>Proposal:</b>	Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition No. 1, 61 and 64 relating to the revised arborist report
<b>Recommendation:</b>	Approve, subject to modified conditions.
<b>Value:</b>	Nil
<b>No. of submissions:</b>	N/A
<b>Author:</b>	Angela Lazaridis, Senior Development Assessment Planner
<b>Date of Report:</b>	3 August 2018

### Key Issues

---

Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition No. 1, 61 and 64 which refers to an older version of the arborist report at UB5E at 130-150 Bunnerong Road Eastgardens, was submitted to Council on 18 June 2018.

The application did not require public notification under Part 2 – Notification and Advertising of the BBDCP 2013 as the proposed modification was considered minor.

There were no key issues raised as part of this application and the proposed modifications are supported.

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

### Recommendation

---

It is RECOMMENDED that the Bayside Planning Panel:

Item	Bayside Planning Panel Meeting 28/08/2018
------	--

1. Approve the Section 4.55(1A) Modification Application to modify Development Consent No. 16/143 to amend Condition Nos. 1, 61 and 64 at UB5E of 130-150 Bunnerong Road, Eastgardens; and
2. Resolve to modify Development Consent No. 16/143 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 as follows:
  - a) Amend Condition No. 1 to refer to the updated Arborist Report prepared by Tree Wise Men;
  - b) Amend Condition No. 61 to reflect the updated arborist report and the updated identification of the trees on the site;
  - c) Amend Condition No. 64 which relates to the detailed construction documentation to reflect the updated arborist report;
  - d) Amend Condition No. 112 to refer to this Section 4.55(1A) Application.

## Background

---

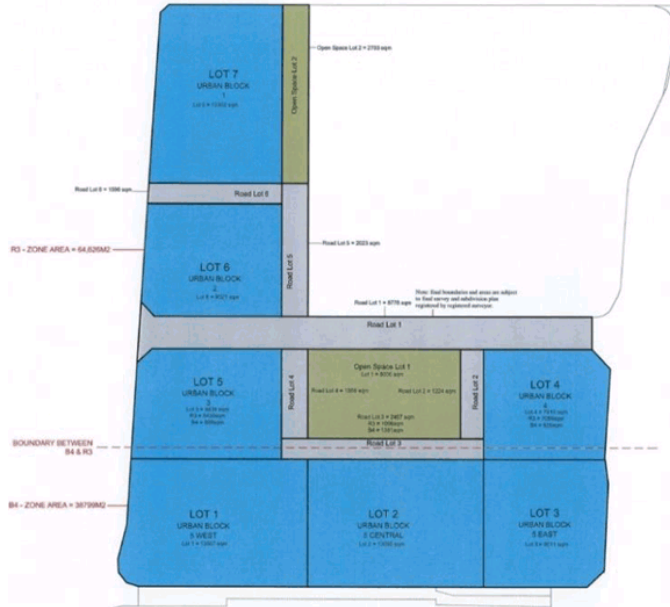
### History

#### Stage 1 Masterplan

Integrated Development Application No. 14/96 was received by Council on 5 May 2014 for the redevelopment of the site for a staged mixed use development involving subdivision and concept approval for the location of public road network, private access ways through the site, on-site stormwater detention including water sensitive urban design (WSUD), Building Envelopes and Building Heights facilitating approximately 2,733 dwellings on site, parking spaces in above ground and basement facilities, and provision of 8,000sqm of public open space. The Capital Investment Value CIV for these works was \$128,431,190.00, therefore the former Joint Regional Planning Panel (JRPP) was the consent authority. On 28 August 2014, this application was referred to the JRPP in accordance with Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act) as it has a CIV in excess of \$20 million (Reference No. 2014/SYE/105).

On 12 September 2014, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's 'deemed refusal' of the application. The application was considered at a series of Section 34 conferences, whereby a series of amended plans were considered. Council and the applicant reached a Section 34 agreement and the appeal was upheld. On 7 August 2015 the development consent was issued.

The Stage 1 Masterplan consent is a concept approval and does not grant consent for any demolition, remediation, excavation or building works. It is noted however that remediation works have commenced on-site as Category 2 works under the State Environmental Planning Policy No. 55 – Remediation of Land. The approval is limited to the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum GFA, uses, maximum FSR, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers, and minimum car parking provisions.



**Figure 1. Approved Master plan concept subdivision plan DA-14/96**

A number of modifications have been carried out to the Stage 1 Consent which include modifications to include reduction in the ground floor retail component, relocation of the civic retail square and extension of the five storey podium, additional residential units, deletion of the two childcare centres, reduction in podium height and provision of an additional level within the 6 tower forms in response to the reduced podium height, slight boundary adjustments to the subdivision, timing of deliverance of infrastructure projects, change in unit mix, size and northern setbacks at UB4 and UB3 and subsequent changes to the conditions of consent.

**Subject Urban Block**

The subject site forms one of seven urban blocks within the site. The overall Stage 1 Masterplan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north and Westfield Drive to the south. The subject site is located on the south-eastern corner of the entire site and has a total site area of 9,196sqm.



Figure 2. Location of UB5E within the overall site



Figure 3. Aerial Map of the subject urban block (UB5E)

### Approved Development

- DA-16/143- The proposed development as carried out on UB5E which the former JRPP was approved on 16 February 2017 for the construction of a residential flat building consisting of one level of basement car parking, a 3 storey podium including car parking sleeved with apartments and 2 x 6 storey, 1 x 8 storey and 1 x 16 storey towers above. There is a total of 202 apartments approved within the development. A total GFA of 22,403sqm (FSR of 2.49:1) was approved and a total height of 53.6 metres (RL 75.6m) to the plant rooms was approved. The proposal included tree removal and landscaping across the site.
- DA-16/143/02- Section 4.55(1A) Modification to modify Development Consent No. 16/143 to align the development with the adjoining UB4 development including adjustment to the finished ground levels, reconfiguration of the internal layout of the basement parking areas to allow shared parking with the UB4 development and changes to some external finishes and materials in response to structural requirements was approved by the Sydney Eastern City Planning Panel on 18 May 2018.
- DA-16/143/03- Section 4.55(2) Application to modify Development Consent No. 16/143 to amend the approved residential flat building development to introduce rooftop terraces/gardens to the top and podium level apartments, increase in rooftop plant room sizes and internal configuration of a number of units at UB5E was approved by the Sydney Eastern City Planning Panel on 18 April 2018.
- DA-16/143/05- Section 4.55(1A) Application to modify Development Consent No. 16/143 to relating to the deletion of Condition No. 67 relating to landscape agreement and bond. This application is under assessment.
- DA-16/143/06- Section 4.55(1A) Application to modify Development Consent No. 16/143 to amend Condition Nos. 66 and 93(d). This application is under assessment.

### Description and Assessment of the Proposed S.4.55 (1A) Modifications

The proposed modification seeks to amend three conditions within the consent. Condition Nos. 1, 61 and 64 make reference to an older version of the arborist report which was originally submitted with the parent development application. However throughout the development application process, the applicant's arborist changed. The older report was referenced within the conditions of consent that were issued for DA-16/143.

The proposed modifications seek to update the consent to reflect the new arborist report. Council's Landscape Architect has reviewed the new arborist report and has no issues in modifying the conditions to reflect the updated version of the report and the updated referencing of the trees.

The conditions of consent will be amended as follows:

- Condition No. 1 – Table has been modified with the updated report
  - Condition No. 61 – The condition will be modified as follows:
- 61 Prior to the issue of any Construction Certificate, a correctly scaled Tree Retention Plan shall be submitted to and approved by the Bayside Council's Landscape Architect, which clearly indicates the 13 trees to be retained in the Westfield Drive setback and

references the ~~Arborist report revised arboricultural impact assessment for the proposed residential development – UB5E prepared by Tree Wise Men dated March 2017~~. These trees are to be retained as identified as trees 24, 27-30, 52-55 and 57-61 within this report.

- a) ~~27 to 29 – 3 x 17 metre high E. microcorys~~
- b) ~~30 – 18m high E. punctata~~
- c) ~~47 and 50 – 2 x 15 metre high E. botryoides~~
- d) ~~51 and 52 – 2 x 17 metre high E. microcorys~~
- e) ~~54 to 58 – 5 x 16m high E. microcorys~~

- Condition No. 64 – The condition will be modified as follows:

64 The landscaped areas shown on the plans by Urbis, Issue D, shall be the subject of detailed construction level documentation to be submitted to and approved by the Bayside Council's Landscape Architect prior to the issue of the relevant Construction Certificate. The plans shall address the following:

- a) ~~Thirteen (13)~~ The existing significant canopy trees in the Westfield Drive setback identified within the ~~Revised Arboricultural Impact Assessment for Proposed Residential Development – UB5E prepared by Tree Wise Men dated March 2017 and shown on the Tree Retention Plan approved by Council in respect of the satisfaction of Condition No. 61 of this consent~~ shall be retained and protected. ~~The trees are as follows:~~

~~27 to 29 – 3 x 17 metre high E. micocorys  
30- 18m high E. punctate  
47 and 50- 2 x 15 metre high E. botroides  
51 and 52- 2 x 17 metre high E. microcorys  
54 to 58- 5 x 16m E. microcorys~~

- b) The above trees shall be clearly transported to the landscape plan and numbered to correspond with the ~~Arborist report Revised Arboricultural Impact Assessment for Proposed Residential Development – UB5E prepared by Tree Wise Men dated March 2017~~.

.....

### Statutory Considerations

---

#### SECTION 4.55(1A) CONSIDERATIONS (previously Section 96(1A))

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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



The Section 4.55(1A) modification application relates to modifications to conditions, and as such, the modifications will result in substantially the same development as approved under DA-16/143 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to conditions, therefore the modification application is substantially the same development to which consent was originally granted.

- c) *It has notified the application in accordance with (i) the regulations, if the regulations so require, and (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*

The application did not require public notification under Part 2 – Notification and Advertising of the BBDCP 2013 as the proposed modification was considered minor.

- 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.*

No objections received as the application was never notified.

#### **SECTION 4.42- STATUS OF CONCEPT APPLICATIONS AND CONSENT CONSIDERATIONS (previously Section 83D)**

The Stage 1 Master plan consent DA-14/96 is the first of a Staged Development Application as per Section 4.42 of the Environmental Planning and Assessment Act. The subject application is a modification to a Stage 2 Development Application and as per the Section 4.42(2) it cannot be inconsistent with the Stage 1 consent. The proposed modifications do not alter the conditions approved within the Stage 1 consent. Discussion regarding the car parking is discussed in Modification No. 1 assessment above.

#### **S.4.15(1) – MATTERS FOR CONSIDERATION – GENERAL (FORMERLY S.79C)**

##### **S.4.15(1)(a)(i) – Provisions of Environmental Planning Instruments**

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 as follows:

##### State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The application relates to conditions that do not relate to the built form approved as part of DA-16/143 and in subsequent applications. The building will continue to be consistent with the

approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013

The application refers to modifications to conditions therefore there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal will continue to be consistent with the objectives of the BBLEP 2013 with regard to the B4- Mixed Use zone.

**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 application refers to modifications to conditions therefore there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal relates to landscaping and tree removal and is not contrary to the requirements of the BBDCP 2013.

**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 modifications relate to modifications of conditions which will refer to an updated arborist report and updated tree identification and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-16/143.

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

The suitability of the site was addressed in the original approval of DA-16/143.

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

No objections were received as the application was not required to be notified under Part 2 – Notification and Advertising of the BBDCP 2013.

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

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

## Conclusion

---

The Section 4.55(1A) Application seeks to modify Development Consent No. 16/143 which approved the demolition and construction of a mixed use development. The modifications related only to conditions of consent to update the conditions with the most up-to-date arborist report. The development as modified, is substantially the same development that was originally approved or as modified. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

---

## Attachment

### Schedule 1 – Conditions of Consent

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 16/143/07

### SCHEDULE OF CONSENT CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-000 Rev C F- Cover page- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017 Received 19 February 2018
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del>
DA-002 Rev B- Building Articulation Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del>
DA-100 Rev E G- Parking Level	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-101 Rev E G- Ground Floor Plan	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-102 Rev E F- Level 1 Plan	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 20 June 2017; Received 6 July 2017
DA-103 Rev E G- Level 2 Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 21 December 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017

Plans	Author	Dated / Received by Council
		Received 19 February 2018
DA-104 Rev C E- Level 3 Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 13 November 2017; Received 15 November 2017
DA-105 Rev C E- Level 4 Plan	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 13 November 2017; Received 15 November 2017
DA-106 Rev C D- Level 5 Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 21 November 2017 Received 19 February 2018
DA-107 Rev C F- Level 6-7 Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 19 February 2018
DA-108 Rev C G- Level 8-14- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 19 February 2018
DA-109 Rev A D- Level 15 Plan- S96 penthouse and roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 19 February 2018
DA-110 Rev B- Roof Terrace Plan- S96 roof terraces	Nettleton Tribe	<del>Dated 2 November 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 3 April 2018
DA-111 Rev F- Roof Plan- S96 roof terraces	Nettleton Tribe	Dated 6 February 2018 Received 3 April 2018
DA-201 Rev D J- North Elevation- S96 roof terraces	Nettleton Tribe	<del>Dated 19 December 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 19 February 2018
DA-202 Rev D J- South Elevation- S96 roof terraces	Nettleton Tribe	<del>Dated 19 December 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 19 February 2018
DA-203 Rev D J- East Elevation- S96 roof terraces	Nettleton Tribe	<del>Dated 19 December 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 3 April 2018
DA-204 Rev D J- West Elevation- S96 roof terraces	Nettleton Tribe	<del>Dated 19 December 2016</del> <del>Received 4 January 2017</del> Dated 6 February 2018 Received 3 April 2018 (no change to the materials approved on 4 January 2017 in relation to the ground floor entrance into Building B)

Plans	Author	Dated / Received by Council
DA-301 Rev D C- Amended DA- Rooftop terraces- Sections 01	Nettleton Tribe	Dated 30 January 2017 Received 31 January 2017 Dated 29 March 2018 Received 3 April 2018
DA-301 Rev H – Sections 01	Nettleton Tribe	Dated 20 June 2017; Received 6 July 2017
DA-302 Rev B F- Sections 02	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017 Dated 20 June 2017; Received 6 July 2017
DA-430 Rev D G- GFA Area Plans- S96 roof terraces	Nettleton Tribe	Dated 6 January 2017 Received 7 January 2016 Dated 21 November 2017 Received 19 February 2018
DA-501 Rev A- Ventilation Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-506 Rev A- East and West Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-507 Rev A- North Elevation Comparison Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-602 Rev A- Solar Point Perspective Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-603 Rev A- Solar Analysis Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-604 Rev A- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-609 Rev B- External Finishes	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-801 Rev B- Survey Plan	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1001 Rev A- Deep Soil Calculation	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
DA-1101 Rev A- Privacy and Screening	Nettleton Tribe	Dated 2 November 2016 Received 4 January 2017
L-000-CS Rev D- Cover sheet, drawing register and legend	Urbis	Dated 21 December 2016 Received 4 January 2017
L-500-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-501-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-502- PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-503-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017
L-504-PL Rev D- Ground Floor Planting Plan	Urbis	Dated 21 December 2016 Received 4 January 2017

Plans	Author	Dated / Received by Council
L-505-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-506-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-507-PL Rev B- Level 3 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-508-PL Rev B- Level 5 Planting Plan	Urbis	Dated 14 December 2016 Received 4 January 2017
L-509-PL Rev A- Planting Schedule	Urbis	Dated 14 December 2016 Received 4 January 2017
L01- Rev B- Level 5 Private Terrace Landscape Plans	Urbis	Dated 13 February 2018 Received 19 February 2018
L02- Rev B-Typical Details and Plant Schedule	Urbis	Dated 13 February 2018 Received 19 February 2018
L-SK01 Rev B- Tree Retention Study (including shoring and piling)	Urbis	Dated 23 January 2017 Received 25 January 2017
L-SK01 Rev B- Tree Retention Study (basement level)	Urbis	Dated 23 January 2017 Received 23 January 2017

(DA-16/143/03) (DA-16/143/02)

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-011 Rev 2	Wall to Wall	Dated 8 August 2016; Received 17 August 2016
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Noise Impact Assessment Report Ref: 610.13932-R1	SLR	Dated 15 July 2016; Received 17 August 2016
Architectural Design Statement	Nettleton Tribe	Dated 2 November 2016; Received 9 November 2016
ADG Compliance Table Ref: 4574	Nettleton Tribe	Dated 15 July 2015; Received 17 August 2016
Aeronautical Impact Assessment Ref: J0469 V1.0	The Ambidji Group Pty Ltd	Dated 8 August 2016; Received 17 August 2016
<b>Arboricultural Assessment Report Revised Arboricultural Impact Assessment For Proposed Residential Development – UB5E</b>	<b>TALC (Tree and Landscape Consultants) Tree Wise Men Australia Pty Ltd</b>	<b>Dated 31 January 2017; Received 1 February 2017 Dated March 2017; Received 18 June 2018</b>
Thermal Comfort and BASIX Assessment Ref: 9941 Rev A C	Efficient Living	Dated 22 July 2016; Received 17 August 2016

Reference Document(s)	Author	Dated / Received by Council
		Dated 26 September 2017 Received 19 February 2018
Building Code of Australia Compliance Assessment Report Ref: 1423.88 Rev 00	AED Group	Dated July 2016; Received 17 August 2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated April 2016; Received 17 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 9 August 2016 Received 17 August 2016
Geotechnical Investigation Report Ref: GEOTLCOV24928AB-AF	Coffey Geotechnics Pty Ltd	Dated 8 August 2014; Received 17 August 2016
Landscape Report Ref: ND1501	Urbis	Dated 21 December 2016 Received 4 January 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 11 July 2016; Received 17 August 2016
Updated Remediation Action Plan Ref: 71631.12	Douglas Partners	Dated September 2013; Received 17 August 2016
Proposed Remediation Action Plan Amendment – Revision 1 Ref: 85009 Rev 1	Douglas Partners	Dated 2 September 2015; Received 17 August 2016
Site Audit Report and Site Audit Statement Ref: 6019040414_SAR_JC_NS W05	AECOM	Dated 31 March 2014; Received 17 August 2016
Reflectivity and Glare Assessment Ref: 610.13932-R6	SLR	Dated 14 July 2016; Received 17 August 2016
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 17 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 11 August 2016; Received 17 August 2016
Stormwater Report Ref: 13-155-5400 Rev 01	At&I	Dated July 2016; Received 17 August 2016
Stage 2 Traffic and Transport Report Ref: 237575	ARUP	Dated 19 July 2016; Received 17 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 4 August 2016; Received 17 August 2016
Qualitative Wind Assessment Ref: 610.13932.R5 L02-v0.1 5E S.96	SLR	<del>Dated 14 July 2016;</del> <del>Received 17 August 2016</del> Dated 12 February 2018 Received 19 February 2018
Response Matrix and Cover letter to additional information issues	Meriton Property Services Pty Ltd	Received 9 November 2016 and 4 January 2017
Clause 4.6 variation to vary height development standard	Meriton Property Services Pty Ltd	Dated 7 December 2016; Received 7 December 2016

Reference Document(s)	Author	Dated / Received by Council
Solar Perspective diagrams approved at Stage 1	-	Dated 16 December 2014; Received 4 January 2017
Solar Access Assessment- Stage 1 consent	SLR	Dated 7 December 2014; Received 4 January 2017
Statement of Environmental Effects Section 96 Application	Meriton Property Services Pty Ltd	Dated 13 February 2018; Received 19 February 2018
SEPP 65 and ADG Design Verification Statement- Rooftop terraces	Nettleton Tribe	Dated 11 April 2018; Received 11 April 2018
SEPP 65 and ADG Design Verification Statement- S.96 application	Nettleton Tribe	Dated 10 May 2018; Received 10 May 2018

(DA-16/143/03) (DA-16/143/02)(**DA-16/143/07**)

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
  - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - (i) The consent authority; or,
    - (ii) An accredited certifier; and,
  - (b) The person having the benefit of the development consent:
    - (i) Has appointed a principal certifying authority; and
    - (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 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 each relevant BASIX Certificate for each building in the development are fulfilled.
  - (a) Note:
 

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.
- (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

**CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.
- 8 Ausgrid requires the following conditions with respect to Chamber substations. For a chamber station within the property or within 6m of the development, the substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment. For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.
- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
  - (a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
  - (b) Ausgrid Network Standards
  - (c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrid's Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
- 11 Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- 12 The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid

to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site). The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- 13 The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- 14 The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- 15 The proponent must ensure obstacle lighting is maintained in serviceable condition and any outage immediately reported to SACL.
- 16 Separate approval must be sought under the Regulations 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 Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- 17 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.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

- 18 Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structure, together with any improvements integral to the future use of the site is wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
- 19 All demolition and construction vehicles are to be contained wholly within the site as a construction zone and will not be permitted on Bunnerong Road.
- 20 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- 21 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 88492114 Fax 88492766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owners of the

roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- 22 A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

The following conditions are imposed by **Sydney Water**:

Sydney Water does not object to the proposed development, subject to the following:

- 23 Stormwater

Sydney Water requires the removal of Sydney Water stormwater assets within the development site and the construction of a new chamber over Sydney Water's stormwater culvert at Westfield Drive. Sydney Water would not be prepared to take ownership of any drainage works within the development site. Detailed requirements will be provided in the *Asset Creation Process*, as part of the Section 73 application phase.

For further information regarding stormwater requirements for this development application, please contact Jeya Jeyadevan of Land and Waterways on 02 8849 6118 or email [jeya.jeyadevan@sydneywater.com.au](mailto:jeya.jeyadevan@sydneywater.com.au).

- 24 Water

- a) The existing water mains along the eastern boundary of this site are the 375mm and 250mm, cross connected by a 100mm main in Bunnerong Road.
- b) The existing network will have sufficient capacity to provide water supply to the development area by connecting to the existing 250mm main in Bunnerong Road, with a new cross connection between both 250mm and 375mm mains. This point is shown overleaf.
- c) Water reticulation within the site need to be extended from the connection point in Bunnerong Road and to be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).
- d) Detailed drinking water requirements will be assessed at the Section 73 application phase.

- 25 Wastewater

- a) The proposed development will be serviced by the 375mm main intersecting the development site.
- b) Detailed wastewater requirements will be provided at the Section 73 application phase.

- 26 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au)

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS**

- 27 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.
- 28 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 29 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 30 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:
      - to a public sewer; or
      - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 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.

- 31 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 32 Prior to the commencement of any works, 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.
- 33 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 34 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 35 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 36 In order to ensure that the trees listed in the arborist report in Condition 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:
- a) Engage an Arborist to undertake any necessary tree root pruning and canopy pruning to trees to be retained.
  - b) Trees required to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Arborist Report/Landscape Plan.
  - c) Prior to commencing any works the trees shall be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until all construction is complete and not altered without the consent of Council's Tree Officer.
  - d) The TPZ is to be mulched with leaf mulch to a depth of 100mm and a temporary automatic drip irrigation system installed for the entire construction delivery twice weekly deep watering. Drippers to be installed at 300mm intervals to the entire root zone of all trees.
  - e) If there is insufficient space to erect fencing in a particular area during construction, and as approved by Council, wrap the trunk with hessian or similar to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings with strapping or wire (not nails).
  - f) Before any works commence on site, the Applicant is required to contact Council for an inspection of the TPZ's. Council approval is required prior commencement of any work.
  - g) All Construction Certificate plans, specifications and CMP shall show the trees required to be retained and the TPZ.

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

- 37 Prior to the issue of the relevant Construction Certificate, construction plans are to show for all two and three bedroom apartments the floor surface of the entry, kitchen floor and internal storage areas to be of readily maintainable and water-resistant material (not carpet).
- 38 Prior to the issue of the relevant Construction Certificate, construction plans are to show all two and three bedroom apartments to include a fixed study desk or study nook where a separate study room has not been provided.
- 39 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 40 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
- (a) 1 Bedroom apartments 6m<sup>3</sup>
  - (b) 2 Bedroom apartments 8m<sup>3</sup>
  - (c) 3 Bedroom apartments 10m<sup>3</sup>
- At least 50% of the required storage is to be located within the apartment.
- 41 Prior to the issue of any Construction Certificate, the following fees are to be paid:-
- (a) Development Control \$12,900.00
  - (b) Damage Deposit \$314,700.00 (See below)
  - (c) Section 94 Contributions \$2,714,611.95 (See below)
  - (d) Long Service Levy See below
- 42 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$2,714,611.95 in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:
- a) Community Facilities \$466,913.255
  - b) Recreation Facilities \$2,022,385.90
  - c) Transport Management \$190,022.836
  - d) Administration \$35,289.955
- The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.
- 43 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 44 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$314,700.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

- 45 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.
- 46 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to 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,
  - (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.
  - (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
  - (l) The methodology to control dust on site.
- 47 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). The plan shall:

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

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

- 48 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
  - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
  - (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 49 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
  - (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
  - (b) All service vehicles to leave the access way into the public roads in a forward direction.
  - (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
  - (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
  - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 50 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
  - (a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 19 July 2016, Australian Standards AS 2890.6, SEPP 65 Design Code 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.
- 51 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 52 Prior to the issue of the relevant 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 (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 lighting poles along Bunnerong 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) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider and is to be completed prior to the issue of the final Occupation Certificate, and
- (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the commencement of these works.

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.

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

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

- (a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on

- 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
  - (c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - (d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - (e) The submission of detailed calculations including computer modelling where required supporting the proposal.
- 54 Prior to the issue of the relevant Construction Certificate, the recommendations of the Qualitative Wind Assessment Report from SLR referred to in this consent are to be incorporated into the design in order to ensure compliance with the Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1 of the DCP 2013) as follows:
- a) 10 metres/second along commercial/retail streets;
  - b) 13 metres/second along main pedestrian streets, parks and public places; and
  - c) 16 metres/second in all other streets.
- 55 The building shall be designed in accordance with the Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy', and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Suitably endorsed construction plans and specifications addressing these criteria's shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
- 56 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. 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 (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).
    - (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 LAeq 50dB(A) day time and LAeq 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 LAeq 65dB(A) day time/night time.

- (iv) 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.

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.

- 57 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. 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.
- 58 Prior to the issue of the relevant Construction Certificate, the electrical kiosk and fire booster assembly (and similar utilities) must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and is to comply with Ausgrid and the Fire Brigade Requirements..
- 59 Prior to the issue of the relevant Construction Certificate, an independent review by an appropriately qualified person demonstrating consistency of the development with the Crime Prevention Through Environmental Design (CPTED) principles and strategies to be submitted to the Principal Certifying Authority.
- 60 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.
- 61 Prior to the issue of any Construction Certificate, a correctly scaled Tree Retention Plan shall be submitted to and approved by the Bayside Council's Landscape Architect, which clearly indicates the ~~13~~ trees to be retained in the Westfield Drive setback and references the ~~Arborist report revised arboricultural impact assessment for the proposed residential development – UB5E prepared by Tree Wise Men dated March 2017~~. These trees ~~are to be retained as identified as trees 24, 27-30, 52-55 and 57-61 within this report~~.
- f) — 27 to 29 – 3 x 17 metre high E. microcorys*
- g) — 30 – 18m high E. punctata*
- h) — 47 and 50 – 2 x 15 metre high E. botryoides*
- i) — 51 and 52 – 2 x 17 metre high E. microcorys*
- j) — 54 to 58 – 5 x 16m high E. microcorys*
- (DA-16/143/07)**
- 62 Prior to the issue of any Construction Certificate, the Applicant shall provide a Tree Impact Assessment and Management Plan for approval by Council's Tree Management Officer and is required to address the following as a minimum:
- a) Demonstrate how the proposal complies with AS4970-2009 – Protection of Trees on Development Sites for trees to be retained and AS4373-2007 -

- Pruning of Amenity Trees in respect to canopy pruning;
- b) Description of measures to ameliorate potential impacts to trees to be retained. This is to include measures to ameliorate potential impacts that the proposed building works and piling/shoring Clearance Line may have on the trees to be retained in the Westfield Drive setback and evidence that the trees can be retained without detrimental impact;
  - c) Address how the trees are to be managed during construction to negate any impacts to the trees;
  - d) Recommendations for remedial or other works to the trees during or post construction including watering regime, fertilising etc;
  - e) Supporting evidence such as photographs.
- 63 Prior to the issue of any Construction Certificate, the detailed sections through the Westfield Drive setback are to be revised to delete the 1-1.3 metre increase in soil levels throughout which is not supportive of tree retention. The natural ground line/soil levels must be maintained throughout the setback. Revised sections 1 and 2 are required to indicate this and the landscape plan, construction management plan and any other detailed plan updated accordingly. The sections are to be submitted to and approved by the Bayside Council's Landscape Architect.
- 64 The landscape areas shown on the plans by Urbis, Issue D, shall be the subject of detailed construction level documentation to be submitted to and approved by the Bayside Council's Landscape Architect prior to the issue of the relevant Construction Certificate. The plans shall address the following:
- (a) ~~Thirteen (13)~~ **The** existing significant canopy trees in the Westfield Drive setback **identified within the Revised Arboricultural Impact Assessment for Proposed Residential Development – UB5E prepared by Tree Wise MMen dated March 2017 and shown on the Tree Retention Plan approved by Council in respect of the satisfaction of Condition No. 61 of this consent shall be retained and protected. ~~These trees are as follows:~~**
    - 27 to 29 – 3 x 17 metre high E. microcorys**
    - 30 – 18m high E. punctate**
    - 47 and 50 – 2 x 15 metre high E. botryoides**
    - 51 and 52 – 2 x 17 metre high E. microcorys**
    - 54 to 58 – 5 x 16m high E. microcorys**

**(DA-16/143/07)**
  - (b) The above trees shall be clearly transposed to the landscape plan and numbered to correspond with the **Arborist report Revised Arboricultural Impact Assessment for Proposed Residential Development – UB5E prepared by Tree Wise Men dated March 2017. (DA-16/143/07)**
  - (c) Existing ground levels are to be maintained in the Westfield Drive setback. Levels shall not be altered.
  - (d) The landscape plan shall indicate all proposed utility lines within the setbacks to ensure there is no conflict with retained trees or proposed trees. If a proposed utility line conflicts with an existing tree the utility will be required to be relocated.
  - (e) A planting/landscape design that includes not only tree retention but new significant, large canopy tree plantings on all frontages of the site, and in particular the Bunnerong Roadsetback and through to the Westfield Drive setback. There shall be a variety of tree heights in all setbacks inclusive of small, medium and large canopy trees with the majority (80-90%) being

evergreen species. Species should be shade tolerant where appropriate. All trees must be of an appropriate scale to complement and ameliorate the built form and massing and to pedestrianise setbacks and entries and make use of feature or specimen trees. Feature/specimen trees are favoured suitable to the residential setting and to visually enhance the Bunnerong Road setback and soften buildings as a component of the streetscape and public domain.

- (f) Replacement large canopy trees are required in the Bunnerong Roadsetback, minimum pot size 1000 litre. Ex-ground stock may be required. *E. punctata* is not to be specified.
- (g) Shrubs of varying height shall be used throughout all setbacks including at the base of buildings to visually ground buildings and screen edges and facades. Lawn shall be minimized in favour of extensive mass planted areas using shrubs of varying heights and shade tolerant species as suitable. Feature/specimen architectural type planting is favoured and plants suitable to the residential setting and the visually enhance the Bunnerong Road building setback as a significant component of the streetscape and public domain.
- (h) A planting plan to depict all plant locations, groupings and centres/spacings. There is to be a dense, layered planting of trees and shrubs of varying height and feature in all landscaped areas.
- (i) Landscape specifications detailing soil and mulch finishes, root barriers, irrigation, edge treatments and other landscape hardworks/materials such as retaining walls and paving as well as maintenance periods. Sectional construction details.
- (j) Details for all fencing, retaining walls or structures visible within the public domain of all frontages – sectional details and materials. NOTE : the use of retaining walls and pavements in the Bunnerong Road setback shall be minimized to allow ample lateral space for root establishment or large trees without confinement by barriers. Details of other landscape elements such as furniture and pedestrian amenity/security lighting within street setbacks.
- (k) All setbacks are to be under common ownership to allow survival and maintenance of the landscape scheme long term. Private terraces are outside the landscape setbacks.
- (l) All setbacks are to be automatically irrigated.

Landscaping shall be installed in accordance with the Council approved landscape plan only, prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained at all times in accordance with the final Council approved landscape documentation, the conditions of consent and Council's Landscape Technical Guidelines at all times.

- 65 Prior to the issue of the relevant Construction Certificate, a public domain improvements plan shall be submitted for approval by Bayside Council's Landscape Architect for Bunnerong Road and Westfield Drive, inclusive of the landscaped island at the base of the Westfield exit ramp. The plan shall also include the internal roads public domain details to the west and north of the site. The plan shall include but not be limited to street tree planting (in accordance with the STMP), footpath paving, street tree pit treatments and tree guards, street furniture such as seats, bollards and bike racks and ground level shrub landscaping. The plan shall be in accordance with any Council public domain detail, specification or requirement. NOTE : Minimum pot size for street trees is 400 litre. Civil drawings shall include levels and detailed footpath construction sections.

- 66 The Applicant is to submit payment for a Tree Preservation Bond of \$170,000.00 to ensure protection of the trees listed in the arborist report in Condition No. 1 above from damage during construction. The duration of the Bond shall be for a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection of retained trees by Council. If a tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time during construction, then all or part thereof of the bond shall be forfeited.
- 67 The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$40,000.00, for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.
- The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.
- The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

**CONDITIONS WHICH MUST BE SATISFIED DURING WORKS**

- 68 Construction operations shall comply with the following:
- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
  - (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
  - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
  - (e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

- (f) 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.
  - (g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 69 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 70 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).
- 71 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, 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 and surrounding buildings (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.
- 72 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 73 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.
- 74 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 75 The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise

- i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's 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 less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
      - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
        - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
    - c) Time Restrictions
      - i) Monday to Friday 07:00am to 06:00pm;
      - ii) Saturday 07:00am to 03:00pm
      - iii) No Construction to take place on Sundays or Public Holidays.
    - d) Silencing
      - i) All possible steps should be taken to silence construction site equipment.
- 76 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Soil and Water Management Plan if required under this consent;
  - (b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
  - (c) Protection of the Environment Operations Act 1997.
- 77 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. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 78 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The Remedial Action Plan '*Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW*' prepared by Douglas Partners, Project 71631.12, dated September 2013 and



- e) The *'Proposed Remediation Action Plan Amendment – Revision 1 Part 130 - 150 Bunnerong Road, Pagewood'* prepared by Douglas Partners, Project 85009 Rev 1 dated 2 September 2015.
- 79 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the *'Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW'*, Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 80 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 81 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.
- 82 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines; and
  - (b) Protection of the Environment Operations Act 1997; and
  - (c) Protection of the Environment Operations (Waste) Regulation 2014.
  - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 83 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 84 Results of the monitoring of relevant field parameters pertaining to conditions of this consent 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.
- 85 An experienced Landscape Contractor shall be engaged to undertake the landscape installation and shall be provided with a copy of both the final approved landscape drawing and conditions of approval to satisfactorily construct the landscape to Council requirement.
- 86 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, including setbacks, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. 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.

- 87 In order to ensure that the trees listed in the arborist report in Condition No. 1 above are protected during all stages of construction, and their health and structural stability ensured, the following is required:
- a) All TPZ's are a "No-Go" zone. There shall be no access, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, no washing down of concrete mixers or tools, no chemicals mixed/disposed of, **no excavation or filling**, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
  - b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
  - c) Comply with all recommendations of the Tree Management Plan to be submitted as a condition of approval and any other Council requirement.
  - d) Excavation within the TPZ and within 3 metres outward of the canopy dripline of any tree to be retained shall be carried out manually using hand tools to minimise root damage or disturbance.
  - e) Tree roots 35mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection.
  - f) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy or root pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
  - g) Masonry boundary fencing/walls or built structures shall not be located within the setback. If unavoidable they are to be to Council approval and be of piered or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 35mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (after Council inspection and advice), the pier will need to be relocated and the root bridged.
  - h) There shall be no pavements or change in levels in the Westfield Drive setback.
  - i) There shall be **no trenching for new subsurface utilities** or the location of new overhead services within the primary root zone or canopy of any of the trees to be retained in the Westfield Drive setback. Any utilities close proximity to trees must accommodate tree roots without damage or pruning.
  - j) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at any time during or at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

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

- 88 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 89 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- (a) Minimum 315 ~~349~~ residential spaces
  - (b) 20 ~~24~~-visitors spaces
  - (c) 1 car share space within the car park.
- (DA-16/143/02)
- 90 Prior to the issue of the relevant Occupation Certificate, at least 41 bicycle spaces are to be provided in the car park.
- 91 Any damage not shown in the photographic survey submitted to Council as per the submitted report in Condition No. 45 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 the damage deposit.
- 92 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 93 Prior to the issue of the relevant Occupation Certificate, the applicant shall carry out the following works:
- a) On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and
  - b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
  - c) On Bunnerong Road, adjacent to development, demolish existing Stormwater Inlet Pit and construct new Stormwater Inlet Pit with a 2.4metre Lintel and a Steel Galvanised Grate, as per Council's Infrastructure specifications, and
  - d) On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.
- 94 Prior to the issue of the relevant 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.
- 95 Prior to the issue of the relevant Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and

- (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

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

- 96 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.
- 97 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 98 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant/Contractor to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the issue of the Occupation Certificate. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 99 The Applicant is to submit payment of a New Street Tree Maintenance Bond of \$25,000.00. The duration of the Bond shall be limited to a period of 12 months after final Council approval of planting of the new street trees. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- New street trees shall be sourced from a reputable supplier that grows to NATSPEC/Australian Standard and located and installed in accordance with the Council approved public domain plan. Two hold point inspections by Council's Tree Officer is required:
- a) prior planting trees to ensure plant stock is suitable and
  - b) post planting prior to the maintenance and bond period commencing.
- 100 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:
- 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.
- 101 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.
- 102 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

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

- 103 The use of studies as bedrooms is prohibited.
- 104 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.
- 105 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 12 month defects period after final Council approval of planting. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual fertilising, mulch replenishment every 3 months minimum and weekly weed removal around the base but does not include trimming or pruning the trees under any circumstances.
- 106 Ongoing maintenance of 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.
- 107 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.
- 108 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- 109 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.
- 110 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.
- 111 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 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.
- 112 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/143 dated as 17 August 2016 and as further modified by DA-16/143/03 dated 22 December 2017 and as further modified by DA-16/143/02 dated 6 July 2017 **and as further modified By DA-16/143/07 dated 18 June 2018** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-16/143/03) (DA-16/143/02)(**DA-16/143/07**)

**TREE WISE MEN<sup>®</sup>**  
AUSTRALIA PTY LTD

Revised Arboricultural Impact Assessment  
For  
Proposed Residential Development – UB5E  
At  
130-150 Bunnerong Road  
PAGEWOOD

Prepared for:

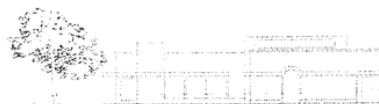
Karimbla Construction Services (NSW) Pty Ltd  
Level 11, 528 Kent Street  
SYDNEY NSW 2000

Ref: 2476AIARevA

March 2017

**ARBORICULTURAL CONSULTANCY**

ACN 002 982 247 ABN 15 002 982 247  
131 Fuller Street NARRABEEN NSW 2101  
Phone +61 2 9981 5219 Fax +61 2 9971 0881



tree@treevisemen.com.au  
www.treevisemen.com.au

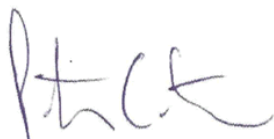
Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

**DISCLAIMER**

This Report has been prepared for the exclusive use of the Client and Tree Wise Men® Australia Pty Ltd (TWM) accepts no responsibility for its use by other persons.

The Client acknowledges that this Report, and any opinions, advice or recommendations expressed or given in it, are based on the information supplied by the Client and on the data, inspections, measurements and analysis carried out or obtained by Tree Wise Men® Australia Pty Ltd (TWM) and referred to in the Report. No guarantee is implied with respect to future tree safety. The Client should rely on the Report and on its contents, only to that extent.



Peter Castor  
**Director**

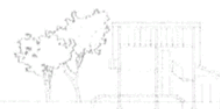
BSc (For.)  
Member: IACA, AA, ISA, LGTRA, PIA, UDIA, MAE (UK)  
2 March 2017

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

2



Peter Castor



## TABLE OF CONTENTS

<b>1. EXECUTIVE SUMMARY</b>	<b>4</b>
1.1 The Proposed Development	4
1.2 Tree Impacts	4
1.3 CONDITION 61	4
1.4 CONDITION 62	5
<b>2. BACKGROUND</b>	<b>6</b>
2.1 Introduction	6
2.2 The Subject Site	6
2.3 The Subject Trees	7
2.4 The Proposal	7
<b>3. METHODOLOGY</b>	<b>9</b>
3.1 Data Collection	9
3.2 Identification of Subject Trees	9
3.3 Documents and Plans Referenced	10
3.4 Australian Standard AS4970-2009	10
<b>4. TREE IMPACTS</b>	<b>12</b>
4.1 Summary	12
4.2 Landscape Plan	13
4.3 Stormwater Plan	13
<b>5. RECOMMENDATIONS FOR TREE MANAGEMENT</b>	<b>14</b>
5.1 Arborist Involvement	14
5.2 Tree Retention	14
5.3 Tree Protection Recommendations	14
5.4 Tree Removal	15

## ATTACHMENTS

- A. Tree Schedule
- B. Definitions of Terms
- C. Site Photographs
- D. Tree Protection Requirements (Generic)
- E. Tree Protection Plan



## 1. EXECUTIVE SUMMARY

### 1.1 THE PROPOSED DEVELOPMENT

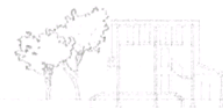
- 1.1.1 This Arboricultural Impact Assessment (AIA) was prepared for Karimbla Construction Services (NSW) Pty Ltd in relation to the residential development at UB5E at 130-150 Bunnerong Road, Pagewood (the subject site).
- 1.1.2 Condition 61 and Condition 62 relate to specific trees to be retained adjacent to the development. A *Tree Retention Plan* (Condition 61) and *Tree Impact Assessment and Management Plan* (Condition 62) are required to be prepared. This Arboricultural Impact Assessment addresses the requirements of Condition 61 and Condition 62.

### 1.2 TREE IMPACTS

- 1.2.1 All except one (Tree 56) of the fifteen (15) assessed trees are to be retained as indicated on the attached Tree Protection Plan and Tree Schedule.
- 1.2.2 Following the on-site meeting of 1.3.17 with Council's Tree management Officer and Meriton Site Manager it was confirmed that Tree 56 is to be removed (rather than retained and pruned) due to the extent of pruning required for the piling and scaffolding works.
- 1.2.3 The closest construction to the trees is the proposed sheet piling which is to be located immediately outside the Basement (Parking Level 1) wall. There is a 375mmØ stormwater pipe proposed from the OSD in the Basement within the TPZ of Trees 57, 58, 59 and 60. This trenching is included in the %TPZ *Encroachment* column of the Tree Schedule.
- 1.2.4 The following trees have no excavation or fill proposed within TPZ offsets: Trees 27, 29, 52, 54, 55, 58 and 60.  
The remaining trees have variable but acceptable levels of construction within TPZ offsets. The %TPZ encroachments for the sheet piling and stormwater works are indicated in the Tree Schedule. All encroachments are minor (<10%) as defined at 3.3.2 of AS4970, 2009.
- 1.2.5 Crown (canopy) pruning may be required within the 2 metres clearance zone for the piling rig.
- 1.2.6 Tree protection recommendations are enclosed at Section 5.

### 1.3 CONDITION 61

- 1.3.1 There are a number of amendments that need to be made to the subject trees as listed in Condition 61 as there are now fourteen (14) trees that are to be retained. The following trees need to be **included in the list of trees**:
- Tree 24 (17m tall *E. microcorys*) (Photo D)
  - Tree 53 (10m tall *E. botryoides*) (Photo E)
  - Trees 59, 60 and 61 (15m-17m *E. microcorys*) (Photo F)



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

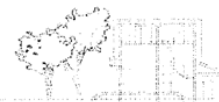
- 1.3.2 The following trees need to be **deleted from the list of Condition 61 trees**:
- Trees 47 and 50 (2 x 15m tall *E. botryoides*). The trees in the location of these two trees were a *Casuarina glauca* and a dead *Acacia*.
  - Tree 51 (*E. Microcorys*) the tree in this location was a dead *Acacia*.
  - Tree 56 (*E. Microcorys*) the crown of the tree is too close to the piling and scaffold works.
- 1.3.3 The following trees need to be **correctly identified**:
- Tree 54 is a *Casuarina glauca* not an *E. microcorys*.
  - Tree 55 is a 10m tall *E. botryoides* not an *E. microcorys*.
- 1.3.4 The Tree Protection Plan (TPP) at Attachment E is a correctly scaled *Tree Retention Plan*. The TPP coordinates with the Tree Schedule and text of this Arboricultural Impact Assessment (AIA) report.
- 1.4 CONDITION 62**
- 1.4.1 This *Arboricultural Impact Assessment (AIA)* report is equivalent to a *Tree Impact Assessment and Management Plan*. An *Arboricultural Impact Assessment* report is the terminology used at 2.3.5 of *AS4970-2009, Protection of trees on development sites*. It states at 2.3.5: "*The report will include a tree protection plan (drawing) showing TPZs...*".
- 1.4.2 The *Recommendations for Tree Management* (Section 5) in this report are the equivalent to a Management Plan.
- 1.4.3 This AIA includes a scaled Tree Protection Plan (Attachment E) showing trees to be retained, TPZs, ©Retention Values, measured crown spread and tree protection fencing layout. *Sheet 2 of 2* contains tree protection *Figures* to guide the tree protection process through construction.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

5



## 2. BACKGROUND

### 2.1 INTRODUCTION

- 2.1.1 This Arboricultural Impact Assessment (AIA) was prepared for Karimbla Construction Services (NSW) Pty Ltd in relation to the residential development at UB5E at 130-150 Bunnerong Road, Pagewood (the subject site).
- 2.1.2 Condition 61 and Condition 62 relate to specific trees to be retained adjacent to the development. A *Tree Retention Plan* (Condition 61) and *Tree Impact Assessment and Management Plan* (Condition 62) are required to be prepared. This Arboricultural Impact Assessment addresses the requirements of Condition 61 and Condition 62.
- 2.1.3 The purpose of this AIA is to describe and categorise specific trees on and adjacent to the subject site, to assess the impact of the proposed development on these trees and to address Condition 61 and Condition 62.
- 2.1.4 Australian Standard *AS4970-2009 Protection of trees on development sites* has been used as a benchmark in the preparation of this report.

### 2.2 THE SUBJECT SITE

- 2.2.1 The subject site currently consists of cleared ground, new private accessway known as North South Street 2, sewer manhole and treed embankments with assorted retaining walls (Photo A). The demolition of the previous Carpark has included significant earthworks (Photo B). There are sections of the old Carpark kerb remaining on the embankment downslope of the trees (Photo C). The existing features are as indicated on the *Detail Survey, Ref: 124815, Sheet 9, 14.08.14* prepared by JBW Surveyors Pty Ltd (the Survey Plan).
- 2.2.2 It should be noted that the existing chainlink wire fence is approximately 2 metres inside the property boundary.
- 2.2.3 The pre-development Soil Landscape<sup>1</sup> for the site is indicated as Tuggerah (*tg*) characterised by gently undulating to rolling coastal dunefields. None of the assessed trees on the site are typical of those found naturally on this soil landscape. All existing trees have been planted.

<sup>1</sup>Chapman, G.A. and Murphy, C.L. (1989). *Soil Landscapes of the Sydney 1:100000 Sheet. Soil Conservation Service of NSW, Sydney.*



Subject trees in southwest corner of site.

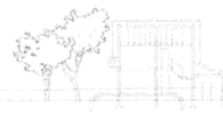
Locality Plan (source Google Earth 5.3.2016)

**2.3 THE SUBJECT TREES**

- 2.3.1 The general findings and data collected for each of the subject retained trees are contained in Tree Schedule (Attachment A). The trees are numbered and located on the Tree Protection Plan (Attachment E).
- 2.3.2 The subject fifteen (15) trees are all planted Australian natives species, non-indigenous to the locality.
- 2.3.3 Trees assessed were those indicated on the Survey Plan. The tree numbering system has been adopted from the *Arboricultural Assessment Report* dated 20 December, 2016 prepared by TALC.
- 2.3.4 The native understorey and ground cover vegetation were highly disturbed or absent due to the previous development on the site. Perimeter embankment tree plantings have replaced any natural vegetation on the site.

**2.4 THE PROPOSAL**

- 2.4.1 The proposed development is for a multi-storey residential apartment building with Basement car parking (refer to 3.3.1 for reviewed drawings).
- 2.4.2 The proposal adjacent to the retained trees is indicated on the Tree Protection Plan (TPP) which is based on the *Tree Retention Plan* prepared by Urbis.



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

2.4.3 The tree protection recommendations and comments in this Report assume the following:

- A high quality, shady, outdoor environment is desired.
- The amenity of the adjoining neighbours needs to be considered.
- Existing landscape character should be retained where possible through the retention of existing significant trees.
- City of Botany Bay Council tree and vegetation and preservation codes are complied with.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



8

### 3. METHODOLOGY

#### 3.1 DATA COLLECTION

- 3.1.1 In preparation of this Report a ground level, visual tree assessment (VTA)<sup>2</sup> was undertaken on 8 February, 2017. No aerial (climbing) inspections, woody tissue testing or tree root mapping were undertaken as part of this assessment.
- 3.1.2 The trees assessed were those indicated on the *Tree Retention Study Plan, L-SK01/B* prepared by Urbis. The existing tree data contained in *Tree Assessments - Table 1* of the *Arboricultural Assessment Report* dated 20 December, 2016 prepared by TALC was verified against the trees listed in Condition 61.
- 3.1.3 There are a number of amendments that need to be made to the subject trees as listed in Condition 61 as there are now fourteen (14) trees that are to be retained. The following trees need to be **included in the list of trees**:
- Tree 24 (17m tall *E. microcorys*) (Photo D)
  - Tree 53 (10m tall *E. botryoides*) (Photo E)
  - Trees 59, 60 and 61 (15m-17m *E. microcorys*) (Photo F)
- 3.1.4 The following trees need to be **deleted from the list of Condition 61 trees**:
- Trees 47 and 50 (2 x 15m tall *E. botryoides*). The trees in the location of these two trees were a *Casuarina glauca* and a dead *Acacia*.
  - Tree 51 (*E. Microcorys*) the tree in this location was a dead *Acacia*.
  - Tree 56 (*E. Microcorys*) the crown of the tree is too close to the piling and scaffold works.
- 3.1.5 The following trees need to be **correctly identified**:
- Tree 54 is a *Casuarina glauca* not an *E. microcorys*.
  - Tree 55 is a 10m tall *E. botryoides* not an *E. microcorys*.
- 3.1.6 Attachment B provides definition of terms used in this Report. Tree heights were estimated. Trunk diameter at breast height (DBH) was measured at 1.4 metres above ground level (unless otherwise stated) and rounded to the nearest 0.1 metre. Structural Root Zones (SRZ) and Tree Protection Zones (TPZ) were rounded to the nearest 0.5 metre.
- 3.1.7 All tree offsets mentioned in this Report are to centre of trunk unless otherwise stated.

#### 3.2 IDENTIFICATION OF SUBJECT TREES

- 3.2.1 The fifteen (15) subject trees are tagged (numbered) on site as indicated on the Tree Protection Plan (TPP).

<sup>2</sup>VTA – Visual Tree Assessment, undertaken by tree professionals, is a recognised (International Society of Arboriculture, Journal of Arboriculture, Vol. 22 No. 6, Nov. 1996) systematic method of identifying tree characteristics and hazard potential. VTA is also an assessment method described by Claus Mattheck in *The Body Language of Trees – A handbook for failure analysis*. The Stationery Office, London (1994)

### 3.3 DOCUMENTS AND PLANS REFERENCED

3.3.1 The conclusions and recommendations in this Report are based on the findings from the site inspection, discussions with the client, Project Architect and analysis of the following Plans and documents:

- *Detail Survey, Ref: 124815, Sheet 9* dated 14.08.14 prepared by JBW Surveyors Pty Ltd (the Survey Plan).
- *Tree Retention Plan, Project ND1501, L-SK01/E* prepared by Urbis.
- *Section 01, S4574 DA-301/E* prepared by Nettleton Tribe.
- *Architectural Set, S4574, Rev E* prepared by Nettleton Tribe.
- *Civil Works Package, UB5E, Project 13-155, Issue A* including *DAC416 Siteworks and Stormwater Drainage Plan, Sheet 7* showing proposed stormwater adjacent to trees prepared by AT +L Civil Engineers and Project Managers.

### 3.4 AUSTRALIAN STANDARD AS4970-2009

3.4.1 The Australian Standard *AS4970-2009 Protection of trees on development sites* has been used as a benchmark in the preparation of this report and the terminology and impact assessment methodology have been adopted from this document. This AIA complies with 2.3.5 *Arboricultural Impact Assessment* of *AS4970-2009*.

3.4.2 Recommendations have been based on tree ©Retention Value, Vigour, Condition, ULE and construction offsets (refer to Attachment B). Trees with ©Retention Value "A" should be given greater priority for retention than trees with ©Retention Value "B" or "C". Trees with *Long* (40 years +) ULE should be given greater priority for retention than trees with *Short* (5-15 years) ULE (refer to Attachment B).

3.4.3 Tree Protection Zones (TPZ) and Structural Root Zones (SRZ) are as per *Section 3* of *AS4970-2009* and are defined at Attachment B of this report.

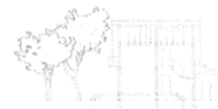
3.4.4 "Construction" for the purpose of this AIA means excavation (greater than 100mm), compacted fill or machine trenching<sup>3</sup>. "Excavation" includes cut batters, boxing-out for the various pavement types, trenching for utilities and footings for retaining walls.

3.4.5 Trees within proposed construction footprints are recommended for removal (**Rm**).

3.4.6 Where construction is proposed within Structural Root Zone (SRZ) offsets, those trees have been similarly recommended for removal (**Rm**). Fully elevated, pier and beam type construction or hand dug services trenches (or horizontal boring) is however possible within a SRZ.

3.4.7 Trees with greater than 25% of the notional Tree Protection Zone (TPZ) impacted by construction are generally recommended for removal (**Rm**). There are however different types of construction incursions proposed (e.g. fill, cut, services trenching, pavement, retaining walls) with varying tree impacts likely. Existing constraints to root development also vary the actual TPZ. Compacted fill can be equally as damaging to tree longevity: root development is restricted within heavily compacted soils.

<sup>3</sup>"Construction" is equivalent to "works" as defined at 1.4.9 of *AS4970-2009*.





---

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

- 3.4.8 Trees to be retained with construction impacting less than 25% of the TPZ area were rated as Retain Plus (R+). Specific construction monitoring will be required for the Retain (R+) trees (refer to Recommendations).
- 3.4.9 TPZ encroachments of >10% are defined (3.3.3 of AS4970) as 'major'. This does not mean that the tree will be fatally injured, but that *'the project arborist must demonstrate that the tree(s) would remain viable'*. Refer to Section 5.3 of this Report for explanation of tree retention recommendations.
- 3.4.10 Where construction is proposed beyond the TPZ, those trees are rated as Retain (R) with no specific tree protection design or tree protection monitoring required (refer to Attachment D).

---

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

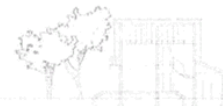
11



## 4. TREE IMPACTS

### 4.1 SUMMARY

- 4.1.1 Fourteen (14) trees are to be retained as indicated on the attached TPP and Tree Schedule.
- 4.1.2 Tree 56 (*E. Microcorys*) needs to be removed as the crown of the tree is too close to the piling and scaffold works. The required clearance pruning would remove all the foliage from the tree leaving just the stump.
- 4.1.3 The closest construction to the trees is the proposed sheet piling which to be located immediately outside the Basement wall. There is a 375mmØ stormwater pipe proposed from the OSD in the Basement within the TPZ of Trees 57, 58, 59 and Tree 60. This trenching is included in the %TPZ *Encroachment* column of the Tree Schedule.
- 4.1.4 The following trees have no excavation or fill proposed within TPZ offsets: Trees 27, 29, 52, 54, 55, 58 and Tree 60.
- 4.1.5 The remaining trees have variable but acceptable levels of construction within TPZ offsets.
- The %TPZ encroachments for the sheet piling and stormwater works are indicated in the Tree Schedule. All encroachments are minor (<10%) as defined at 3.3.2 of AS4970-2009.
- 4.1.6 Crown (canopy) pruning may be required within the 2 metres clearance zone for the piling rig. The measured crown spread towards the proposed building is indicated on the TPP. We understand that the height (type) of piling rig is unknown at this stage as piling works have yet to be Tendered.
- 4.1.7 We note the relatively shallow excavation (approx. 2m) required for the Parking Level 1 as indicated on *Section 01, DA 301/E*. We understand that sheeting piling is required to 6m below ground level and the rig to be used requires pruning to the full height of the adjacent trees. We note the increased setback of the building from the tree canopies from Level 4 and above. Although *Section 01* does not show the sheet piling we have been informed by the Construction Engineer that the sheet piling line is immediately outside the Basement wall as indicated on the *Tree Retention Plan L-SK-01/E* and Tree Protection Plan (Attachment E).
- Tree 56 is the closest tree to the construction. It also has an existing trunk lean and crown skew to the north (Photo F). Drastic crown pruning will be required as the crown spread is beyond the proposed Ground Floor footprint and will not allow for scaffold installation (and the piling rig). Tree 56 is now to be removed given the unacceptable crown pruning required.
- Crown pruning will be required to Tree 24 as the crown also crosses the Ground Floor building footprint. As indicated in Photo D there is limited crown spread towards the building due to the presence of the adjacent tree.



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

All crown pruning required is to comply with AS 4373- 2007 *Pruning of amenity trees*. All pruning works are to be undertaken by contracting Arborists with minimum AQF Level 3 arboricultural qualifications. All crown pruning (and removal) works are to comply with *Safe Work Australia "Guide to Managing Risks of Tree Trimming and Removal Work" July, 2016*.

- 4.1.8 Arborist supervision of the implementation of tree protection measures (see Section 5 below) will be required during the construction works.

#### 4.2 LANDSCAPE PLAN

- 4.2.1 *Planting Plans L-00-CS/E and L-500-PL/E – L-509-PL/A* prepared by Urbis have been reviewed. Co-ordination with the Tree Protection Plan (Attachment E) is required.

Tree protection recommendations are to be incorporated into the Planting Plans.

- 4.2.2 No boundary fences are indicated on the Planting Plans. We have however been informed by the author of the Planting Plans that no masonry fences with strip footings are proposed within the TPZ of the retained trees. If this is to change further arboricultural assessment will be required.

We note the *Condition 88 (g)* prohibits masonry fences within TPZs unless approved by Council.

#### 4.3 STORMWATER PLAN

- 4.3.1 *Civil Works Package – Urban Block 5 East Project No. 13-155 Issue A* prepared by AT&L Civil Engineers and Project Managers has been reviewed.

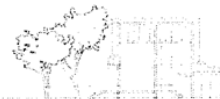
*Siteworks and Stormwater Drainage Plan Sheet 7, DAC416* shows a 375mmØ pipe adjacent to Trees 56-61. This pipe is shown on the TPP; no major TPZ encroachments result.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

13



## 5. RECOMMENDATIONS FOR TREE MANAGEMENT

### 5.1 ARBORIST INVOLVEMENT

- 5.1.1 An Arborist (the Project Arborist) experienced in tree protection on construction sites should be engaged prior to the commencement of construction work on the site. The Project Arborist shall monitor and report regularly to the Principal Certifying Authority (PCA) and the Applicant on the condition and protection of the retained trees during the construction works. The Project Arborist is to monitor any excavation, machine trenching or compacted fill placed within the TPZ of all retained trees.
- 5.1.2 The schedule of works for the development must acknowledge the role of the Project Arborist and the need to protect the retained trees. Sufficient notice must be given to the Arborist where his/her attendance is required. Should the proposed design change from that reviewed, additional arboricultural assessment will be required.
- 5.1.3 The Project Arborist should certify tree protection measures at key stages of the construction. Copies of the certification should be sent to PCA.

### 5.2 TREE RETENTION

- 5.2.1 Trees 24, 27-30, 52-55, 57-61 are to be retained. All these trees are to be clearly tagged (numbered) and highlighted to be retained prior to commencement of site preparation works or tree removal works.

### 5.3 TREE PROTECTION RECOMMENDATIONS

#### 5.3.1 Tree Protection Fencing

Tree protection fencing as indicated on *Sht 1 of 2* and *Figure 03 (Sht 2 of 2)* of the TPP (Attachment E) should be erected prior to sheet piling or other ground preparation works. Tree removal generally will need to be undertaken prior to installation of the tree protection fencing. Where fencing at this alignment not feasible due to construction access issues, the trunks are to be battened (as per *Figure 04*) to avoid bark wounding and ground protection provided with placement of mulch or additional boarding. The existing chainlink wire fence south of the trees (and east of Tree 24) should be retained if possible to act as tree protection fencing.

Alteration to the alignment of the fencing as indicated on the TPP is to be approved by the Project Arborist and Site Superintendent.

The following activities are prohibited within the tree protection fencing:

- stockpiling of any material for any length of time
- depositing of any potentially damaging (phytotoxic) substances like concrete spoils or tailings, paints
- heavy machinery traffic, movements or parking
- storage of construction materials
- erection of site offices sheds or facilities.



**5.3.2 Canopy Pruning**

Canopy pruning may be required within the 2 metres clearance zone for piling. Tree 24 in particular will require pruning, as existing branches overhang the proposed building footprint.

All canopy pruning works are to be undertaken by contracting Arborists with minimum AQF Level 3 arboricultural qualifications. All crown pruning (and removal) works are to comply with *Safe Work Australia "Guide to Managing Risks of Tree Trimming and Removal Work" July, 2016*.

Canopy pruning is to comply with Australian Standard *AS4373-2007: Pruning of amenity trees*.

Crown pruning should be undertaken prior to OC to remove any dead or damaged branches.

**5.3.3 Mulching**

The area within the proposed tree protection fencing is to be mulched with a 100mm deep cover of wood chip. A quality of the wood chip produced during the tree removal works should be stockpiled for use around retained trees.

**5.3.4 Other Tree Protection Measures**

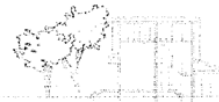
Other tree protection measures (Attachment D) including additional mulching, temporary irrigation, prevention of soil compaction (soil fill) and prevention of soil profile inversion, should be implemented as required and as approved by the Project Arborist.

**5.3.5 Tree Protection Plan**

The Tree Protection Plan (Attachment E) should be kept in the Site Office during the construction period to guide tree protection procedures. The recommendations contained in the TPP should be incorporated into the Construction Management Plan. The Tree Protection Plan is to be upgraded to reflect the CC documentation.

**5.4 TREE REMOVAL**

- 5.4.1 One tree, Tree 56, requires removal to accommodate the piling and scaffolding works.



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

---

**Attachment A: Tree Schedule**

---

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



16

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

AIA Tree Schedule -  
130-150 Bunnerong Rd, Pagewood

2/03/2017

TREE No.	COMMON NAME/ GENUS SPECIES	DBH (m)	HEIGHT (m)	CANOPY RADIUS (m)	AGE CLASS	VIGOUR	CONDITION	SRZ RADIUS (m)	TPZ RADIUS (m)	% TPZ ENCROACHMENT	SPOT LEVEL (m)	U/L	@SIG RATING	@RETENTION INDEX	RECOMMENDATION	COMMENTS
24	Tallowwood, <i>Eucalyptus microcorys</i>	0.4, 0.4	17	6	M	G	F	2.8	7.2	8%	23.08	M	2	A	R+	
27	Tallowwood, <i>Eucalyptus microcorys</i>	0.5	17	N7, S7, E8, W1	M	G	F	2.6	6.0	0%	22.77	M	2	A	R+	
28	Tallowwood, <i>Eucalyptus microcorys</i>	0.5	17	N6, S3, E0, W0	M	G	F	2.6	6.0	1%	22.45	M	3	B	R+	
29	Tallowwood, <i>Eucalyptus microcorys</i>	0.5	17	6	M	G	G	2.6	6.0	0%	23.36	M	3	B	R+	
30	Grey Gum, <i>Eucalyptus punctata</i>	0.6	18	N5, S7, E6, W6	M	F	F	2.8	7.2	9%	22.27	S	3	C	R+	
52	Eucalypt, <i>Eucalyptus sp.</i>	0.4	16	6	M	G	F	2.3	4.8	0%	22.48	S	3	C	R+	Recent earthworks to within 1m of base. Recent 3 <sup>rd</sup> Order storm damaged limb.
53	Southern Mahogany, <i>Eucalyptus botryoides</i>	0.2	10	N2, S6, E6, W4	SM	G	F	1.8	2.4	8%	23.44	M	3	B	R+	
54	Swamp Sheoak, <i>Casuarina glauca</i>	0.3	15	4	M	G	F	2.1	3.6	0%	22.79	M	3	B	R+	
55	Southern Mahogany, <i>Eucalyptus botryoides</i>	0.5	10	N7, S10, E6, W6	M	G	F	2.6	6.0	0%	23.06	M	3	B	R+	
56	Tallowwood, <i>Eucalyptus microcorys</i>	0.4	16	N8, S2, E6, W6	M	G	F	2.3	4.8	3%	22.24	M	3	B	Rm	Recent earthworks to within 2m of base. Tree to be removed due the major crown pruning required for piling and scaffolding.

(V) Pty Ltd

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

AIA Tree Schedule -  
130-150 Bunnerong Rd, Pagewood

2/03/2017

CANOPY RADIUS (m)
N6, S6, E4, W4
N2, S6, E6, W6
N6, S2, E6, W6
6
6

TREE No.	COMMON NAME/ GENUS SPECIES	DBH (m)	HEIGHT (m)	CANOPY RADIUS (m)	AGE CLASS	VIGOUR	CONDITION	SRZ RADIUS (m)	TPZ RADIUS (m)	% TPZ ENCROACHMENT	SPOT LEVEL (m)	ULE	@SIG RATING	@RETENTION INDEX	RECOMMENDATION	COMMENTS
57	Tallowwood, <i>Eucalyptus microcorys</i>	0.5	17	N6, S6, E4, W4	M	G	F	2.6	6.0	7%	22.39	M	3	B	R+	
58	Tallowwood, <i>Eucalyptus microcorys</i>	0.3	6	N2, S6, E6, W6	SM	G	F	2.1	3.6	0%	22.66	M	3	B	R+	
59	Tallowwood, <i>Eucalyptus microcorys</i>	0.4	16	N6, S2, E6, W6	M	G	F	2.3	4.8	2%	22.27	M	3	B	R+	
60	Tallowwood, <i>Eucalyptus microcorys</i>	0.5	17	6	M	G	F	2.6	6.0	0%	22.55	M	3	B	R+	
61	Tallowwood, <i>Eucalyptus microcorys</i>	0.3	15	6	SM	G	F	2.1	3.6	5%	22.13	M	3	B	R+	
15																



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

**AIA Tree Schedule -  
130-150 Bunnerong Rd, Pagewood**

2/03/2017

Summary Data

©RETENTION INDEX	NO. OF TREES
A	2
B	11
C	2
D	0
Total	15

RECOMMENDATION	NO. OF TREES
R	0
R+	14
T	0
Rm	1
Total	15

©RETENTION INDEX	RECOMMENDATION			
	R	R+	T	Rm
A	0	2	0	0
B	0	10	0	1
C	0	2	0	0
D	0	0	0	0

©Tree Wise Men® Australia Pty Ltd

2476AIAATABRevA.xlsm (as at 2/03/2017)

3 of 3

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

---

## Attachment B: Definition of Terms

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



17

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

**COMMON NAME/GENUS SPECIES CULTIVAR** – Common names can vary with selected texts. Where species is unknown, "sp." indicated after genus. Where cultivar is unknown "cv" indicated after species.

**DBH – Diameter at Breast Height.** Tree trunk diameter measured at breast height (1.4 metres above ground level). Fabric diameter tape is used which assumes a circular cross section. Multiple measurements indicate multiple trunks. Where DBH measurement cannot be taken at 1.4m the height at which it has been taken is indicated.

**CANOPY SPREAD RADIUS** – Average canopy radius (widest + narrowest ÷ 2). Circular canopy depictions on Tree Plan/Survey are indicative only. Where canopy spread was significantly skewed, all four cardinal point measurements were recorded.

**AGE CLASS – Immature (IM), Semi-mature (SM), Mature (M), Over-mature (OM).** Assessment of the tree's current Age. A **Mature (M)** tree has reached a near stable size (biomass) above and below ground. Trees can have a *Mature* age class for >90% of life span. **Over-mature (OM)** trees show symptoms of irreversible decline and decreasing biomass.

**VIGOUR – Good (G), Fair (F) or Poor (P).** The general appearance of the canopy/foilage of the tree at the time of inspection. Vigour can vary with the season and rainfall frequency. A tree can have *Good* vigour but be hazardous due to *Poor* condition. A tree in *Good* vigour has the ability to sustain its life processes. Vigour is synonymous with health.

**CONDITION – Good (G), Fair (F) or Poor (P).** The general form and structure of the trunk/s and branching. Trunk lean, trunk/branch structural defects, canopy skewness or other hazard features are considered.

**SRZ RADIUS – Structural Root Zone.** The area around a tree required for tree stability. Earthworks should be prohibited within the SRZ. The area is calculated from the formula and graph at Figure 1 of AS4970-2009. The SRZ graph has been adapted from the work of Claus Mattheck (1994). DBH + 10% has been used for the calculation of SRZ. Where DBH is measured at grade or at a height other than 1.4m above grade, 10% has not been added.

**TPZ RADIUS – Tree Protection Zone.** Radial offset (m) of twelve times (12x) trunk DBH measured from centre of trunk (for trees less than 0.3 metre DBH minimum TPZ is 2.0 metres). To satisfactorily retain the tree, construction activity (both soil cut and fill) must be restricted within this offset. TPZ offsets are rounded to the nearest 0.1 metre. Existing constraints to root spread can vary. Generally an area equivalent to the TPZ should be available to the tree post development. Encroachment occupying up to 10% of the TPZ area is acceptable without detailed rootzone assessment. Encroachments greater than 10% require specific arboricultural assessment.

**ULE – Useful Life Expectancy.** The length of time from the date of inspection that the Arborist estimates the tree will live and provide a useful positive contribution to the landscape amenity of the site. ULE ratings are **Long** (retainable for 40 years or more), **Medium** (retainable for 16-39 years), **Short** (retainable for 5-15 years) and **Removal** (tree requiring immediate removal due to imminent risk or absolute unsuitability).

©SIG. RATING – ©Significance Rating Scale (see notes over)

©RETENTION INDEX (see notes over)

**RECOMMENDATIONS – Retain (R) No TPZ encroachments; Retain Plus (R+) Acceptable levels of TPZ encroachment, Transplant (T) or Remove (Rm).**

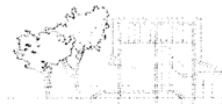
**COMMENTS** – Comments relating to the location, surroundings and hazard potential of the trees at the time of inspection and where applicable the reason for removal.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

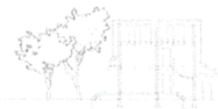
18



**©SIG. RATING – ©Significance Rating Scale.** A site specific qualitative evaluation of a tree relative to the existing land use developed by Tree Wise Men® Australia Pty Ltd. Takes into consideration the impact of the tree on the surrounding landscape, streetscape and bushland. Rarity, habitat value, historical/cultural value and structural form of the tree are considered in this rating system. It is possible for a tree to have a *Short* ULE and a ©Significance Rating of 1. Likewise it is possible for a tree to be given a *Long* ULE and a ©Significance Rating of 4 (e.g. weed species). The ©Significance Ratings used in this Report are as outlined in Table 1.

**Table 1: ©Significance Rating Characteristics**

Rating	Significance	Characteristics (some or all)
©Sig. Rating 1	Exceptional	<ul style="list-style-type: none"> <li>▪ Major contribution to site amenity</li> <li>▪ Remnant specimen</li> <li>▪ Heritage Listed</li> <li>▪ Listed on Significant Tree Register</li> <li>▪ Threatened Species</li> <li>▪ Good vigour and condition</li> <li>▪ Cultural significance</li> <li>▪ Possible habitat tree for threatened fauna</li> <li>▪ Excellent, well formed specimen</li> <li>▪ Rare or unusual species</li> <li>▪ Large above ground biomass</li> <li>▪ Unique within the site and surrounds</li> </ul>
©Sig. Rating 2	High	<ul style="list-style-type: none"> <li>▪ Considerable contribution to site amenity</li> <li>▪ Remnant specimen</li> <li>▪ Good vigour and condition</li> <li>▪ Threatened Species</li> <li>▪ Cultural significance</li> <li>▪ Possible habitat tree for threatened fauna</li> <li>▪ Well formed specimen</li> <li>▪ Rare or unusual species</li> <li>▪ Large or moderate above ground biomass</li> <li>▪ Other specimens with similar characteristics within the site and surrounds</li> </ul>
©Sig. Rating 3	Moderate	<ul style="list-style-type: none"> <li>▪ Minor contribution to site amenity</li> <li>▪ Remnant or planted</li> <li>▪ Fair or Poor vigour and condition</li> <li>▪ Potential for growth</li> <li>▪ Well formed or asymmetrical form</li> <li>▪ Other specimens with similar characteristics within the site and surrounds</li> </ul>
©Sig. Rating 4	Low	<ul style="list-style-type: none"> <li>▪ Small/poor specimen</li> <li>▪ Poor vigour and condition</li> <li>▪ Inappropriate for the location</li> <li>▪ Minor contribution to landscape amenity</li> <li>▪ Easily replaced</li> <li>▪ Weed species or TPO Exempt</li> <li>▪ Hazardous</li> <li>▪ Previously ©Sig. Rating 5 tree</li> </ul>



**©RETENTION INDEX.** A site specific assessment of an individual tree's retention value developed by Tree Wise Men® Australia Pty Ltd. Incorporating ULE and ©Significance Rating each tree is allocated a ©Retention Value of A, B, C or D. The ©Retention Index values can be described as follows:

©Retention Value A	Should be retained	<ul style="list-style-type: none"> <li>Major redesign may be required (e.g. movement of building footprint, re-alignment of roadway).</li> </ul>
©Retention Value B	Could be retained	<ul style="list-style-type: none"> <li>Minor redesign may be required (e.g. level changes, pavement detail).</li> </ul>
©Retention Value C	Could be removed	<ul style="list-style-type: none"> <li>Should not constrain proposed development.</li> </ul>
©Retention Value D	Should be removed (irrespective of development layout)	<ul style="list-style-type: none"> <li>Should not constrain proposed development.</li> <li>Remove ULE should be removed irrespective of development layout.</li> </ul>
	Should be removed or permanently fenced off	<ul style="list-style-type: none"> <li>Should not constrain proposed development.</li> <li>Short ULE could be retained pending landscape proposal.</li> </ul>

©Retention Index		©Significance Rating			
		1	2	3	4
ULE Rating	Long (40+ years)			B	C
	Medium (15-40 years)			B	C
	Short (5-15 years)	B		C	D
	Remove (< 5 years)	D			

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

---

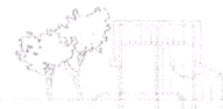
### Attachment C: Site Photographs

---

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



21



Photo A: Tree 61 to be retained along Westfield Drive frontage. Demolition of the former Carpark included some bulk earthworks and some root damage.



Photo B: Gravel and bitumen surface layer indicating former Carpark level.



Photo C: Acacia and Casuarina trees proposed to be removed. Remnants of the concrete kerb of the former Carpark are indicated.



Photo D: Tree 24 (Tallowwood) to be retained.





Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017



Photo E: Trees 52 and 53 to be retained.

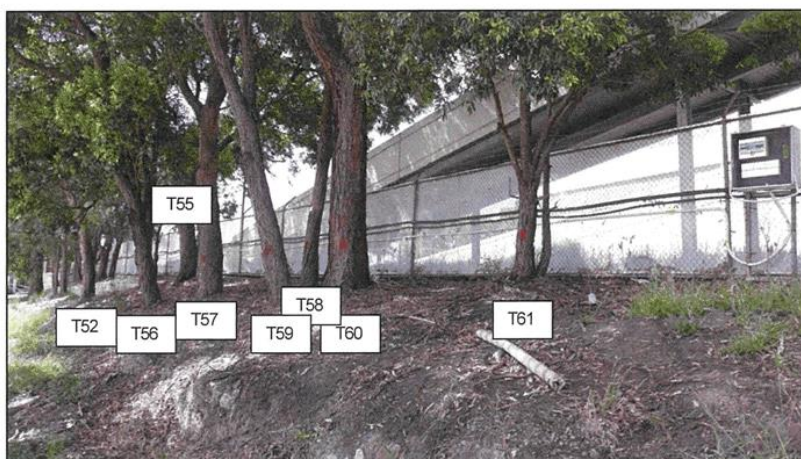


Photo F: Trees 52-55 and 57-61 to be retained. Tree 56 is to be removed.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

24

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

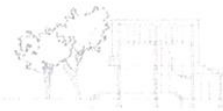


**Photo G:** Tree 56 to be removed due to the unacceptable amount of crown pruning required for piling and scaffold works.

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



25

Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

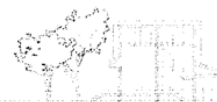
**Attachment D: Tree Protection Requirements (Generic)**

ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA

26



**TREE WISE MEN®**  
AUSTRALIA PTY LTD

TREE PROTECTION REQUIREMENTS (GENERIC)

The following generic tree protection requirements (1-12) should be implemented to minimise the impact of the proposed development on the retained trees. These requirements shall be implemented during the construction period in the event that no site-specific requirements are detailed in this document. Tree Protection Requirements should comply with *Section 4 Tree Protection Measures of AS4970-2009 Protection of trees on development sites* and the Tree Protection Plan (TPP) attached to this document.

**1. Arborist Involvement** – An Arborist (the project Arborist) with minimum AQF Level 5 qualifications, experienced in tree protection on construction sites shall be engaged prior to the commencement of work on the site. The Arborist's tasks will be to monitor and report regularly to the PCA and the Applicant on the condition of the retained trees for the duration of works on site. The Project Arborist shall be present to certify tree protection measures and to supervise any excavation, trenching or tunnelling within the TPZ of any retained trees.

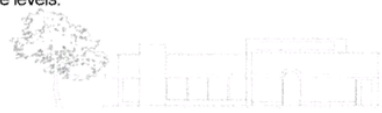
The schedule of works for the development shall acknowledge the role of the Project Arborist and the need to protect the retained trees. Sufficient notice shall be given to the Project Arborist where his/her attendance is required. Should the proposed design change from that reviewed, additional arboricultural assessment will be required.

**2. Tree Pruning and Removal** – All tree pruning (including root pruning) and tree removal shall be carried out by a qualified and experienced Arborist (minimum AQF Level 3 qualification) to Australian Standard *AS4373-2007 Pruning of amenity trees* and the Work Cover Code of Practice for the Amenity Tree Industry, 1998.

When tree stumps are within the TPZ of retained trees, stump grinding of rootballs shall be performed rather than complete "grubbing". This will minimise unnecessary root damage to the retained trees. Unnecessary damage often occurs to retained trees when undertaken by earthmoving machinery.

**3. Mulching** – If construction activity is proposed within TPZ offsets mulching is required. Mulch to a depth of 100 millimetres using partially composted green waste mulch. The mulch should be free of weed seeds and other contaminants. Should constant access be required within the trees' TPZs, outside the protective fencing, heavier mulch should be spread to a depth no greater than 100 millimetres to reduce soil compaction.

**4. Temporary Irrigation** – Where construction related activity or root cutting is proposed within the TPZ of retained trees, temporary irrigation or water cart access may need to be provided to the remaining unimpacted TPZ areas to maintain adequate soil moisture levels. Delivery volumes are to allow for mulch layer and recent rainfall. The Project Arborist is to monitor soil moisture levels.



ARBORICULTURAL CONSULTANCY  
ACN 002982247 ABN 15 002 982 247  
131 Fuller Street NARRABEEN NSW 2101  
Phone +612 9981 5219 Fax +61 2 9971 0881

trewis@trewisemen.com.au  
www.trewisemen.com.au

When tree stumps are within the TPZ of retained trees, stump grinding of rootballs shall be performed rather than complete "grubbing". This will minimise unnecessary root damage to the retained trees. Unnecessary damage often occurs to retained trees when undertaken by earthmoving machinery.

**5. Tree Protection Fencing** – The retained trees shall be protected by means of fencing as per Figure 3 of AS4970-2009 or as detailed in the TPP prior to commencement of demolition or bulk earthworks.

It should be constructed from 1.8 metre high chain link wire or welded mesh suspended by galvanised steel pipe or equivalent and enclose as much of the TPZ as practicable allowing for building alignments.

The location of the fence may need to be altered from that indicated on the Tree Protection Plan at a project meeting between the Civil Contractor and the Project Arborist. The area enclosed shall be mulched (3) and irrigated (4) and kept free from all building materials, contaminants and other debris and shall not be used for storage of any building materials or parking of vehicles or plant. If scaffolding (8) is required within a tree protection zone, the ground is to be mulched prior to erection of scaffolding.

**6. Trunk Protection** – Trunk and branch protection is to comply with Figure 4 of AS4970-2009 or as detailed in the TPP. Lengths of timber (75mm x 50mm x 2000mm) shall be used to protect a tree's trunk if construction or traffic is proposed within its SRZ and the tree cannot be fenced. The lengths of timber should be fastened around the trunk at 200 millimetre centres with hoop iron strapping or similar.

**7. Signs** – Signs complying with Figure C1 of AS4970-2009 should be placed at regular intervals (min. 1 per 15 metres) on tree protection fencing.

**8. Scaffolding** – If scaffolding or hoarding is required within the TPZ, install as per Figure 5 of AS4970-2009 or as detailed in the TPP. Installation is to be prior to demolition or bulk earthworks.

**9. Bulk Earthworks** – To prevent unnecessary root damage, walk machinery within defined haul routes beyond TPZs wherever possible. The excavation shall be carried out under the supervision of the Project Arborist. All roots within TPZ of retained trees are to be hand cut prior to machine cutting. Immediately following excavation, the face of the cut within the TPZ shall be draped and maintained moist until backfilled. This should be done using a 10mm thick jute matting or equivalent, pinned at ground level and allowed to cover the full depth of the rootzone excavation.

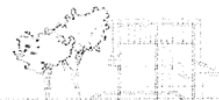
There is to be no soil battering or unnecessary over excavation within TPZ offsets. Topsoil stripping should be prohibited within TPZ offsets unless approved by the Project Arborist.

**10. Prevention of Soil Compaction** – During the construction period there may be considerable traffic movement associated with general building activities. The resultant soil compaction and possible contamination of the soil can have an equally detrimental impact on the tree as the severing of roots during excavation.

Specific machinery access tracks should be determined through consultation between the Civil Contractor and the project Arborist. Should heavy vehicle movement be required within a retained tree's TPZ, a track should be formed at grade using large diameter (up to 100mm) aggregate over geofabric or a corduroy of heavy timbers.

**11. Prevention of Soil Inversion** – Care shall be taken to avoid inversion of the soil layers on the site and particularly within TPZs. Clays placed over coarse textured soils reduces water infiltration, creating a perched water table, resulting in decline and/or death of underlying tree roots due to moisture stress.

**12. Services** – Trenching for services is to be regarded as "construction". Trenching within TPZ offsets should be avoided wherever possible to ensure <20% root loss (of TPZ) occurs on retained trees. Directional ("trenchless") boring or suspension of services should be used wherever possible. Where trenching is to occur within TPZ offsets, it is to be undertaken by hand to rock with no roots >50mm to be cut, under supervision of the Project Arborist.



Prepared for: Karimbla Construction Services (NSW) Pty Ltd

March 2017

---

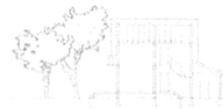
## Attachment E: Tree Protection Plan

---

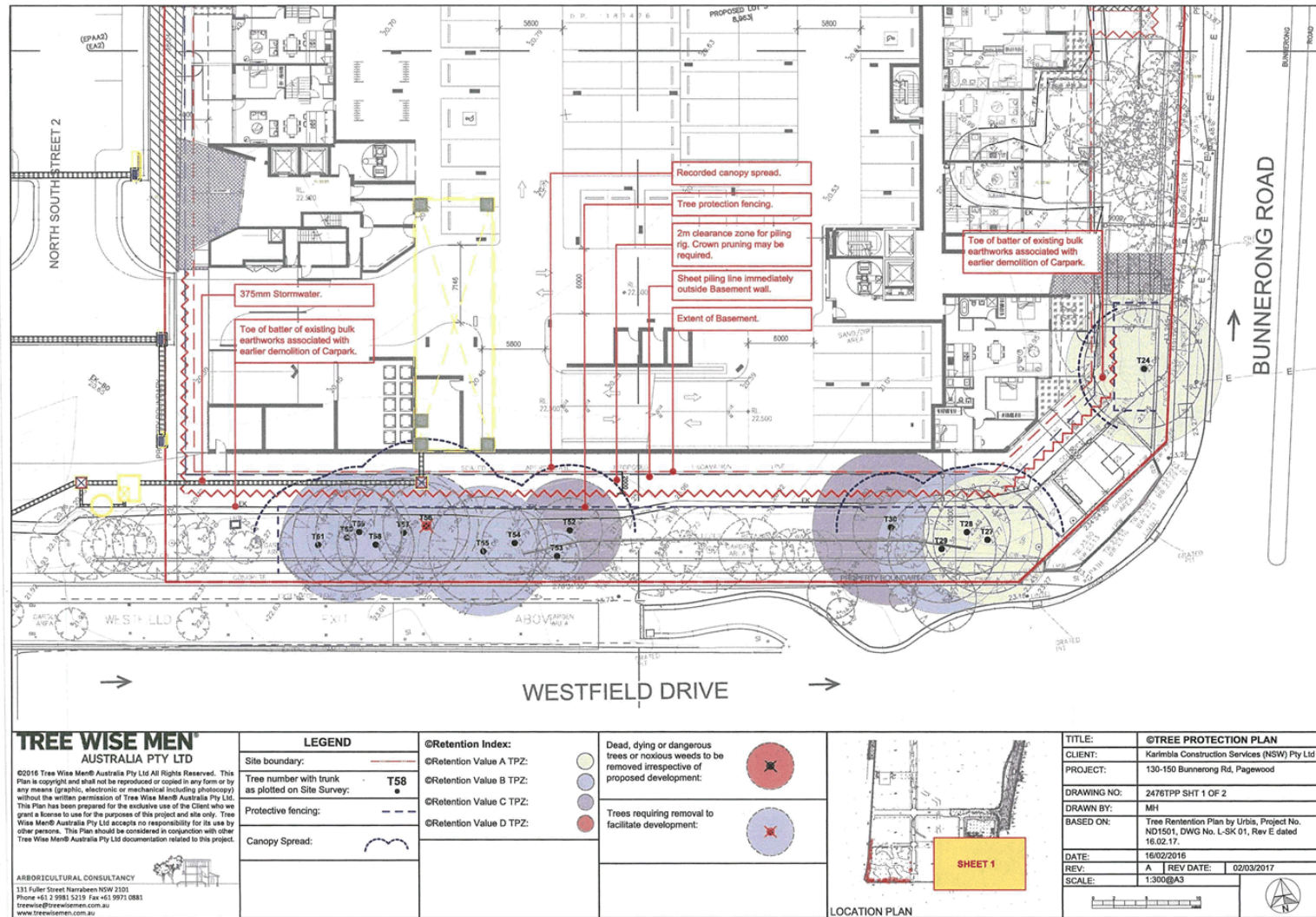
ARBORICULTURAL CONSULTANCY

©Tree Wise Men® Australia Pty Ltd

2476AIARevA



29



**06 Machinery Use Within Tree Protection Zone (TPZ)** Not to Scale  
Copyright © 2014 TWM

**07 Examples of Branch, Trunk and Ground Protection** Not to Scale  
Copyright © 2010 iCA

**08 Tree Protection Fencing** Not to Scale  
Copyright © 2010 iCA

**09 Indicative Scaffolding within a Tree Protection Zone (TPZ)** Not to Scale  
Copyright © 2010 iCA

**10 Tree Protection Fencing** Not to Scale  
Copyright © 2010 iCA

**Notes:**  
 1. No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ.  
 Option 1 - Fencing  
 1.8m high chain wire mesh panels with shade cloth attached (if required), held in place with concrete feet.  
 Tree Protection Zone (TPZ) sign  
 Option 2 - Fencing  
 Plywood or wooden panel paling fence. This type of fencing material also prevents building materials or soil entering the TPZ. Installation of supports should avoid damaging roots. Bracing is permissible within the TPZ. Maximum 100mm and minimum 50mm depth mulch or aggregate layer installed across surface of TPZ.

**Notes:**  
 Branches may require pruning to erect scaffolding. Pruning may be subject to local regulations. Flexible branches should be tied back in preference to pruning.  
 Minimum 1.8m high hoarding. Temporary fencing may be incorporated into scaffolding as either containment screening or as hoarding.  
 Note:  
 If excavation is required for installation of support post for fencing, the Project Arborist should assess any pruning of roots greater than 20mm diameter.  
 Scaffold planks  
 Boards or plywood to be installed over mulch or aggregate layer for any areas requiring access within the TPZ.  
 Soleplate over pedestal. No excavation for soleplate within TPZ.  
 Maximum 100mm and minimum 50mm depth mulch or aggregate layer within TPZ.  
 Geotextile fabric.

**Notes:**  
 Flexible branches should be tied back in preference to pruning.  
 Branch battening as required (as per Fig. 4 AS4970-2009).  
 Minimal pruning (pruning only with Consent Authority approval).  
 Machinery of minimal height and minimum capacity.  
 Note:  
 Qualified operator and observer required during excavation.  
 Note:  
 Excavator bucket of minimum width.  
 Vertical trenches - avoid soil batter towards tree.  
 Hand prune surface roots before trenching.

**Notes:**  
 Branch Protection - use boards and padding to prevent damage to bark on branch. Boards are to be strapped, not screwed or nailed to the branch.  
 Trunk Protection - use boards and padding to prevent damage to bark (minimum 20m). Boards are to be strapped, not screwed or nailed to the trunk.  
 Ground Protection - use device strapped over mulch or aggregate layer. Ground protection device should be of a suitable thickness to prevent soil compaction and root damage.  
 Steel plates (or approved equivalent) with or without mulch or aggregate layer below.  
 Maximum 100mm and minimum 50mm depth mulch or aggregate layer.  
 Geotextile fabric underneath mulch or aggregate layer.

**Notes:**  
 6. A Project Arborist with minimum AQF Level 5 qualifications is to be engaged to supervise works within TPZ areas and monitor and report regularly on the condition of trees.  
 7. Tree Protection Fencing as indicated, should be installed prior to demolition of existing structures and other site preparation works. Tree Protection Fencing should comprise of chainlink, wire or mesh panels as per Figure 03 of the TPP. If the location of the fencing needs to be altered, this shall be determined at a project meeting between the Client Contractor and the Project Arborist.  
 8. All tree pruning is to comply with AS4373-2007, Pruning of amenity trees. All approved tree removals to comply with WorkCover Code of Practice for the Amenity Tree Industry. All tree pruning and removal shall be carried out by a qualified and experienced Arborist (minimum AQF Level 3 qualification).  
 9. Services installation should be supervised by the Project Arborist, using directional boring wherever possible or manual excavation where trenching is to occur. No roots greater than 50mm diameter are to be cut or damaged. Services should be routed beyond TPZ wherever possible.  
 10. Trunk battening and ground protection to be installed to trees where works are required within Tree Protection Fencing. Battening to comply with Figure 04 of the TPP.  
 11. All tree pruning is to comply with AS4373-2007, Pruning of amenity trees. All approved tree removals to comply with WorkCover Code of Practice for the Amenity Tree Industry. All tree pruning and removal shall be carried out by a qualified and experienced Arborist (minimum AQF Level 3 qualification).  
 12. Mulch is to be spread to a depth of 100mm within the TPZs. If construction activity is proposed within TPZs of trees to minimise compaction. Woodchip mulch should be used as a minimum. Recycled concrete or other aggregate placed over a geotextile may be required for heavy uses areas.  
 13. Over-excavation or battering towards trees is to be avoided unless indicated on Approved earthworks or services drawings and approved by the Project Arborist.  
 14. Continuous strip footings are to be avoided wherever possible. Use discontinuous pier and beam type footing or other lightweight construction for walling and fencing within TPZs.  
 15. Temporary irrigation, hand watering or water cart may be required to maintain adequate soil moisture levels. The Project Arborist is to monitor soil moisture levels and advise on delivery volumes and frequency.  
 16. Temporary hoard needs may be required to be installed where heavy machinery movements are proposed within TPZs of trees to minimise compaction. Woodchip mulch should be used as a minimum. Recycled concrete or other aggregate placed over a geotextile may be required for heavy uses areas.

**Notes:**  
 1. Tree impact assessment has been considered in relation to AS4970-2009 Protection of trees on development sites.  
 2. This Tree Protection Plan is equivalent to the Development Submission Plan identified in Table 1, AS4970-2009.  
 3. This Tree Protection Plan should be incorporated into the site Construction Management Plan and the Sediment Control Plan.  
 4. Tree impact assessment includes likely impacts from development including: building platforms, driveway accessways, services/infrastructure installation and outfall batters.  
 5. The extent of TPZ shown on this plan does not reflect any confinement of roots by existing structures, buildings, walls, topography, etc.  
 6. A Project Arborist with minimum AQF Level 5 qualifications is to be engaged to supervise works within TPZ areas and monitor and report regularly on the condition of trees.  
 7. Tree Protection Fencing as indicated, should be installed prior to demolition of existing structures and other site preparation works. Tree Protection Fencing should comprise of chainlink, wire or mesh panels as per Figure 03 of the TPP. If the location of the fencing needs to be altered, this shall be determined at a project meeting between the Client Contractor and the Project Arborist.  
 8. All tree pruning is to comply with AS4373-2007, Pruning of amenity trees. All approved tree removals to comply with WorkCover Code of Practice for the Amenity Tree Industry. All tree pruning and removal shall be carried out by a qualified and experienced Arborist (minimum AQF Level 3 qualification).  
 9. Services installation should be supervised by the Project Arborist, using directional boring wherever possible or manual excavation where trenching is to occur. No roots greater than 50mm diameter are to be cut or damaged. Services should be routed beyond TPZ wherever possible.  
 10. Trunk battening and ground protection to be installed to trees where works are required within Tree Protection Fencing. Battening to comply with Figure 04 of the TPP.  
 11. All tree pruning is to comply with AS4373-2007, Pruning of amenity trees. All approved tree removals to comply with WorkCover Code of Practice for the Amenity Tree Industry. All tree pruning and removal shall be carried out by a qualified and experienced Arborist (minimum AQF Level 3 qualification).  
 12. Mulch is to be spread to a depth of 100mm within the TPZs. If construction activity is proposed within TPZs of trees to minimise compaction. Woodchip mulch should be used as a minimum. Recycled concrete or other aggregate placed over a geotextile may be required for heavy uses areas.  
 13. Over-excavation or battering towards trees is to be avoided unless indicated on Approved earthworks or services drawings and approved by the Project Arborist.  
 14. Continuous strip footings are to be avoided wherever possible. Use discontinuous pier and beam type footing or other lightweight construction for walling and fencing within TPZs.  
 15. Temporary irrigation, hand watering or water cart may be required to maintain adequate soil moisture levels. The Project Arborist is to monitor soil moisture levels and advise on delivery volumes and frequency.

**ARBORICULTURAL CONSULTANCY**  
 131 Fuller Street Narabeen NSW 2103  
 Phone +61 2 9881 5219 Fax +61 9971 0881  
 treewise@treewisemen.com.au  
 www.treewisemen.com.au

**TITLE:** ©TREE PROTECTION PLAN  
**CLIENT:** Karimbla Construction Services (NSW) Pty Ltd  
**PROJECT:** 130-150 Bunnerong Rd, Pagewood  
**DRAWING NO:** 2476TPP SHT 2 OF 2  
**DRAWN BY:** MH  
**BASED ON:** IACA Licence of AS4970-2009 Protection of trees on development sites  
**DATE:** 16/02/2016  
**REV:** A REV DATE: 02/03/2017



**Bayside Local Planning Panel**

**28/08/2018**

Item No	6.5
Application Type	Development Application
Application No	SF18/1785
Lodgement Date	11/05/2018
Property	<b>DA-2015/216/08 - 1-5 Kent Road, Mascot</b>
Ward	Mascot
Owner	Karimbla Constructions Services (No. 46) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Amendment to Condition 88 relating to timing of land dedication.
No. of Submissions	0
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

**Officer Recommendation**

That the Section 4.55(1A) application for the amendment to Condition 88 relating to timing of land dedication is APPROVED subject to the following:

- a Amend Condition 88 to change the timing of the dedication to being prior to the issue of the Occupation Certificate for the final building under DA-2015/216 at 1-5 Kent Road, Mascot.

**Location Plan**



---

## Attachments

Planning Assessment report [↓](#)

## Application Details

---

<b>Application Number:</b>	DA-2015/216/08
<b>Date of Receipt:</b>	11 May 2018
<b>Property:</b>	1-5 Kent Road, Mascot
<b>Lot &amp; DP/SP No:</b>	Lots 11, 12, 16 and 17 in DP 1238487 / SP 97178
<b>Owner:</b>	Karimbla Constructions Services (No. 46) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd
<b>Proposal:</b>	Amendment to Condition 88 relating to timing of land dedication
<b>Property Location:</b>	On the eastern side of Baxter Road, between Gardeners Road to the north and Church Avenue to the south
<b>Value:</b>	Nil
<b>Zoning:</b>	B2 Local Centre under Botany Bay Local Environmental Plan 2013
<b>Author:</b>	Andrew Ison, Senior Development Assessment Planner
<b>No. of submissions:</b>	Nil
<b>Date of Report:</b>	21 August 2018

---

## Key Issues

---

The key issue relates to the timing of the land dedication relating to the 9m wide portion of land to Council for the east-west road (known as Galloway Street) and the pocket park.

## Recommendation

---

1. That the Section 4.55(1A) application for the amendment to Condition 88 relating to timing of land dedication is **APPROVED** subject to the following:
  - (a) Amend Condition 88 to change the timing of the registration to being prior to the issue of the Occupation Certificate for the final building under DA-2016/117 at 671-683 Gardeners Road, Mascot.

## Site Description

---

The subject site is currently known as 8-12 Galloway Street (formerly 1-5 Kent Road), Mascot (Lots 11, 12, 16 and 17 in DP 1238487 / SP 97178). The site is rectangular in shape, an area of 57,596m<sup>2</sup>, and the mixed use development is currently under construction. The surrounding area is characterised primarily by various forms of development ranging from mixed use residential to

industrial buildings. The subject site is located to the south of Gardeners Road and north of Church Avenue.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

## Description of approved development and proposed modifications

### **Approved Development DA-2015/216**

Development Application (DA) 2015/216 was approved by the Sydney East Joint Regional Planning Panel (JRPP) on 18 July 2016 for a mixed use development involving the following:

- 239 units (50 x 1, 92 x 2 and 97 x 3 bedrooms) across a 4 storey residential podium (including 3 levels of sleeved parking) and 3 x 10 storey residential towers above;
- Two levels of basement parking;
- At grade parking for 391 cars;
- A 58m<sup>2</sup> retail tenancy;
- Stratum subdivision;
- Strata subdivision;
- The construction of the northern half of a new east-west street and dedication to Council;
- A north-south oriented park; and
- Landscaping.

### **Approved Modification DA-2015/216/02**

On 19 January 2017, the Sydney Central Planning Panel approved a modification under the former Section 96(2) provisions (now Section 4.55(2)) as follows:

- Altering the podium levels of Building C by deleting and reconfiguring the units in order to provide additional car parking spaces in conjunction with the adjoining site to the north, provide an expanded void over the loading dock and accommodate expanded waste facilities;
- Reconfiguration of car parking spaces within the podium levels of Buildings A and B in conjunction with a shared car parking arrangement with the adjoining site to the north;

- Extend buildings Building B and C northwards to align with the setback levels below, resulting in the addition of 2 units on each level (total of 10);
- Construction of a fence along the southern boundary of the north-south park; and
- Addition of a vertical car park mechanical ventilation exhaust at the podium level of Building B.

#### **Approved Modification DA-2015/216/03**

On 10 November 2016, Bayside Council approved a Section 96(1A) Modification Application (now Section 4.55(1A)) under delegated authority as follows:

- Extend the northern wall of the podium (ground to Level 4) within Buildings A and B to align with the northern boundary;
- Internal reconfiguration of the pool, gymnasium and ground level disabled egress to various components;
- Addition of 1 unit and deletion of 6 units (total deletion of 5 units);
- Minor internal and external reconfigurations to various units;
- Deletion of 7 car parking spaces;
- Extension of the northern and eastern walls in Building C (Levels ground to podium) to align with the site boundaries, and enclosure of that space for plant; and
- Relocation of communal open space from ground to podium level.

#### **Approved Modification DA-2015/216/04**

On 13 January 2017, Bayside Council approved a Section 96(1A) Modification Application (now Section 4.55(1A)) under delegated authority as follows:

- Modify Condition 75(c) to extend the approved hours of construction.

#### **Approved Modification DA-2015/216/05**

On 11 October 2017, Bayside Council approved a Section 96(1A) Modification Application (now Section 4.55(1A)) under delegated authority as follows:

- Modify Condition 39 relating to the damage deposit;
- Modify Condition 48 to refer to 2 and 3 bedrooms;
- Modify Condition 83 relating to the civil engineering design for Galloway Street;
- Modify Condition 84(a) relating to the timing of public domain works;
- Delete Condition 84(b) relating to the time to complete the new park public domain works;
- Modify Condition 85 relating to public domain works on Kent Road;
- Modify Condition 86 relating to engineering inspections;
- Modify Condition 88 to defer the timing of public domain works and land dedication until the occupation certificate for the final building under DA-16/117; and
- Modify Condition 113 as it relates to this Section 96(1A) application.

#### **Modification DA-2015/216/06**

On 23 February 2018, a Section 4.55(1A) application was lodged with Bayside Council, for the following:

- Deletion of Condition 90(a), relating to the extinguishment of a Right-of-Carrigeway that the subject property benefits prior to the issue of an Occupation Certificate.

This was withdrawn by the applicant on 3 August 2018.

#### **Lodged Modifications DA-2015/216/07**

On 11 May 2018, a Section 4.55(1A) application was lodged with Bayside Council, for the following:

- Minor amendment to the height of Building B. The approved development has an approved height of RL 51.0. The proposal seeks an amended height of RL 51.2, which is a 200mm variation which has arisen from construction intolerances.

At the time of this report, this application had yet been determined.

### ***Proposed Modifications DA-2015/216/08***

The applicant seeks to modify Condition 88(a)(i) to amend the timing of dedication of land to Council to allow for occupation but still ensure that the intent of the condition is met. It is proposed to change the timing from prior to any Occupation Certificate to prior to the issue of an Occupation Certificate for the approved building under DA-2016/117 at 671-683 Gardeners Road.

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

## **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(1A) – Modifications involving minimal environmental impact**

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 the consent if:

(a) *it is satisfied that the proposed modification is of minimal environmental impact,*

The proposed modification does not involve any physical amendments to footprint of the approved development, relating to an administrative requirement relating to the timing of land dedication.

(b) *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*

As discussed above, the proposed modification involves an amendment to an administrative requirement relating to the timing of land dedication.

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

- the regulations, if the regulations so require, or*
- 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*

It was considered that notification was not required.

(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.

No submissions were received.

#### **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:

##### **Botany Bay Local Environmental Plan 2013 (LEP)**

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application. Given that the subject application makes proposes no physical amendments to the approved development, there are no relevant provisions to the assessment of this application.

##### **S.4.15(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**

•

- The following Development Control Plan is relevant to this application:

##### **Botany Bay Development Control Plan 2013**

•

- Given that the subject application makes proposes no physical amendments to the approved development, there are no relevant provisions to the assessment of this application.

•

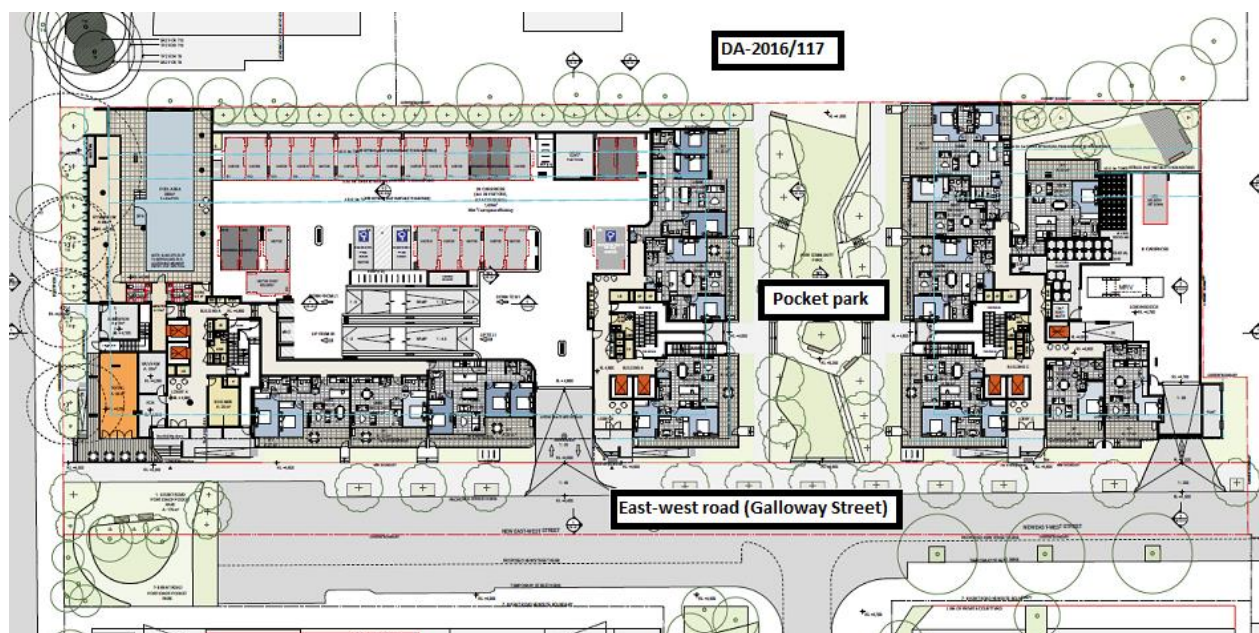
##### **S.4.15(1)(a)(iv) - Provisions of regulations**

- Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

##### Timing of land dedication

It is proposed to change the timing of the land dedication relating to the east-west road and the pocket park with relation to the registration to occur prior to the issue of the Occupation Certificate for the final building of the neighbouring development to the north at 671-683 Gardeners Road.



It is considered that the request to amend the timing of the land dedication is acceptable in this instance as the pocket park will extend further to the north into the neighbouring property to Gardeners Road. It will allow for an Occupation Certificate to be issued for this DA as the completion of the development will occur before that under DA-2016/117, and the amended wording will ensure that the intent of the condition is still met.

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

- Suitability of the site has been considered as part of the Development Application, and the proposed modification to this condition does not change the suitability of the site in any way.

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

It was considered that notification of the application was not required. No submissions were received.



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

- 
- Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.
- 

**Section 94 Contributions**

- The proposed modification does not change any Section 94 Contributions that are payable, and as prescribed in the original development consent (as amended).

**Conclusion**

Development Application No. 2015/216/8 for the Amendment to Condition 88 relating to timing of land dedication at 1-5 Kent Road, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to modified conditions of consent.

**Attachment****Schedule 1 – Conditions of Consent**

Premises: 1-5 Kent Road, Mascot

DA No: 2015/216/08

**SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

Drawing No.	Author	Dated Received
Ground Level (Drawing No. DA-110-000, Revision <del>S4</del> <del>S3BS4</del> ) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>06/05/2016</del> <del>13/10/2016</del> 20/12/2016 Received by Council <del>26/05/2016</del> <del>26/10/2016</del> 04/01/2017
Level 1 (Drawing No. DA-110-001, Revision <del>S2</del> <del>S3BS4</del> ) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>19/02/2016</del> <del>13/10/2016</del> 30/08/2016 Received by Council <del>26/05/2016</del> <del>26/10/2016</del> 04/01/2017
Level 2 (Drawing No. DA-110-002, Revision <del>S2</del> <del>S3BS4</del> ) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>19/02/2016</del> <del>13/10/2016</del> 30/08/2016 Received by Council <del>26/05/2016</del>

Drawing No.	Author	Dated Received
		<del>26/10/2016</del> 04/01/2017
Level 3 (Drawing No. DA-110-003, Revision <del>S2</del> <del>S3</del> S4) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>19/02/2016</del> <del>13/10/2016</del> 30/08/2016 Received by Council <del>26/05/2016</del> <del>26/10/2016</del> 04/01/2017
Level 4 Podium (Drawing No. DA-110-004, Revision <del>S3</del> S5) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>06/05/2016</del> <del>13/10/2016</del> 21/09/2016 Received by Council <del>26/05/2016</del> <del>13/10/2016</del> 01/04/2017
Level 5-8 Lower Tower (Drawing No. DA-110-005, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Level 9-13 Tower (Drawing No. DA-110-006, Revision S4)	Turner	Dated <del>25/05/2016</del> 30/08/2016 Received by Council <del>26/05/2016</del> 04/01/2017
Plant Rooms (Drawing No. DA-110-007, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Roof Plan (Drawing No. DA-110-008, Revision S3)	Turner	Dated 06/05/2016 Received by Council 26/05/2016
Basement 1 (Drawing No. DA-110-B01, Revision S3)	Turner	Dated 30/03/2016 Received by Council 26/05/2016
Basement 2 (Drawing No. DA-110-B02, Revision S3)	Turner	Dated 30/03/2016 Received by Council 26/05/2016
North Elevation (Drawing No. DA-250-001, Revision <del>S4</del> S6) (DA-15/216/02)	Turner	Dated <del>06/05/2016</del> 30/08/2016 Received by Council <del>26/05/2016</del> 04/01/2017
East Elevation – Adjoining Boundary (Drawing DA-250-002, Revision S3 S4) (DA-15/216/02)	Turner	Dated <del>06/05/2016</del> 30/08/2016

Drawing No.	Author	Dated Received
		Received by Council 26/05/2016 04/01/2017
South Elevation – East West Street (Drawing No. DA-250-003, Revision S5S6) (DA-15/216/02)	Turner	Dated 06/05/2016 26/08/2016 Received by Council 26/05/2016 04/01/2017
West Elevation – Kent Road (Drawing No. DA-250-004, Revision S3S5) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 04/01/2017
East Elevation – North-South Street (Drawing No. DA-250-005, Revision S3S4) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 04/01/2017
West Elevation – North-South Street (Drawing No. DA-250-006, Revision S3S4) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 04/01/2017
West Elevation – Building B (Drawing No. DA-250-007, Revision S4S2) (DA-15/216/02)	Turner	Dated 06/05/2016 30/08/2016 Received by Council 26/05/2016 04/01/2017
East Elevation – Building A (Drawing No. DA-250-008, Revision S2)	Turner	Dated 25/06/2016 Received by Council 26/05/2016
Cross Section looking East (Drawing No. 350-001, Revision S3)	Turner	Dated 06/05/2016 Received by Council 25/05/2016
Longitudinal Section looking North (Drawing DA-350-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 26/05/2016
Ramp Sections (Drawing DA-350-003, Revision S1)	Turner	Dated 19/02/2016 Received by Council 04/07/2016
Stratum Subdivision Plans (Sheets 1-7, Revision A)	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015

## Referenced documents

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Bulk Excavation & Sections and Sediment Control (Drawing No. E-1000-EX, Revision B)	Karimbla Construction Services (NSW) Pty Ltd	Dated 05/04/2016 Received by Council 05/04/2016
Cover Page (Revision S6 S3BS4E) (DA-15/216/03) (DA-15/216/02)	Turner	Dated 09/11/2016 Received by Council <del>26/05/2016</del> <del>27/10/2016</del> 05/12/2016
Site Plan – Proposed (Drawing No. DA-100-001, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Level & Feature Survey (Drawing No. 20308 B, Sheet 1 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 2 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Level & Feature Survey (Drawing No. 20308 B, Sheet 3 of 3, Revision A)	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
Site Survey	B & P Surveys	Dated 25/08/2014 Received by Council 13/11/2015
SEPP 65 Report	Turner	Dated November 2015 Received by Council 13/11/2015
Design Verification Statement As amended for DA-15/216/02	Turner	Dated <del>13/11/2015</del> 06/09/2016 Received by Council <del>13/11/2015</del> 31/10/2016
Apartment Design Guide Workbook for Applicants	Turner	Received by Council 13/11/2015
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 11/11/2015 Received by Council 13/11/2015
Amended Statement of Environmental Effects (DA-15/216/02)	Meriton Services Pty Ltd	Dated 27/10/2016 Received by Council 31/10/2016
Letter regarding post JRPP meeting documentation	Karimbla Construction Services (NSW) Pty Ltd	Dated 11/05/2016 Received by Council 11/05/2016
Amended Clause 4.6 Variation	Meriton Property Services Pty Ltd	Dated 10/05/2016 Received by Council 11/05/2016

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Retail and Commercial Needs Analysis	Urbis	Dated February 2016 Received by Council 22/02/2016
Thermal Comfort & BASIX Assessment (Issue AF) (DA-15/216/02)	Efficient Living Pty Ltd	Dated 06/11/2015 02/11/2016 Received by Council 13/11/2015 02/11/2016
Acoustic Report (Revision 1)	Acoustic Logic	Dated 12/10/2015 Received by Council 13/11/2015
Waste Management Plan	Elephants Foot	Dated 09/11/2015 Received by Council 13/11/2015
Transport Impact Assessment	Arup	Dated 11/11/2015 Received by Council 13/11/2015
Transport Impact Assessment Letter (237457)	Arup	Dated 29/01/2016 Received by Council 22/02/2016
Transport Impact Assessment Addendum (Revision A)	Arup	Dated 19/02/2016 Received by Council 22/02/2016
Access Report	Wall to Wall Design & Consulting	Dated 07/11/2015 Received by Council 13/11/2015
BCA Compliance Assessment Report (1423-91, Rev 1)	AED Group	Dated 10/11/2015 Received by Council 13/11/2015
Aeronautical Impact Assessment (J0422)	The Ambidji Group Pty Ltd	Dated 16/10/2015 Received by Council 13/11/2015
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 10/11/2015 Received by Council 13/11/2015
Construction Management Plan	Meriton Property Services Pty Ltd	Dated October 2015 Received by Council 13/11/2015
Construction Traffic Management Plan (Ref: SBMG1151-11)	SBMG	Dated 15/10/2015 Received by Council 13/11/2015
Civil Works Drawings (Drawing No. DAC01, 02, 05, 10, 15, 20, 30, 35, 40, 41, 60, 61, Issue A)	at&l	Dated 11/11/2015 Received by Council 22/02/2016
Sediment and Erosion Control Details (Drawing No. DAC41, Issue A)	At&l	Dated 11/11/2015 Received by Council 13/11/2015
Environmental Site Assessment	Coffey	Dated 23/09/2014 Received by Council 13/11/2015
Geotechnical Site Investigation	Coffey	Dated 19/09/2014 Received by Council 13/11/2015
Groundwater Management Plan	Coffey	Dated 25/02/2016 Received by Council 22/02/2016

Drawing No.	Author	Dated Received
Flood Report	Calibre Consulting	Dated 12/10/2015 Received by Council 13/11/2015
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 04/11/2015 Received by Council 13/11/2015
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 12/10/2015 Received by Council 13/11/2015
QS Report	Steven Wehbe	Dated 15/10/2015 Received by Council 13/11/2015
Landscape Plan – Cover Sheet (Drawing No. L-001, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Streetscape (Drawing No. L-101, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Ground Level Courtyard (Drawing No. L-102, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium (Drawing No. L104, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 1 Courtyard (Drawing No. L103, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Landscape Plan – Level 4 Podium Courtyard 2 (Drawing No. L105, Issue C)	Context Landscape Design Pty Ltd	Dated 21/09/2015 Received by Council 22/02/2016
Site Plan – Existing (Drawing No. DA-100-000, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Site Analysis Plan (Drawing No. DA-100-002, Revision S2)	Turner	Dated 19/02/2016 Received by Council 31/03/2016
Demolition Plan (Drawing No. DA-101-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
GFA Diagrams – Ground Level – L13 (Drawing No. DA-710-000, Revision S4 S3BS4C) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>09/05/2016</del> <del>13/10/2016</del> 09/11/2016 Received by Council <del>26/05/2016,</del> <del>26/10/2016</del> 22/11/2016
Shadow Diagrams, Winter Solstice 9am (Drawing No. DA-720-001, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 12pm (Drawing No. DA-720-002, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016

<b>Drawing No.</b>	<b>Author</b>	<b>Dated Received</b>
Shadow Diagrams, Winter Solstice 3pm (Drawing No. DA-720-003, Revision S3)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Site Plans Winter Solstice (Drawing No. DA-720-004, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Site Plans Spring Equinox (Drawing No. DA-720-005, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 10am (Drawing No. DA-720-006, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 11am (Drawing No. DA-720-007, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 1pm (Drawing No. DA-720-008, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams, Winter Solstice 2pm (Drawing No. DA-720-009, Revision S2)	Turner	Dated 09/05/2015 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 9am & 10am (Drawing No. DA-720-010, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 11am & 12pm (Drawing No. DA-720-011, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 1pm & 2pm (Drawing No. DA-720-012, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Shadow Diagrams Gardeners Road Winter Solstice 3pm (Drawing No. DA-720-013, Revision S2)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity Ground Level – L5 (Drawing No. DA-721-000, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity 6 – L11 (Drawing No. DA-721-001, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Solar Amenity L12 – L13 (Drawing No. DA-721-002, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016

Drawing No.	Author	Dated Received
Cross Ventilation Ground Level – L5 (Drawing No. DA-722-000, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Cross Ventilation Amenity Level 6 – L11 (Drawing No. DA-722-001, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Cross Ventilation Amenity Level 12 – L13 (Drawing No. DA-722-002, Revision S3)	Turner	Dated 09/05/2016 Received by Council 26/05/2016
Calculations (Drawing No. DA-723-000, Revision A)	Turner	Dated 30/03/2016 Received by Council 31/03/2016
Supplementary Drawings Adaptable Apartments (Drawing No. DA-813-000, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Proposed Envelopes for Northern site (Drawings SK001 - 5, Revision A)	Turner	Dated 19/02/2016 Received by Council 22/02/2016
Materials and Finishes (Drawing No. DA-910-001, Revision S1)	Turner	Dated 06/11/2015 Received by Council 31/03/2016
Photomontage – View from South West – Kent Road (Drawing No. DA-920-001, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View from North West – Kent Road (Drawing No. DA-920-002, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
Photomontage – View West at New Street Junction (Drawing No. DA-920-003, Revision S1)	Turner	Dated 09/11/2015 Received by Council 31/03/2016
8.00 Apartment Schedule (Revision <del>5-78</del> ) (DA-15/216/03) (DA-15/216/02)	Turner	Dated <del>31/03/2016</del> <del>25/10/2016</del> 27/10/2016 Received by Council <del>31/03/2016</del> <del>26/10/2016</del> 31/10/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
- 3 This Consent relates to land in Lot 30 on DP 789177 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 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.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 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 each relevant BASIX Certificate (*and as amended*) for the each building in the development are fulfilled. (DA-15/216/03)
  - (a) Note: 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.
    - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 7 The Right-Of-Carriageway 7.0 wide, over Lot 31 in DP 789177 and benefiting Lot 30 in DP 789177, is to be extinguished within 40 days of alternate public road access being available to Lot 30 (other than Kent Road). The access may be to the Mascot precinct new north-south street (Muller Lane) upon its dedication as public road, or to another public road. The Right-Of-Carriageway is to be extinguished at no cost to the owner(s) of Lot 31, DP 789177 or to the Council.

### **CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

- 8 The following condition is imposed by **Ausgrid** and is to be complied with:

Ausgrid has identified the following assets to be affected by the development works:

Close proximity of overhead and/or underground cable/s on public land.

The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site). In general, works to be considered by Ausgrid include, but are not limited to, the following

  - a) Changes in electrical load requirements
  - b) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.)

- c) Works affecting Ausgrid's easements, leases and/ or right of ways
- d) Changing the gradients of any roads or paths
- e) Changing the level of roads or foot paths
- f) Widening or narrowing of roads
- g) Closing roads or laneways to vehicles
- h) Land subsidence and vibration impact on Ausgrid assets as a result of excavation / reinforcement activities
- i) In all cases Ausgrid is to have 24 hour access to all its assets.

Any work undertaken near Overhead Power lines needs to be done in accordance with:

- a) Workcover Document ISSC 23 "Working Near Overhead Power Lines"
- b) Ausgrid's Network Standards;
- c) Ausgrid's Electrical Safety Rules.

The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

9 The following conditions are imposed by **Sydney Water** and is to be complied with:

(a) Water

- (i) A drinking water extension will be required off the proposed 200mm main (to replace part of the existing 150mm main) located at the intersection of Kent Road and Church Street.
- (ii) An accredited WSC/Designer will need to ensure that the submitted design is sized and configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012). Evidence of Code compliance should be attached with the design.
- (iii) Detailed drinking water requirements will be provided at the Section 73 application phase.

(b) Wastewater

- (i) An extension of the wastewater system will be required from the existing 225mm main located in Kent Road which will provide a point of connection at least 1 m inside all the proposed lot boundaries.
- (ii) An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia WSA 02-2002-2.2 (Sydney Water Edition 1 - Version 3). Evidence of Code compliance should be attached with the design.
- (iii) Detailed wastewater requirements will be provided at the Section 73 application phase.

(c) Sydney Water E-Planning

- (i) Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is [surbangrowth@sydneywater.com.au](mailto:surbangrowth@sydneywater.com.au). Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail [beau.reid@sydneywater.com.au](mailto:beau.reid@sydneywater.com.au)

Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 4357 or e-mail [beau.reid@sydneywater.com.au](mailto:beau.reid@sydneywater.com.au)

(d) Sydney Water Servicing

- (i) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water (prior to the issue of any Occupation Certificate) for that stage. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications 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.

(e) Building Plan Approval

- (i) You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or nex1 to assets).

(f) Requirements for Business Customers for Commercial and Industrial Property Developments

- (i) If this property is to be developed for Industrial or Commercial operations, it may need to meet the following requirements:

*Trade Wastewater Requirements*

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au). It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

(g) Backflow Prevention Requirements

- (i) Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

*Before you install a backflow prevention device:*

- *Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.*
- *Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300889099.*

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website: <http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

(h) Water Efficiency Recommendations

- (i) Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <http://www.sydneywater.com.au/Water4Life/InYourBusiness/RWTCalculator.cfm>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

(i) Contingency Plan Recommendations

- (i) Under Sydney Water's customer contract Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15 meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

10 The following conditions are imposed by the **NSW Roads and Maritime Service**

- (a) Roads and Maritime has previously resumed and dedicated a strip of land as road along the Kent Road frontage of the subject property, as shown by grey colour on the attached Aerial- "X" (see Attachment 1 to the conditions).

Therefore, all buildings and structures, 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 Kent Road boundary.

- (b) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (c) The redundant driveways on Kent Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Kent Road 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 88492138).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

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.

- (d) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 88492766

- (e) The proposed development should be designed such that road traffic noise from Kent Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
- (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.

- (g) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Kent Road.
  - (h) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Kent Road during construction activities.
    - (i) 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 Kent Road.
    - (j) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- 11 The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:
- (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 51.0 metres Australian Height Datum (AHD).
  - (c) In the 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, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
  - (d) 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.
  - (e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
  - (f) "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)). The height of the prescribed airspace at this location is 51 metres above AHD.
  - (g) "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)). The height of the prescribed airspace at this location is 51 metres above AHD.
  - (h) Planning for Aircraft Noise and Public Safety Zones: 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). 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.
  - (i) Application for Approval of Crane Operation
    - (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.

- (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
- (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (vii) The "Important Notes" must be read and accepted.
- (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION OR BUILDING WORKS**

- 12 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be **LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED**. The amount of Common Law liability shall be unlimited.
- 13 Prior to the commencement of excavation or any building works, 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.
- 14 Prior to the commencement of any excavation or building works, 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.
- 15 A Construction Management Program shall be submitted to, and approved in writing by the Certifying Authority prior to any excavation or building works. The program shall detail:
- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary

vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,

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

16 A detailed Traffic Management Plan for the pedestrian and traffic management of the site during the proposed works 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, if access from Kent Road is 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 the New South Wales Roads and Maritime Services, and
- (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.

*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.*

17 Prior to the commencement of any excavation or building works, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The



sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

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

- 18 A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
  - (b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997; and
  - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate all findings and recommendations in the Environmental Site Assessment by Coffey dated 23 September 2014 for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed commercial and residential use.

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

- 19 In accordance with SEPP 55, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

- 20 A Site Audit Statement will be required for this site. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse the any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

- 21 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.

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

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.

- 23 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.

- 24 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 25 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - (i) Stating that unauthorised entry to the work site is prohibited;
    - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - (iii) The Development Approval number; and
    - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
  - (b) Any such sign is to be removed when the work has been completed.

- 26 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:
    - (iii) to a public sewer; or
    - (iv) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - (v) 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.
- 27 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.
- 28 Prior to the commencement of any demolition, excavation or remediation 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.
- 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, where relevant: -
- 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 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 practicing 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. As no owner's consent has been received for any works on private property, evidence that all legal rights to use private property has been obtained is to be provided to Council and the certifying authority, and approval for rock anchors the like on Council's land is to be submitted, prior to issue of the construction certificate.
- 31 In relation to the Arboricultural Assessment Report by T.A.L.C in Condition No. 1, in order to ensure that tree #9, tree #10 and tree#11 at the north west of the site along Kent Road, together with two (2) *Harpulia pendula* trees and four (4) *Casuarina* trees within the 7-9 Kent Road portion of the pocket park at the western end of the new East West Street are retained and protected during construction, and their health and structural stability ensured, the following is required:
- (a) Trees #9, #10 and #11 and the six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
  - (b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
  - (c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (TALC) (dated 10th November 2015). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
  - (d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
  - (e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
  - (f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
  - (g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
  - (h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
  - (i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
  - (j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.

- (k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
  - (l) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
  - (m) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
  - (n) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
  - (o) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
  - (p) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
  - (q) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- 32 The Applicant has permission to remove trees Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7 and Tree #8 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 10th November 2015).
- 33 Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- (a) A qualified Arborist with their own public liability insurance must be engaged.
  - (b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
  - (c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
- Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.
- 34 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Erosion and Sediment Control Plan;
  - (b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - (c) Protection of the Environment Operations Act 1997.

### **CONDITIONS WHICH MUST BE SATISFIED AT THE COMPLETION OF EXCAVATION WORKS**

- 35 An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

- 36 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- (a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - (b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - (c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works.

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

#### **The following conditions shall be satisfied prior to the issue of the relevant construction certificate unless otherwise stated**

- 37 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- (a) Development Control \$12,900.00
  - (b) Damage Deposit \$157,500.00 (Condition No. 39)
  - (c) Street Tree Maintenance Bond \$10,000.00 (Condition No. 38)

- 38 The applicant is to submit payment of a Street Tree Maintenance Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 12 months after final inspection of new street trees by Council. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.

39 Prior to the issue of the Construction Certificate for above ground works, the applicant shall lodge a Damage Deposit of \$157,500.00 (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 Occupation Certificate has been issued for the final building under DA16/117. (DA15/216/05)

40 The City of Botany Bay 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 Development Contributions Plan 2016. A total contribution of ~~\$3,488,798.56~~ ~~\$3,369,125.87~~ \$3,557,747.67 is payable prior to the issue of the first construction certificate for above ground works. (DA-15/216/03) (DA-15/216/02)

**Note 1:** The Section 94 Contributions are subject to quarterly review and the current rates are applicable for the quarter year in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the indexed contribution applicable at the time.

Note 2: Any difference between the original s94 contribution and the amended s94 contribution be paid within 14 days of approval of this s96(2) Modification Application. (DA-15/216/02)

41 Prior to the issue of the Construction Certificate for above ground works, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Certifying Authority and Council for approval.

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

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

- (a) Provision of an On-site Detention system (OSD) in accordance with but not limited to Part 6 of the SMTG,
- (b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- (c) Stormwater discharge to Council/RMS Kerb & Gutter shall be limited to a single outlet with maximum capacity of 10L/s. If greater discharge rate is proposed (up to the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system is required,
- (d) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- (e) The rainwater tank size shall be designed based on a supply/demand management approach. In addition, please note that in order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, consideration can be given to offset the storage requirements of the onsite detention system provided that the rainwater tank for reuse and all downpipes are connected to the rainwater tank. The volume to be offset from the onsite detention system is equivalent to 50% of the size of the rainwater tank(s),
- (f) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- (g) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,

- (h) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
  - (i) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
  - (j) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
  - (k) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
  - (l) The submission of detailed calculations including computer modelling where required to support the proposal.
- 42 Prior to the issue of the Construction Certificate for above ground works, the applicant shall submit amended plans to Council for approval, showing the following:
- (a) At least ~~three~~ ~~four~~ two car parking spaces allocated to the retail component (DA-15/216/03) (DA-15/216/02);
  - (b) An awning over the ramp (along Kent Road) and outdoor seating area of the retail tenancy;
  - (c) The 2 and 3 bedroom apartments without a dedicated study are to indicate that a desk can be comfortably accommodated within the open-plan living area (Part 4C.4.2, Control 2 of the BBDCP 2013);
  - (d) The balcony size of U202 is at least 10sqm;
  - (e) Internal reconfiguration of Apartment UG01 to provide at least an additional 1m<sup>3</sup> of storage within the apartment in order to comply with the total minimum requirement of storage of 5m<sup>3</sup> (to be provided within the apartment);
  - (f) The bottom half of the gymnasium glass fronting Kent Road as frosted glass up to a maximum height of 1.2m;
  - (g) The southern portion of the car park mechanical ventilation intake at podium level is to be reduced slightly to align with the balustrade of the balcony of Unit U410 so that its height can be integrated into, and hide behind the balustrading of the balcony and not protrude into the balcony. (DA-15/216/02)
- 43 All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.
- 44 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the above ground 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.
- 45 Prior to the issue of the Construction Certificate for above ground works, the plans and specification including sections information showing compliance with the following requirements



are to be submitted to and approved by the Principal Certifying Authority in relation to passenger vehicles

- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
- (b) 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.

46 Prior to the release of the Construction Certificate, the plans and specification including sections showing the following are to be submitted to and approved by the Principal Certifying Authority in relation to garbage truck access:

- (a) All driveways/access ramps/vehicular crossings conform with Australian Standards AS 2890.2 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines;
- (b) All service vehicles shall enter the property front in front out;
- (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council’s Garbage Truck;
- (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
- (e) A longitudinal section plotting headroom clearance above driveway access.

47 Prior to the release of the Construction Certificate for above ground works, plans and specifications including sections are required to be submitted to and approved by the Principal Certifying Authority:

- (a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 19 February 2016, Australian Standards AS 2890.6, SEPP 65 Design Code 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.

48 The drawings for the construction certificate for the basement car park shall show the minimum following parking requirements:

<b>Car Parking Rates</b>	<b>Required</b>
0.6 space / 1 bed unit	<del>30</del> 33 spaces
0.9 space / 2 bed unit	<del>83</del> 77 spaces
1.4 space / 3 bed unit	<del>436</del> <del>448</del> 132 spaces
1 visitor space / 7 dwellings	<del>35</del> <del>32</del> 34 spaces
Retail Spaces	<del>3</del> 2 spaces
<b>TOTAL REQUIRED</b>	<del>287</del> <del>264</del> <b>275</b> spaces

Car Parking Rates	Required
<b>TOTAL PROVIDED</b>	371 384 <b>377</b> spaces

(DA-15/216/03) (DA-15/216/02) (DA-15/216/05)

Any excess parking is to be allocated to an apartment or the retail tenancy.

- 49 Prior to the issue of the Construction Certificate for above ground works, an amended Qualitative Wind Assessment Report is to be submitted to Council modelling the proposed development within the current DA approved context of the immediately surrounding area. Any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1): as follows:
- 10 metres/second along commercial/retail streets;
  - 13 metres/second along main pedestrian streets, parks and public places; and
  - 16 metres/second in all other streets.
- 50 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 consultant report shall be submitted to the certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.
- The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 12/10/2015, Report reference number 20141049.1 R1** 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:
- Appropriate acoustic glazing to stated windows and doors,
  - Detailed roof and ceiling construction,
  - Wall and ceiling corner details and,
  - External door specification,
  - Acoustically treated mechanical ventilation.
- Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.
- 51 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the Construction Certificate and its location and specifications endorsed on the construction drawings.
- 52 In order to maximise visibility in the basement car parks, the ceilings shall be painted white. This requirement shall be reflected on the Construction Certificate plans.
- 53 The private domain landscape areas shown on the plan by Context, Plans L01 to L105 (Issue D, dated 19th February 2016) shall have prepared detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to issue of the Construction Certificate for above

ground works. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:

- (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- (b) Canopy trees are required to be incorporated within the landscape setback along Kent Road frontage and New East West Street frontage.
- (c) Canopy trees are to be used extensively within the community park between Buildings B and C. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
- (d) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
- (e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- (f) Indicate the location of all basement structures relative to the landscape areas.
- (g) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (h) Covered barbeque facilities to be incorporated within the Level 4 Podium Courtyard 1.
- (i) Within the new community park between Buildings B and C, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.
- (k) A way finding strategy proposal.
- (l) Full details of furniture, and lighting to Australian Standards.
- (m) *Details and sections of the interface treatment between the retail component and the Kent Road frontage, due to the difference in levels between the retail and Kent Road street frontage, are to be submitted to Council's Landscape Architect for approval prior to issue of the Construction Certificate for above ground works. (DA-15/216/03).*
- (n) Detailed plans of the treatment of the car park mechanical ventilation intake to be provided as part of the private domain landscape plans that are required to be submitted to Council for approval prior to the issue of the Construction Certificate for above ground works. (DA-15/216/02).

54 A detailed current and future public domain landscape and embellishment plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to the issue of the public domain Construction Certificate. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the City of Botany Bay Council Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:
  - (i) Kent Road, New East West Street footpath areas

- (ii) The public park located at the western end of New East-West Street
- (b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- (c) Street trees are required along Kent Road, the new East West Street, and within the community park north of new North South Street.
- (d) All street trees are to be in tree pits that are at grade with the footpath.
- (e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- (f) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- (g) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- (h) New in road blister islands between parking bays are to be incorporated along New East-West Street. The blister islands shall be of adequate dimensions for the required street tree and are to function as WSUD pits to capture and filter storm water. Full detailing is required.
- (i) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new community park at the northern end of New North South Street. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (j) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- (k) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- (l) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- (m) A way finding signage proposal.
- (n) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- (o) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- (p) Indicate the location of all basement structures relative to the landscape areas.
- (q) The six (6) existing retained trees (2 x *Harpulia pendula* and 4 x *Casuarina*) within the 7-9 Kent Road portion of the pocket park at the western end of new East West Street shall be shown on all plans.
- (r) The Ausgrid lighting poles along Kent Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent Road

- and any other requirements as specified by Council, RMS and any other service provider,
- (s) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
  - (t) 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. 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.

### **DURING WORKS**

- 55 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 56 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas in the private domain, inclusive of the new community park between Building B and C. 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.
- 57 The public footpaths in Kent Road, New East West Street and in the new community park shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 58 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 59 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - (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.
- 60 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect and relevant approval authority, prior to their installation.
- 61 ~~During Construction, the applicant must ensure compliance with the SWMP, CMP and CTMP. (DA-15/216/02)~~
- 62 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 make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 63 During Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.
- 64 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Traffic Management Plan and Construction Management Plan at all times.
- 65 Any new information that comes to light during works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 66 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Preliminary Acid Sulfate Soils Management Plan (Consulting Earth Scientists, 2015, or as updated and submitted to council).
- 67 For any water from site dewatering is to be managed in accordance with the Groundwater Management Plan (Coffey, 25 February 2016, or as updated and submitted to council).
- 68 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.

- 69 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill (should this be required) shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines; and
  - (b) Protection of the Environment Operations Act 1997; and
  - (c) Protection of the Environment Operations (Waste) Regulation 2014.
  - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 70 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.
- 71 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 construction works.
- 72 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.
- 73 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.
- 74 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006). Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.
- 75 The following shall be complied with during construction and demolition:
- (a) Construction Noise
    - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - (b) Level Restrictions
    - (i) Construction period of 4 weeks and under:
      - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

- (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
- (i) Monday to Friday 07:00am to 05:00pm (DA-15/216/04)
  - (ii) Saturday 08:00am to 04:00pm (DA-15/216/04)
  - (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing
- (i) All possible steps should be taken to silence construction site equipment.
- 76 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 77 During excavation 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.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR THE RELEVANT STAGE, UNLESS OTHERWISE STATED**

- 78 Prior to use and occupation of any building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
- 79 The applicant must prior to the issue of any Occupation Certificate for the final building, pay the following fees:
- (a) Waste Levy \$12,391.20
- 80 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 any 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.
- 81 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Kent Road, and all the new stormwater drainage lines constructed on new East-West Street and Kent Road.
- (a) The camera and its operation shall comply with the following:
  - (b) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
  - (c) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
  - (d) Distance from the manholes shall be accurately measured, and
  - (e) The inspection survey shall be conducted from manhole to manhole.
  - (f) The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the



commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

- 82 Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 83 Prior to the issue of ~~any~~ *the final* Occupation Certificate the applicant shall construct the new east-west road as per the civil engineering design provided by the Council, in accordance with Council's Infrastructure specifications and with the written approval of ~~by~~ Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer. (DA-15/216/05)
- 84
- (a) Prior to the issue of ~~any~~ *the final* Occupation Certificate for *the relevant any* stage, embellish the public domain of the east-west street opposite that stage as per the approved public domain plan. (DA-15/216/05)
- ~~(b) Prior to the issue of any Occupation Certificate for the residential component of Buildings B and C, carry out the embellishment of the community park between Buildings B and C as per the approved private domain plans. (Deleted (DA-15/216/05))~~
- 85 Prior to the issue of ~~any~~ *the final* Occupation Certificate for the final building: (DA-15/216/05)
- (a) On Kent Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council and RMS Infrastructure Specifications. Location of kerb & gutter to be confirmed with RMS and Council prior to construction,
- (b) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.
- (c) Carry out embellishment of the east-west road and pocket park as per the approved public domain plan.
- 86 Prior to the issue of ~~any~~ *the final* Occupation Certificate for the final building, 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. (DA-15/216/05)
- 87 Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*

~~88~~ ~~Prior to the issue of any Occupation Certificate for the final building, the following is to be complied with:~~

- (a) Dedicate to Council and at no expense to the Council and generally in accordance with the draft Subdivision Plan ref. no. 20974 by B & P Surveys, dated 11 November 2015 and the following:
  - (i) Along the southern boundary, dedicate a 9.0metre wide portion of land to Council for the constructed East-West Road and pocket park. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The draft Plan of Dedication shall be lodged with Council for approval. The proposed new road shall be unlimited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of ~~any the~~ Occupation Certificate for the final building under DA-2016/117 at 671-683 Gardeners Road, Mascot. A copy of the registered document shall be submitted to Council for record purposes, **(DA-15/216/08)** and
  - (ii) Over the proposed North-South oriented community park between Buildings B and C, register a new 16.6 wide "Easement for Public Access". The draft plan of easement shall be lodged with Council for approval. The proposed new easement shall be limited in stratum. Once approval from Council is granted, the plan shall be registered with Land & Property Information prior to the issue of ~~any Occupation Certificate for the final building, or following any Occupation Certificate for the residential component of Buildings B and C, whichever is the earlier~~ the Occupation Certificate of the final building under DA16/117 at 671 – 683 Gardeners Road, Mascot.. A copy of the registered document shall be submitted to Council for record purposes. **(DA-15/216/05)**

89

- (a) Amended stratum subdivision plans are to be provided to Council for review and approval which, along with an application for a Stratum Subdivision Certificate, bring the Stratum Subdivision Plan as referenced at Condition No. 1 into line with the approved plans and showing, but not limited to, the following:
  - (i) Removal of the child care centre and replacement with residential units;
  - (ii) Addition of the retail tenancy on ground floor at the corner of Kent Road and the pocket park;
  - (iii) Extension of the basement to the northern site boundary;
  - (iv) Removal of the 10 apartments within Buildings B and C (as per the JRPP deferral dated 28 April 2016);
  - (v) The communal park between Buildings B and C.
- (b) The Stratum Subdivision Certificate must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent, and submitted to Council following registration with the Land and Property Information Department, and must also include the following:
  - (i) 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 Development Consent No. 15/216.
  - (ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/216.
  - (iii) Responsibilities regarding the maintenance of the car wash bay(s) (as required by the Traffic Impact Assessment, prepared by ARUP) the Owners Corporation / building owner.

- (iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic 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 in accordance with a Plan of Management.
- (v) Responsibilities to ensure that 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.
- (vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
- (vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- (viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- (ix) 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;
- (x) Maintenance of required acoustic measures of Development Consent No. 15/216; and
- (xi) CCTV surveillance of all public areas within the development site.

90

- (a) Prior to the issue of any Occupation Certificate for the development, the Right-Of-Carriageway 7.0 wide, over Lot 31 in DP 789177 and benefiting Lot 30, DP 789177, is to be extinguished. The Right-Of-Carriageway is to be extinguished at no cost to the owner(s) of Lot 31, DP 789177 or to the Council.
- (b) Prior to the issue of any Occupation Certificate, 671-683 Gardeners Road (Lot 1 in DP 777315 and Lot 500 in DP 1030729) and 1-5 Kent Road (Lot 30 in DP 789177) must be consolidated and the consolidated title registered. (DA-15/216/02)

91 That before entering a lease/occupancy agreement, 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.

92 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 on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.

93 Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

- 94 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 95 Prior to the issue of any Occupation Certificate for any stage, street numbers shall be clearly displayed for that stage, with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 96 Prior to the issue of any Occupation Certificate for final stage, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- (a) A Floor Space Ratio (FSR) of 3.08:1 and height of RL 51m AHD (47.2m) as approved under this Development Consent No. 15/216, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
  - (b) The development as built, stands within Lot 30 in DP 789177.
- 97 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 98 Any damage not shown in the photographic survey as required under Condition No. 40 of Development Consent DA-15/215 (submitted to Council before excavation works have commenced), will be assumed to have been caused as a result of the site works undertaken as part of DA-15/215 or DA-15/216 and must be rectified at the applicant's expense, prior to the issue of the Occupation Certificate.
- 99 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 100 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed commercial and residential development. This shall be provided prior to the release of any Occupation Certificate.
- Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.
- 101 Landscaping on the property and in the current and future public domain must be installed in accordance with the revised landscape plans as approved by Council's Landscape Architect pursuant to Condition No. 53 and 54, prior to the issue of the interim Occupation Certificate for the relevant stage. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained up until the issue of the final Occupation Certificate, and then 12 months after the issue of the final Occupation Certificate, and in accordance with the Council stamped and approved landscape documentation and the conditions of development consent.
- 102 Landscaped areas in the public domain are to be maintained up until the issue of the final Occupation Certificate, and then 12 months after issue of the final Occupation Certificate.
- 103 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in

accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of the interim Occupation Certificate for the relevant stage.

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

- 104 For the purposes of car parking assessment, the commercial tenancy on the ground floor is approved for the use as commercial premises, including food and drink premises (other than a pub or small bar), in accordance with the definition in the Standard Instrument.
- 105 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.
- 106 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 107 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
  - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
  - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
  - (d) 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.
- 108 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
    - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
    - (ii) Before 7 am or after 10 pm on any other day.

- 109 All loading and unloading associated with the commercial/retail tenancy is to be undertaken within the ground floor of Building C.
- 110 The collection of garbage associated with the whole development (commercial and residential) shall be restricted to 6am to 6pm Monday to Sunday.
- 111
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
  - (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 112 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 113 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/216 dated as 13 November 2015 *and as amended by s96(1A) Modification Application DA-15/216/03 dated 15 September 2016* and as amended by s96(2) Modification Application DA-15/216/02 dated 15 September 2016 *and as amended by Section 96(1A) application (DA15/216/05) received by Council 15 February 2017* and that any alteration, variation, or extension to the use, would require further approval. (DA-15/216/03) (DA-15/216/02) (DA15/216/05)

## ADVISORY CONDITIONS

The following conditions are imposed by the **NSW Police Service**:

### Surveillance

- (a) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. All access areas to the building be covered by such equipment including mail delivery ports. This equipment needs to be checked and maintained on a regular basis.
- (b) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- (c) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- (d) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- (e) Main entrance of all parking, lift entries and lobbies to be covered with CCTV footage.
- (f) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.

- (g) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

#### Lighting

- (a) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- (b) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- (c) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
- (d) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- (e) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.

### Territorial Reinforcement

- (a) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- (b) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
  - (i) Warning, trespassers will be prosecuted
  - (ii) Warning, these premises are under electronic surveillance
- (c) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
- (d) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
- (e) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
- (f) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
- (g) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development or at least ground levels situated on the outsides of the buildings.

### Space/Activity Management

- (a) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
- (b) It is NOT advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access. All cages to be at least 8ft in height with adequate roofing, cages below this allow people access over the top.



Access Control

- (a) The door and door frames to these premises should be of solid construction.
- (b) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
- (c) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space.
- (d) The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- (e) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- (f) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard – Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- (g) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- (h) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift.

---

## Bayside Local Planning Panel

28/08/2018

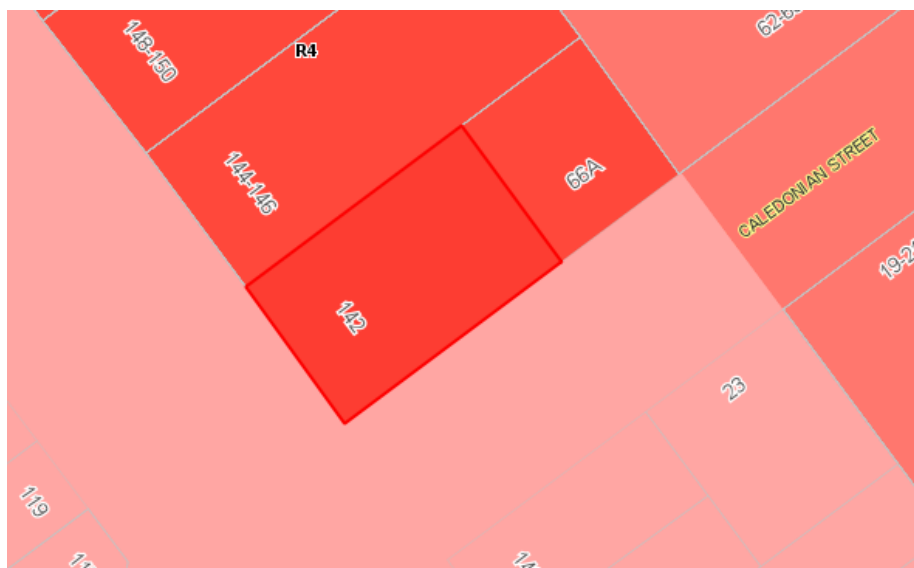
Item No	6.6
Application Type	Development Application
Application No	DA-2017/139
Lodgement Date	20/10/2016
Property	<b>142 Queen Victoria Street, Bexley</b>
Ward	Bexley
Owner	Aston (NSW) Pty Ltd
Applicant	Mr William Karavelas
Proposal	Construction of a four (4) storey residential flat building, comprising seven (7) units, basement level, strata subdivision and demolition of existing structures.
No. of Submissions	Five and a petition containing 71 signatures
Cost of Development	\$2,285,993
Report by	Michael McCabe, Director City Futures

---

## Officer Recommendation

- 1 That Development Application DA-2017/139 for construction of a four (4) storey residential flat building development, comprising 7 residential units, basement parking, and demolition of existing structures at 205-207 142 Queen Victoria Street, Bexley, be APPROVED pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, subject to conditions.
  - 2 That the objectors be notified of the Bayside Local Planning Panel's decision.
-

## Location Plan



## Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Draft Conditions [↓](#)
- 3 Original Planning Assessment Report [↓](#)
- 4 Applicant Response to Panel Deferral [↓](#)
- 5 Revised North-east and North-west Elevations [↓](#)
- 6 Revised Photo Montage (Issue C) Dark Roof [↓](#)
- 7 Revised Photo Montage (Issue C) Light Roof [↓](#)

---

## BAYSIDE COUNCIL

### Supplementary Planning Assessment Report

---

#### Application Details

---

<b>Item Number:</b>	<i>[By Governance]</i>
<b>Application Number:</b>	DA-2017/139
<b>Date of Receipt:</b>	20 October 2016
<b>Property:</b>	142 Queen Victoria Street, Bexley (Lot A DP 384344)
<b>Owners:</b>	Aston (NSW) Pty Ltd
<b>Applicant:</b>	William Karavelas
<b>Proposal:</b>	Construction of a four (4) storey residential flat building, comprising seven (7) units, basement level, strata subdivision and demolition of existing structures
<b>Recommendation:</b>	Approval
<b>No. of Submissions:</b>	Five in first round, including a petition with 71 signatures Four in second round
<b>Cost of Development:</b>	\$2,285,993.00
<b>Author:</b>	Brendon Clendenning, Creative Planning Solutions Pty Limited
<b>Date of Report:</b>	13 August 2018

#### Key Issues

---

On 10 July 2018, the Bayside Planning Panel (the Panel) considered this development application and resolved:

1. *That Development Application DA2017/139 for construction of a four (4) storey residential flat building development, comprising 7 residential units, basement parking, and demolition of existing structures at 205-207 142 Queen Victoria Street, Bexley, be DEFERRED and the applicant is requested to provide amended plans and supplementary documentation to address the relationship of the proposed building to surrounding development. In particular, the following matters are to be clarified:*
  - *site coverage;*
  - *setbacks;*
  - *deep soil zones; and*
  - *details of front fence construction.*

*The amended plans should address:*

- *privacy screens where required;*
- *the treatment of the balustrades;*
- *the resolution of the corner; and*
- *resolution of the roof element to level 4.*

*These matters were discussed with the applicant. In addition, the applicant should address the minimum width requirement of the DCP*

The application was recommended for refusal when the application was presented to the panel meeting of 26 June 2018, primarily because it was considered that the development would isolate the adjoining site at 66A Caledonian Street, and that the proposal had failed to satisfy the Land and Environment Planning Principles relating to site isolation.

The panel's resolution did not offer any position on whether the adjoining site at 66A Caledonian Street would become isolated as a consequence of the proposal, and whether this formed grounds for refusal. It is assumed that the panel were satisfied that the application could be approved, subject to the receipt of a satisfactory response to each of the issues outlined by the panel, and that the panel did not agree that the application should be refused on the basis of site isolation.

Therefore, this report has made no consideration of site isolation, and the recommendations within this report are made on this basis. Should the panel wish to further consider the issues relating to site isolation, then reference should be made to the original Assessment Report.

The Applicant has submitted amended plans and information to address the issues raised by the Panel at their meeting of 26 June 2018. The amended plans and information submitted have been reviewed, and the application is recommended for approval subject to conditions.

### Recommendation

---

1 That:

- (A) Development Application DA-2017/139 for construction of a four (4) storey residential flat building development, comprising 7 residential units, basement parking, and demolition of existing structures at 205-207 142 Queen Victoria Street, Bexley, be APPROVED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, subject to conditions.
- (B) That the objectors be notified of the Bayside Planning Panel's decision.

## Proposal

---

The applicant has submitted amended plans which have sought to address the issues raised within the panel's deferral. The changes were minor in nature and renotification of the proposal was not required. Each of the changes are discussed in the remainder of this report.

## Assessment of the Panel's deferment

---

At the Bayside Planning Panel meeting of 10 July 2018, the Panel resolved:

- 1 That this matter be DEFERRED to allow for greater clarity and certainty as to Council's vision for the precinct block and the applicant has agreed to a deferment to allow consideration of a number of outstanding issues. This period of time will also allow for all stakeholders and parties to be appropriately briefed and consulted.
- 2 That the objectors be notified of the Bayside Planning Panel's decision.

Compliance with the Panel's recommendation is discussed below:

### 1. Site Coverage

The previous assessment report outlined a point of contention in relation to the correct calculation of site coverage:

*Part 5.2 of RDCP 2011 requires a maximum building footprint of 35%. The applicant has provided a site coverage calculation of 251.68sqm (37.24% of site area), which is understood to have been calculated in line with the definition for site coverage within the RLEP 2011, although it is not clear if the applicant's calculations include balcony areas.*

*Part 5.2 refers to the 'building footprint' which includes not only the internal floor areas of the building, but also the balcony areas. Accounting for the footprint of the apartment building, and of the detached garbage room, the overall building footprint is estimated to be approximately 301.9sqm (45% of site area).*

*It is expected that compliance with the setback controls would provide a significant improvement to the proposed site coverage, and for this reason the proposed site coverage is not supported.*

In their response to Council, the applicant has maintained that the RLEP 2011 definition is the appropriate definition of site coverage, as there is no such term that is defined in the 'Definitions' section of RDCP 2011.

However, aside from its mention within the Dictionary adopted from the Standard Instrument, the term 'site coverage' does not appear anywhere within the RLEP 2011. The RDCP 2011 clause refers to the 'building footprint', which would ordinarily require the inclusion of balcony areas, and there is nothing within RDCP 2011 to contradict this understanding.

Notwithstanding, the original Assessment Report had indicated that compliance with the setback controls would provide a significant improvement to the proposed site coverage, and for this reason the proposed site coverage is not supported. Site coverage has been improved as a result of increased building setbacks to Caledonian

Street, and the applicant's response document indicates that proposal now falls below the 35% requirement (presumably based on the RLEP 2011 definition previously used by the applicant). The improvements to site coverage are sufficient to allow for any variation to the site coverage requirements to be supported, and the proposal is now considered to be satisfactory with respect to site coverage.

## 2. **Setbacks**

The previous report had outlined a number of setback non-compliances as outlined in the following:

*There are currently no four storey buildings at this intersection. Sites further away from the intersection are generally provided with larger setbacks, in line with the control.*

*It is acknowledged that reduced setbacks towards the intersection may be acceptable given the character of development at this intersection. However, the extent of the setback non-compliances is not acceptable for a development of this size, particularly given that the building is intended to be used completely for residential accommodation. The DRP had indicated that the street setback to Queen Victoria Street proposed within the original design may have been acceptable given the prominence of the site; however, the current arrangement is not supported. The DRP had also required a 3m wide landscape setback to Caledonian Street, but this has not been provided. A small non-compliance for the entry may be accepted however, the current arrangement is not appropriate.*

*The initial design featured larger setbacks to Queen Victoria Street which were considered acceptable; however, the current design seeks further non-compliances with the setback to Queen Victoria Street and is not compliant with the relevant controls. The setbacks to Caledonian Street have remained an issue since the initial design was provided, and the current setbacks are not supported.*

Commentary provided with the amended application is reproduced below:

### Caledonian Street

*Provided with this submission are plans that have increased the setback to the fire stairs by 300mm to 2.5m. Additional windows and ribbed concrete panelling is provided to the amended fire stairs street facade in order to avoid a blank wall that would typically be provided to the external treatment of fire stairs. Furthermore, it is noted that the adjoining lobby foyer windows are now setback 3m (originally 2.4m) and will allow for good passive surveillance opportunities, activation of the street frontage and acceptable building presentation.*

### Queen Victoria Street

*Council's assessment report states that the proposed setbacks to Queen Victoria Street have decreased since the design was reviewed by Council's Design Panel, however, this is misleading as the building setbacks have increased at ground level (although the plans did contain a typographical error as outlined above) to contain a large (3.9m) deep soil zone. Apartment balconies above ground level have setbacks ranging from 3.5m to 3.9m, however, these balconies were a change to the building requested by Council's planning staff to better activate the street frontages.*

Given the changes made to the Caledonian Street frontage and the discussion points above, the street setbacks are considered to be acceptable.

**3. Deep soil zones**

The original assessment report had indicated that the proposal provided in excess of 25% deep soil area, with the majority exceeding 3m in width. This is consistent with the requirements of the Apartment Design Guide.

A shortfall of deep soil area was not included within the reasons for refusal and this matter had not been raised by Council officers in the past. This issue may have been listed within the panel's decision, as during the meeting, the applicant had alluded to this matter as a basis for justification of the site coverage non-compliance.

**4. Details of front fence construction**

The information provided by the applicant incorrectly suggests that Council officers and the Design Review Panel had misread the plans in considering the streetscape presentation to Queen Victoria Street. The commentary provided from the applicant is reproduced below:

*Council's report is erroneous in stating that the OSD system is driving a design that incorporates a high wall to the street frontage. A correct reading of the plans reveals that the proposal includes a small masonry wall for the OSD system to the Queen Victoria Street frontage that has a height ranging from 300mm to 610mm. The plans have been amended to clarify the Queen Victoria Street elevation (including proposed wall height, finishes and landscaping), which is aided by the submitted photomontage.*

*An RL of 39.10 has also been added to the garbage storage area (which is located over 12m from the street boundary) indicating the height of the wall enclosure.*

The commentary above suggests that the concern related to the overall height of the fence, and that Council had misinterpreted the height of the wall to the private open space of Unit G.01, to be the height of the boundary wall outside the OSD system.

The concern within the report actually related to a lack of individual entries to the street in the context of the overall streetscape presentation to Queen Victoria Street. The lack of individual entries and the low boundary wall generally provide an inferior streetscape outcome than what would be provided were the OSD located elsewhere, and were this positioning not central in determining the streetscape outcome at Queen Victoria Street. This represents a non-compliance with Part 3C and Part 4L of the ADG.

However, for the following reasons this non-compliance is able to be supported:

- The streetscape presentation above the ground floor is generally satisfactory,
- The presentation to Caledonian Street is also satisfactory and provides individual entries to both ground floor apartments,
- Were an individual entry provided from Queen Victoria Street, then Unit G.01 would feature two individual entries from the street, as well as an entry from the foyer,
- It is intended that area within the frontage would be extensively landscaped. Such landscaped areas would be compromised by the location of an additional pedestrian entry, and



- The changes required to achieve compliance would equate to only one additional pedestrian entry to Queen Victoria Street, as well as the removal of the low OSD wall.

Although the Queen Victoria Street frontage is prominent in this location, for the reasons outlined above, the non-compliances created by the absence of a ground floor entry to Unit G.01 from Queen Victoria Street is able to be supported in these particular circumstances.

#### 5. **Plan details**

The panel had sought the following plan details:

- *privacy screens where required;*
- *the treatment of the balustrades;*
- *the resolution of the corner; and*
- *resolution of the roof element to level 4.*

The information provided from the applicant provides commentary on each of these matters as outlined below:

##### **Privacy Screens**

*New fixed privacy screens have been provided for bedroom 2 of unit 1.01 and 2.01. The proposal also provides sliding privacy screens on the north-western elevation of balconies on the first and second floors. These screens ensure there is visual privacy between units and the western adjoining development at Nos. 144-146 Queen Victoria Street.*

##### **Treatment of Balustrades**

*The treatment of balcony balustrades on the southern corner of the development has been clarified, with a note reading 'rendered & painted masonry balustrade' added to the elevations. The submitted photomontage demonstrates to Council and the BPP that the corner balustrades are majority solid elements for the future privacy of the residents.*

##### **Resolution of the Corner**

*As outlined above, including clarified notation on the plans, corrected typographical error for the building setback to Queen Victoria Street and amended photomontage.*

##### **Resolution of Roof Element**

*The roofs of the third floor balconies for Unit 3.01 have been reduced in thickness and size to appear more recessive in the building design and the face brick is proposed to be a dark finish (refer to the photomontage). This results in a recessed third floor and roof, reducing the overall bulk and scale of the development while not materially changing the amenity of residents.*

The changes to the roof elements are shown within the photomontages below.



Figure 1 Previously proposed front façade shown on the left, with the amended front façade shown on the right with the recessed roof element.

Note that some other changes are also shown within the photomontage, including the removal of three trees. No amended landscape plan has been provided and there it is assumed that these trees have been omitted from the updated photomontage for diagrammatic purposes only.

The information provided with the amended proposal has addressed these points appropriately, and the discussions above are generally agreed with.

#### 6. **Minimum width requirement of the DCP**

Commentary was provided below:

*Rockdale DCP 2011 requires a minimum lot width of 24m at the street frontage for residential flat buildings. The site has a frontage to Caledonian Street of 32.615m, and a frontage to Queen Victoria Street of 20.725m. The proposal provides for an efficient use of the site that will provide a high level of amenity for future occupants without having any unreasonable amenity impacts on existing surrounding development. The site is considered to be of a sufficient size for the proposed development and will not compromise the amenity of the adjoining sites.*

A discussion was included within the original Statement of Environmental Effects, suggesting that the Caledonian Street frontage was able to be considered as the primary frontage, as the DCP does not prescribe which frontage to consider on corner allotments. A submission was received which disputed this point, and it the previous report concludes had agreed with the objector submission.

The report also indicated that were the site amalgamated with the site to the north (i.e. 66A Caledonian Street), the dimensions of the amalgamated site would be consistent with the dimensions of nearby allotments containing existing residential flat buildings.

#### 7. **Other matters**

In addition to the matters specifically raised by the panel, further clarification is also provided on specific elements that were not discussed within the previous report. Note that aside from floor space ratio, none of these issues related to any non-compliant

elements of the proposal; the discussions below however have been included to provide a more complete understanding of the proposal.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposed development seeks the demolition of an existing residential building. On 4 July 2018, the applicant advised that there were three (3) dwellings within the development. Therefore, the building would meet the definition of a 'residential flat building' pursuant to RLEP 2011 and is reproduced as follows:

***residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

Part 3 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) outlines provisions for the retention of existing affordable housing. The ARH SEPP requires either the retention of residential flat buildings which contains dwellings that are below the median rental for the relevant Local Government Area, or that the removal of such dwellings from the available stock of affordable rental housing is otherwise offset by other affordable housing initiatives.

Within Part 3, Clause 50(2) outlines matters for consideration for the consent authority in relation to the removal of particular housing that may be classified as being affordable. The particular type of housing is that of dwellings that are within a residential flat building and that – within the preceding two years - was let for an amount below the median rental level for apartments which have the same number of bedrooms and are located within the same local government area.

Given the age of the building, it is considered that there is a strong possibility that at least one of the dwellings within the building meets the above criteria.

The matters outlined within Clause 50(2) that must be considered by the consent authority are reproduced below:

- (2) *In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:*
- (a) *whether there is likely to be a reduction in affordable housing on the land to which the application relates,*
  - (b) *whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,*
  - (c) *whether the development is likely to cause adverse social and economic effects on the general community,*
  - (d) *whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,*
  - (e) *the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,*

- (f) *the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,*
- (g) *whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,*
- (h) *in the case of a boarding house, the financial viability of the continued use of the boarding house.*

The original Statement of Environmental Effects contained information which sought to address this matter as follows:

*"The existing building lawfully only contains 2 dwellings and as such is not considered as a residential flat building. The existing building has also never been lawfully approved for use as a Boarding House. A boarding House is defined in the SEPP.*

*Clause 48 states that the SEPP applies to land within the Sydney region, i.e. the subject site.*

*Clause 49 describes the type of buildings that the provisions of the SEPP apply to. It states that this Part (being Part 3 of the SEPP relating to retention of existing affordable rental housing) only applies to those buildings that were low rental residential buildings as at 28 January 2000, and does not apply to any building that becomes a low-rental residential building after that date. Whilst the building was constructed before the 28 January 2000 it was not a building specifically containing 3 or more dwellings and defined as residential flat building. A consent was issued on the 30 June 2008 via DA-2008/266 "to convert the former corner store a residential flat and to make alterations to the two existing residential dwellings" however it has not been carried out. Regardless, this occurred after the 28 January 2000 as prescribed by the SEPP.*

*Therefore, the existing building is not recognised as a residential flat building. The building has not been lawfully approved to be used as either a boarding house or a residential flat building. In this regard the existing dwellings cannot be considered as a building for the purposes of Part 3 of the SEPP requiring retention of low cost housing".*

Details of the application referred to in the Statement of Environmental Effects are available on Council's DA tracker and are shown below:

**DA-2008/266**

Development Application - Conversion of an existing mixed use development to a residential flat building containing 1 x 1 bedroom unit, 1 x 2 bedroom unit and 1 x 4 bedroom unit with on-site parking for 5 vehicles

Status: Finalised

Lodged: 21/01/2008

Estimated Cost of Work: \$45,000

Determined: 30/06/2008

Approved by: Delegated Authority

It should be noted that the original proposal sought for the inclusion of two affordable rental dwellings, which were intended to be associated with a floor space ratio bonus. The current proposal does not seek to provide any affordable housing, and the amended Statement of Environmental Effects does not provide any commentary on the ARH SEPP.

As indicated earlier, the applicant had recently advised Council that the existing building currently accommodates three dwellings, which would equate to the use as a residential flat building. It is not clear whether the use of the site for three dwellings was commenced as part of DA-2008/266, or if it was commenced unlawfully. Notwithstanding, Council has investigated this matter and has confirmed that the application is not affected by Part 3 of the ARH SEPP, and that at the time DA-2008/266 was made, the site comprised of a disused shop at ground level, and two flats behind and above. This is generally consistent with the position put forward within the original SEE, and the Part 3 of the ARH SEPP does not apply to the proposal.

#### Strata subdivision

The proposal seeks strata subdivision of the proposed building. Plans of strata subdivision were not provided with the application, and a condition is recommended requiring these plans to be provided to Council prior to the issue of a Construction Certificate.

#### Floor space ratio

The previous report had indicated that the detached garbage room has not been accounted for within the calculation of floor space ratio; with an area of approximately 7.7sqm, the inclusion of that space would result in the overall development for the site exceeding the FSR requirement.

There are otherwise no significant issues associated with the garbage room, and were the application recommended for approval, a deferred commencement condition could be recommended requiring changes to the design of the garbage room in order to achieve compliance with the FSR standard. The amended plans show the deletion of the roof to this space, and a reduction in the height of the external walls. As the garbage storage area no longer constitutes Gross Floor Area (and would therefore no longer be included within the FSR calculations), the proposal would comply with the standard.

#### Development within the vicinity of a heritage item

Clause 5.10(5) of the RLEP 2011 states that the consent authority may, before granting consent to any development on land that is within the vicinity of a heritage item, require

a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.

The nearest items of heritage significance are the street plantings in Caledonian Street (I107) and Queen Victoria Street (I156), each being items of local significance. Continuous substantial plantings line each of these streets; for this site however, there are minimal substantial plantings located at the Caledonian Street frontage, with no trees located at the Queen Victoria Street frontage. Although, the proposal allows for the retention of the small trees located within the Caledonian Street frontage; there were concerns that any future development on the isolated site would compromise the retention of trees fronting that site. Council has not sought a heritage management document from the applicant. However, as indicated earlier within the report, no consideration of site isolation has been made for the purposes of this supplementary report, and on this basis the application satisfies Clause 5.10.

#### Development in areas subject to aircraft noise

Clause 6.3 of the RLEP 2011 requires that the consent authority consider the effect of aircraft noise on development located on land that is affected by an ANEF contour of 20 or greater.

The development is on land that is located between the 20 and 25 ANEF (2033) contours. Further, the development will result in an increase in the number of dwellings or people affected by aircraft and in accordance with this clause, the proposed development requires noise mitigation measures.

The proposal was accompanied by an Acoustic Assessment (prepared by Acoustic Logic and dated 11 October 2016) which addresses the matter of aircraft noise and details noise amelioration measures to be incorporated into the construction of the development, in order to minimise aircraft noise impacts to future occupants in compliance with the Australian Standards for indoor design sound levels. The proposed development complies with the requirements and objectives of this clause. Furthermore, a condition is recommended within the draft schedule of conditions that would require the development to meet the Australian Standards for indoor design sound levels.

#### Adaptable Dwellings

Section 4.5.1 of the RDCP 2011 indicates that one adaptable dwelling is required where less than 10 dwellings are proposed. Unit G.02 is proposed as an adaptable dwelling, and the proposal subsequently complies with this requirement.

## **Conclusion**

---

The issues raised by the Panel at their meeting of 10 July 2018 have been addressed. Additional information has been provided in this supplementary report, and amended plans submitted to Council have been assessed and are considered to address issues raised by the Panel and result in an improved outcome for the site. Therefore, it is recommended that the Panel consider the amended plans and determine the application in accordance with the recommendation provided in this Supplementary report to approve the application.

## Bayside Council Conditions Summary

### 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.	Issue No.	Dated	Received
<b>ARCHITECTURAL PLANS – prepared by Cornerstone Design</b>			
Site Analysis Plan – DA 01	B	20 April 2018	1 May 2018
Basement Plan & Ground Floor Plan – DA 02	D	24 July 2018	31 July 2018
First Floor Plan & Second Floor Plan – DA 03	D	24 July 2018	31 July 2018
Third Floor Plan & Roof Plan – DA 04	D	24 July 2018	31 July 2018
Elevations – DA 05	D	24 July 2018	31 July 2018
Elevations – DA 06	D	24 July 2018	31 July 2018
Section & Driveway Profile – DA 01	D	24 July 2018	1 May 2018
Schedule of Finishes			20 October 2016
Photomontage			30 April 2018
<b>LANDSCAPE PLANS – prepared by Zenith Landscape Designs</b>			
Landscape Plan – 16-3278 LO1	A	19 April 2018	1 May 2018
Existing Tree Plan – 16-3278 LO2	A	19 April 2018	1 May 2018
<b>DRAINAGE PLANS – prepared by United Consulting Engineers</b>			
Drainage Plan - 16MB7166/D01	B	6 April 2018	1 May 2018
Ground Floor and Basement Drainage Plan - 16MB7166/D02	B	6 April 2018	1 May 2018

Soil & Water Management Plan - 16MB7166/SW01	B	6 April 2018	1 May 2018
BASIX CERTIFICATE – prepared by Building & Energy Consultants Australia			
761061M_02	-	30 April 2018	1 May 2018
Other			
Schedule of Finishes	A	undated	31 July 2018

Where there is any inconsistency between the plans prepared by Cornerstone and the plans prepared by either Zenith Landscape Designs or United Consulting Engineers, the plans prepared by Cornerstone Design shall prevail.

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 761061M\_02 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. The balconies and courtyard areas 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. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
9. 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 S4.55 application and approval under the EP&A Act.
10. 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.
11. 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**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments 1 space per



apartment

3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

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 4.18(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.

12. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) 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.
- b) A lighting maintenance policy shall be established for the development. 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.
- c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- d) Graffiti resistant materials shall be used to ground level external surfaces.
- e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

13. 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.

14. 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.

15. 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.
16. 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.
17. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
18. (b) In order to ensure the design quality | excellence of the development is retained:
- i) A registered architect 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 issue of the Construction Certificate.
- (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
19. Services
- (a) Fire Boosters - The fire hydrant booster valves shall not be located on a corner. They should be located in a discreet location and shall be enclosed by a door. The door shall be provided with appropriate locks and signage in accordance with AS2419.1. The details of the location and structure shall be provided to Council for approval prior to the issue of the construction certificate.
- (b) Substation - If a substation is required by Ausgrid, a s4.55 modification application will be required.
- (c) Antenna / Satellite Dishes - The proposal may include the installation of a single master antenna for the development in accordance with Controls C1 and C2, Part 4.7 of RDCP 2011. No further antennas or satellite dishes may be installed without obtaining further approval (unless permitted as exempt development).
- (d) All vertical plumbing shall be concealed within the brickwork of the building. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
20. 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.
21. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip

- resistance on both private and Council property.
22. 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.
23. 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 (including installation) 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.
24. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling. Details shall be shown in the Construction Certificate documentation.

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

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

25. 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 \$22,745. 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 \$18.00.
26. 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.
27. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior

to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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.

28. A Section 7.11 contribution of \$43567.61 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 7.11 contributions plan in the following manner:

Open Space	\$37,663.7	
Community Services & Facilities	\$1,988.29	
Town Centre & Streetscape Improvements	\$747.28	
Pollution Control	\$2,948.6	
Plan Administration & Management	\$219.74	

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

29. Acoustic requirements

a) 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, and for bedrooms.

b) The walls separating one sole occupancy unit from another or one sole occupancy unit from a corridor, staircase, plant room, or lift shaft shall comply with AS/NZS 1276.1.

c) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

d) A report shall be submitted to the Principal Certifying authority for approval prior to the issue of the relevant Construction Certificate. The report is to include details of compliance with BCA requirements and the requirements listed above. Floor coverings within apartments shall be identified within the report.

e) 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 report required by (d) above satisfies the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

30. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within one (1) 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 is to be unit number G.02. 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.

31. 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>

32. An investigation by a suitably qualified geotechnical engineer shall be carried out to determine the level of groundwater at the site and whether it is likely that groundwater will be encountered during works. If the geotechnical engineer determines that groundwater is likely to be encountered, then the applicant must consult with NSW Department of Industry – Water to determine whether an Activity Approval is required pursuant to the Water Management Act 2000. All below ground structures shall be tanked up to 1m higher than any investigated groundwater table.

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.

33. Prior to the issue of the Construction Certificate, the design and construction of the off-street car & bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer.
- (a) Car Wash Bay - The required car wash bay shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay.
  - (b) Parking spaces must 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 AS2890.1.2004.
  - (c) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of the Standard.
  - (d) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of

*AS/NZS2890.1-2004.*

34. A geotechnical investigation shall be carried out to determine the level of groundwater. All below ground structures shall be tanked up to 1m higher than any investigated groundwater table.
35. Prior to the issue of the construction certificate, a Soil and Water Management Plan (prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils) shall be submitted to the Principal Certifying Authority and enacted prior to the commencement of work
36. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
37. Prior to the issue of a construction certificate, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves or improves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*.
38. Prior to the issue of the construction certificate - the approved landscape plan shall be amended as follows:
  - a) The *Lomandra longifolia* proposed along the north western boundary, between the adjoining property and the proposed driveway, shall be replaced with *Syzygium 'Cascade'* to provide screening to private open spaces areas of units facing to the north-west.
  - b) Details on any retaining wall required for the change in levels in the vicinity of the north-eastern boundary are to be provided.
  - c) Retaining walls higher than 600 mm in height require construction details and specifications from a certified structural engineer.
39. The approved landscape plan shall be amended as below. The amended landscape plan shall be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.
  - a) The *Lomandra longifolia* proposed along the north western boundary, between the adjoining property and the proposed driveway, shall be replaced with *Syzygium 'Cascade'* to provide screening to private open spaces areas of units facing to the north-west.
  - b) Details on any retaining wall required for the change in levels in the vicinity of the north-eastern boundary are to be provided.Note: Retaining walls higher than 600 mm in height require construction details and specifications from a certified structural engineer.

**Prior to commencement of works**

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

40. 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.
41. 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.

42. 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.

43. 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.

44. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines where possible around each tree or group of trees, including street trees, which is required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
45. 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.
46. 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.
47. 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.

48. (a) 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,
- (b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
- (c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.
- The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -
- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.
- (d) The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
49. 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.

50. 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.
51. 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.

52. 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.

53. 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.
54. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
55. 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.

56. 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.
57. 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.
58. 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.
59. 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.
- 60. 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.
- 61. All existing trees located within the site may be removed.
- 62. No other trees located within adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 63. 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.
- 64. 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.
- 65. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- 66. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
- 67. If groundwater is encountered, all work must cease on the site and an application be

made and approval obtained from NSW Office of Water for a controlled activity to interfere with the groundwater/Aquifer.

### **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.

68. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
69. 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.
70. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
71. 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.
72. 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.
73. 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.
74. The width of the single driveway shall be a minimum of 3 metres and a maximum of 4.5 metres.
75. 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.

76. 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.
77. The noise reduction measures specified in the noise report required under condition 29 of this consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
78. 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.
79. Prior to occupation a suitably qualified 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.
80. 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.
81. The drainage system shall be constructed in accordance with the approved drainage plans. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided 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.

82. Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

**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.

83. The subdivision is to occur in accordance with Development Consent No. DA-2017/139 and any subsequent Section 4.55 modifications, particularly in regard to conditions, which have not yet been satisfactorily completed prior to release of the Subdivision/ Strata Certificate.
84. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
85. As construction of the building nears completion, or after it has been completed, council or an accredited certifier shall inspect the building, and the common property areas around the building so as to be satisfied that:
  - The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed.
  - The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building.
  - Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
86. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.
87. All visitor car parking spaces are to be clearly shown as common property on the Subdivision/Strata Certificate for the strata subdivision.
88. A Strata by-law shall be registered and maintained for the life of the development, which requires that:
  - a) An owner of a lot must ensure that the lot complies with the acoustic conditions for floors as specified in this consent;
  - b) 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.

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

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

#### **89. AUSGRID CONDITIONS**

##### Method of Electricity Connection

The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.

##### 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 style and;
- site conditions or other issues that may 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.

##### 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**

##### Overhead Powerlines

There are existing overhead electricity network assets in Queen Victoria Street and Caledonian 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 to the locating and operations of cranes and the location of any scaffolding. The developer is to ensure that Tiger Tails are fitted to the existing overhead low voltage mains adjacent to the construction site for the duration of construction.

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). In particular the South Eastern corner of the development is expected to be in close proximity to existing overhead LV mains.

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.

##### Underground Cables

There are existing underground electricity network assets in Queen Victoria Street and in Caledonian 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 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.

Please do not hesitate to contact Adam Bradford on Ph: (02) 93946627 (please quote our ref: Trim 2017/7/8) should you require any further information.

### **Roads Act**

90. The following works will be required to be undertaken in the road reserve at the applicant’s expense:
  1. construction of new concrete vehicular entrance/s;
  2. removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  3. Reconstruction of footpath fronting the site on both street frontages including Queen Victoria street and Caledonian Street.
  4. Removal of asphaltic concrete paving located between kerb and footpath fronting Queen Victoria Street and replace it with grass vegetation.
91. 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.
92. 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.
93. 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.
94. 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. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment

Protection Authority), together with the relevant regulations, including:

- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- d. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- e. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

Application Number:	DA-2017/139
Date of Receipt:	20 October 2016
Property:	142 Queen Victoria Street, Bexley
Lot & DP/SP No:	Lot A in DP 384344
Owner:	Aston (NSW) Pty Ltd
Applicant:	William Karavelas
Proposal:	Construction of a four (4) storey residential flat building, comprising seven (7) units, basement level, strata subdivision and demolition of existing structures
Value:	\$2,285,993
Recommendation:	Refusal
No. of submissions:	Five in first round, including a petition with 71 signatures; four in second round
Author:	Brendon Clendenning, Creative Planning Solutions Pty Limited
Date of Report	27 June 2018

#### Key Issues

Council received Development Application No. DA-2017/139 on 20 October 2016 seeking consent for the construction of a four (4) storey residential flat building comprising 8 residential units, basement car parking and demolition of existing buildings, at 142 Queen Victoria Street, Bexley. The original proposal sought a floor space ratio bonus under *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP), but as the site did not strictly meet the necessary public transport frequency criteria associated with the floor space ratio bonus, an amended application was later submitted which sought consent for 7 residential units.

The application is recommended for refusal, primarily because granting consent to this application would isolate the site at 66A Caledonian Street, Bexley, which adjoins to the north-west. Council has required the applicant to demonstrate that the proposal can satisfy the Land and Environment Court planning principles in relation to site isolation, namely that 66A Caledonian Street can be developed in isolation, in an economic and orderly manner.

A schematic development was submitted to Council on 25 June 2018, over 20 months after lodgement of the application; however, there are numerous issues associated with the schematic development, and it is unlikely that such a development proposal would receive development consent.

The application also continues to seek a small floor space ratio non-compliance, associated with the garbage room that was previously proposed within the basement, but has been relocated to the ground floor where it is included within floor space ratio calculations. Were the application not recommended for refusal, a deferred commencement condition requiring minor design amendments would remove this non-compliance.

In addition, the application did not properly demonstrate that groundwater would not be encountered as part of the basement excavation, and as a consequence, it is not clear whether the development would require an aquifer interference activity approval pursuant to the *Water Management Act 2000*. However, this matter could potentially be addressed prior to excavation.

Other issues also remained unaddressed, being non-compliances with setbacks and site coverage requirements.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal, for the reasons outlined with the Recommendation below.

### Recommendation

---

That:

- 1 Development Application DA2017/139 for construction of a four (4) storey residential flat building development, comprising 7 residential units, basement parking, and demolition of existing structures at 205-207 142 Queen Victoria Street, Bexley, be REFUSED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, for the following reasons:
  - a. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the following requirements of the Apartment Design Guide, as required by Clause 28(2)(c) of *State Environmental Planning Policy 65 Design Quality of Residential Apartment Development*:
    - i. 3C – Public Domain Interface
    - ii. 3F – Visual Privacy
    - iii. 4A – Solar Access
    - iv. 4L – Ground Floor Apartments
  - b. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the following requirements or objectives of *Rockdale Local Environmental Plan 2011*:
    - i. Clause 2.3 – Zone Objectives
  - c. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does

not comply with the objectives and provisions of *Rockdale Development Control Plan 2011* including:

- i. 4.1.9 – Lot Size and Site Consolidation
  - ii. 4.2 – Streetscape and Site Context
  - iii. 5.2 – Residential Flat Buildings
- d. Having regard to the abovementioned non-compliances and pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory and creates unreasonable impacts on the locality.
  - e. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the suitability of the site for the proposed development has not been adequately demonstrated.
  - f. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.
- 2 The objectors be advised of the decision of the Panel.

## Background

---

### **20 October 2016 – DA-2017/139 submitted to Council**

Construction of a four (4) storey residential flat building comprising 8 residential units, basement car parking, front fence and demolition of existing buildings.

### **26 October 2016 – 10 November 2016 - Public notification of proposal**

### **16 November 2016 – Consideration by Design Review Panel (DRP)**

The panel provided a range of recommendations which are discussed elsewhere in relation to SEPP 65.

### **November 2016 - April 2018 – Correspondence - Site Isolation**

Council officer and applicant communicated in regard to the site isolation issue and additional information was submitted by the applicant including valuations from neighbours.

### **30 January 2017 – Tree management officer referral response**

The tree management officer noted that the existing trees are generally insignificant in the landscape and may be removed and that substantial replacement planting is to be provided in the proposed landscape works. Conditions were recommended requiring protection of trees located in the nature strip adjacent to the site and trees within adjoining properties.

**13 February 2017 – Ausgrid referral response**

No objections; conditions provided.

**8 October 2017 – Request for further information**

A letter sent to applicant regarding several deficiencies in the proposal. These dealt with various non-compliances with the specific design criteria and design guidance prescribed within the Apartment Design Guide, streetscape, landscaping, transport criteria and floor space ratio bonus, parking, communal open space, site isolation, groundwater, setbacks, acoustic impacts, site coverage and architectural plans. Other information was also sought such as an apartment schedule and updates to the architectural plans.

**19 September 2017 – Engineer referral response**

The engineering response indicates that further information was required relating to parking. Council's engineer indicated that the borehole depths were not sufficient to identify whether groundwater would be encountered during construction and a revised geotechnical report was requested.

**28 September 2017 – Meeting with applicant held at Council offices****3 February 2017 - Sydney Water referral response**

Conditions were recommended, including those associated with the proximity of the proposed development to Sydney Water assets.

**1 November 2017 – Submission of draft amended plans for comment**

The draft amended plans were indicative only, and no written information was provided.

**7 November 2017 – Response issued to draft amended plans**

The response indicated that the issues had been partially addressed.

**24 April 2018 – Applicant advised that amended plans must be submitted by 1 May 2018 or application will be recommended for refusal.****1 May 2018 – Submission of amended plans**

The amended proposal included a significant reduction in floor space, as the floor space ratio bonus available under the ARHSEPP was no longer sought. The amended proposal also

included deletion of one of the apartments to the fourth floor, and changes to parking and communal open space.

**9 May 2018 – 23 May 2018 – Second public notification period**

**31 May 2018 – Engineer referral response**

In response to the amended application, the engineer indicated that there were no issues outstanding. It is noted that no further consideration of the groundwater matters was made as part of this engineering assessment. These matters are discussed elsewhere within this report.

**31 May 2018 – Landscape Referral Response**

The landscape referral indicated that the issues with the landscaped plans had generally been addressed. Issues relating to retaining walls and communal open space are discussed elsewhere within this report.

**31 May 2018 – Tree management officer referral response**

The conclusions of the tree management officer were generally in line with those from the initial referral.

**21 June 2018 – Further amended proposal submitted**

The proposal was amended to allow for a small reduction in floor space, which was mostly sufficient to achieve compliance with the FSR control (with the exception of the detached garbage room). Notification was not required.

**25 June 2018 – Plans provided depicting a schematic development at 66A Caledonian Street.**

This information was originally requested by the Design Review Panel on 16 November 2016. The plans depict a four storey boarding house and this is discussed in further detail elsewhere within the report.

### **Site Description**

The site is known as 142 Queen Victoria Street, Bexley. It comprises one lot legally described as Lot A in DP 384344.

The site is located on the north eastern corner of Queen Victoria Street and Caledonian Street.

The site is rectilinear in shape and has an area of 675.9sqm. It has a frontage of 20.725m to Queen Victoria Street and a secondary street frontage of 32.615m to Caledonian Street.

The site experiences an approximate 2.67m fall from the northern most point in a southern direction towards the intersection of Queen Victoria Street and Caledonian Street. A tree is located in the front setback, while a row of five (5) trees are located within the road reserve along Caledonian Street.

The existing building is provided with vehicular access from Queen Victoria Street and the site is affected by Class 5 Acid Sulfate Soils.

The site is located to the south of Forest Road, which runs directly to Hurstville's commercial centre, and west of Kogarah and Rockdale train stations, providing access to several other commercial and city centres. The site is serviced by buses on nearby streets, including Queen Victoria Street and Caledonian Street, and is situated approximately 1km north-west of Kogarah Railway Station.

In this location, the north-eastern side of Queen Victoria Street is characterised by three storey residential flat buildings, and the south western side of Queen Victoria Street is primarily characterised by single and double storey residential dwellings. The three allotments to the north-east which front Queen Victoria Street are approximately 50m in length, and are each generally provided with similar dimensions and similarly located apartment developments. The amalgamation of the subject site with the property at 66A Caledonian Street would provide an allotment of dimensions that are consistent with those properties.

The northern and southern side of Caledonian Street is characterised by single residential dwellings. The site is located at an intersection whereby three of the four buildings (including the existing building at the subject site) are located with a nil setback to both Queen Victoria Street and Caledonian Street. These buildings appear to have been designed with ground floor commercial premises, although only the building at 140 Queen Victoria Street appears to still be in operation for that purpose.

### Description of Development

The development application, DA-2017/139 at 142 Queen Victoria Street, Bexley, seeks consent for the construction of a four (4) storey residential flat building development, comprising 7 residential units, basement level, and demolition of existing structures.

The key development statistics and details of the proposal are outlined below:

<b>Site area</b>	675.9sqm (survey)
<b>Site dimensions</b>	<ul style="list-style-type: none"> <li>• Frontage/width: 20.725m</li> <li>• Length: 32.615m</li> </ul>
<b>Gross floor area</b>	Approx. 675.9sqm
<b>Floor space ratio</b>	1:1
<b>Building Height</b>	Approx. 13.5m
<b>No. of Apartments</b>	Three (3) x 2-bedroom Four (4) x 3-bedroom Total: 7 apartments



<b>Apartment sizes</b>	76.13sqm – 97sqm
<b>Private Open Space sizes</b>	23.48sqm – 163.83sqm
<b>Communal Areas</b>	No communal open space provided

#### *Built form*

The proposed built form consists of a four (4) storey building, roughly rectangular in shape. The building includes a flat roof. The building contains a lift core and stair core, accessed from the common lobby, providing access to each level, including the basement.

The proposal seeks non-compliances with the required setbacks to both Queen Victoria Street and Caledonian Street.

#### *Internal layout and facilities*

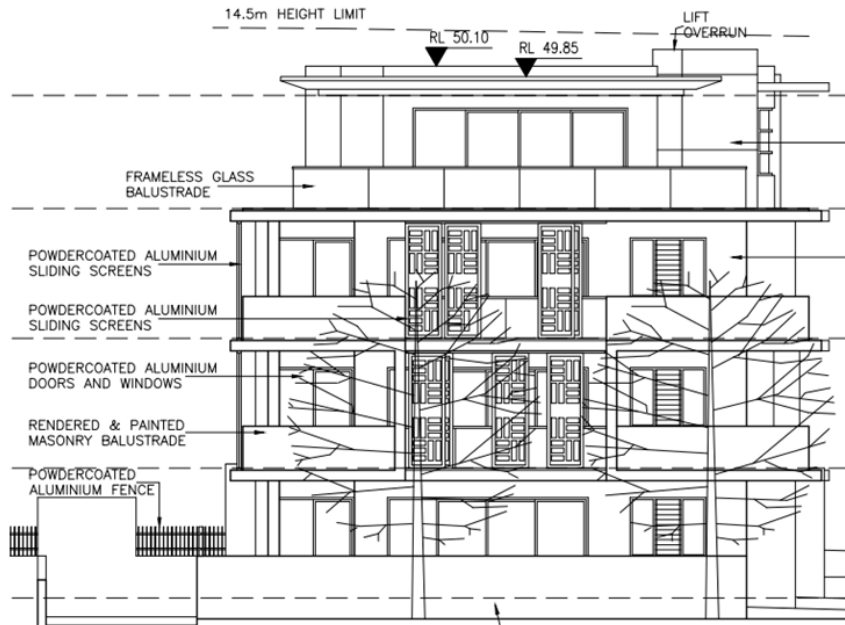
The development consists of 7 units with a mix of 2-bedroom and 3-bedroom units. The Ground Floor, Level One and Level Two each contain two units, while Level Three provides a floor plate containing one unit, surrounded by balconies on all sides. All units contain a combined kitchen, dining, and living areas, which adjoin balconies or terraces. Separate bathroom and WC areas are provided to each apartment, with laundries proposed separately to the bathrooms.

#### *Basement*

The development includes a single level of basement car parking which comprises 13 parking spaces, including 12 resident car parking spaces with one being for disabled parking space, as well as one visitor car parking space, and one motorbike space. A shared zone and a store room are also provided within the basement, with the lift and stairwell providing pedestrian access to the building above. Vehicular access to the basement is provided off a driveway to Queen Victoria Street, and the car park is arranged in a single aisle. The basement has setbacks which are not entirely consistent with the setbacks of the buildings, being an 800mm side setback to the north-western side boundary, which is largely dictated by the driveway entry being situated as far as possible from the intersection.

#### *Materials and finishes*

The materials and finishes of the development include a mixture of face brickwork and rendered and painted masonry. A combination of masonry and frameless glass balustrades are used throughout the balconies within the development. Powder coated aluminium sliding privacy screens are proposed to Level 1 and Level 2 balconies facing Queen Victoria Street. The Queen Victoria Street elevation is shown within *Figure 1*.



**Figure 1 Queen Victoria Street Elevation (Cornerstone Design, 2018)**

*Trees and landscaping*

One (1) existing tree identified on the survey in the western corner frontage is proposed to be removed. Five (5) street trees located along the Caledonian Street frontage are proposed to be retained.

The primary areas of landscaping on the site are proposed along the length of the north-western side boundary, with a common grassed area located at the rear of the site. Scattered landscaped areas are also located along the majority of the frontage and south eastern side boundary.

## 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 (Building Sustainability Index: BASIX) 2004**

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP and BASIX certification. A BASIX certificate has been submitted with the amended proposal provided on 31 May 2018 in accordance with the provisions of this SEPP. Given the minor nature of the final design amendments, a further amended certificate was not requested.

The BASIX certificate demonstrates the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate.

In this regard, the proposal satisfies the provision and objectives of this SEPP.

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

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

The proposed development is to be carried out within 5m of an overhead electricity power line, and involves the penetration of ground within 2m of an underground electricity power line and distribution pole. Pursuant to Clause 45(2), the consent authority must take into consideration any response issued by the electricity supply authority, being Ausgrid.

Ausgrid has provided recommended conditions in relation to the overhead powerlines, underground cables, and various other matters relevant to electricity supply.

#### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

As part of the application one (1) tree is to be removed from the site to accommodate the proposed development. This tree is of low to medium retention value. Five (5) street trees to the Caledonian Street frontage of the site are proposed to be retained.

Council's Tree Management Officer has reviewed the original application and raised no objection to the proposed tree removal. Accordingly, the proposal is considered to satisfy this policy.

#### **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 4.1.5 Contaminated Land of the *Rockdale Development Control Plan 2011*. 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 and commercial purposes.
- 2 The adjoining and adjacent properties are currently used for residential purposes.
- 3 The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

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

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

SEPP 65 requires Council to consider the design quality of residential flat buildings comprising of three or more storeys and including four or more dwellings. In accordance with SEPP 65, before determining any development application subject to SEPP 65, the consent authority must consider the following:

- (a) the advice (if any) obtained from the design review panel,
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

#### **Advice from Design Review Panel**

The proposed development was originally considered by the St George Design Review Panel (DRP) at a meeting held at Council's offices on 16 November 2016. The DRP recommended several changes be made to the proposal in order to satisfy the nine (9) design quality principles of SEPP 65. The applicant provided amended architectural plans which partly responded to these issues, but the proposal was not again referred to the DRP.

The recommendations of the DRP are highlighted below, followed by a comment outlining the corresponding amendments made by the applicant:

- a) **DRP comment:** The proposal is for a significant building compliant with Council Controls (including Affordable SEPP bonus) however quite different in height and bulk to most of the development in the immediate vicinity which is predominately one and two storey cottages, some town houses and three and four storey walk-up flats. Consequently, the proponent needs to take care that the development sits comfortably within this context.

**Assessment consultant comment:** The proposal has since been amended such that no FSR bonus is sought. Despite this, the proposal is still not appropriate within its context, largely because of the issues associated with site isolation, and the related non-compliances discussed later in this report.

- b) **DRP comment:** The proposal isolates the property at 66A Caledonian Street to the north. This is a small site and the last remaining R4 zone site. The proponent has not demonstrated the capacity of this site to redevelop on its own and how their proposal could best interface with this site in the future.

**Assessment consultant comment:** Further discussion is provided elsewhere in this report in relation to site isolation.

- c) **DRP comment:** The side setback to the north is 4.5 metres wide for half of the length of the building and this does not comply with the ADG. This should comply with the ADG separation.

**Assessment consultant comment:** Although some design changes have been made, this remains non-compliant and is discussed in relation to site isolation.

- d) **DRP comment:** A 3 metre landscape setback should be provided on Caledonian Street. This should be clear of all structures including terraces, walls, stairs etc.

**Assessment consultant comment:** This remains non-compliant and is discussed further in relation to the requirements for street setbacks within the RDCP 2011.

- e) **DRP comment:** The proposed setback to Queen Victoria Street as currently shown is supported because of the prominent corner location and the verge built out in the street.

**Assessment consultant comment:** The extent of this non-compliance has been increased, and this is discussed further in relation to the requirements for street setbacks within the RDCP 2011.

- f) **DRP comment:** Blank walls to street edges as shown in the Queen Victoria Street frontage is not supported. This needs to be redesigned to reduce the height of the boundary wall and provide new access stairs to the street for Unit 1. Stormwater detention should not dictate the resolution of this important corner and should be relocated, such as underneath the driveway. The streetscape interface should be predominately planting, and incorporate well resolved stair access to the ground level apartment.

**Assessment consultant comment:** The proposal provides an OSD basin within the Queen Victoria Street setback, which requires the provision of surrounding retaining walls

to allow for surface water storage. It is clear that the method of stormwater detention has dictated the approach to the design of the intersection and this arrangement is not supported.

- g) **DRP comment:** The common open space on the eastern boundary is not supported. This should be relocated to minimise impacts on neighbouring ground floor residents. The Panel supports a rooftop space in spite of the fact this may intrude upon Council's height control. This may be improved by re-planning the lift core location to minimize the visual impacts.

**Assessment consultant comment:** The communal open space has been deleted. No rooftop space is proposed. The shortfall in communal open space is supported given the number of units proposed in the development, and the generous size of each private open space area.

- h) **DRP comment:** As one of the last remaining apartment sites in this low scale context, the transition of the building form in response to the surrounding context is important. The building form should emphasize a 3 storey datum with a less prominent top floor to facilitate this transition.

**Assessment consultant comment:** The floor plate to the top floor has been significantly reduced as a consequence of the redesign, and the proposal has appropriately addressed this recommendation.

- i) **DRP comment:** Unit 1 and above could be improved for solar access by re-planning and potentially by relocating the living room to the Queen Victoria Street frontage. This would enable a more generous north facing window for the living room and reduce overlooking of the adjacent properties.

**Assessment consultant comment:** This recommendation has been accommodated.

- j) **DRP comment:** The reconfiguration of the building footprint particularly the 3 metre set back to Caledonian Street is critical to achieving a high quality landscape to the public domain. Likewise the resolution of the southern boundary to Queen Victoria Street, in relation to the top of wall height is critical to improve the street edge. This should present as predominately low scale walls with planting to the street.

**Assessment consultant comment:** This matter has not been addressed; refer to discussion in relation Part 5.2 of the RDCP 2011.

- k) **DRP comment:** Streetscape improvements should be undertaken as part of this proposal and should include the provision of new street trees on Queen Victoria Street verge. Species should match existing street trees.

**Assessment consultant comment:** The amended plans were assessed by Council's landscape architect and the species selection was deemed to be acceptable.

**DRP comment:** Deep soil zones need to incorporate large trees with a priority on fast growing species to provide an appropriate interface to surrounding properties. Water gums do not fulfil this criteria.

**Assessment consultant comment:** The amended plans were assessed by Council's landscape architect and deemed to be acceptable, subject to conditions requiring minor changes.

l) **DRP comment:** The Panel has the following concerns with the apartment layouts:

- The entry to Unit 1 and above is convoluted and should be more generous for a 3-bedroom apartment.
- The circulation pattern between rooms in Unit 1 and above limits furniture layout options. The above recommendation to relocate the living room to the street frontage would assist in resolving the layout.
- The study in units 5 and 7 could be re-planned to eliminate some walls and improve use and circulation.
- The laundry in Units 2 and above should be relocated to the store room and out of the main living area.

**Assessment consultant comment:** These recommendations have been accommodated within the redesign.

m) **DRP comment:** The unit mix is not to Council's specification but is appropriate for the context.

**Assessment consultant comment:** Unit mix non-compliance is discussed elsewhere and is supported.

n) **DRP comment:** The vertical green blades accentuate the height, have no apparent function and are not appropriate. They should be removed.

**Assessment consultant comment:** These elements have been deleted.

o) **DRP comment:** The Panel notes there is an opportunity to utilise the rooftop as an additional communal space, and would support a height exceedance for extension of lift tower and pergola structure in order to provide a high quality rooftop communal garden noting that the height of this space in relation to the adjacent roof areas means it would could be easily designed to not overlook adjacent dwellings.

**Assessment consultant comment:** No rooftop communal open space is proposed.

p) **DRP comment:** Re-planning Unit 1 as above provides an opportunity to redesign the façade to create a more appropriate corner.

**Assessment consultant comment:** Accommodated as described above.

**Design Quality Principles**

The following comments provide a general discussion of the response of the proposal to the design quality principles. These comments are partly informed by the commentary provided by the Design Review Panel.

Principle	Comment
<p><b>Context</b></p>	<p>The site is located at an intersection whereby three of the four buildings (including the existing building at the subject site) are located with a nil setback to both Queen Victoria Street and Caledonian Street. These buildings appear to have been designed with ground floor commercial premises, although only the building at 140 Queen Victoria Street appears to still be in operation for that purpose.</p> <p>The properties located toward the north-west of the subject site contain three storey brick walk-up residential flat buildings, with pitched roofs. The three allotments to the north-east which front Queen Victoria Street are approximately 50m in length, and are generally provided with similar dimensions and similarly located apartment developments. The amalgamation of the subject site with the property at 66A Caledonian Street would provide an allotment of dimensions that are consistent with those properties.</p> <p>Land adjoining the subject site at 66A Caledonian Street, Bexley has the potential to become isolated as a result of the proposed development as it fails to meet the minimum lot width requirements for residential flat buildings under the relevant planning controls.</p> <p>Otherwise, the surrounding neighbourhood is of a lower overall scale, density and/or development potential.</p> <p>The proposed non-compliant side setbacks are unable to be supported, given the streetscape impacts, and the relationship with the isolated site. It is likely that the site isolation will create sub-optimal privacy and overshadowing outcomes.</p> <p>The isolation of the site at 66A Caledonian Street is not considered to be consistent with the desired future character established by the planning controls, and any development on that site does not provide an appropriate response to this context and setting of the neighbourhood.</p>
<p><b>Built Form &amp; Scale</b></p>	<p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area. In terms of bulk, scale and built form of the proposed development is consistent with other residential apartment developments in the immediate area, also being 4-storeys in height and on similar sized blocks.</p>



Principle	Comment
	<p>The facades are well articulated with balconies and architectural features, recesses in elevations, use of building materials and colour creates visual interest along both streetscapes and also when viewed from adjoining properties.</p> <p>Issues remain with inadequate setbacks to each of the street frontages.</p>
<b>Density</b>	<p>The proposal is limited to four storeys in height, therefore satisfactorily achieving the density controls contained in the RLEP 2011. The FSR is capable of being compliant with a deferred commencement condition regarding the garbage storage room. The overall proposal complies with requirements for the size of rooms and balconies and achieves appropriate dwelling yield that is envisaged from a development of this nature.</p> <p>The design has been significantly improved following the deletion of one unit to the upper floor, which allows for the upper floor to be read as a recessive element.</p>
<b>Sustainability</b>	<p>The Design Review Panel had made a request to change the dwelling layout to improve north facing solar access. These changes have been accommodated within the amended proposal. However, it is unlikely that sufficient solar access will be provided to the subject proposal, as a consequence of any development that may be undertaken on 66A Caledonian Street, and further setbacks are required.</p> <p>An amended Basix Certificate accompanies the amended design.</p>
<b>Landscape</b>	<p>The landscaping scheme proposed is considered to satisfactorily address the relevant provisions of the ADG. Generally, the landscaping scheme proposed is satisfactory, having appropriate regard to the nature and context of the surrounding area. However, concerns remain with the lack of deep soil to the Caledonian Street frontage.</p>
<b>Amenity</b>	<p>All apartments are provided with at least three aspects, and in this respect will receive ample amenity in relation to access to natural light and ventilation, and solar access. Portions of the ground floor courtyards will be subject to some overlooking from higher apartments; however, this is predominately a function of the generous size of the courtyards, rather than of any flaw in the design.</p> <p>All dwellings will be cross ventilated, complying with the provisions of the ADG. It is not clear if the proposed apartments will achieve sufficient solar access.</p>

Principle	Comment
<b>Safety</b>	The proposed development has been designed taking into consideration the CPTED principles to eliminate any opportunity of concealment. It provides safe and direct access from the road. Apartment design would also permit passive surveillance.
<b>Housing diversity and social interaction</b>	<p>The proposal provides an acceptable dwelling mix despite the non-compliance with the RDCP 2011 requirements. The unit mix includes (3) x 2-bedroom units (42.8%), and four (4) x 3-bedroom units (57.2%).</p> <p>Part 4.5.1 of the RDCP 2011 requires that one adaptable dwelling be provided for this development, and Unit G.02 is proposed as an adaptable dwelling, with the disabled parking space within the basement to be allocated to this dwelling.</p> <p>The proposal does not provide any formal communal open space area; however, for a development containing only seven apartments, a communal open space is not considered necessary in this instance. As there are no more than two apartments at each level, there is a relatively high chance of familiarity amongst residents.</p>
<b>Aesthetics</b>	<p>The building does not appropriately address Queen Victoria Street, and in this respect the presentation to this street is not appropriate.</p> <p>Externally, the building presents a combination of architectural features combined with asymmetric street elevation which successfully creates visual interest in the built form whilst satisfactorily achieving the desirable architectural style that that is expected to shape the future streetscape of the street block.</p> <p>The materials and finishes of the development include a mixture of face brickwork and rendered and painted masonry. A combination of masonry and frameless glass balustrades are used throughout the balconies within the development. Powder coated aluminium sliding privacy screens are proposed to Level 1 and Level 2 balconies facing Queen Victoria Street.</p> <p>Inadequate setbacks are provided to each street frontage, which limits the opportunities for deep soil area, and are not appropriate given the size of the building.</p>

**Apartment Design Guide**

The proposed development has been assessed against the NSW Apartment Design Guide (ADG). There are several non-compliances which are not considered acceptable. A summary table is provided below, followed by a discussion of specific non-compliances.

<b>Apartment Design Guide</b>		<b>Compliance/Comment</b>
<b>3C Public Domain Interface</b>	<p>Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided</p> <p>Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.</p> <p>Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.</p>	Services are not shown. Refer to discussion.
Communal and public open space (3D)	<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3 pm on 21 June (mid-winter)</p> <p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"> <li>• seating for individuals or groups</li> <li>• barbecue areas</li> <li>• play equipment or play areas</li> <li>• swimming pools, gyms, tennis courts or common rooms</li> </ul>	<p>No communal open space (COS) is provided; refer to discussion.</p> <p>N/A see above</p>
Deep soil zones (3E)	7% of the site area shall be deep soil zones.	The proposal provides in excess of 25% deep soil area, with the majority exceeding 3m in width.

Apartment Design Guide		Compliance/Comment
	For sites between 650-1500sqm the minimum dimension of the deep soil zone is 3m.	
Visual privacy (3F) Separation between windows	<p>Minimum separation distance from buildings to the side and rear boundaries, as follows:</p> <ul style="list-style-type: none"> <li>• Up to 12m in height = 6m (habitable rooms), 3m (non-habitable rooms)</li> <li>• Up to 25m in height = 9m (habitable rooms), 4.5m (non-habitable rooms)</li> <li>• Over 25m in height = 12m (habitable rooms), 6m (non-habitable rooms)</li> </ul> <p>ADG assessment note: When measuring the building separation between commercial and residential uses, consider office windows and balconies as habitable space and service and plant areas as non-habitable.</p> <p>Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites (consider relationship with section 3F Visual privacy).</p>	Proposal does not comply; refer to discussion.
Solar and daylight access (4A)	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	Likely to comply if 66A Caledonian Street is not developed, but otherwise potentially constrained. Refer to discussion.

<b>Apartment Design Guide</b>		<b>Compliance/Comment</b>
Natural ventilation (4B)	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	Each unit features a minimum of three aspects therefore would achieve maximum cross ventilation.
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Apartments are provided with three orientations or greater.
Ceiling heights (4C)	<p>Habitable rooms = 2.7m</p> <p>Non-habitable = 2.4m</p> <p>In mixed-use zones, ground floor and first floor to have 3.3m</p>	<p>Complies</p> <p>2.7m for habitable rooms</p> <p>Not within a mixed use zone.</p>
Apartment size and layout (4D)	<p>Minimum internal areas:</p> <ul style="list-style-type: none"> <li>• Studio = 35m<sup>2</sup></li> <li>• 1-bed = 50m<sup>2</sup></li> <li>• 2-bed = 70m<sup>2</sup></li> <li>• 3-bed = 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each (not required by ARH SEPP).</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each (not required by ARH SEPP).</p>	Complies.
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may	Complies.

Apartment Design Guide		Compliance/Comment
	not be borrowed from other rooms.	
	<p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p>	Complies.
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>▪ 3.6m for studio and 1 bedroom apartments</li> <li>▪ 4m for 2 and 3 bedroom apartments</li> </ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p> <p>All bedrooms allow a minimum length of 1.5m for robes</p>	Complies
Private Open Space (4E)	<p>Primary balconies to be as follows:</p> <ul style="list-style-type: none"> <li>• Studio = 4m<sup>2</sup></li> <li>• 1-bed = 8m<sup>2</sup> (min depth 2m)</li> <li>• 2-bed = 10m<sup>2</sup> (min depth 2m)</li> <li>• 3+-bed = 12m<sup>2</sup> (min depth 2.4m)</li> </ul> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Complies

Apartment Design Guide		Compliance/Comment
Common Circulation Space (4F)	<p>Daylight and natural ventilation should be provided to all common circulation spaces that are above ground</p> <p>Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors</p> <p>Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	Daylight and natural ventilation provided to each foyer level.
Storage (4G)	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <ul style="list-style-type: none"> <li>• Studio = 4m<sup>3</sup></li> <li>• 1-bed = 6m<sup>3</sup></li> <li>• 2-bed = 8m<sup>3</sup></li> <li>• 3+-bed = 10m<sup>3</sup></li> </ul> <p>At least 50% of the required storage is to be located within the apartment</p>	Storage space is combined with laundry, and over bonnet storage lockers are also provided within the basement.
Acoustic privacy (4H)	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	Lift adjacent to bedroom; no acoustic report provided. Refer to discussion.

Apartment Design Guide		Compliance/Comment
	<p>Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions:</p> <ul style="list-style-type: none"> <li>▪ double or acoustic glazing</li> <li>▪ acoustic seals</li> <li>▪ use of materials with low noise penetration properties</li> </ul> <p>continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements</p>	
Apartment mix (4K)	<p>The apartment mix is appropriate, taking into consideration:</p> <ul style="list-style-type: none"> <li>• the distance to public transport, employment and education centres</li> <li>• the current market demands and projected future demographic trends</li> <li>• the demand for social and affordable housing</li> <li>• different cultural and socioeconomic groups</li> </ul>	Apartment mix does not comply but is acceptable. Refer to DCP assessment.
Ground floor apartments (4L)	<p>Direct street access should be provided to ground floor apartments Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include:</p> <ul style="list-style-type: none"> <li>▪ elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4)</li> <li>▪ landscaping and private courtyards</li> </ul>	Direct access is not provided to the Queen Victoria Street frontage. Refer to discussion in relation to Part 3C.



Apartment Design Guide	Compliance/Comment
<ul style="list-style-type: none"> <li>▪ window sill heights that minimise sight lines into apartments</li> </ul> <p>integrating balustrades, safety bars or screens with the exterior design</p>	

Part 3C - Public Domain Interface

The objectives of Part 3C are as follows:

- Transition between private and public domain is achieved without compromising safety and security.
- Amenity of the public domain is retained and enhanced.

Part 3C includes a variety of controls aimed at achieving the above objectives. As indicated within the assessment of Part 3C, the ground floor apartment that faces Queen Victoria Street is not provided with any individual apartment entries from Queen Victoria Street. The OSD basin proposed within the Queen Victoria Street setback requires the provision of the surrounding retaining walls to allow for surface water storage. The DRP had indicated that an apartment entry was required in this location, that stormwater detention should not be dictating the resolution of this important corner, and that the OSD system should be relocated elsewhere, such as underneath the driveway. However, it is clear that the method of stormwater detention has dictated the approach to the design of the intersection and this arrangement is not supported.

Part 3C also requires that services such as mailboxes, substations, and fire boosters be located within basement car parks or out of view. Council requested that the indicative location of these features be shown on plans; however the information was not provided. Mailboxes and substations could be accommodated forward of the stairwell and lift, within the Caledonian Street frontage. However, this would exacerbate the setback non-compliances that are discussed elsewhere (refer to discussion relating to RDCP 2011). A fire booster could also be located within the driveway, perpendicular to the Queen Victoria Street frontage.

These matters could potentially be addressed through conditions of consent; however, given their location could impact on the presentation to the street, it is generally required that an indicative location be provided on the plans. Therefore, the application is recommended for refusal in this regard.

Part 3D – Communal Open Space

Part 3D of the ADG requires that communal open space be provided to an area that is equal to 25% of the site. The SEE indicates that a communal open space (COS) is not required given that the development contains less than 12 dwellings, and that Part 4.3.3 of the RDCP 2011 does not require COS for apartment development containing less than 12 dwellings.

Part 4.3.3. also indicates that developments containing less than 12 dwellings, should provide an equivalent area of additional private open space (POS). Each apartment is provided with at least double the amount of POS required by Part 4E of the ADG, which satisfies this requirement. In addition, it was noted that the provision of COS is constrained at this site, given its limited size, and the difficulty in providing suitable separation between the ground level COS and ground level POS, and in maintaining susceptibility of the solar access to the COS to overshadowing from a potential future development on 66A Caledonian Street. The general approach to COS and POS is considered to be satisfactory. However, it is noted that the amalgamation the site with 66A Caledonian Street, would improve the opportunities for a suitably sized COS area.

Part 3F – Visual privacy

The design criteria for Part 3F of the ADG prescribes minimum separation distances be provided between windows and balconies from a building to the side and rear boundaries, as reproduced below:

**Design criteria**

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

*Note: Part 2F of the ADG also includes controls for building separation which essentially reiterate the separation requirements covered under Part 3F. As such, a non-compliance with Part 3F can also be seen as a non-compliance with Part 2F of the ADG.*

The proposal incorporates four-storeys with a height up to approximately 13.5 metres. The lower three storeys would require boundary setbacks of 3m for non-habitable rooms and 6m for habitable rooms and balconies. The fourth storey partially sits above 12m, and would therefore require boundary setbacks of 4.5m for non-habitable rooms and 9m for habitable rooms and balconies. Given the development is located on a corner allotment, these requirements apply only to the north-east and north-west boundaries.

The setbacks to these two boundaries can be summarised as follows:

- The lower three levels are provided with boundary setbacks in excess of 6m to a portion of the north-eastern façade, with lesser setbacks provided to the ground floor kitchen and

en-suite (4.505m), to the Level 1 and Level 2 kitchens (5.8m), and to the Level 1 and Level 2 en-suites (4.505m).

- The Level 3 balcony is setback 7.5m from the north-eastern boundary.
- The lower three levels are provided with setbacks of excess of 6m to a portion of the north-western façade, with lesser setbacks provided to the north-east facing balconies on Level 1 and Level 2 (5.7m).
- The Level 3 balcony is setback 6.885m to the north-western boundary, and the Level 3 bedroom is setback 7.845m from the north-western boundary.

The setbacks to the north-western boundary are greater than those generally provided to other apartment developments on Queen Victoria Street, and given the minor non-compliances these are generally acceptable. However, with respect to the north-eastern boundary setbacks, the schematic development that is depicted on 66A Caledonian Street is provided with only a 3m side setback to this boundary. It is considered that not only should there be no non-compliances with the setback requirements, but that the proposed setbacks should be in excess of those required under Part 3F to the north-eastern boundary, so as to allow for sufficient building separation between the two buildings. The proposal is not appropriate with respect to building separation to the north-east boundary.

#### Part 4A – Solar Access

Part 4A of the ADG requires the following:

- *Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.*
- *A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter*

The development is generally designed to allow for living areas or POS areas to receive solar access from either the north-east or the north-west. Although solar access from the living rooms of the south-western units may be partially constrained by the depth of the balconies, it is generally considered that the design maximised solar access and amenity to apartments on this site.

However, Council sought the following information in relation to site isolation.

- *“A concept plan of a potential development on 66A Caledonian should be provided, which depicts the shadows to the communal open space, and the rear living rooms and balconies of the subject proposal”.*

As outlined elsewhere, the schematic development to 66A Caledonian Street provides only a 3m side setback, and the proposal seeks non-compliant setbacks to this boundary also. It is therefore unlikely that the north-eastern units will receive sufficient solar access. It should be noted that the ground levels at 66A Caledonian Street sit higher than those at the subject site which would have the potential to exacerbate overshadowing impacts.

Part 4H – Acoustic Privacy

Bedrooms within the south-western units are located adjacent to the lift, which is contrary to the design guidance within Part 4H. The acoustic report provided with the application has not demonstrated that the indoor sound levels to these bedrooms are able to be made to be acceptable; however it is noted that this matter could be resolved through conditions of consent.

Part 4L - Ground floor apartments

As indicated within the assessment of Part 3C, the ground floor apartment that faces Queen Victoria Street is not provided with an individual entry from Queen Victoria Street. The proposal is inconsistent with Part 4L.

**Rockdale Local Environmental Plan 2011**

<b>Relevant clauses</b>	<b>Compliance with standard/provision</b>
2.3 Zone R4 High Density Residential	No – see discussion
4.3 Height of buildings	Yes – see discussion
4.4 Floor space ratio - Residential zones	No – see discussion
4.6 Exceptions to development standards	4.6 request not submitted - see discussion in relation to Clause 4.4
5.10 Heritage conservation	Yes; however, issues in relation to schematic development on isolated site.
6.1 Acid Sulfate Soil - Class 5	Yes – see discussion
6.2 Earthworks	Yes – see discussion
6.4 Airspace Operations	Yes – see discussion
6.7 Stormwater	Yes – see discussion
6.12 Essential Services	Yes – see discussion

**2.3 Zone R4 High Density Residential**

The subject site is zoned R4 – High Density Residential under the provisions of the RLEP 2011. The proposed development is for the purpose of a 'residential flat building' which is permitted with consent in the zone.

The proposal is considered to be inconsistent with the objectives of the R4 zone which are shown below:

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

- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is not compatible with the first two objectives given the site isolation issues discussed throughout this report.

#### **4.3 Height of buildings**

Clause 4.3 provides a maximum height of buildings on the subject site of 14.5 metres. The existing ground levels (underneath the taller elements of the building) range from RL 37.00 – RL 38.50. No specific information has been provided on the maximum level of the proposal, however it has been measured off the plan to be approximately RL 50.50, which would result in a compliant height of between approximately 12.0m and 13.5m. The proposal therefore complies with the development standard and satisfies this clause.

#### **4.4 Floor space ratio - Residential zones**

Clause 4.4 restricts the development to a maximum floor space ratio (FSR) of 1:1, which equates to a total gross floor area (GFA) of 675.9sqm. The amended SEE indicates that the proposed FSR is 0.99:1 and the FSR of the residential flat building is generally compliant.

However, the detached garbage room has not been accounted for within this calculation, and with an area of approximately 7.7sqm, the inclusion of this space would result in the overall development for the site exceeding the FSR requirement.

There are otherwise no significant issues associated with the garbage room, and were the application recommended for approval, a deferred commencement condition could be recommended requiring changes to the design of the garbage room in order to achieve compliance with the FSR standard.

#### **6.1 Acid Sulfate Soil - Class 4**

Acid Sulfate Soils (ASS) – Class 5 acid sulfate soils affects the property. Development Consent is not required as the proposed works involve the disturbance of less than 1 tonne of soil and the works are not likely to lower the watertable.

#### **6.2 Earthworks**

Earthworks including excavation are required on site in order to allow for the construction of the building, carparking area and associated stormwater and landscaping structures on site. With the exception of the potential to encounter groundwater, it is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Groundwater is discussed in relation to Section 4.1.3 of the RDCP 2011.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51.00 AHD. The maximum building height is approximately 50.50 AHD and therefore the proposed building would not penetrate the OLS.

#### 6.7 Stormwater

The proposal involves the construction of an above ground detention basin within the Queen Victoria Street frontage building. The proposed stormwater system is supported by Council's development engineers and is considered to comply with the Rockdale Technical specification for stormwater management. However, this design has created issues with the presentation to Queen Victoria Street, as discussed elsewhere.

#### 6.12 Essential services

Services will generally be available on the site given its existing residential use. The proposal complies with the requirements of this clause.

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

There are no draft planning instruments that will affect the proposed development.

#### 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

A summary of the compliance assessment against the *Rockdale Development Control Plan 2011* (RDCP2011) for the proposed development is provided below. Detailed discussions are provided for non-complying aspects of the proposal.

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.1.1 Views and Vista	Yes; refer to discussion
4.1.2 Heritage – vicinity	Yes; however, issues in relation to schematic development on isolated site. Refer to discussion
4.1.3 Water Management	Yes, refer to discussion
4.1.4 Soil Management	Yes, refer to discussion

<b>Relevant Parts of the RDCP 2011</b>	<b>Compliance with standard/provision</b>
4.1.5 Contaminated Land	Yes; refer to discussion under SEPP 55.
4.1.6 Development on sloping sites	Yes
4.1.7 Tree Preservation	Yes; refer to discussion in relation to Vegetation SEPP
4.1.9 Lot size and Site Consolidation – Residential Flat Buildings	No – refer to discussion
4.1.9 Lot size and Site Consolidation – Avoidance of Isolated Sites	No – refer to discussion
4.2 Streetscape and Site Context – General	No – refer to discussion in relation to SEPP 65
4.2 Streetscape and Site Context – Fencing	No – see ADG discussion relating to public domain interface
4.3.1 Open Space and Landscape Design – Residential Flat Building Centres	Yes, refer to discussion
4.3.2 Private Open Space - Residential Flat Building	Yes
4.3.3 Communal Open Space	Acceptable – see ADG discussion relating to acoustic privacy communal open space
4.4.2 Solar Access	No – see ADG discussion relating to solar access.
4.4.3 Natural Lighting and Ventilation - Residential	N/A – as per clause 6A(1)(b) and (g) of SEPP 65 this section no effect.
4.4.3 Natural Lighting and Ventilation - Ceiling heights	N/A – as per clause 6A(1)(b) and (g) of SEPP 65 this section no effect.
4.4.4 Glazing – General controls	Yes
4.4.5 Visual and Acoustic Privacy	No; see ADG discussions relating to visual privacy and acoustic privacy.
4.4.5 Visual privacy – Roof Top Area	N/A
4.4.6 Noise impact	Able to comply, see ADG discussion relating to acoustic privacy

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.5.1 Social Equity - Housing Diversity and Choice	No; refer to discussion
4.5.2 Social Equity - Equitable Access	Yes
4.6 Car Parking	No; refer to discussion
4.7 Air Conditioning and Communication Structures	Yes
4.7 Waste Storage and Recycling Facilities	Yes; refer to discussion
4.7 Laundry Facilities and Drying Areas	Yes
4.7 Letterboxes	No; see ADG discussion relating to public domain interface
4.7 Service Lines/Cables	Yes
5.2 Residential Flat Building	No; refer to discussion

#### 4.1.1 Views and Vista

The site is not afforded any view of Botany Bay or any items of local or State heritage. In this regard, the subject site does not enjoy any significant views or vistas.

It is unlikely that the siting of the proposed development will generate any significant impacts on the views of the street and general neighbourhood that are enjoyed by adjacent properties.

#### 4.1.2 Heritage – vicinity

The nearest items of heritage significance are the street plantings in Caledonian Street (I107) and Queen Victoria Street (I156), each being items of local significance. Continuous substantial plantings line each of these streets; however, for this site, there are minimal substantial plantings located at the Caledonian Street frontage, with no trees located at the Queen Victoria Street frontage. Although, the proposal allows for the retention of the small trees located within the Caledonian Street frontage; there are concerns that any development on the isolated site would compromise the retention of trees fronting that site. This is discussed in greater detail in relation to Part 4.1.9.

#### 4.1.3 Water Management

The submitted geotechnical report indicates that groundwater was not expected to be found as a consequence of excavation at the site; however, the report indicates that the borehole depth was limited to between 0.95m – 1.30m, and it is not clear if there is likely to be groundwater treatment is required for the depth of excavation, which includes an entire basement level and footings.



This has not been referred to Office of Water, but - if needed - a Controlled Activity approval can be considered as prior to the commencement of excavation, subject to conditions.

#### 4.1.4 Soil management

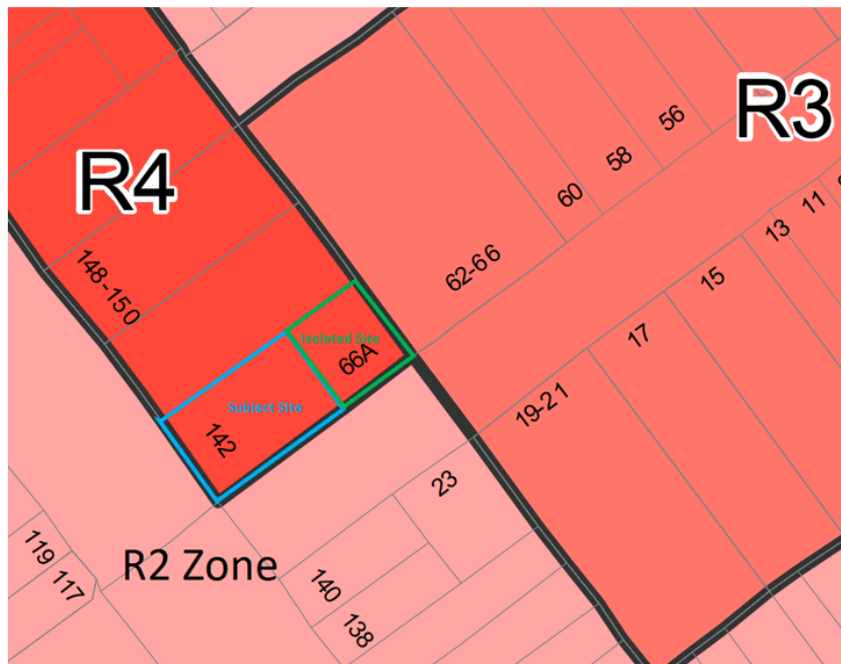
The proposed development will involve considerable earthworks for the construction of the basement car parking level, which will result in the disturbance of soil and dust.

In this regard, conditions could require that a Soil and Water Management Plan (prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils) be submitted to the Principal Certifying Authority prior to the commencement of works. However, this application is recommended for refusal.

#### 4.1.9 Lot size and Site Consolidation

The site does not meet the minimum lot width requirements for residential flat buildings of 24m, and land adjoining the subject site at 66A Caledonian Street, Bexley, has the potential to become isolated as a result of the proposed development as it also fails to meet the minimum lot width requirements for residential flat buildings. The dimensions of 66A Caledonian Street are approximately 20.7m x 17.7m. As both the development site, and 66A Caledonian Street do not meet the minimum lot width requirements, they may both be classified as isolated sites. However, it is noted that were the two sites amalgamated, the resultant site would also not be compliant with the minimum lot width requirement. This would be more acceptable however given the dimensions would be consistent with the dimensions of adjoining and nearby allotments containing residential flat buildings. Therefore, within this report, any reference to the 'isolated site' refers to 66A Caledonian Street.

Like the subject site, the isolated site is located within the R4 High Density Residential zone. Land adjoining to the east is located within the R3 Medium Density Residential zone, and land adjoining to the south and west is located within the R2 Low Density Residential zone, as shown within the image below. Residential flat buildings are permissible with consent in the R4 zone but are prohibited in both the R2 and R3 zone.



**Figure 2 Extract of RLEP 2011 zoning map showing the location of the subject site and isolated site**

Consolidation of the subject site and the isolated site for the purposes of a residential flat building would be consistent with the prevailing pattern of development further to the north-west along Queen Victoria Street, and would be an appropriate planning outcome for these allotments.

Part 4.1.9 indicates that developers must satisfy Council that adjoining parcels not included in their development site are capable of being economically developed.

A number of planning principles exist in relation to the isolation of a lot by the redevelopment of adjacent lots as one development site. Three specific cases heard by the Land and Environmental Court of New South Wales, *Melissa Grech v Auburn Council*, *Cornerstone Property Group Pty Ltd v Warringah Council* and *Karavellas v Sutherland Shire Council*, have set the principles by which site isolation issues are to be assessed.

*Melissa Grech v Auburn Council* identified three main principles that apply to any assessment of lot isolation:

1. *Where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

2. *And where no satisfactory result is achieved from negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*
3. *The level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable of unreasonable, any relevant planning requirements and the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.*

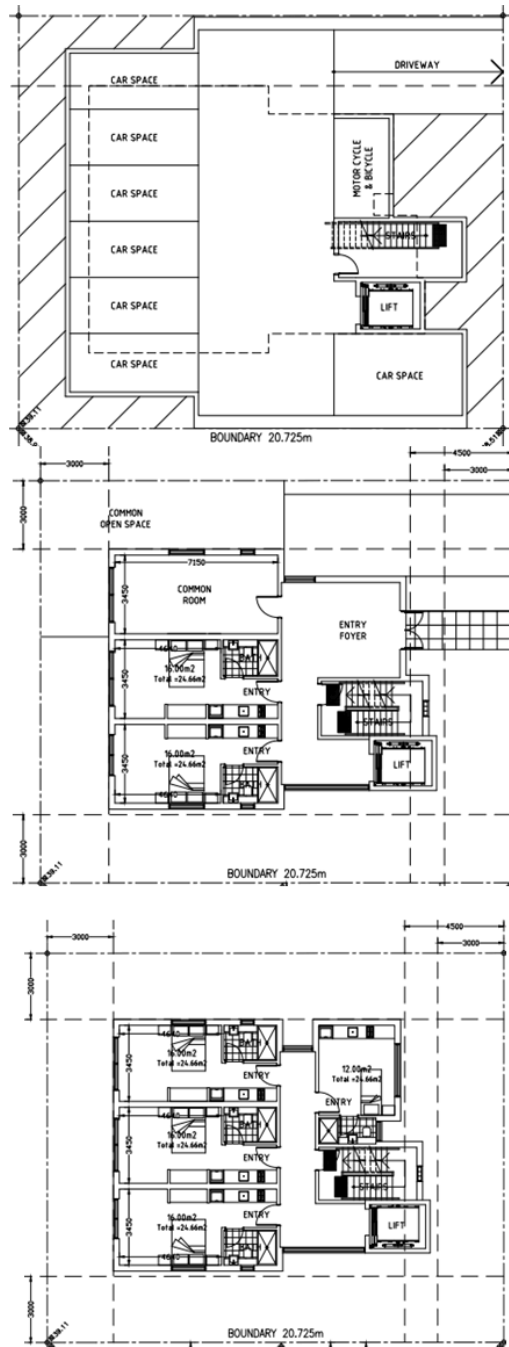
Two valuation reports were provided by the applicant, one dated 19 September 2014, and a later updated valuation report, dated 18 November 2016, the latter of which valued the property at \$1,000,000. A valuation also accompanied a submission prepared on behalf of the owner of the isolated site. This report, dated 11 November 2016, indicated that the value of the site in question as an isolated site was \$1,040,000, but that its value to the adjoining owner, as part of a development site, was \$1,300,000.

It is agreed that the adjoining site at No. 66A Caledonian Street, would have a Market Value + Special Value for the adjoining owner; this is similar to the approach that is used for valuation methodology associated with 'compulsory acquisition'. Further, it is reasonable to assume that an offer would be greater than that was calculated for the 'isolated site value' in the circumstances of this case as it seems that there would be a 'special value' associated with purchase of the site for development purposes.

Therefore, the applicant was advised that based on the valuation of the site when consolidated with No.66A, that they should provide a higher offer to the owner of No. 66A than the \$1,000,000.00 for an isolated site, however that they would not be required to offer \$1,300,000.00 for the offer to be considered reasonable.

A higher offer was provided and Council is satisfied that reasonable offers have been made to purchase the land and that amalgamation is not feasible.

Plans depicting a potential boarding house on 66A Caledonian Street were provided to seek to demonstrate that the orderly and economic use and development of the neighbouring site can be achieved. The plans are shown within the image below:



**Figure 3 Basement floor plan, Ground Floor plan, and Level 1-3 floor plan of schematic development on 66A Caledonian Street**

The schematic development features four storeys, with a total of 14 boarding rooms. 7 parking spaces, and a shared motorcycle and bicycle parking space.

Boarding houses are permitted within the R4 High Density Residential zone, pursuant to both the RLEP 2011, as well as Clause 28 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

The RDCP 2011 provides limited specific development controls relating to boarding houses. Part 1 and Part 6 of the RDCP 2011 state the following:

*Certain types of development such as boarding houses, senior housing and affordable housing are covered by SEPPs. These types of development will be assessed against the relevant SEPP and Part 3, 4 and 5 of this DCP.*

Therefore, it is necessary to consider the schematic development against Division 3 of the ARHSEPP, as well as Parts 3, 4 and 5 of RDCP 2011.

Obtaining development consent for the proposed boarding house design is considered to be very unlikely, noting the following specific issues:

- The development would provide 3m setbacks to all boundaries, which is not sufficient in this context.
- The development would provide no transition in height to the neighbouring development to the north that lies within the R3 zone, contrary to the requirements of Part 4.2 of RDCP 2011. There would be minimal opportunity for any building articulation and the building would dominate the streetscape from the northern end of Caledonian Street, and from within neighbouring sites to the north-west and north-east. The Design Review Panel had earlier emphasised the importance of taking care that development in this location sits comfortably within its context.
- The development would create overshadowing impacts to the neighbouring properties, including the subject site, as discussed elsewhere within this report.
- The rear wall of the boarding rooms would be separated from the neighbouring units to the west by less than 7m. This wall features the windows which provide light to the boarding rooms, and the wall is provided with no articulation.
- Given its minimal length, the driveway would likely require a maximum grade for its entire length, creating undesirable streetscape issues, and potential sight line and clearance issues. Note that the driveway is proposed at the higher end of the site, and for streetscape purposes, the basement would need to be provided with sufficient depth to ensure that the lower (southern) side of the basement does not protrude above the surrounding ground level.
- The ground floor would be cantilevered over the driveway, creating undesirable streetscape issues.
- The lift and stairwell would feature as prominent elements within the streetscape, and these parts of the building would not comply with the front setback requirement.

- The ARHSEPP would require one motorcycle and bicycle parking space, for every 5 boarding rooms. Only one shared motorcycle and bicycle space is provided.
- No disabled parking is shown within the basement.
- The development would interfere with the heritage listed street trees located on Caledonian Street, given that only 3m setbacks are shown.
- There would be no opportunities for deep soil or tree plantings within the side boundaries, given the basement would be built the boundary.
- The development would not be compatible with the character of the local area.

In *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189*, the planning principle is expanded to state that

*“The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments”.*

The north-eastern boundary setbacks are not compliant with the requirements of Part 2F and 3F of the ADG. In this instance, for the following reasons it is considered that not only should there be the no non-compliances with the setback requirements, but that the proposed setbacks should be in excess of those required under Part 2F and Part 3F.

- The building separation between the two buildings is not adequate to provide suitable visual privacy between the two buildings.
- The private open space areas to the northern units within the development are unlikely to be able to receive sufficient solar access to achieve compliance with the requirements of SEPP 65.
- The spatial separation between the buildings is incongruous with regard to the context of the local area.

Council is not satisfied that 66A Caledonian Street can be developed in isolation, in an economic and orderly manner. The proposal is not considered to have adequately addressed the site isolation issues outlined within the RDCP 2011 and as reflected within the planning principles referred to above.

The schematic development was submitted to Council on 25 June 2018, over 20 months after lodgement of the application. This information was first sought by the DRP as follows:

*“The proposal isolates the property at 66a Caledonian Street to the north. This is a small site and the last remaining R4 zone site. The proponent has not demonstrated the capacity of this site to redevelop on its own and how their proposal could best interface with this site in the future”.*

Council's letter of September 2017, also requested this information as follows:

*"To assist in the assessment of whether the site at 66A Caledonian Street is able to achieve a development of an appropriate urban form and acceptable amenity, a schematic drawing of a feasible proposal at this isolated site shall be provided. The drawings shall provide details on height, floor space, ratio, site coverage, as well as consideration of amenity issues such as solar access and privacy, both to the isolated site and the subject development".*

Given the significant delays in receiving this information, Council has not afforded the applicant the opportunity to comment on the list of issues with the schematic development that are outlined above, and the consideration of the schematic plans has been undertaken for the future benefit of the applicant.

In any event, it is clear that non-compliant setbacks to the north-eastern boundary are not appropriate where the site isolation persists in this location.

As a result of the issues above, the application is recommended for refusal.

#### 4.3.1 Open Space and Landscape Design - Residential Flat Building

Amended landscape plans were submitted to accompany the current proposal. Concerns were raised in relation to the absence of any details on retaining walls associated with the difference in levels between the level of screen planting to boundary and turf area. The variation in levels is largely a consequence of the existing slope of the site, and details in relation to retaining walls could be addressed through conditions of consent.

#### 4.5.1 Housing Diversity and Choice

Part 4.5.1 outlines the dwelling mix that is required for residential flat developments to be as follows:

- 1 bed/studio units – 10-30%
- 2 bedroom units – 50-75%
- 3 bedroom unit – 10-20%

The proposal provides for three (3) x 2-bedroom units (42.8%), and four (4) x 3-bedroom units (57.2%). As a consequence, the proposal is not compliant with the proportional dwelling mix.

The submitted Statement of Environmental Effects has provided the following justification for this departure from the control:

*"Whilst there are no 1 bedroom units proposed there is an increased number of 3 bedroom apartments commensurate with the absence of 1 bedroom apartments. In this regard the unit mix proposed provides housing for families in a high demand area close to schools and services".*

It is acknowledged that it is particularly difficult to provide a compliant dwelling mix for developments containing fewer than ten apartments. It is also noted that Council's DRP supported the previous unit mix, which provided four (4) x 2-bedroom units, and four (4) x 3-bedroom units.

For the reasons above, it is considered that the non-compliance is acceptable.

#### 4.6 – Car Parking

The proposal complies with the relevant parking rates, with the exception of service vehicle parking. A service vehicle is required at a rate of 1 for every 50 units. As there are only 7 units within this development, Council's engineers have indicated that service vehicle parking would not be necessary for this development.

Part 4.6 requires that basement car parking be located within the building footprint. The basement location is not entirely consistent with the building footprint and this is largely dictated by the driveway entry being situated as far as possible from the intersection. The building footprint is situated in a manner so as to maximise the setbacks from the neighbouring sites to the north-west. Non-compliance with this control is largely a consequence of these two competing priorities, and in general this approach is supported. However, concerns remain in relation to the non-compliance with the street setbacks.

#### 4.7 Waste Storage and Recycling Facilities Site Facilities

The proposed waste storage area adjacent to the north-western boundary provides space for 9 bins, with temporary space able to be made available within the basement store room for larger waste. This is appropriate for a development of this size.

#### 5.2 Residential Flat Buildings

##### Street setbacks

Part 5.3 requires the following street setbacks for the primary and secondary street frontages:

- Primary: consistent with the prevailing setbacks in the street. If there is not a consistent setback, a 6m setback applies.
- Secondary: between 3m and 5m

The setbacks to the primary frontage (Queen Victoria Street) can be summarised as follows:

- A variable setback of as low as 3.2m is provided to the balconies at the corner. However, the top floor balcony is setback 4.695m.
- A 5m setback is provided to the front wall.



The setbacks to the secondary frontage (Caledonian Street) can be summarised as follows:

- A setback of 1.9m is provided to the northern balcony.
- A setback of 2.2m is provided to the entry and the outside wall of the stairwell.
- A variable setback of as low as 1.52m is provided to the balconies at the corner. However, the top floor balcony is setback 3m.
- A 3m setback is provided to the external surface of the apartment walls.

The site is located at an intersection whereby three of the four buildings (including the existing building at the subject site) are located with a nil setback to both Queen Victoria Street and Caledonian Street. These buildings appear to have been designed with ground floor commercial premises, although only the building at 140 Queen Victoria Street appears to still be in operation for that purpose.

Of the three buildings in question, only the building on the subject site, and the building at 115 Queen Victoria Street are greater than one storey in height, but these two buildings are each only two storeys in height. There are currently no four storey buildings at this intersection. Sites further away from the intersection are generally provided with larger setbacks, in line with the control.

It is acknowledged that reduced setbacks towards the intersection may be acceptable given the character of development at this intersection. However, the extent of the setback non-compliances is not acceptable for a development of this size, particularly given that the building is intended to be used completely for residential accommodation. The DRP had indicated that the street setback to Queen Victoria Street proposed within the original design may have been acceptable given the prominence of the site; however, the current arrangement is not supported. The DRP had also required a 3m wide landscape setback to Caledonian Street, but this has not been provided. A small non-compliance for the entry may be accepted however, the current arrangement is not appropriate.

The initial design featured larger setbacks to Queen Victoria Street which were considered acceptable; however, the current design seeks further non-compliances with the setback to Queen Victoria Street and is not compliant with the relevant controls. The setbacks to Caledonian Street have remained an issue since the initial design was provided, and the current setbacks are not supported.

#### Site Coverage

Part 5.2 of RDCP 2011 requires a maximum building footprint of 35%. The applicant has provided a site coverage calculation is 251.68sqm (37.24% of site area), which is understood to have been calculated in line with the definition for site coverage within the RLEP 2011, although it is not clear if the applicant's calculations include balcony areas.

Part 5.2 refers to the 'building footprint' which includes not only the internal floor areas of the building, but also the balcony areas. Accounting for the footprint of the apartment building, and of the detached garbage room, the overall building footprint is estimated to be approximately 301.9sqm (45% of site area).

It is expected that compliance with the setback controls would provide a significant improvement to the proposed site coverage, and for this reason the proposed site coverage is not supported.

#### **S.4.15(1)(a)(iv) - Provisions of regulations**

Clause 92 of the Regulation has been considered. The proposal is consistent with the provisions of the Regulations.

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

Potential impacts associated with the proposed development have been discussed in detail within this report.

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

As previously mentioned in this report, the subject site is not suitable to accommodate the development, primarily because of the site isolation issues that would ensue as a consequence. As such, the proposal is recommended for refusal.

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

The development has been notified in accordance with the provisions of the RDCP 2011. The first notification period from 26 October 2016 – 10 November 2016, related to the original proposal, and five submissions were received in response, including one containing an attached petition with 71 signatures. The second notification period from 9 May 2018 – 23 May 2018, related to the proposal that was submitted on 1 May 2018, and four submissions were received in response, including one from the head petitioner associated with the petition submitted during the first period. All submissions objected to the proposal.

The final design amendment was not notified, as these amendments primarily related to a small reduction in gross floor area, aimed at addressing the FSR non-compliance.

The issues raised in the submissions have been taken into consideration in the assessment of the application as discussed below:

*Issue 1: Privacy impacts to surrounding properties, including to:*

- 113 Queen Victoria Street
- 62-66 Caledonian Street.
- 66A Caledonian Street, noting the:
  - Non-compliant setbacks of the kitchen areas of northern units
  - Lack of privacy screening on eastern side of balconies to above-ground northern units.
  - The location of the proposed communal open space.

- 62-66 Caledonian Street

Comment: In consideration of the site isolation issues, it is agreed that inadequate setbacks are provided to the north-eastern boundary, particularly noting the isolation issues raised in this assessment report. No privacy screening is proposed in this location to ameliorate overlooking potential.

Communal open space is no longer proposed to the development.

*Issue 2: Overshadowing, including to:*

- 113 Queen Victoria Street
- 62-66 Caledonian Street.

Comment: The development controls require that a portion of the affected site receive sufficient solar access during midwinter. Given its location at the southern corner of the urban block, overshadowing from the subject site will not generate a significant reduction in midwinter solar access to any nearby sites, including those listed above. Further, the site at 62-66 Queen Victoria Street sits to the north-east of the subject site, and therefore the development will not impact upon midwinter sun to that site during the specified hours of 9am – 3pm.

*Issue 3: Inconsistency with the existing character of the locality, noting that Caledonian Street is a narrow road comprising of smaller dwellings.*

Comment: Aside from 66A Caledonian Street, the surrounding sites on Caledonian Street are affected by different development standards which provide for a less intensive form of development because of their lower density land use zones. It is agreed that the isolation of the site at 66A Caledonian Street would require any development on that site to provide a poor transition between properties that are affected by different development controls.

*Issue 4: Parking, noting that:*

- The tenants of the existing development utilise the existing on-street space,
- Bus stops have recently been installed at 99 to 103 Queen Victoria Street and 127 to 130 Queen Victoria Street.
- Visitors to the existing development currently block the neighbouring driveway.
- Customers from the convenience store opposite Caledonian Street stop on kerbs around the roundabout and block resident's driveways.
- Noise from vehicles braking at the roundabout, and speed of vehicles at the roundabout can make exiting driveways difficult.
- Difficulty in reversing out of existing driveways.
- The parking demand created by the nearby function centre.

Comment: The proposal complies with the relevant parking rates, with the exception of service vehicle parking. A service vehicle is required at a rate of 1 for every 50 units. As there are only 7 units within this development, Council's engineers have indicated that service vehicle parking would not be necessary for this development. Many of the other parking concerns that were raised do not relate exclusively to the proposed development and are not sufficient grounds for refusal of the application.

*Issue 5: Traffic impacts, noting existing congestion on Queen Victoria Street, and safety impacts given the roundabout, and the frequency of pedestrian traffic related to Kogarah Station and Marist College. One objector had indicated that Council should also consider the installation of traffic calming devices nearby.*

Comment: The density of the proposed development, and the associated impact on trip generation, are in line with that anticipated by the development controls that apply to the site. Council's engineers have deemed that a suitable separation distance is provided between the driveway and the roundabout. Council may consider the installation of traffic calming devices; however, the traffic generated by the development is not sufficient to require the installation of such devices as part of this application.

*Issue 6: Overall bulk and scale, and building height being out of character with the existing locality, particularly in relation to the non-compliant side setbacks. Associated impacts on heritage trees.*

Comment: It is agreed that the side setback non-compliances are not appropriate in this instance, and this matter is included within the reasons for refusal.

*Issue 7: Devaluation of the isolated site at 66A Caledonian Street and streetscape impacts associated with site isolation. The submission notes that a property valuation report prepared by Independent Property Valuations values 66A Caledonian Street to be \$1,040,000 as an isolated site and \$1,300,000 if the site is amalgamated and utilised for R4 land uses. Devaluation of other nearby properties was also given as grounds for opposition to the proposal.*

Comment: Refer to discussion of site isolation in relation to Part 4.1.9 of RDCP 2011. Council is satisfied that a suitable offer has been made to purchase the isolated site but is not satisfied that it can be developed in isolation in an economic and orderly manner. There is no evidence to indicate that the development would result in a significant impact on the value of nearby land, particularly given the existing development controls that apply to the site.

*Issue 8: The application does not satisfactorily address the planning principles outlined in Melissa Grech v Auburn Council [2004] NSWLEC 40. "The Statement of Environmental Effects lodged in support of the application suggests that 66A Caledonian Street could be developed for a dual occupancy development, however RDCP requires sites to have a minimum site area of 700m<sup>2</sup> for such developments. The site area of 66A Caledonian Street is approximately 360m<sup>2</sup> and therefore based on the numerical requirements, would not be considered a suitable site for a dual occupancy.*

Comment: Agreed; refer above and to discussion of site isolation in relation to Part 4.1.9 of RDCP 2011

*Issue 9: Non-compliance with the minimum frontage requirements of 24m, with the subject site providing a frontage of 20.725m, associated impacts on setbacks. The submission also objects to the position within the Statement of Environmental Effects which indicates that the Caledonian Street frontage is able to be considered as the primary frontage, as the DCP does not prescribe which frontage to consider on corner allotments. The submission indicates that given the front of the building is to Caledonian Street, then this should be considered as the primary frontage, and therefore lot width should be measured in this direction.*

Comment: It is agreed that the lot width refers to the dimensions between the two side boundaries. On corner lots this would be the width between the side boundary and the secondary street frontage. The proposal does therefore not comply with the lot width requirement. However, if the site were amalgamated with the isolated site, the resultant development site would also not be compliant with the minimum lot width requirement. This would however be acceptable given the dimensions of the amalgamated site would be consistent with the dimensions of nearby allotments containing existing residential flat buildings.

*Issue 10: Non-compliance with site coverage, and unreasonable bulk and scale, despite compliance with the bonus FSR provided by the ARH SEPP. Overall scale (i.e. relationship with nearby buildings) of the building being inappropriate.*

Comment: The proposal no longer relies on the bonus provisions within the ARH SEPP. Non-compliance with the site coverage (building envelope) controls is included as a reason for refusal, and the building bulk associated with the relationship of the proposal to the isolated site is not appropriate.

*Issue 11: Light spill from bedroom, bathroom, kitchens*

Comment: Light spill will be controlled by the relevant Australian Standards. However, typically the impact of outdoor lighting - such as within landscaping areas, at entries, or from street lighting - is greater than the impact of interior lights.

*Issue 12: Impact of height of the proposal on outlook towards landscaping and sunset, etc.*

Comment: The proposal is compliant with the maximum height limit, and the associating impacts to general outlooks and aspects are consistent with that anticipated by this development standard.

*Issue 13: Impacts to trees within both Queen Victoria Street and Caledonian Street.*

Comment: It is agreed that the concept plan submitted in relation to the isolated site at 66A Caledonian Street may impact on heritage listed trees within Caledonian Street.

*Issue 14: Impact of construction noise.*

Comment: Construction noise is able to be managed through conditions of consent.

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

For the reasons outlined previously within this report, the proposed development is inconsistent with the requirements and objectives of the relevant planning policies, and as such is deemed to be unsatisfactory and not in the public interest.

#### **Section 94 Contributions**

S94 contributions would apply to the development as a result of the proposed increase in density, should the proposal have been supported.

### **Conclusion**

Development Application No. 2017/139 for the construction of a four (4) storey residential flat building, comprising seven (7) units, basement level, strata subdivision and demolition of existing structures at 142 Queen Victoria Street, Bexley has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal for the reasons outlined within the 'Recommendation' contained earlier in this report.



Our Ref: 0326/15t1

31 July 2018

The General Manager  
Bayside Council  
PO Box 21  
ROCKDALE NSW 2216

*Attention: Ms Marta Gonzalez-Valdes*

Dear Marta,

**RESPONSE TO DEFERRAL RECOMMENDATION OF BAYSIDE PLANNING PANEL – DA-2017/139  
142 QUEEN VICTORIA STREET, BEXLEY**

As you are aware, we act on behalf of the applicant in relation to the proposed development at the above property. The purpose of this submission is to respond to the deferral recommendation of the Bayside Planning Panel (BPP) on 10 July 2018.

Provided with this submission are the following documents:

- Amended Architectural Plans (Issue D, dated 24 July 2018) prepared by Cornerstone Design with the amendments nominated on the plans;
- Amended Photomontage prepared by Cornerstone Design.

Provided below is a correlated response to the points raised in the deferral recommendation by the BPP.

**1. Site Coverage**

Part 5.2 of Rockdale DCP 2011 prescribes a maximum site coverage of 35% for residential flat buildings. The definition for the site coverage control is contained within Rockdale LEP 2011, as follows (our underline):

*site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:*

- (a) *any basement,*
- (b) *any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- (c) *any eaves,*
- (d) *unenclosed balconies, decks, pergolas and the like.*

The proposal that was reviewed by the BPP had slightly non-compliant site coverage of 35.9% and was justified by the applicant on the basis that the site is undersize and is otherwise compliant with deep soil landscaped area requirements. As a result of increased building setbacks to Caledonian Street, the site coverage of the proposal now falls below the 35% requirement (see amended plans by Cornerstone Design). The proposal is therefore now compliant with the site coverage control. We note that Council's previous report cites a DCP



PLANNING INGENUITY  
Suite 210, 531-533 Kingsway  
Miranda NSW 2228  
P 02 9531 2555

Suite 6, 65-67 Burrell St  
Wollongong NSW 2500  
P 02 4254 5319



definition for the site coverage control, however, no such term is defined in the 'Definitions' section of RDCP 2011. Hence, the aforementioned LEP definition was utilised.

## 2. Setbacks

### Caledonian Street

The Council report states that a 3m setback to Caledonian Street may be acceptable. At ground level, this was largely provided in the plans reviewed by the BPP, with the only exception being the 2.2m setback to the pedestrian entry and fire egress stairs (the location of both of these building elements is dictated by the basement level below, which has constrained size because of the site width) and 2.74m setback to the lift. Above ground level, the proposed balconies are located within the setback zone, however, this aspect of the design was a result of complying with Council's request that the building activate the street by providing balconies to the street frontages, despite such balconies having a southern elevation.

Subsequent to the BPP meeting, the applicant's met with Council's planning staff. We discussed maximising the setback of the fire stairs to improve its presence within Caledonian Street. As indicated above, the location of the fire stairs is dictated by the basement layout which is constrained by the site width. Nonetheless, provided with this submission are plans that have increased the setback to the fire stairs by 300mm to 2.5m. Additional windows and ribbed concrete panelling is provided to the amended fire stairs street facade in order to avoid a blank wall that would typically be provided to the external treatment of fire stairs. Furthermore, it is noted that the adjoining lobby foyer windows are now setback 3m (originally 2.4m) and will allow for good passive surveillance opportunities, activation of the street frontage and acceptable building presentation.

### Queen Victoria Street

The plan reviewed by the BPP contained a typographical error indicating a 2.9m setback to the adjoining building walkway balustrade (accessing Unit G.01) which has been corrected to state 3.9m.

Council's assessment report states that the proposed setbacks to Queen Victoria Street have decreased since the design was reviewed by Council's Design Panel, however, this is misleading as the building setbacks have increased at ground level (although the plans did contain a typographical error as outlined above) to contain a large (3.9m) deep soil zone. Apartment balconies above ground level have setbacks ranging from 3.5m to 3.9m, however, these balconies were a change to the building requested by Council's planning staff (as outlined above) to better activate the street frontages.

### North-eastern side setback

Council's report contains errors with relation to the proposed setbacks. The setbacks are compliant except for the proposed north-east facing kitchen wall which has a 5.8m setback instead of the 6m setback required by the ADG for a habitable room. However, the kitchen wall is blank and will therefore not have any privacy impact on No. 66A Caledonian Street.

The proposed bathroom windows have a 4.5m setback which exceeds the 3m required for a non-habitable room under the ADG.

The plans lodged with this submission have balcony setbacks ranging from 6.1m to 7.5m which exceeds the minimum 6m requirement of the ADG.

### North-western side setback

The plans lodged with this submission have setbacks to the usable part of proposed balconies of at least 6m which exceeds the minimum 6m requirement of the ADG.





### 3. Deep Soil Zones

The Apartment Design Guide requires 7% of a site to be deep soil landscaping. The proposal provides 31.35% of the site as deep soil landscaping and therefore far exceeds the minimum requirement.

### 4. Front Fence Construction

Council's report is erroneous in stating that the OSD system is driving a design that incorporates a high wall to the street frontage. A correct reading of the plans reveals that the proposal includes a small masonry wall for the OSD system to the Queen Victoria Street frontage that has a height ranging from 300mm to 610mm. The plans have been amended to clarify the Queen Victoria Street elevation (including proposed wall height, finishes and landscaping), which is aided by the submitted photomontage.

An RL of 39.10 has also been added to the garbage storage area (which is located over 12m from the street boundary) indicating the height of the wall enclosure.

### 5. Privacy Screens

New fixed privacy screens have been provided for bedroom 2 of unit 1.01 and 2.01. The proposal also provides sliding privacy screens on the north-western elevation of balconies on the first and second floors. These screens ensure there is visual privacy between units and the western adjoining development at Nos. 144-146 Queen Victoria Street.

### 6. Treatment of Balustrades

The treatment of balcony balustrades on the southern corner of the development has been clarified, with a note reading 'rendered & painted masonry balustrade' added to the elevations. The submitted photomontage demonstrates to Council and the BPP that the corner balustrades are majority solid elements for the future privacy of the residents.

### 7. Resolution of the Corner

As outlined above, including clarified notation on the plans, corrected typographical error for the building setback to Queen Victoria Street and amended photomontage.

### 8. Resolution of Roof Element

The roofs of the third floor balconies for Unit 3.01 have been reduced in thickness and size to appear more recessive in the building design and the face brick is proposed to be a dark finish (refer to the photomontage). This results in a recessed third floor and roof, reducing the overall bulk and scale of the development while not materially changing the amenity of residents.

### 9. Minimum Width Requirement

Rockdale DCP 2011 requires a minimum lot width of 24m at the street frontage for residential flat buildings. The site has a frontage to Caledonian Street of 32.615m, and a frontage to Queen Victoria Street of 20.725m. The proposal provides for an efficient use of the site that will provide a high level of amenity for future occupants without having any unreasonable amenity impacts on existing surrounding development. The site is considered to be of a sufficient size for the proposed development and will not compromise the amenity of the adjoining sites.

## CONCLUSION

We submit that the amended proposal will be a suitable outcome for the subject site and the context of the Queen Victoria Street and Caledonian Street intersection. The proposal will create a landmark for good design in the locality and will offer amenity to the future occupants that exceeds that base minimum that is otherwise acceptable by the ADG.





The proposal will be consistent with the desired future character of the locality and will provide a suitable streetscape presentation.

As detailed in this correspondence and presented through the submission of amended plans and supporting documentation, the revised scheme suitably addresses those concerns as raised by the Bayside Planning Panel on 10 July 2018.

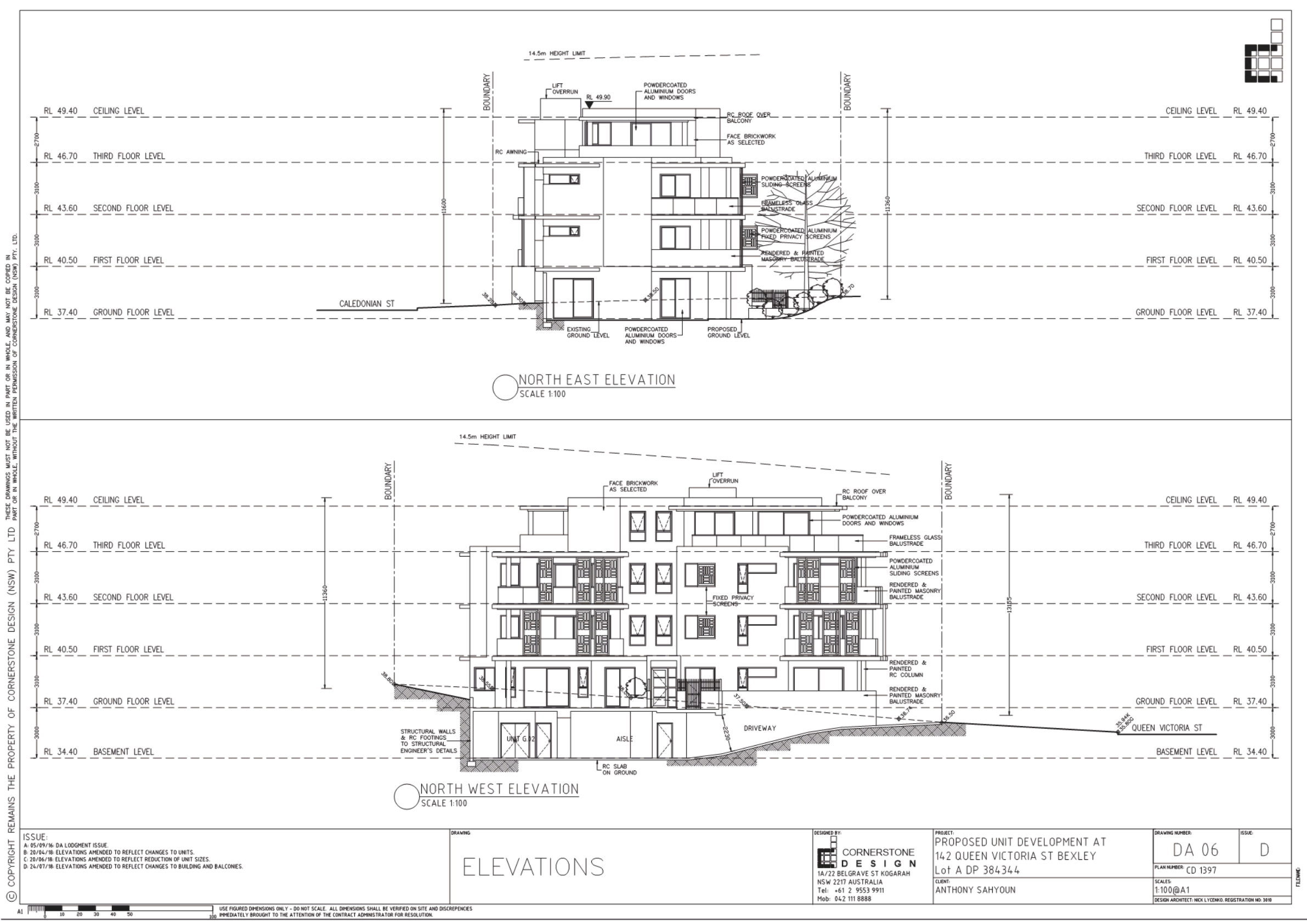
For these reasons, we respectfully request that the Planning Panel determines the application on the information available and in a favourable manner.

Should you require any further information or clarification in this regard, please do not hesitate to contact our office on 9531 2555.

Yours faithfully,  
Planning Ingenuity Pty Ltd

Benjamin Black  
DIRECTOR









---

## Bayside Local Planning Panel

28/08/2018

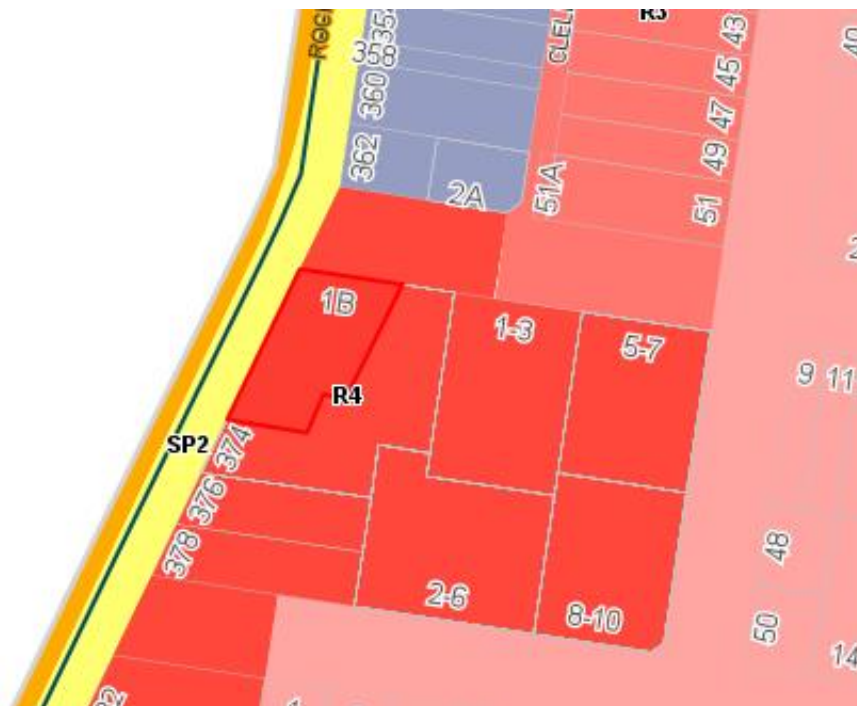
Item No	6.7
Application Type	Development Application
Application No	DA-2017/517
Lodgement Date	11/10/2017
Property	<b>1B Park Road, Sans Souci (Alternatively known as: 368 Rocky Point Road, Sans Souci)</b>
Ward	Botany Bay
Owner	FIP Holdings Victoria Pty Ltd
Applicant	Mr Nathan Elali
Proposal	Construction of a four(4) storey residential flat building comprising twelve (12) units and basement carparking.
No. of Submissions	NIL
Cost of Development	\$ 4,750,493
Report by	Michael McCabe, Director City Futures

---

## Officer Recommendation

- 1 That the Bayside Local Planning Panel support the variation to clause 4.3 - Height of Buildings in the Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
  - 2 That the Bayside Local Planning Panel support the variation to clause 4.4 Floor Space Ratio in the Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
  - 3 That Development Application DA-2017/517 for the Construction of a four(4) storey residential flat building comprising twelve (12) units and basement carparking be APPROVED pursuant to Section 80 (1)(a) of the Environmental Planning and Assessment act 1979 and subject to the conditions of consent attached to this report.
-

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Site Analysis Plan and Site Plan [↓](#)
- 3 Street Elevations Plan [↓](#)
- 4 Elevation Plans [↓](#)
- 5 Landscape Plans [↓](#)
- 6 Materials and Finishes [↓](#)
- 7 Project Diagrams [↓](#)
- 8 Project Images [↓](#)
- 9 Shadow Diagrams [↓](#)
- 10 Statement of Environmental Effects [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

<b>Application Number:</b>	DA-2017/517
<b>Date of Receipt:</b>	11 October 2017
<b>Property:</b>	1 B Park Road, SANS SOUCI (Lot X DP 162302)
<b>Owner:</b>	FIP Holdings Victoria Pty Ltd
<b>Applicant:</b>	Mr Nathan Elali
<b>Proposal:</b>	1B Park Road, SANS SOUCI NSW 2219 (Alternatively known as : 368 Rocky Point Road, SANS SOUCI NSW 2219) - Construction of a four(4) storey residential flat building comprising twelve (12) units and basement carparking
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	None.
<b>Author:</b>	Eric Alessi
<b>Date of Report:</b>	12 July 2018

### Key Issues

---

- The proposal partially exceeds the maximum permissible height on the land to accommodate a lift overrun, fire stairs and plant room for the rooftop terrace. The maximum permissible height for the land is 14.5 metres and the building is 16.5 metres in height at its highest point. The applicant has submitted a detailed section 4.6 variation submission for the height.
- The proposal exceeds the maximum permissible Floor Space Ratio applying to the land which is 1:1. The proposal will have an overall FSR of 1.09:1 with a gross floor area of 969.31 over a site area of 896 square metres. The applicant has submitted a detailed section 4.6 submission for the FSR.
- The proposal will create additional overshadowing to the neighbouring residential flat building which will result in some habitable windows not receiving direct sunlight during mid-winter. A detailed assessment is provided under section 4.4.2 of this report.

### Recommendation

---

- That the Bayside Planning Panel support the variation to clause 4.3 - Height of Buildings in the Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
- That the Bayside Planning Panel support the variation to clause 4.4 - Floor Space Ratio in the Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
- That Development Application DA-2016/399 for the Construction of a four(4) storey residential flat building comprising twelve (12) units and basement carparking be **APPROVED** pursuant to



Section 80 (1)(a) of the Environmental Planning and Assessment act 1979 and subject to the conditions of consent attached to this report.

## Background

---

### History

The following development applications have been considered for the site:

- DA-2014/100, Demolition of existing service station, approved on 25.11.2013
- DA-2010/100, Remove & replace existing sign with new illuminated 7m high petrol price sign, approved on 15.10.2009
- DA-2001/857, Proposed new canopy over fuel pumps to replace existing canopy, approved on 20.04.2001
- DA-1994/1, Proposed Addition of two underground petrol tanks plus new signs for 7-eleven store, approved on 26.05.1994

The site was formally a services station and consent for the demolition of the station has been granted as noted above. There is an recently constructed residential flat building neighbouring the site at 374 Rocky Point Road (DA-2011/179). According to the Council report for this building the applicant submitted sufficient information to demonstrate every reasonable effort to acquire the corner (the subject site for this application) was made at the time.

### Proposal

Council is in receipt of a development application DA-2017/517 at 1 B Park Road Sans Souci, which seeks consent to carry out the construction of a four(4) storey residential flat building comprising twelve (12) units and basement carparking. More specifically the proposal consists of:

Residential Flat Building consisting of 5 x 1 bedroom, 5 x 2 bedroom and 2 x 3 bedroom apartments comprising of a total of (12) apartments.

Basement consisting of:

- Fourteen (14) residential car parking spaces, three (3) visitor parking spaces, two (2) bicycle and one (1) motorbike space.
- Residential storage cage.
- Bin store room.

Ground Floor consisting of:

- Pedestrian Access
- 1 x 1 bedroom, 2 x 2 bedroom apartments

First Floor consisting of:

- 1 x 1 bedroom, 1 x 2 bedroom and 1 x 3 bedroom apartments

Second Floor consisting of:

- 1 x 1 bedroom, 1 x 2 bedroom apartments and 1 x 3 bedroom apartments

Third Floor consisting of:

- 2 x 1 bedroom and 1 x 2 bedroom apartments

### Site location and context

The site is on the corner of Rocky Point Road and Park Road and is zoned R4 High Density Residential. The site is known as Lot X DP 162302, 1B Park Road Sans Souci (also known as 368 Rocky Point Road, Sans Souci, 2219). The site is an irregular shape with a boundary length along Rocky Point Road of 40.44 metres and a boundary width along Park Road of 24.5 metres. The total area of the block is 896 sq.m (by title according to the submitted survey plan). The topography of the site is such that it is relatively flat however there is a slight fall between the site and the neighbouring property at 374 Rocky Point Road.

The former service station on the site has been demolished and the site contains no building work. Adjoining the site to the east and south is land zoned R4 - High Density Residential. Opposite the site on Rocky Point Road is land zoned R3 Medium Density Residential. To the north of the site is a commercial and retail area with buildings up to three storeys. This land is zoned B4 Mixed use. Surrounding the site on an L shaped block is 374 Rocky Point Road which is a part two (2) storey and part four (4) storey residential flat building.

The site is affected by acid sulphate soils - Class 5. There are no trees of significance on the 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*.

### **S4.15 (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:

#### **Greater Metropolitan REP No. 2 – Georges River Catchment**

The aims and objectives of the plan require that stormwater runoff from the subject site is not increased and that the quality of the water released will not impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.

Council is required to address the planning principles contained within Part 2 of this Regional Environmental Plan.

The proposal has been accompanied by an Acid Sulphate Soil Management Plan which demonstrates adequate adequate measures to minimise disturbance to Acid Sulfate Soils which are set out in the *Acid Sulfate Soils Assessment and Management Guidelines* prepared by the Acid Sulfate Soils Management Advisory Committee. The proposal has been accompanied by detailed stormwater management plans in accordance with Council's Technical Specifications Stormwater to ensure that the impacts of stormwater into nearby streams is minimised.

The proposal achieves the Regional Environmental Plan objectives.

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 824597M\_02

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

Reduction in Energy Consumption 35%  
Reduction in Water Consumption 41%  
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**

The provisions contained within State Environmental Planning Policy (Infrastructure) 2007 were taken into consideration in the assessment of the application as follows:

**Clause 101 - Development with frontage to classified road**

The proposed development is located on land with a frontage to a classified road being Rocky Point Road. In this regard, clause 101 - Development with frontage to a classified road, of the SEPP must be considered before consent can be granted. The clause is as follows:

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

*(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*

*(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

*(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*

*(i) the design of the vehicular access to the land, or*

*(ii) the emission of smoke or dust from the development, or*

*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

*(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposed vehicle access is from Park Road to the side of the site satisfying 2 (a) of the above. The proposal was referred to the Roads and Maritime Services which raised supported the proposal subject to conditions which have been incorporated into the consent. Accordingly the proposal is consistent with 2 (b) of the above. The proposal will have no adverse effect on the safety, efficiency and ongoing operation of the classified road. Traffic noise is discussed below.

**Clause 102 - Impact of road noise or vibration on non-road development**

Clause 102 applies to land adjacent to a road with a daily traffic volume of more than 40,000 vehicles

per day. According to the Roads and Maritime Services online publication 'Traffic Volume Viewer', the daily traffic volume for Rocky Point Road is over 40,000 vehicles. Therefore clause 102 applies. The clause is as follows:

*102 Impact of road noise or vibration on non-road development*

*(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*

- a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

*(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

*(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

*(4) In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.*

The proposal was accompanied by an Acoustic Report, prepared by Wilkinson Murray and dated May 2017. The report provides minimum construction requirements to meet the internal noise goals. The noise goals for the report are consistent with the requirements of the infrastructure SEPP being 35 dBA for sleeping areas and 40 dBA for living/work areas. A condition will be placed on the draft notice of determination requiring the proposal to be constructed in accordance with the recommendations contained within the report and this is to be certified by a suitably qualified acoustic consultant prior to the issue of the occupation certificate.

**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 five (5) metres of the vicinity of an overhead powerline 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. The clause is below:

*45 Determination of development applications—other development*

*(1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out:*

- (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
  - (ii) *immediately adjacent to an electricity substation, or*
  - (iii) *within 5m of an exposed overhead electricity power line,*
  - (c) *installation of a swimming pool any part of which is:*
    - (i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
    - (ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
  - (d) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*
- (2) *Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:*
- (a) *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*
  - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

The proposal has been referred to Ausgrid. The authority has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

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

Under clause 7 (1) (a) of State Environmental Planning Policy No 55 - Remediation of Land consent cannot be given to the unless consideration has been given to whether the land is contaminated. The property is identified in Council's GIS system as being potentially contaminated and is listed as a contaminated site in the EPA document '*List of NSW Contaminates Sites Notified to EPA as of 22 December 2017*'. Furthermore the former use of the site was for a services station which are known to include underground petroleum storage systems which can leak into the surrounding environmental and contaminate groundwater.

Under clause 7 (1) (b) consideration must be given to whether the site is suitable for its proposed use. The clause states:

"if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out".

The application has been accompanied by a Site Audit Report prepared by Easterly Point Environmental, dated 18 March 2016 titled 'Site Audit Report 0103 - 1410R, 368 Rocky Point Road, Ramsgate NSW (Ref. 14042)', and a Site Validation Report prepared by Parsons Brinckerhoff, dated 20 November 2014 titled 'Site Validation Report Former 7-Eleven service station, 368 Rocky Point Road, Ramsgate, NSW (Store ID: 2053).

The Site Validation Report concludes the following:

- The site has been used as a fuel service station since 1956.
- In May 2013, fuel was found to be seeping through a retaining wall into the basement car park of the property located adjacent and to the east of the site. Mitigation measures were implemented and no petroleum product has since been observed to seep through the walls of the basement

- car park.
- The main fuel stored at the site was petrol, in addition a kerosene tank and a waste oil tank were held at the site.
- All storage tanks along with the site buildings were removed during the remediation and demolition work that occurred in May 2014.
- Post remediation no soil samples were identified with contaminant concentration exceeding the adopted site criteria.
- Concentration of benzene and ethylbenzene exceeded drinking water guidelines in some areas. Potential future residents of a high density apartment complex are unlikely to be exposed to contamination remaining in the shallow perched water underlying the site.
- Vapour intrusion risks were not identified as unacceptable to residents living in the above ground apartment complex.

The report concluded the following in relation to site suitability: *"The site is zoned R4 for high density residential use purpose (Rockdale Local Environmental Plan, 2011). On assessment of the current contamination status of the site and on evaluation risks, the site would be suitable for a high density residential development compliant with its current zoning."*

The above demonstrates that suitable remediation work has been undertaken on the site to make the land suitable for its intended use. Therefore, in accordance with Clause 7 (1)(b) of SEPP 55, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out.

The proposal has been evaluated by Council's Environmental Scientist and is supported.

#### **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 has been referred to the Design Review Panel on 23 November 2017. The design review panel made recommendations in relation to the the position of the lift core, deep soil area, Landscape design and Safety. The Panel supported the application subject to the issues discussed below being addressed.

*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 Panel considered that the design approach responds to the context and neighbourhood character.*

Comment: The site is unique in that it has a wide frontage to Rocky Point Road and a narrow depth. There is a neighbouring residential flat building which goes around the site in L shape and has boundary setback lower than that stipulated in the ADG. The proposal has been designed to respond to the neighbouring buildings by having a layout which maximises setbacks to neighbouring buildings.

#### Principle 2 – Built Form and Scale

*The Panel considered the built form and scale of the proposed development to be generally appropriate subject to the following:*

- *Moving the lift core back from the street façade to reduce the visual impact of the lift over-run.*

Comment: The lift core has been setback from the street facade in the amended plans. The proposed building is of a similar height and bulk to neighbouring buildings. The proposed building provides a good level of internal amenity to all apartments.

#### Principle 3 – Density

*The Panel considered the density to be acceptable.*

Comment: The panels advice is supported.

#### Principle 4 - Sustainability

*The development should incorporate sustainability initiatives such as solar panels, rainwater tanks as well as the provision of deep soil landscaping consistent with ADG and Council requirements.*

Comment: The proposal has been accompanied by a BASIX certificate which demonstrates that the proposal meets minimum standard with regarding to energy and water consumption. The proposal provides adequate deep soil area and vegetation. The building has been designed to provide adequate solar access to all apartments incorporating minimum ceiling heights to habitable rooms of 2.7 metres. Shadow diagrams have been provided which demonstrate that all apartments will receive at least 2 hours of direct sunlight.

#### Principle 5 – Landscape

*The Panel considered the landscape design needs to address the following:*

Provision of an appropriate area of deep soil consistent with ADG and Council requirements.

- Adequate soil depth to support tree and shrub growth on any podium level planting.
- The potential to enhance the quality of communal open space at the ground floor level, including:
  - a) potential re positioning of the OSD tank
  - b) increase solar access
  - c) screen planting against the neighbouring building particularly given the proximity of multiple balconies overlooking the subject site.
- The Panel recommended the use of the roof top terraces for communal open space and supports the use of planter boxes, shade structures and appropriate setbacks.
- Provision of screen planting to enhance amenity and to provide appropriate screening to the adjacent property.

Comment: The deep soil area has been increased in the revised plans. The proposed landscaping is

supported by Council's landscape architect. Communal open space has been relocated to the rooftop and incorporates planter boxes and shade structures.

#### Principle 6 – Amenity

*See comments above (Landscape).*

Comment: It is considered that the overall design of the building will provides a suitable level of amenity to all apartments incorporating adequate solar access, natural light and 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.

#### Principle 7 - Safety

*The Panel suggested that further consideration should be given to:*

- *A two (2) way car park access ramp to avoid conflict between vehicles entering and exiting the development.*
- *Provision of balustrade or other fall prevention measures relayed to the planter bed above the OSD tank and to the roof over the carpark entry.*

Comment: The proposal incorporates solid balustrades throughout the whole buildings. The proposed driveway has been assessed by Council's Development Engineer and is supported.

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

*The Panel considered that housing diversity is adequate. However provision for social interaction in the form of communal outdoor space and associated facilities needs further consideration.*

Comment: Amended plans include communal open space on the rooftop.

#### Principle 9 – Aesthetics

*The Panel supported the overall design approach.*

Comment: The overall aesthetics of the buildings are compatible with the locality. Neighbouring buildings in the locality use a mixture of white coloured rendering and brickwork. The building has been broken into two sections with a central core connection the two parts reducing the bulk of the building. The proposal incorporates features to the facade including balconies and glazing of varying lengths and heights.

#### *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						
3D - Communal and public open space	<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</p>	The proposal contains 135 square metres of communal open space on the rooftop over a site area of 896 square metres. This equates to 15% of the total site area. The area of communal open space is supported as discussed in section 4.3.3 Communal Open Space.						
3E - Deep soil zones	<p>Deep soil zones are to meet the following minimal requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>650m<sup>2</sup> - 1,500m<sup>2</sup></td> <td>3m</td> <td>7%</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	7%	The proposal deep soil area is supported as discussed in section 4.3.1 Open Space and Landscape Design.
Site area	Minimum dimensions	Deep soil zone (% of site area)						
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	7%						
3F Visual Privacy	<p>Min separation - side &amp; rear boundaries:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> </tbody> </table> <p>Buildings on the same site combine required building separations. Gallery treated as habitable space</p>	Building height	Habitable rooms and balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	The proposal incorporates a nine (9) metre separation distance between the proposed building and the adjacent four (4) storey residential flat building at 374 Rocky Point Road. Privacy measures are discussed in section 4.1.1 Views and Privacy.
Building height	Habitable rooms and balconies	Non habitable rooms						
Up to 12m (4 storeys)	6m	3m						

<p>3J - Bicycle and car parking</p>	<p>As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.  Parking provided off street.</p>	<p>The number of vehicle parking spaces required has been calculated against requirements for Multi Dwelling Housing / Residential Flat Buildings in the Rockdale Development Control Plan 2011. The plan requires one (1) car parking space for one and two bedroom apartment and two (2) car parking spaces for three (3) bedroom apartments and one (1) visitor space per five (5) apartments. The proposal provides a total of seventeen (17) car parking spaces, including three (3) visitor spaces and a motorcycle space. The number of parking spaces complies with the requirements of the Development Control Plan.</p>						
<p>4A – Solar and daylight access</p>	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am &amp; 3 pm mid-winter  Max 15% apartments receive no direct sunlight b/w 9am &amp; 3pm mid-winter</p>	<p>The proposal has been accompanied by shadow diagrams which show that at least 70% of apartments receive min 2hrs direct sunlight b/w 9am &amp; 3 pm mid-winter.</p>						
<p>4B – Natural ventilation</p>	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.  Ten storeys or &gt; are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.  Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>All apartments achieve natural cross ventilation.</p>						
<p>4C – Ceiling heights</p>	<table border="1"> <tr> <td colspan="2">Minimum ceiling heights:</td> </tr> <tr> <td>Habitable</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> </table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	<p>The proposal has been accompanied by section plans which show the ceiling heights for all levels. There is to be a minimum floor to ceiling height of 2.7 metres for all living areas in apartments and a minimum ceiling height of 2.4 metres for non habitable living areas.</p>
Minimum ceiling heights:								
Habitable	2.7m							
Non-habitable	2.4m							

<p>4D – Apartment size and layout</p>	<p>Minimum internal areas:</p> <table border="1" data-bbox="416 331 799 495"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m<sup>2</sup> each.</p> <p>Further bedrooms increase minimum internal area by 12m<sup>2</sup> each.</p>	Apartment type	Minimum internal area	1 bedroom	50M <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p>Two (2) of the one bedroom apartments are 49 square metres in area which is 1 square metres less than the required 50 square metres. All other apartments exceed the minimum required internal areas.</p>							
Apartment type	Minimum internal area																
1 bedroom	50M <sup>2</sup>																
2 bedroom	70m <sup>2</sup>																
3 bedroom	90m <sup>2</sup>																
<p>4E – Private open space and balconies</p>	<p>Primary balconies as follows:</p> <table border="1" data-bbox="416 792 799 981"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <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> </tbody> </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>All ground level units have courtyards with an area of over 15 square metres. All units meet the minimum balcony areas except a one bedroom unit on the third floor which has a balcony with an area of 6 square metres which is under the 8 square metres required.</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>4F – Common circulation and spaces</p>	<p>Max apartments off a circulation core on a single level is eight.</p> <p>10 storeys and over, max apartments sharing a single lift is 40.</p>	<p>There will be no more than three (3) units utilising the circulation space on each level.</p>															

<p>4G – Storage</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="416 405 796 595"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <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> </tbody> </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>	<table border="1" data-bbox="821 315 1334 757"> <thead> <tr> <th>Apartment</th> <th>In basement</th> <th>In apartment</th> <th>Total</th> </tr> </thead> <tbody> <tr><td>G.1 (2 bed)</td><td>6.34</td><td>3.6</td><td>9.94</td></tr> <tr><td>G.2 (1 bed)</td><td>3.52</td><td>3.02</td><td>6.54</td></tr> <tr><td>G.3 (2 bed)</td><td>3.49</td><td>4.69</td><td>8.18</td></tr> <tr><td>1.1 (2 bed)</td><td>6.34</td><td>4.03</td><td>10.37</td></tr> <tr><td>1.2 (1 bed)</td><td>6.87</td><td>3.02</td><td>9.89</td></tr> <tr><td>1.3 (3 bed)</td><td>5.59</td><td>5.04</td><td>10.63</td></tr> <tr><td>2.1 (2 bed)</td><td>7.14</td><td>4.03</td><td>11.17</td></tr> <tr><td>2.2 (1 bed)</td><td>5.44</td><td>3.02</td><td>8.46</td></tr> <tr><td>2.3 (3 bed)</td><td>3.07</td><td>3.30</td><td>6.37</td></tr> <tr><td>3.1 (2 bed)</td><td>6.87</td><td>4.03</td><td>10.9</td></tr> <tr><td>3.2 (1 bed)</td><td>3.44</td><td>3.02</td><td>6.46</td></tr> <tr><td>3.3 (1 bed)</td><td>3.07</td><td>3.30</td><td>6.37</td></tr> </tbody> </table> <p>The proposal complies except for 1 three (3) bedroom unit.</p>	Apartment	In basement	In apartment	Total	G.1 (2 bed)	6.34	3.6	9.94	G.2 (1 bed)	3.52	3.02	6.54	G.3 (2 bed)	3.49	4.69	8.18	1.1 (2 bed)	6.34	4.03	10.37	1.2 (1 bed)	6.87	3.02	9.89	1.3 (3 bed)	5.59	5.04	10.63	2.1 (2 bed)	7.14	4.03	11.17	2.2 (1 bed)	5.44	3.02	8.46	2.3 (3 bed)	3.07	3.30	6.37	3.1 (2 bed)	6.87	4.03	10.9	3.2 (1 bed)	3.44	3.02	6.46	3.3 (1 bed)	3.07	3.30	6.37
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>																																																															
Apartment	In basement	In apartment	Total																																																													
G.1 (2 bed)	6.34	3.6	9.94																																																													
G.2 (1 bed)	3.52	3.02	6.54																																																													
G.3 (2 bed)	3.49	4.69	8.18																																																													
1.1 (2 bed)	6.34	4.03	10.37																																																													
1.2 (1 bed)	6.87	3.02	9.89																																																													
1.3 (3 bed)	5.59	5.04	10.63																																																													
2.1 (2 bed)	7.14	4.03	11.17																																																													
2.2 (1 bed)	5.44	3.02	8.46																																																													
2.3 (3 bed)	3.07	3.30	6.37																																																													
3.1 (2 bed)	6.87	4.03	10.9																																																													
3.2 (1 bed)	3.44	3.02	6.46																																																													
3.3 (1 bed)	3.07	3.30	6.37																																																													
<p>4H Acoustic privacy</p>		<p>Apartments are generally oriented so that noisy areas are located away from bedrooms.</p> <p>An acoustic report has been prepared for the building for the protection of the units against traffic noise. No bedrooms are located adjacent to noisy areas.</p>																																																														
<p>4J Noise and pollution</p>																																																																
<p>4K Apartment mix</p>		<p>The proposal incorporates five (5) one bedroom units, five (5) two (2) bedroom units and two (2) three (3) bedrooms.</p>																																																														
<p>4L Ground floor apartments</p>		<p>All ground floor apartments have direct access to the street.</p>																																																														
<p>4M Facades</p>		<p>The facade treatment has been reviewed by the design review panel and is supported.</p>																																																														
<p>4N Roof design</p>		<p>The proposal utilises most of the roofspace as a terraced area for the amenity of residents.</p>																																																														

40 Landscape design	Recommended tree planting in deep soil zones		Council's Landscape Officer has assessed the proposal and provided support.
	<b>Site area</b>	<b>Recommended tree planting</b>	
	Up to 850 square metres	1 medium tree per 50 square metres of deep soil zone	
	Between 850 - 1,500 square metres	1 large tree or 2 medium trees per 90 square metres of deep soil zone	

**Rockdale Local Environmental Plan 2011**

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
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
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

The subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as Residential Flat Building which constitutes a permissible development only with development consent. The objectives of this zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

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

2.7 Demolition requires consent

The site is vacant and no demolition work is included in the application. Demolition of the existing services station has been completed as per DA-2014/100.

#### 4.3 Height of buildings

The highest point of the building is 16.5m which exceeds the maximum 14.5m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011. The only component of the building which exceeds the maximum permissible building height is the lift overrun, fire stairs and plant room on the rooftop terrace. The bulk of the building is below the maximum permissible building height including the rooftop parapet (13.6 metres) and the floor of the rooftop terrace (12.7 metres). The applicant has submitted a detailed clause 4.6 variation statement which is contained in the Statement of Environmental Effects. The justification for the variation is discussed in section 4.6 of this report. The proposed variation to the maximum permissible building height is supported in this instance.

#### 4.4 Floor space ratio - Residential zones

The proposal has been accompanied by a Gross Floor Area plan which shows that the total floor area is to be 913.5 square metres over a site area of 896 square metres.

The proposed development does not comply with clause 4.4(2) in RLEP 2011, which restricts the floor space ratio (FSR) to 1:1. The proposed development will result in an overall FSR of 1.02:1 with a gross floor area of 917.6 square metres having been calculated. The proposal is 21.6 square metres over the maximum permissible floor space ratio. The area has been calculated in accordance with the definition of Gross Floor Area in the Rockdale Local Environmental Plan and excludes common circulation areas included the lift core and stairwell.

The applicant has submitted a detailed clause 4.6 variation statement which is contained in the Statement of Environmental Effects. This is discussed in section 4.6 of this report. The variation is supported in this instance.

#### 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.

#### Height of Buildings

The proposal seeks a variation to the maximum permissible building height as discussed in section 4.3 Height of Buildings.

The applicant has submitted a detailed justification for the proposed variation to the development standard. The justification is summarised as follows:

- The variation does not contribute to the bulk and scale of the building overall.
- The variation is to allow the use of the rooftop area for communal open space.
- The proposal remains compliant with the minimum required floor to ceiling height.
- The proposal is consistent with all required setbacks and maintains a high standard of design.
- The variation will not result in reduced solar access to neighbouring dwellings.
- The proposal remains consistent with objectives of clause 4.3 Heights of Buildings.

The proposed variation has been considered against each objective of the clause as follows:

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

The need for the variation to the height arises from the need to have a lift overrun to permit the use of the rooftop terrace for communal open space. There will be minimum impact on the bulk and scale of the proposal.

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

The proposal maintains a high quality urban form incorporating appropriate floor to floor ceiling heights, setbacks and articulation.

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

The shadow diagrams show that there will be minimal additional overshadowing as a result of the lift overrun and stairs.

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

The lift overrun will be recessed into the rooftop and not visible from the street. The height of the building is not at significant variance to neighbouring buildings and is constant with the objective of achieving a transition in height and land use intensity.

The variation to the maximum permissible building height satisfies the 'five part test' established by the NSW Land and Environmental Court where the objectives of the standard have been achieved and the standard has been previously varied by a minor degree in similar circumstances. The non-compliance will have no adverse impacts on adjoining properties with regard to visual privacy, solar access. There will be no adverse impacts on the streetscape. The proposal meets the objectives of the zone and the standard and is of minimal environmental impact. As such, the applicant's submission is supported.

#### Floor Space Ratio

The proposal seeks a variation to the maximum permissible floor space ratio as discussed in section 4.4 Floor Space Ratio.

The applicant has submitted a detailed justification for the proposed variation to the development standard. The justification is summarised as follows:

- The proposal meets the objectives of the zone and meets the requirements for parking and apartment mix.
- The building envelope is compliant with setback and height controls with the exception of the rooftop structure.

- The proposed building layout will not have any adverse impact on adjoining properties and does not contribute to overshadowing beyond a compliant scheme.
- The proposal matches the built form, bulk and scale of surrounding residential flat buildings and the proposed non-compliance with FSR will not be perceptible from the street.
- 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.

*(a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*

The applicants justification is generally supported. The proposed development is in line with the type of development envisaged for the site.

*(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*

The applicants justification is generally supported. The proposed building form will not have an adverse impact beyond a compliant scheme.

*(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

The applicants justification is generally supported. The proposal is generally consistent with bulk and scale with adjoining residential flat buildings. The neighbouring residential flat building at 374 Rocky Point Road, Sans Souci has a floor space ratio of 1.1:1.

The applicant has provided a statement addressing the 'five part test' established by NSW LEC Four2Five Pty Lrd v Ashfield Council [2015] NSWLEC 90. The applicants submission is generally supported. The non-compliance will have no adverse impacts on adjoining properties with regard to visual, aural and privacy impacts or overshadowing as opposed to a compliant scheme. The proposal meets the objectives of the zone and the standard and is of minimal environmental impact. As such, the applicant's submission is supported.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property and the property is within 500 metres of land with Class 3 Acid Sulphate Soils. The proposal has been accompanied by an Acid Sulfate Soils Management plan prepared by IGS - Intergrated Group Services dated 10 July 2017. The report identifies the chances of Acid Sulfate Soils being found on the site as low. The report contains management approaches to identify suspected Acid Sulfate Soils should any be present. Monitoring for Acid Sulfate Soils should be undertaken in accordance with the table contained within section 3.3 of the report. A condition of consent has been placed onto the consent requiring the recommended actions contained within the plan to be followed during construction.

#### 6.2 Earthworks

Earthworks including excavation are required on site for basement level, driveway, floor slabs, excavation for key services and founding levels to the proposed new structures. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on



environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 90 metres to Australian Height Datum (AHD). The proposed building height is at 27.1 AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

#### 6.7 Stormwater

The proposal involves the construction of an on site retention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

#### 6.12 Essential services

Services will generally be available on the site. Additional conditions have been incorporated in the draft conditions of consent 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:

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.5 Contaminated Land	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Buildings	Yes	Yes - see discussion
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes - see discussion	No - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.5 Visual and Acoustic Privacy - Building Separation	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 Residential Flat Buildings	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.6 Traffic - Classified Roads	Yes	Yes - see discussion
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes - see discussion
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Design of Loading Facilities	Yes	Yes - see discussion
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 - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes		
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Site Coverage	Yes	Yes - see discussion
5.2 RFB Front Setback	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	Yes - see discussion
5.2 RFB Secondary Street/Laneway Setback	Yes	Yes - see discussion
5.2 RFB - Building Design	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The land in the general vicinity is generally flat and it is not anticipated that the proposal will impact on views of neighbouring properties.

#### 4.1.3 Water Management

The roofwater and runoff is to be directed to an detention tank. A stormwater plan has been submitted.

#### 4.1.4 Soil Management

A condition will be placed on the draft notice of determination requiring a Soil & Water Management Plan to be submitted prior to the issue of the construction certificate. The plan is to contain general erosion and sediment control strategies to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

#### 4.1.5 Contaminated Land

The application has been accompanied by a validation report which states that *'On assessment of the current contamination status of the site and on evaluation risks, the site would be suitable for a high density residential development compliant with its current zoning.'* Council has accepted the recommendations in the site validation report prepared by Parsons Brinckerhoff and the site is suitable for its proposed use.

#### 4.1.7 Tree Preservation

The site has been cleared of all vegetation from the demolition of the existing service station. There are no street trees along Park Road or Rocky Point Road. Council's Tree Management Officer has assessed the proposal as has found the proposal satisfactory with regards to the provisions of State Environmental Planning Policy (Vegetation in non-rural areas).

#### 4.1.9 Lot size and Site Consolidation - Residential flat buildings

The proposal will not result in any isolated sites to the adjoining properties. The allotment width is 40 metres at the Rocky Point Road frontage which is above the required 24 metre width.

#### 4.1.9 Lot size and Site Consolidation - isolated sites

The proposal is contained within an existing allotment which is Lot X DP 162302. The proposal will not result in any isolated sites to adjoining properties.

#### 4.2 Streetscape and Site Context - General

The proposal is located in a R4 - High Density Residential Zone. The general vicinity has a mixture of lower density and higher density residential development. Directly behind the site is a four (4) storey residential flat building. To the north of the proposal is a commercial strip along Rocky Point Road which contains one and two storey commercial and residential buildings. On the opposite side of Rocky Point Road are single and two storey dwellings.

The main façade of the building is towards Rocky Point Road, and there is a secondary frontage to Park Road. The building is broken so that there is a northern section and a southern section with a core connecting the two sections. The facade of the building features glazing and balconies which are indented into the building. The facade is to consist of corrugated precast concrete and well as concrete awnings. The building also includes aluminium windows and doors and galvanised steel fences and privacy screens. The development assessment officer sought feedback from the design review panel on the suitability of the proposed finishes and advice was that the proposed materials are suitable. The proposal meets all the controls contained within 4.2 Streetscape and Site Context within the Rockdale Development Control Plan.

The proposed residential flat building is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context. The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of balconies, pedestrian entries at ground level, upper level voids and range materials which adds visual interest to the facades.

#### 4.2 Streetscape and Site Context - Fencing

The proposal includes a galvanised steel post fence 1.8 metres in height around the ground floor units on the Rocky Point Road and Park Road frontage. Fencing is transparent and enables surveillance to the street. The development assessment officer requested the Design Review Panel to comment on the suitability of the fencing and no objections were received. The proposed fencing is consistent with the objectives and controls contained within section 4.2 of the Development Control Plan.

#### 4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The proposal provides a total area of landscaping at the ground of 211.4 square metres over a site area of 893 square metres. There is a garden area on the rooftop which is 70 square metres in area and a planter garden bed around the fourth floor balcony with an area of 8.3 square metres. The total area of deep soil landscaping is 124 square metres or 14% of the total site area. Part 3E of the Apartment Design Guide requires at least 7% of the site to be Deep Soil Zone with minimum dimensions of 3 metres.

Not all of the deep soil landscaped area is of a minimum dimensions of three (3) square metres. 81 square metres of the deep soil zone is less than three (3) metres in width and 43 square metres (5%) of landscaping is wider than three (3) metres. In this regard a merit assessment has been undertaken. The proposal provides a total area of landscaped area which is more than required by the ADG and provides space for trees of a medium height. Accordingly the proposed deep soil area is acceptable.

The proposal has been referred to Council's Landscape Architect. In the referral response general support for the proposal was provided subject to conditions of consent. A revised landscaping plan was requested prior to the issue of the occupation certificate. The conditions relate to the following:

- All plant species that are not groundcovers, shrubs and trees shall be shown on plans as a planting plan, in the right location and scale.
- Private terraces on G2 and G3 shall address privacy issues. Screen planting shall be provided in deep soil (G3) or in built in planter boxes over slab (in the case of Northern area of G2)
- To ensure growth of tree in shade area replace one *Banksia integrifolia* with one (1) *Tristanopsis laurina* in south-east corner.
- Planting Type 2, screen planting shall include some trees like, *Elaeocarpus reticulatus* and *Waterhousia floribunda*, to be positioned in strategic location to ensure screening of living areas of upper levels of proposed development.
- Planter bed along western boundary (Rocky Point Road) shall provide a larger planting to ensure a strong level of screening and shade. Planting shall include screen planting and some trees in order to provide privacy to ground units, shade to ground and upper floors, and general amenity.
- Include one (1) *Corymbia eximia* (yellow Bloodwood) in south-western area adjacent to Rocky Point Road, or similar tree to reach a minimum of ten metres height to provide amenity and mitigate the bulk or built form proposed.
- Terrace Common Open Space. Southern roof terrace shall include a planter box minimum 700mm wide to provide screen planting. Roof terrace planting shall include trees in built in planter boxes, or climbers with pergola in terrace area, to provide a share area of use to the residents in BBQ area.
- Specification of planter bed depth on top of OSD shall be indicated in landscape plan. Depth shall be able to sustain all species proposed in plant mix 3.

- All landscape areas shall be automatic irrigated. Irrigation system shall be contacted to rain water tank.
- Frontage works application shall be submitted to council prior to issue of Construction Certificate with Civil and Landscape works. Landscape works shall include planting along Park Road, (LGA managed road) with two (2) *Lophostemon confertus*, (Brush Box) along Park Road as per Rockdale Street Tree Master Plan. Planting along Roacky Point Road, (State Road, RMS managed road) verge strip shall be planted with five (5) *Magnolia grandiflora*, (*Magnolia*) as per Rockdale Street Tree Master Plan.
- All landscape works area 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.
- 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.

The above conditions will be incorporated into the conditions.

#### 4.3.3 Communal Open Space

The proposal provides an area of communal open space of 147 square metres. Communal open space is located wholly within the rooftop terrace. The proposal does not strictly comply with the numerical requirements of the ADG which require that 25% of the site are be dedicated to communal open space (223 square metres). In this regard a merit assessment has been undertaken. The proposal provides a high rate of communal open space of 12.25 square metres per apartment. The proposed area of communal open space is of high quality as described below. Accordingly the proposed area of communal open space is acceptable.

The proposal has been assessed against the following:

*The development must provide a communal area for the benefits of its residents at the rate of 5m<sup>2</sup> for each dwelling within the development. Where a development is unable to reasonably meet this minimum requirement (or a development containing less than 12 dwellings) an equivalent area of additional private open space is to be provided for each dwelling.*

Communal open space is provided to each unit at a rate of 12.25 square metres each. This is above the minimum required 5 square metres for each dwelling.

#### 3. Communal areas should:

##### a. contribute positively to the amenity of the development,

Communal open space is considered usable and includes a shade structure and 70 square metres garden terrace area to contribute to the amenity of the space.

##### b. be conceived as part of the overall design of the building,

Communal open space is located on the rooftop terrace which is integrated into the building, and includes a 70 square metres garden terrace, solid balustrades, lift and stairwell access. Access to the communal open space is centrally located and efficiently accessed by all apartments. Access to the rooftop terrace is via the lift and stairs which is shared as the means of access to all apartments. Accordingly the communal open space is appropriately integrated into the overall building design.

##### c. be north facing and receive adequate solar access,

Communal open space is located on the rooftop and receives no overshadowing.

*d. have a minimum area of 40% that has sunlight at 1pm on 21 June,*

The rooftop terrace is not anticipated to receive any overshadowing.

*e. be clearly defined to distinguish between communal and private open space,*

The whole rooftop level is designated to communal open space is not adjacent to any areas of private c

*f. be of dimensions to suit the proposed use and requirements of the occupants,*

The majority of the area of communal open space is over four (4) metres in width and is usable.

*g. provide for a range of recreational uses and activities, act as a catalyst for social interaction, and be supplemented with seating and shading,*

A shade structure is include over part of the rooftop area.

*h. be cost effective to maintain, and*

There are no features contained within the area of communal open space that are anticipated to be costly to maintain.

*i. contribute to stormwater management and be integrated with the on-site drainage detention system.*

Council's Development Engineer has supported the proposed stormwater management system.

Control 5 support the use of rooftop areas for the purpose of communal open space as follows  
'Communal open space may be accommodated on a podium or roof in a residential mixed use building provided it has adequate amenity and convenient access.'

The proposed communal open space meets the required objectives and controls.

#### 4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate for the proposed development.

The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

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

The objectives of this clause are as follows:

*A. To ensure that sunlight access is provided to private open space and habitable rooms within the development.*

*B. To ensure the development does not unreasonably diminish sunlight to neighbouring properties and within the development site.*

The proposal has been accompanied by shadow diagrams for mid-winter at June 22 and for the equinox at March 22nd including elevation diagrams showing overshadowing for the neighbouring residential flat building looking east and south as well as birds eye view diagrams. The diagrams show that at 9am mid-winter a shadow will be cast south-west onto part of 374 Rocky Point Road however no additional windows will receive overshadowing. At 12pm and 3pm the shadow will move to the south-east onto the side of 374 Rocky Point Road. At 12pm an additional six (6) windows will be overshadowed. At 3pm most of the windows up to the third (3) level will receive additional

overshadowing. The shadow diagrams for March 22 show that at 9am and 12pm there will be no additional overshadowing to any habitable windows of the neighbouring building. At 3pm the shadow shifts east to overshadowing four (4) ground floor windows and three (3) windows on the south elevation.

The Rockdale Development Control Plan requires living rooms and private open space for at least 70% of apartments in a development and adjoining properties to receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter. The elevation plans show that not all of the windows on the neighbouring residential flat building will receive at least 3 hours of direct sunlight during mid-winter. In this regard a merit assessment has been undertaken.

The layout of the residential flat building has been designed to maximise the setback between the proposed building and neighbouring residential flat building at 374 Rocky Point Road. The rear setback is between 6 metres and 12 metres. The neighbouring residential flat building has a side setback to the boundary of 3 metres. Due to the extent of the overshadowing design modifications including changes to the building envelope, setback distance and height would not alleviate all overshadowing without consequently creating a design which is impractical in terms of functionality of a residential flat building. The elevation shadow diagrams show that at the equinox the proposal will have minimal overshadowing impact on the neighbouring building.

Requiring compliance with the controls in the RDCP 2011 would be unreasonable as the proposed development complies with the objectives in RDCP 2011 in terms of minimising the extent of shadows that are cast to ensure the provision of sunlight access to private open space and habitable rooms within the development and where possible sunlight to the neighbouring properties.

#### 4.4.3 Natural Lighting and Ventilation - Residential

The section plans show that all habitable areas are to have a minimum ceiling height of 2.7 metres. In order to achieve the minimum 2.7 metre ceiling height for habitable rooms consideration must be given to the space required between floors which is not ceiling space. A floor to floor separation distance of 3.1 metres is required to meet the minimum required ceiling height of 2.7 metres. The section plans show that there is to be a floor to floor ceiling height of 3.1 metres. Accordingly the proposal will be able to achieve the minimum ceiling height of 2.7 metres to achieve natural lighting and cross ventilation.

#### 4.4.4 Glazing - General Controls

The proposed development provides appropriate sun protection/shading devices during summer for glazed areas facing north, west and east. The western and northern facade feature recessed balconies and precast concrete sunshades above glazed areas. The eastern elevation contains metal sun and privacy louvres across glazed areas. The southern facade features precast concrete sunshades over glazed areas.

The proposal provide a suitable level of sun protection for glazed area and is consistent with the control and objectives set out in this section.

#### 4.4.5 Acoustic privacy

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

#### 4.4.5 Visual and Acoustic Privacy - Building Separation

The objectives of this clause is as follows:

*A. To site and design buildings to ensure acoustic and visual privacy for occupants and neighbours.*

The potential impacts on visual privacy to adjoining building was taken into consideration in the assessment of the proposal as follows:

#### 374 Rocky Point Road, Sand Souci

374 Rocky Point Road is a two (2) and four (4) storey residential flat building which surrounds the proposed site in an L shape. The proposal has been accompanied by elevation plans showing the neighbouring property. The building features windows and balconies facing into the proposal. As shown on the eastern elevation plan the proposal contains windows to habitable rooms and a balcony facing into 374 Rocky Point Road. Windows are between fourteen (14) and nine (9) metres from the neighbouring property. The minimum recommended separation distance in the Apartment Design Guide (ADG) is twelve (12) metres between habitable windows. The elevation plan shows that there is to be metal sun and privacy louvers on windows on the eastern elevation maintaining privacy for windows with a separation distance of less than twelve (12) metres.

There is a side balcony on the fourth floor facing into 374 Rocky Point Road. There is a nine (9) metre separation distance between the balcony and the fourth (4) floor of the neighbouring residential flat building at 374 Rocky Point Road. There is a six (6) metre separation distance between the new proposal and the property boundary and a three (3) metre separation distance between the neighbouring building and the property boundary. Figure 3F.3 in the ADG requires a minimum separation distance of 6 metres between a new development and the property boundary for buildings up to four (4) storeys in height. The separation distance for an existing building may be less than six (6) metres. Accordingly the separation distance for this balcony complies with the ADG. The balcony has been designed to prevent downward looking by incorporating a 1.2 metre wide planter garden around its perimeter.

A condition will be incorporated into the consent requiring privacy measures to be maintained for the life of the development. The assessment of the proposal has determined that the proposal has been designed to maintain visual privacy for occupants and to neighbours.

#### 4.4.7 Wind Impact

The bulk and scale of the proposal is such that it is not anticipated that it will contribute to a wind tunnelling effect. The building is less than five (5) storeys and 16 metres in height and accordingly does not require a wind tunnel testing in accordance with Part 4 of the Development Control Plan. In addition there is nothing in the layout or orientation of the building which suggests the proposal will contribute to a wind tunnelling effect.

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

Part 4.5 of the RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use development are flexible, maximise housing choice and provide equality of access. The proposal satisfies the relevant objectives and requirements. Compliance with the key controls are discussed below:

- Provisions of 10%-30% 1 bed-room units, 50-75% two-bedroom units, and 10-20% three-bedroom units. The proposal includes 42% one-bedroom units (5), 42% two-bedroom units (5) and 16% three-bedroom units. The proposal provides a reasonable unit mix and is generally



consistent with the numerical requirement.

Control 4 of section 4.5.1 of The Rockdale Development Control Plan 2011 requires that for residential flat buildings with between 10 - 30 dwellings contain at least 2 adaptable dwellings. The proposal incorporates two (2) adaptable units (G.3, 3.3) out of a total of twelve (12). The proposal is consistent with control 4.

The proposal satisfies the requirements of Part 4.5 of the RDCP 2011.

#### 4.5.2 Social Equity - Equitable Access

None of the apartments have barriers to entry. The proposal is compliant with control 1 of section 4.5.2.

#### 4.6 Parking Rates Residential Flat Buildings

All parking is to be located within the underground car park. There area a total of seventeen (17) car parking spaces as well as a motorcycle bay and bicycle storage area. There are two accessible car parks.

The required parking rates area as follows:

<b>Dwelling size</b>	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
A total of ten (10) one and two bedroom apartments	1 space per unit = 10 spaces	10	Yes
Two (2) Three bedroom apartments	2 spaces per unit = 4 spaces	4	Yes
Visitor Parking	1 space / 5 dwellings	3	Yes
Car wash bay / van space for loading and unloading (can be shared with visitor spaces)	1	1	Yes
<b>Total</b>	<b>17</b>	<b>17</b>	<b>Yes</b>

#### 4.6 Car Park Location and Design

Access to parking is provided by a single lane driveway leading from Park Road into the underground car-park. Access to the basement is provided via lift and stairwell. It is proposed that a condition of consent require a traffic management system to be designed for the basement ramp to provide for priory one-way access on the 3.6m wide ramp that provides for access in both directions. The system is to be able to detect the location of vehicles and designate priority to vehicles entering the basement form Park Road using a traffic light system. The proposed system is to be submitted and approved by Council prior to the issue of the Construction Certificate and included in the proposal. Councils Development Engineer has assessed the proposed parking arrangement and provided support.

Provided the above condition is adhered to the proposal is satisfactory in relation to the provisions of

this clause.

#### 4.6 Vehicles Enter and Exit in a Forward Direction

The underground car park provided adequate manoeuvring areas to allow vehicles to enter and exit in a forward direction. Council's development engineer has assessed the proposal and has found that the proposal includes adequate manoeuvring areas for vehicles to enter and exit the site. The proposal is consistent with the requirements of this clause.

#### 4.6 Basement Parking - General

Access to the underground car-park is provided by a single driveway from Queen Street. Access to the basement car park is provided via a lift and stairwell. No part of the underground car park protrudes above the ground level. The proposal is satisfactory in relation to the provisions of this clause.

#### 4.6 Driveway Widths

The proposed driveway width complies with Council's Technical Specifications and hence satisfies the provisions of this Clause.

#### 4.6 Traffic - Classified Roads

Vehicle access to the facility is via Park Road which is a local road and not a classified road. As the proposal is located directly adjacent to Rocky Point Road which is a classified road the proposal was referred to the Roads and Maritime Services for comment. The Roads and Maritime Services provided support for the proposal subject to conditions.

#### 4.6 Basement Parking - Residential Flat Buildings

All vehicle parking is provided within an underground car park with access off Park Road.

#### 4.6 Access to Parking

There are three (3) visitor parking spots located within the basement level. A condition of consent will require intercom facilities to be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. Parking spaces for people with disabilities are located close to lifts and access stairs. The proposal is satisfactory in regards to the provisions of this clause.

#### 4.6 Design of Loading Facilities

The proposal incorporate visitor parking spaces within the basement which can be utilised for the loading and unloading of goods. The bay is isolated from pedestrian and vehicular movements. The proposal is satisfactory in regards to the controls in this clause.

#### 4.6 Car Wash Facilities

A condition of consent will require one of the visitor parking bays to act as a dual car wash and service bay. A tap will be required as well as a fixed sign saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Storm water Management. Provided the above condition is adhered to the proposal is satisfactory in regards to the controls in this clause.

#### 4.6 Pedestrian Access and Sustainable Transport

There is a pedestrian access to the development from Rocky Point Road. All vehicle access is separated from pedestrian access. Access to basement vehicle parking is provided via a lift and stairwell from the common circulation areas from the ground to rooftop level. The basement provides a

secure designated area for bicycle parking.

#### 4.7 Air Conditioning and Communication Structures

The BASIX certificate shows that each unit is to have air conditioning however the plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed on the draft Notice of Determination requiring air conditioning units to be obscured from public view should they be provided. Subject to conditions, the development is acceptable with regards to this Clause.

#### 4.7 Waste Storage and Recycling Facilities

The proposal has a designated waste storage room located in the basement. Council's Waste Management Officer has assessed the proposal against Council's Technical Specification - Waste Minimisation and Management and has provided support.

#### 4.7 Service Lines/Cables

Ausgrid were notified of the proposal and have provided support subject to conditions. The conditions have been incorporated into the notice of determination.

#### 4.7 Laundry Facilities and Drying Areas

Each unit has a designated laundry area with a space for a washing machine and sink.

#### 4.7 Hot Water Systems

The BASIX certificate states that each unit will have an instantaneous hot water however no details are shown on the plans. A condition is included on the consent which requires hot water systems on balconies to dwellings to be encased in a recessed box with the lid/cover designed to blend with the building. All associated pipe work is to be concealed. Subject to conditions, the proposed development is acceptable with regards to this Clause.

#### 5.2 RFB - Site Coverage

The building footprint has been calculated be 301 square metres over a site area of 884.5 square metres or 34% of the site. The maximum permitted building footprint is 35% which the proposal complies with.

#### 5.2 RFB Front Setback

Street setbacks are required *'to be consistent with the prevailing setback along the street within the range of 3-9m*. The front setback for the site is towards Rocky Point Road. The site is located where street setbacks transition from lower setbacks on the northern side of Rocky Point Road which is a commercial area. To the south of the is a lower density residential dwellings which have a higher setback. The building to the left side opposite of Park Road is 362 Rocky Point Road. This building is built to the street and has an has no setback. The adjoining residential flat building on the right side is 374 Rocky Point Road which has a setback of 11 metres. The next dwellings at 376 and 378 Rocky Point Road have a setbacks to Rocky Point Road of approximately 4 metres. The proposal has a setback to Rocky Point Road of 3 metres. The proposal provides an appropriate transition between the setbacks for the buildings to the north of the site along Rocky Point Road and buildings in the south. The setback provides and adequate area for landscaping and open space towards Rocky Point Road and is constant with the street as required by part 5.2 of the Development Control Plan.

#### 5.2 RFB - Side Setbacks

The proposal has a side setback to the southern boundary of 7.38 metres. The minimum side setback

is 4.5 metres for all level for building with more than three storeys. The side setback complies.

#### 5.2 RFB - Rear Setbacks

The rear boundary is irregular in shape being an 'L' shape. A six (6) metre setback from the building to the boundary is maintained. The Development Control Plan requires a 12 metre rear setback of 15% of the length of the site, whichever is the greater. The depth of the allotment at its wider part is 23.4 metres. 15 percent of this is 3.5 metres.

The proposal does not strictly comply with the minimum required rear setback of 12 metres as specified by the DCP and in this regard a merit assessment has been undertaken. The layout on the allotment is unique in that it is a corner allotment that is rectangular in shape and has a longer allotment boundary along its primary frontage to Rocky Point Road (44.44 metres) than its side boundary (24.545 metres). A 12 metre setback would account for almost half of the allotment width and would result in a development layout which is incongruous. Given the constraints of the site the proposed rear setback in acceptable.

#### 5.2 RFB Secondary Street/Laneway Setback

The proposal has a Secondary Street setback to Park Road. The distance is 6.1 metres. The minimum required secondary street setback is 3 meters. The secondary street setback is compliant.

#### 5.2 RFB - Building Design

With regards to the controls in this section the following comments are made:

*6. Façade design must respond to environmental conditions such as orientation, noise, breezes, privacy and views, through the use of appropriate sun shading devices, noise barriers, privacy screens, and the careful location of balconies, terraces and loggias.*

The facade has been designed with regards to environmental conditions. Open balconies are featured on the facade towards Rocky Point Road and Park Road. All windows on the facade feature precast concrete sunshades. The component of the building facing into 374 Rocky Point Road has been designed with due regards to the privacy of the building. All windows on this elevation feature sun and privacy louvres.

*7. Strengthen the relationship of the building with the street through the use of entry lobbies, entry porches, loggias, balconies, bay windows.*

The proposal has an entry facing Rocky Point Road. The entrance features a sun shade structure and seating.

*8. Solid balustrading should be included in the facade design to provide screening of clothes line and other paraphernalia.*

All balconies have solid balustrades.

*9. The design should consider expressing a hierarchy of floor levels by defining a base, middle, and top to the building, including podium and penthouse expression.*

The design does not express a hierarchy of floor levels but does include varying window height and lengths to the facade to avoid a monotonous appearance. The facade is also broken up horizontally by a having a core recessing in to the building essential breaking up the building into two components. This improves the presentation to Rocky Point Road.

*10. Large expanses of blank walls are to be avoided through the use of architectural design features,*

*modelling and fenestration.*

The proposal does not include any areas of blank walls.

*11. The building line of a street wall building should generally be parallel with the street boundary alignment.*

The building and any walls associated with the building are generally parallel with the street boundary.

*12. Private open space elements such as balconies should be predominantly north, east and west facing and should be designed to ensure visual and acoustic privacy.*

Balconies are located on the Rocky Point Road and Park Road frontage facing west and north. No balconies face into adjoining dwellings.

*13. Express important corners by giving visual prominence to parts of the façade through a change in building articulation, material, colour, roof expression or increased height.*

The proposal has a corner between Rocky Point Road and Park Road. The presentation of this corner is acceptable in the context of the overall building design.

*14. Existing residential flat buildings with no existing balcony enclosures are not permitted to enclose any balcony. Applications for balcony enclosures may only be considered when the enclosures are:*

- a. integrated with a design for the entire building; and*
- b. improve internal amenity through environmental control.*

No balconies are to be enclosed. This is a new building.

15. All external plumbing must be recessed or concealed and all internal plumbing must be ducted or concealed. Copper pipes must be exclusively used between the meter and service points.

A condition of consent will require all plumbing to be contained within the brickwork of the building. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

16. All proposed staircases to the upper levels of buildings must be internal.

Amended plans have been received which have internal stairs to all staircases to the upper levels.

17. Façade fixtures such as sun shading devices and blade walls should not be the only means of façade modelling, and must instead be integrated with the overall facade composition to add another layer of detail and interest.

The facade contains varied features and is supported by the design review panel.

18. The selection and mix of building materials must complement the overall composition and emphasise the scale, proportion and rhythm of the façade. Heavy materials such as brick, stone and concrete can provide a solid building base or express key elements, whilst lighter materials such as glazing, cladding and lightly coloured rendered surfaces reduce perceived bulk and add relief to the façade.

The composition of the facade has been considered by the design review panel and has been found to be acceptable.

19. The floor level of the upper most storey must be at least 3.5m below the maximum permitted height to achieve a variety of roof forms.

The floor level of all upper most storeys is lower than the maximum permissible building height by 3.5 metres throughout the building.

20. Use the roof level for communal purposes or articulate the upper storeys, with differentiated roof forms, maisonettes or mezzanine penthouses and the like  
The roof-level is utilised for communal open space.

21. Plant rooms, lift overruns and mechanical ventilation rooms must not be located on the roof of a building where they can be visible from a public place. Such services must be integrated into the design of the building, or alternatively located in the basement of the building.  
A waste room is located in the basement and a service room is located on the rooftop level.

22. The profile and silhouette of parapets, eaves and roof top elements must be considered in roof design.

The profile of the roof is appropriate.

23. The roof design must be sympathetic to the existing streetscape, and have regard to existing parapet and roof lines of adjoining properties that are of a similar building height.  
The adjoining building at 374 Rocky Point Road has a fourth (4) floor at approximately the same height as the proposed building. The roof line is similar in height to the adjoining flat building. The roof line has due regards to the roof lines of adjoining properties.

#### 5.2 RFB - Building Entry

The following comments are made with regards to the controls under 5.2 Building Entry:

24. *The entry is to be designed so that it is a clearly identifiable element of the building in the street.*  
The building entrance along Rocky Point Road has been made clearly identifiable by creating an opening which differs from the surroundings and is highlighted by the building articulation.

25. *Utilise multiple entries – main entry plus private ground floor apartment entries to activate the street edge. At least 50% of ground floor dwellings are to have individual gates and direct access off the street.*

Ground floor units adjacent to the street have direct access to the street from the private courtyards.

26. *Provide as direct a physical and visual connection as possible between the street and the entry.*  
Physical entry to the building is directly from the street.

27. *At least one main entry with convenient, barrier-free access must be provided in all new development.*

The main entry is barrier free.

28. *Provide separate entries from the street for:*

- *pedestrians and cars; and*
- *different users, for example, for residential and commercial users in a mixed use development.*

Pedestrian and vehicle entrances are separated.

29. *Design entries and associated circulation space of an adequate size to allow movement of furniture between public and private spaces.*

The lobby has a width of 2 metres. All circulation areas are of a suitable width for the circulation of furniture.

30. *Pedestrian entries should be located on primary frontages.*  
The pedestrian entrance is located on the primary frontage.

#### 5.2 RFB - Lift Size and Access

The proposal has been assessed against the following controls.

31. *Lifts are to be provided in all residential flat buildings. Multiple stairlift cores should be provided to encourage multiple street entries and ease of access to apartments. Where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to 8.*

All apartments have access to the lift core which is central to the building.

32. *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.*

A condition will be incorporated into the consent requiring the lift car to be a minimum width of 2.1 metres by 1.5 metres.

33. *Lifts are to be accessible from all levels of the building, including all basement levels. Level access to the lift from all basement levels must be provided.*

The lift is available to all levels of the building including basement.

34. *Each dwelling on a level above the sixth storey is to have access to two lifts.*

The proposal is limited to four (4) storeys in height plus rooftop terrace.

35. *All common corridors are to have a minimum width of 2 metres to enable bulky goods (white goods, furniture etc) to be easily transported through the building.*

The common corridors have a width of 1.8 and 1.85 metres. The corridors do not strictly comply with numerical requirements, however they are considered to be of sufficient width to allow bulky goods and furniture to be moved around.

36. *All common corridors are to be provided with natural light and ventilation where feasible.*

The common corridors for the building is located within a central core of the building which has glazing along both elevations. It is anticipated that there will be sufficient light and ventilation to the common corridors.

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

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:

##### **Natural Hazards**

The property is affected by the provision of surface flows however, excavation for the proposed dwelling is not deep enough to cause any adverse impact on the direction of the surface flows.

**Construction**

There are no specific issues relating to the BCA in the proposed design.

Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

**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. 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**

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

**S4.15(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.

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

A Section 7.11 Contribution Payment of \$64,417.35 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

*Civil Aviation Act, 1988*

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

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

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

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

The proposed development is affected by the 45.72 m Building Height Civil Aviation Regulations, however the proposed building height at 14.6m 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.

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA103 (Street Elevations)	Marcus Trimble	23.03.2018	28.03.2018
DA104 (Basement & Ground Floor Plans)	Marcus Trimble	23.03.2018	28.03.2018
DA105 (First & Second Floor Plans)	Marcus Trimble	23.03.2018	28.03.2018
DA106 (Third Floor & Roof Plans)	Marcus Trimble	23.03.2018	28.03.2018
DA107 (Adaptable Unit Plans)	Marcus Trimble	23.03.2018	28.03.2018
DA200 (Elevations)	Marcus Trimble	23.03.2018	28.03.2018
DA201 (Sections)	Marcus Trimble	23.03.2018	28.03.2018
DA202 (Sections 2)	Marcus Trimble	23.03.2018	28.03.2018
DA203 (Driveway Ramp Profile)	Marcus Trimble	23.03.2018	28.03.2018
DA400 (SEPP 65 Compliance Plans)	Marcus Trimble	23.03.2018	28.03.2018
DA401 (GFA)	Marcus Trimble	23.03.2018	28.03.2018
DA500 (Materials and Finishes)	Marcus Trimble	23.03.2018	28.03.2018
RPR-L101 (Paving Plan) Rev 04	Tyrrellstudio	28.05.2018	14.06.2018
RPR-L102 (Planting Plan) Rev 04	Tyrrellstudio	28.05.2018	14.06.2018
RPR-L103 (Irrigation Plan) Rev 04	Tyrrellstudio	28.05.2018	14.06.2018
RPR-L104 (Third Floor + Roof Paving Plan) Rev 02	Tyrrellstudio	28.05.2018	14.06.2018
RPR-L106 (Third Floor + Roof Irrigation Plan) Rev 02	Tyrrellstudio	28.05.2018	14.06.2018
RPR-L201 (Planting + Material Images) Rev 04	Tyrrellstudio	28.05.2018	14.06.2018

RPR-L202 (Details:Planting) Rev 02	Tyrrellstudio	28.05.2018	14.06.2018
--	---------------	------------	------------

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 (824597M\_02) other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. 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. 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**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments 1 space per apartment  
 3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

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 4.18(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*.

8. Stormwater works area to be undertaken in accordance with the Stormwater Management Report prepared by IGS Integrated Group Services titled '368 Rocky Point Road - Stormwater Management Report' dated 28 July 2017.

### Development specific conditions

The following conditions are specific to the Development Application proposal.

9. 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.
10. 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.
11. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
12. Temporary dewatering of the site to 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.
13. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
14. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
15. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
16. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
17. The development shall be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). A report prepared by a consultant accredited by the AAAC demonstrating that the proposal meets the requirements is to be prepared and submitted to the principal certifying authority prior to issue of the Construction Certificate.
18. The development shall have an impact isolation between floors which achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). A report prepared by a consultant accredited by the AAAC demonstrating that the proposal meets the requirements is to be prepared and submitted to the principal certifying authority prior to issue of the Construction Certificate.
19. (b) In order to ensure the design quality I excellence of the development is retained:
  - i) A registered architect 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 issue of the Construction Certificate.
  - (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
20. 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.
  21. 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.
  22. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
  23. 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.

24. **Prior to Issue of Construction Certificate the landscape plan approved under condition 2 are to be amended to the satisfaction of the Principal Certifier addressing the following issues:**
  - (1) All plant species that are not groundcovers, shrubs and trees shall be shown on plans as a planting plan, in the right location and scale.
  - (2) Private terraces of G2 and G3 shall address privacy issues. Screen planting shall be provided in deep soil (G3) or in built in planter boxes over slab (in the case of Northern area of G2).
  - (3) To ensure growth of tree in shade area replace one *Banksia integrifolia* with one (1) *Tristaniopsis laurina* in south-east corner.
  - (4) Planting Type 2, screen planting shall include some trees like, *Elaeocarpus reticulatus* and *Waterhousia floribunda*, to be positioned in strategic location to ensure screening of living areas of upper levels of proposed development.
  - (5) Planter bed along western boundary (Rocky Point Road) shall provide a larger planting to ensure a strong level of screening and shade. Planting shall include screen planting and some trees in order to provide privacy to ground units, shade to ground and upper floors, and general amenity.
  - (6) Include one (1) *Corymbia eximia* (Yellow Bloodwood) in south- western area adjacent to Rocky Point Road, or similar tree to reach a minimum of ten meters height to provide amenity and mitigate the bulk of built form proposed.
  - (7) Terrace Common Open Space. Southern roof terrace shall include a planter box minimum 700mm wide to provide screen planting. Roof terrace planting shall include trees in built in planter boxes, or climbers with pergola in terrace

area, to provide a share area of use to the residents in BBQ area.

- (8) Specifications of planter bed depth on top of OSD shall be indicated in landscape plan. Depth shall be able to sustain all species proposed in plant mix 3.
- (9) All landscape areas, including planters on slab shall be automatic irrigated and linked to the stormwater drainage system as a WSUD principle.
- (10) Planter boxes constructed over a concrete slab shall be built in accordance with the Apartment Design Guide.

Ensure the soil depth can sustain the proposed planting:

**Trees over 8 meters**

Minimum soil volume 150 cubic metres

Minimum soil depth 1.3 metre

**Medium trees** (8 metre canopy diameter at maturity)

Minimum soil volume 35 cubic metres

Minimum soil depth 1 metre

**Small trees** (4 metre canopy diameter at maturity)

Minimum soil volume 9 cubic metres

Minimum soil depth 800mm

**Shrubs**

Minimum soil depths 500-600mm

**Groundcover**

Minimum soil depths 300-450mm

Any subsurface drainage requirements are in addition to the minimum soil depths quoted above

- (11) Frontage works application shall be submitted to council prior issue of Construction Certificate. Frontage works consists of Civil and Landscape works. Landscape works shall include planting along Park Road, (LGA managed road) with two (2) *Lophostemon confertus*, (Brush Box) along Park Road as per Rockdale Street Tree Master Plan. Planting along Rocky Point Road, (State Road, RMS managed road) verge strip shall be planted with five (5) *Magnolia grandiflora*, (Magnolia) as per Rockdale Street Tree Master Plan.
- 25. Privacy measures are to be maintained for the life of the development and not removed without prior Council consent including the following:
  - Privacy louvers on the eastern elevation.
  - Planter garden bed for unit 3.3.
- 26. Internal lift dimensions are to be a minimum size of 2.1m x 1.5m.
- 27. Deep soil along the eastern elevation is to continue along the existing ground height.
- 28. 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. This includes access to the basement visitor car-parks.
- 29. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.

Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.

### Prior to issue of the construction certificate

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

30. 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 \$36,184.00. 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 \$18.00.
31. 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.
32. An application for Driveway Works (Public Domain Construction - Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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.
33. A Section 94 contribution of \$64,417.35 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 the 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:

Child Care Services	\$353.78
Community Services	\$378.99
Library Services	\$5121.65
Sans Souci Regional Open Space Fund	\$9489.64
Sans Souci City Wide Open Space Fund	\$15,009.36
Sans Souci Local Open Space Fund	\$9031.05
Sans Souci Local TC & Streetscape Fund	\$1,339.94
Sans Souci City Wide TC & Streetscape Fund	\$1686.87
Sans Souci Pollution Control Management	\$8682.00

Sans Souci Administration & Management \$386.99  
Sans Souci Local Infrastructure and Facilities \$12,937.08

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

34. 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>

35. 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 if the subsurface structure is below the ground 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.
36. a stormwater pit is to be constructed over Council Stormwater pipe to facilitate the property connection. The pit can be located within the driveway layback with a butterfly grate to Council specifications.
37. Prior to the issue of the Construction Certificate, the design and construction of the off-street car & bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer. In addition to that the following shall be addressed
- (a) A loading and unloading facility is to be provided via a combined visitor and loading and unloading parking space. The Loading and unloading within the site shall be designed and be restricted to a B99 vehicles not exceeding.
  - (b) Car Wash Bay - The required car wash bay shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay.
  - (c) Parking spaces must 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 AS2890.1.2004.
  - (d) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance and headroom requirements of the Standard.
  - (e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.

38. 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.
39. All 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.

40. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
41. The recommendations contained within acoustic report titled '368 Rocky Point Road - Traffic Noise Intrusion' prepared by Wilkinson Murray dated May 2017 are to be included on the construction plans and approved by the principal certifying authority.
42. A traffic management system is to be designed for the basement ramp to provide for priory one-way access on the 3.6m wide ramp that provides for access in both directions. The system is to be able to detect the location of vehicles and designate priority to vehicles entering the basement form Park Road using a traffic light system. The proposed system is to be submitted and approved by Council prior to the issue of the Construction Certificate and included in the proposal. The system is to be maintained for the life of the development.

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

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

43. 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.
44. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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.

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

45. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Access to the site for construction purposes via rocky point Road is not permitted. 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.

46. 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.

47. 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.
48. 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.
49. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
50. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

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

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

51. 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.
52. 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.
53. 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.
54. 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.
55. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
- 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.
56. 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.
57. If groundwater is encountered during construction of the pool the pumped discharge from temporary dewatering shall be reinjected by either of the following methods:
- Discharge to the approved absorption system for the development site, or
  - Discharge to a temporary absorption system designed and certified by a qualified Engineer. The absorption system must comply with Rockdale Technical Specification Stormwater Management and be designed for rainfall over the excavated area and the expected pump rate for the dewatering operation.
58. 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.
59. All existing trees located within the site may be removed.
60. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soils Management Plan by Senversa dated 10 July 2017.
61. 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.
62. Any material containing asbestos found on site during the demolition or excavation process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) Protection of the Environment Operations Act 1997.
  - c) Protection of the Environment Operations (Waste) Regulation 2014.
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

#### **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.

63. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
64. 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.
65. 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<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.
66. 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.
67. 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.
68. The width of the double driveway at the boundary shall be a maximum of 6 metres
69. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and line marked to The Relevant Australian Standards.
70. 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.
71. Testing and evaluation of the wall insulation system is to be carried out at post construction stage by a suitably qualified acoustical engineer to show an Acoustical Star Rating of 5 has been achieved in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report submitted to the Principal Certifying Authority. If Council is not the PCA, a copy shall be submitted to Council concurrently.
72. Testing and evaluation of the floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer to show that an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) and in accordance with the report submitted to the Principal Certifying Authority. If Council is not the PCA, a copy shall be submitted to Council concurrently.
73. The noise reduction measures specified in the noise report prepared by Wilkinson Murray dated May 2017 titled '368 Rocky Point Road - Traffic Noise Intrusion' shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an

Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

74. 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.
75. Where applicable 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.
76. 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.

#### **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.

77. 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.

78. All visitor car parking spaces are to be clearly shown as common property on the Subdivision/Strata Certificate for the strata subdivision.
79. 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.
80. 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.

81. The Granting of service easement shall be undertaken to the satisfaction of the principal Certifier.
82. The rooftop terrace area is to be clearly shown as common property on the Subdivision/Strata Certificate for the strata subdivision.

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

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

83. The following conditions are required by the Roads and Maritime Services:

#### Roads and Maritime Services Conditions

1. A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

2. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

3. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site.

Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

4. Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structures, together with improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Rocky Point Road boundary. However, proponent should be advised that the subject property is within the broad area currently under investigation for the proposed F6 Extension (F6E) Corridor. Further information about the corridor, please contact the F6 Team on 1800 789 297 or [F6Extension@rms.nsw.gov.au](mailto:F6Extension@rms.nsw.gov.au), or by visiting <http://www.rms.nsw.gov.au/projects/sydney-south/f6/index.html>

5. Rocky Point Road 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 Rocky Point Road 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 CBD & East Network and Safety Unit on phone: (02) 8849 2367, or by email [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au) for a works instruction. Roads and Maritime may, in the future, supplement the No Stopping restriction with Clearways. 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. 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.

6. All demolition and construction vehicles are to be contained wholly within the site (or on Park Road) and vehicles must enter the site before stopping. A construction zone will not be permitted on Rocky Point Road.

7. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Rocky Point Road during construction activities.

8. All works/signposting associated with the subject development (including public utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

84. The following conditions area required by Ausgrid:

#### Ausgrid Conditions

##### 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. As 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 condition or other issues that may impact on the method of supply.

##### Conduit Installation

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrids Design Information, used to prepare the connection project design.

##### Proximity to Existing Network Assets

There are existing overhead electricity network assets in Rocky Point Road.

Safework NSW Document - Work Near Overhead Powelines: 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.

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).

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 developer's cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.

#### Underground Cables

There are existing underground electricity network assets in Park Rd. 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.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

## Roads Act

85. 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.

86. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- construction of a concrete footpath along the frontage of Park Road and Rocky point Road;
  - Reinstatement of a grass verge between property line and the new footpath
  - construction of a new fully constructed concrete vehicular entrance;

- removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - Construction of kerb and gutter in Park Road
  - Construction of Kerb in Rocky Point Road.
  - Reconstruction of Kerb Pram Ramp at the intersection of Park Road and Rocky Point Road
87. 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.
88. 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.
89. 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.
90. 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).

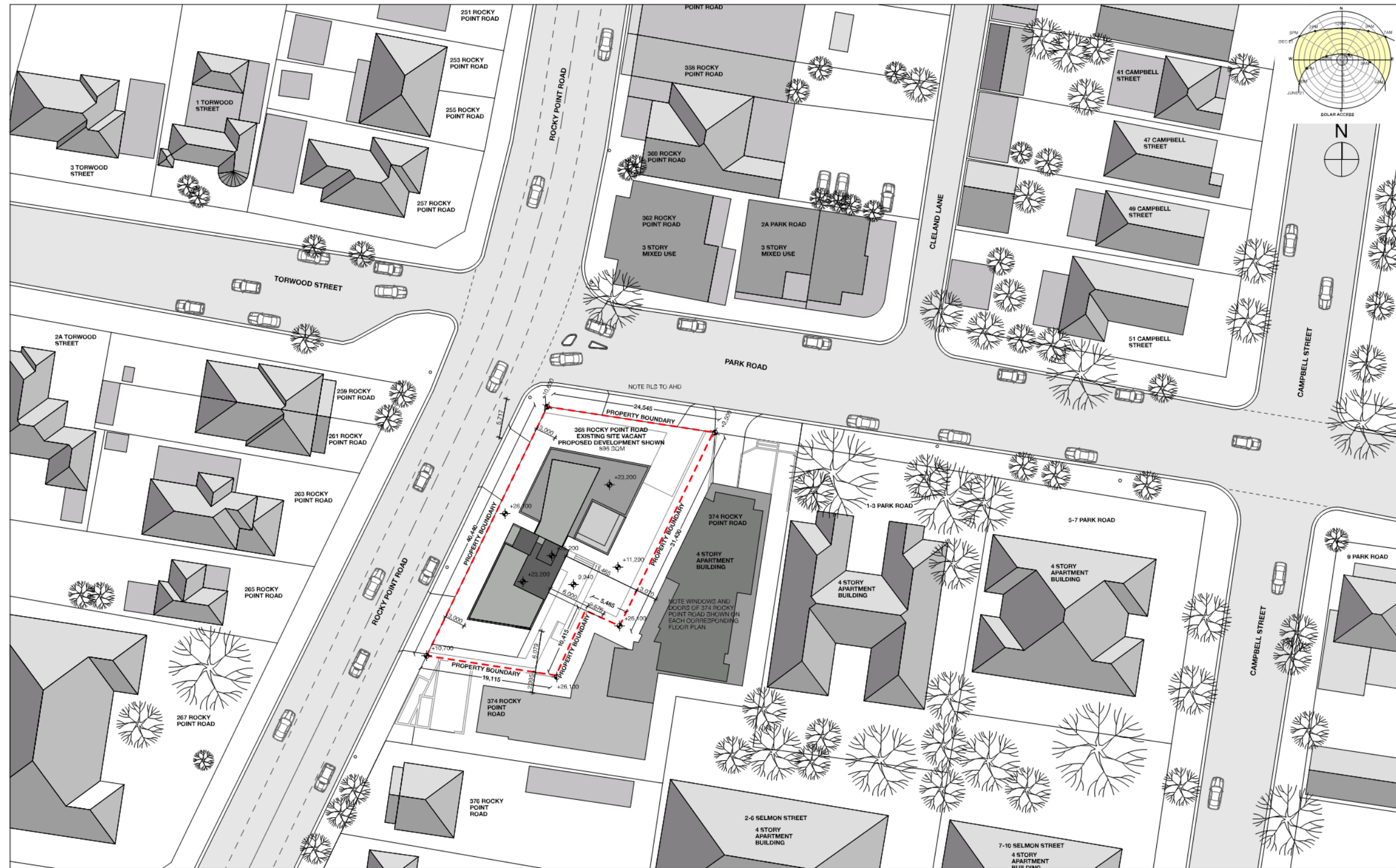
### Development consent advice

- 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. *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. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
  - choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices

- informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- d. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.



1 Site Analysis Plan  
1:250

**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT LEGAL. PROPERTY OF BENNETT AND TRIMBLE PTY LTD. 184 208 02. BEFORE ANY WORK IS COMMENCED, THE USER OF THIS DOCUMENT AGREES TO HOLD BENNETT AND TRIMBLE PTY LTD. HARMLESS FROM AND RELEASES BENNETT AND TRIMBLE PTY LTD. FROM ALL LIABILITY AND DAMAGES, INCLUDING REASONABLE AND REASONABLE COSTS OF DEFENCE, IN CONNECTION WITH THE USE OF THIS DOCUMENT. ANY LIABILITY FOR NEGLIGENCE OR OTHERWISE, ARISING IN WHATEVER MANNER FROM THE USE OF THIS DOCUMENT, SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. BENNETT AND TRIMBLE PTY LTD. ACCEPTS NO LIABILITY FOR ANY DAMAGES, INCLUDING REASONABLE AND REASONABLE COSTS OF DEFENCE, IN CONNECTION WITH THE USE OF THIS DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
RIP Holdings Victoria  
Pty Ltd

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NAME**  
ROCKY POINT ROAD  
988 ROCKY POINT ROAD,  
SANA SOUCI 2219

**PROJECT NORTH**  
N

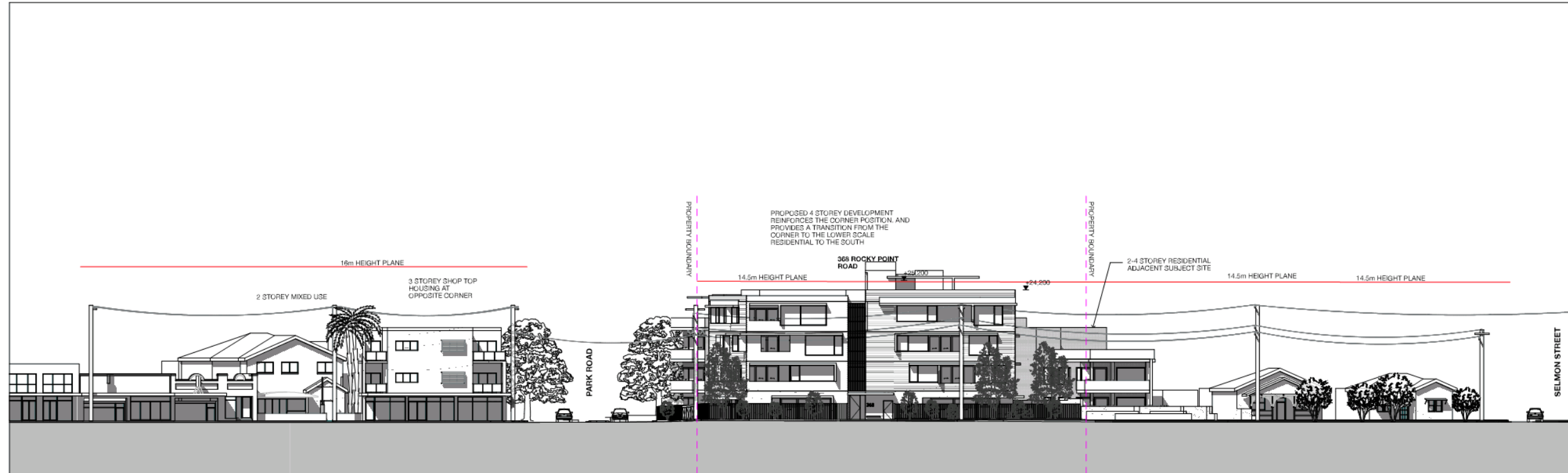
**SCALE:**  
1:250 @A1

**STATUS**  
CONCEPT DESIGN

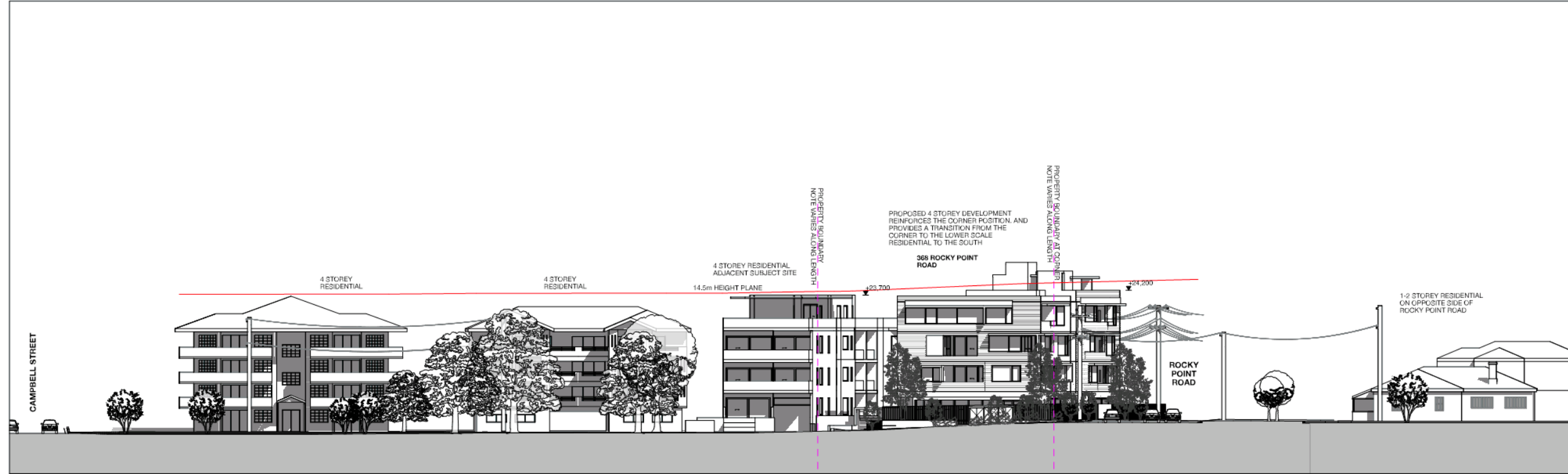
**DRAWING TITLE**  
Site Analysis Plan

**DRAWING NUMBER**  
DA100

**REVISION**  
G



1 Rocky Point Road Elevation  
1:200



2 Park Road Elevation  
1:200

**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT FOR CONSTRUCTION  
THIS DOCUMENT IS THE PROPERTY OF BENNETT AND TRIMBLE PTY LTD. (B&T) AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BENNETT AND TRIMBLE PTY LTD. (B&T). THIS DOCUMENT IS THE PROPERTY OF BENNETT AND TRIMBLE PTY LTD. (B&T) AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BENNETT AND TRIMBLE PTY LTD. (B&T).

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
RIP Holdings Victoria Pty Ltd

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NORTH**

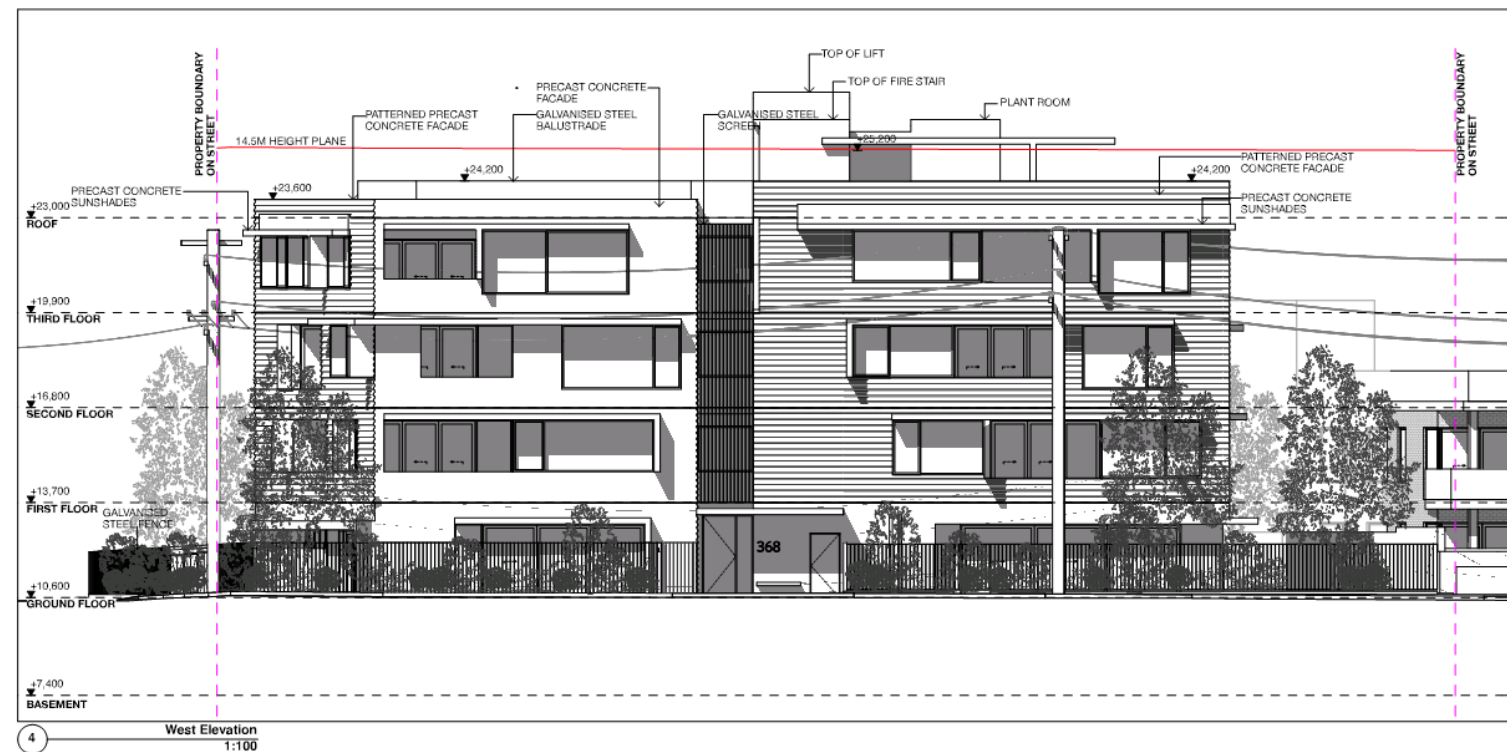
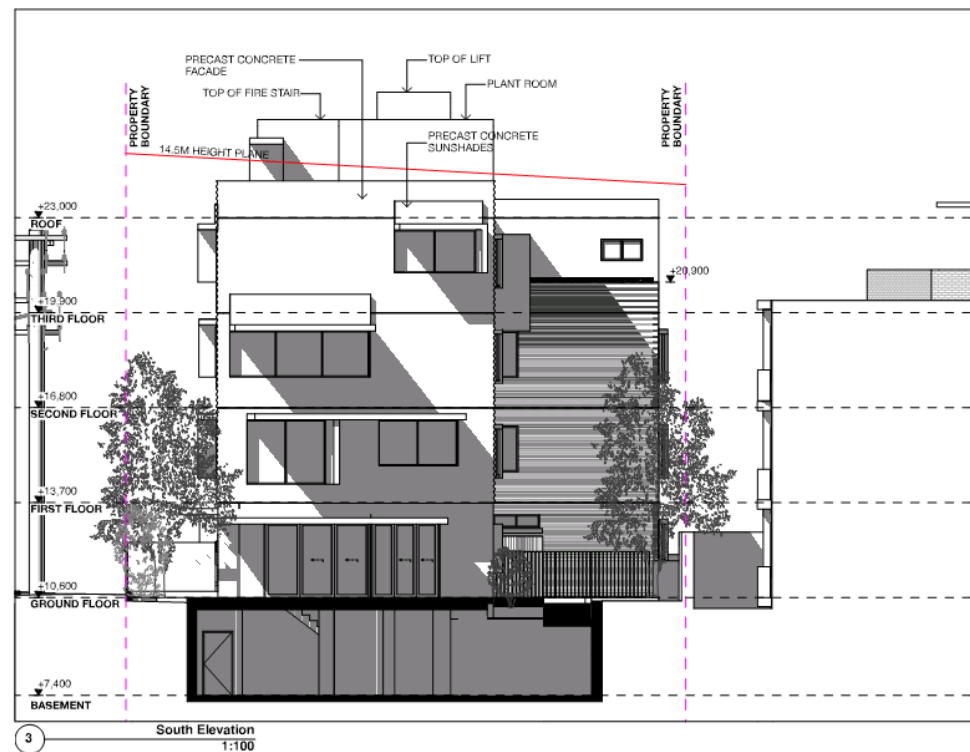
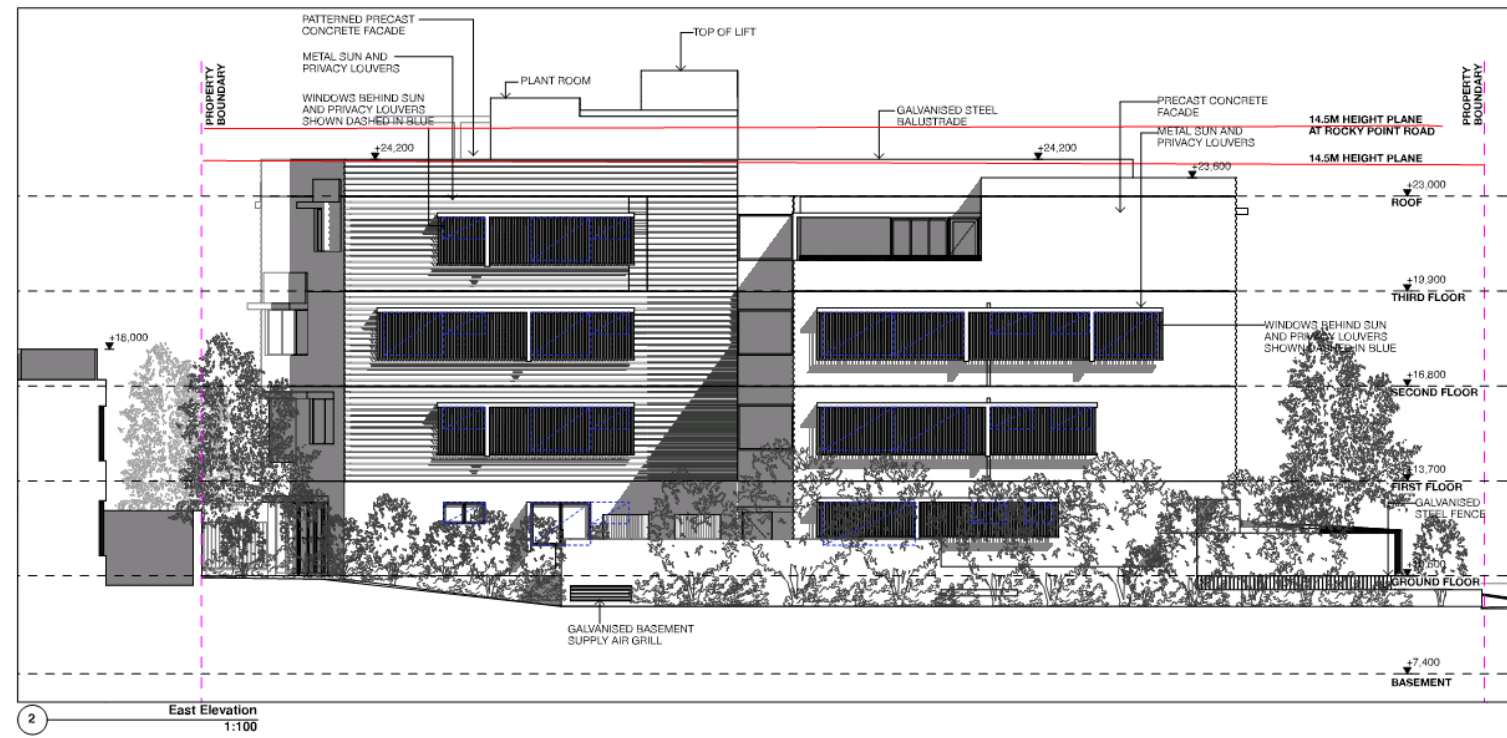
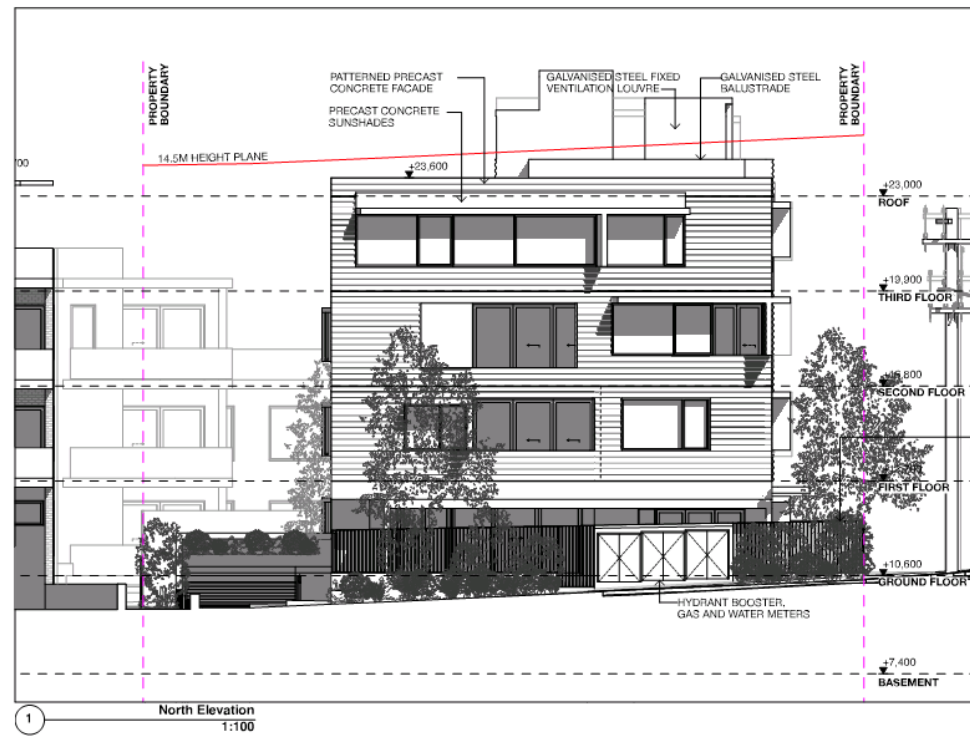
**SCALE:**  
1:200 @A1

**STATUS**  
CONCEPT DESIGN

**DRAWING TITLE**  
Street Elevations

**DRAWING NUMBER**  
DA103

**REVISION**  
G



**BENNETT AND TRIMBLE**  
**L2, 333 GEORGE STREET**  
**SYDNEY NSW 2000**  
**BENNETTANDTRIMBLE.COM**

NOT FOR CONSTRUCTION  
 WITHOUT THE WRITTEN APPROVAL OF BENNETT AND TRIMBLE PTY LTD. THE USE OF THIS DOCUMENT IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE TITLE OF THIS DOCUMENT. ANY REUSE OF THIS DOCUMENT FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN APPROVAL OF BENNETT AND TRIMBLE PTY LTD. IS STRICTLY PROHIBITED. BENNETT AND TRIMBLE PTY LTD. ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY THE USE OF THIS DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

<b>CLIENT</b> RIP Holdings Victoria Pty Ltd	<b>PROJECT NORTH</b>	<b>DRAWING TITLE</b> Elevations
<b>NOMINATED ARCHITECT:</b> MARCUS TRIMBLE #7625	<b>SCALE:</b> 1:100 @A1	<b>DRAWING NUMBER</b> DA200
<b>PROJECT NUMBER</b> 170131	<b>STATUS</b> CONCEPT DESIGN	<b>REVISION</b> G

## DA ISSUE LANDSCAPE DRAWINGS

368 ROCKY POINT ROAD, SAN SOUCI, NSW 2219

### DRAWING LIST

NUMBER	TITLE	SCALE
L001	DRAWING LIST	-
L101	PAVING PLAN	1:100
L102	PLANTING PLAN	1:100
L103	IRRIGATION PLAN	1:100
L104	THIRD FLOOR + ROOF PAVING PLAN	1:100
L105	THIRD FLOOR + ROOF PLANTING PLAN	1:100
L106	THIRD FLOOR + ROOF IRRIGATION PLAN	1:100
L201	PLANTING + MATERIAL IMAGES	-
L202	DETAILS: PLANTING	1:10

#### DRAWINGS BY OTHERS:

ARCHITECTURAL REFER TO ARCHITECTURAL DRAWING LIST  
 STRUCTURAL AND CIVIL REFER TO STRUCTURAL AND CIVIL DRAWING LIST  
 ELECTRICAL REFER TO ELECTRICAL DRAWING LIST

#### NOTE:

Refer to architectural drawings for lighting plans,  
 all wall, retaining wall and fencing details and for all sections.

© 2017. THIS DRAWING IS COPYRIGHT OF TYRRELLSTUDIO PTY LTD.

NOTES:  
 DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS GOVERN.  
 ALL DIMENSIONS ARE SHOWN IN MILLIMETRES UNLESS OTHERWISE NOTED.  
 ALL DIMENSIONS SHALL BE VERIFIED ON SITE BEFORE PROCEEDING WITH THE WORK.  
 TYRRELLSTUDIO SHALL BE NOTIFIED BY WRITING OF ANY DISCREPANCIES.  
 THIS DRAWING MUST BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS,  
 SPECIFICATIONS AND DRAWINGS.  
 THIS DRAWING IS AN UNCONTROLLED COPY UNLESS OTHERWISE NOTED.



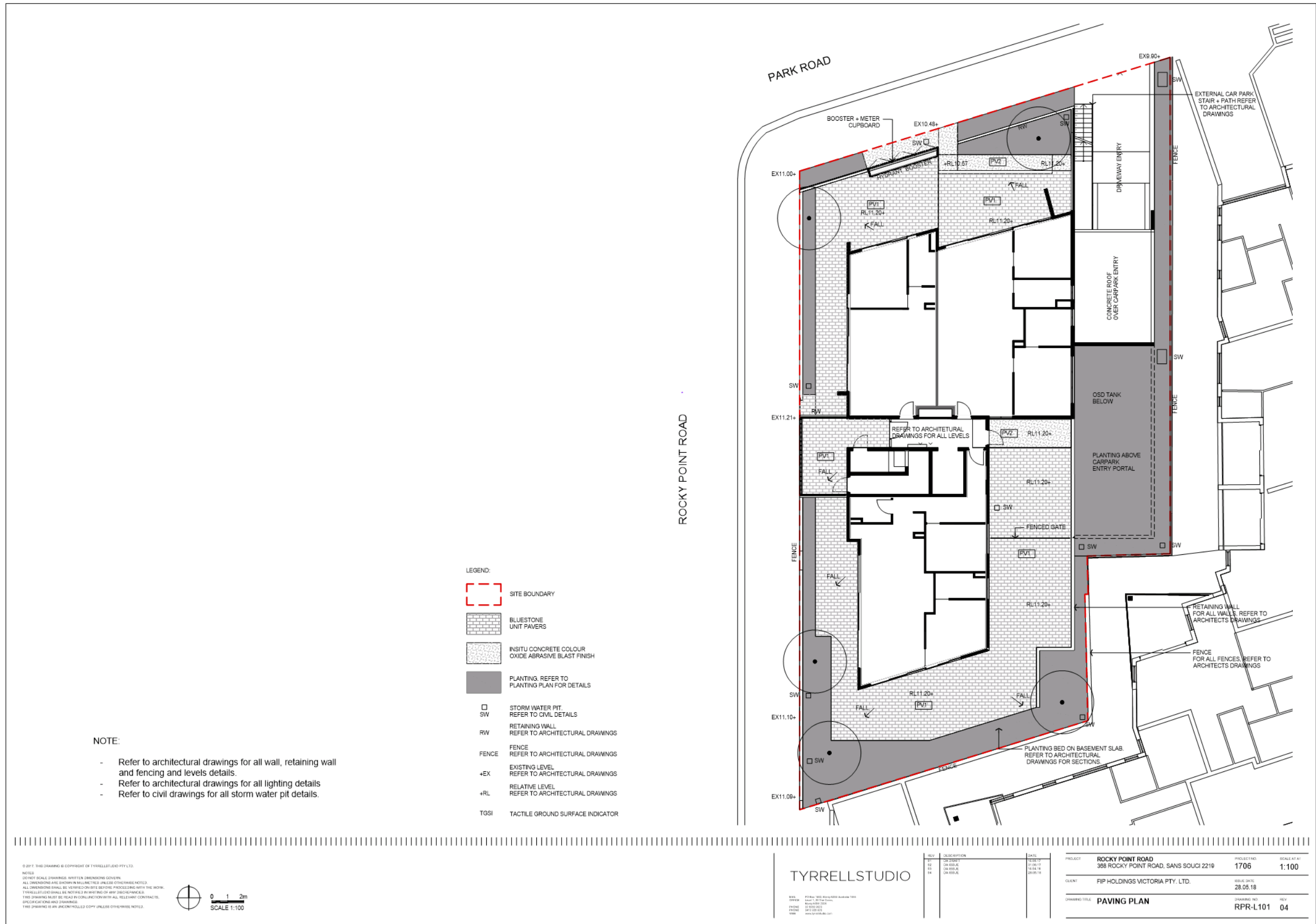
**TYRRELLSTUDIO**

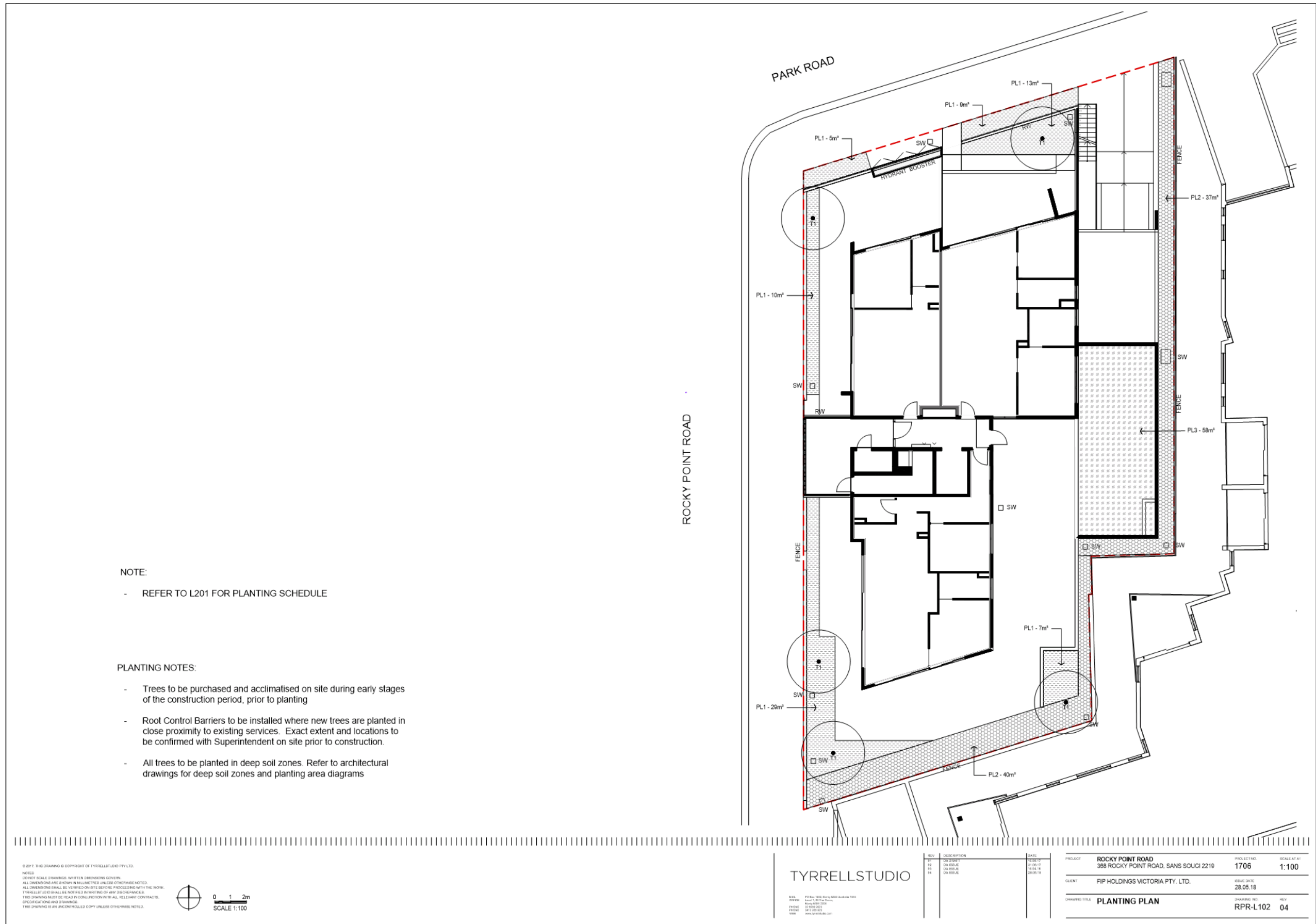
1/180 WYNDHAM STREET, SYDNEY NSW 1588  
 PHONE: 02 9550 1234  
 WWW: WWW.TYRRELLSTUDIO.COM

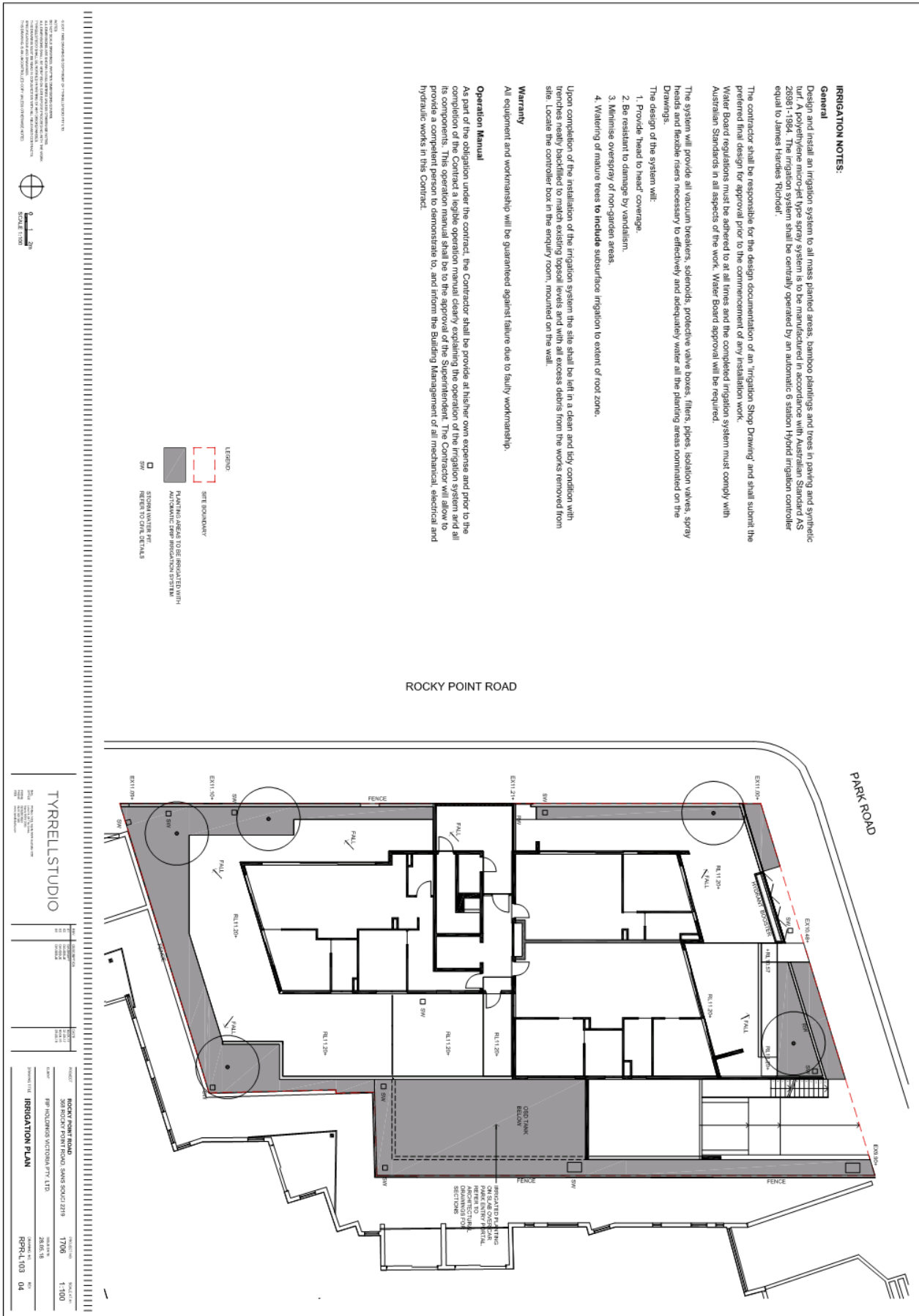
REV	DESCRIPTION	DATE
01	ISSUE FOR DA	28/05/18
02	ISSUE FOR DA	28/05/18
03	ISSUE FOR DA	28/05/18

PROJECT	PROJECT NO.	SCALE AT A1
ROCKY POINT ROAD 368 ROCKY POINT ROAD, SAN SOUCI 2219	1706	-
CLIENT	ISSUE DATE	
FIP HOLDINGS VICTORIA PTY. LTD.	28.05.18	
DRAWING TITLE	DRAWING NO.	REV
DRAWING LIST	RPR-L001	03















CODE	SPECIES	COMMON NAME	MATURE HEIGHT	MATURE SPREAD	CONTAINER SIZE	SPACING/DENSITY	QTY
<b>TREES</b>							
01	<i>Banksia integrifolia</i>	Coast Banksia	8m	5m	100L	As Shown	5
<b>SHRUBS AND GROUNDCOVERS</b>							
PL1 - PLANTING TYPE 1 - NATIVE SHRUBS + GRASSES Total Area: 151 m <sup>2</sup>							
02	<i>Acacia ulicifolia</i>	Prickly Moses	1m	1m	200mm	300mm - 11/m <sup>2</sup>	208
03	<i>Banksia spinulosa</i> 'Birthday Candles'	Hairpin Banksia	1m	2m	200mm	300mm - 11/m <sup>2</sup>	208
04	<i>Dianella</i> 'Clarity Blue'	Dianella	1m	1m	200mm	300mm - 11/m <sup>2</sup>	208
05	<i>Dillwynia retorta</i>	Heathy Parrot Pea	1m	1m	200mm	300mm - 11/m <sup>2</sup>	208
06	<i>Grevillea</i> 'Honey gem'	Grevillea	1.5m	2m	200mm	300mm - 11/m <sup>2</sup>	208
07	<i>Isopogon anemonifolius</i>	Drum Sticks	1m	1m	200mm	300mm - 11/m <sup>2</sup>	208
08	<i>Poa labillardieri</i> 'Eskdale'	Common tussock	0.5m	1m	200mm	300mm - 11/m <sup>2</sup>	208
09	<i>Westringia fruticosa</i>	Coastal Rosemary	3m	1.5m	200mm	300mm - 11/m <sup>2</sup>	208
PL2 - PLANTING TYPE 2 - SCREEN PLANTING Total Area: 77 m <sup>2</sup>							
10	<i>Leptospermum flavescens</i>	Yellow Tea Tree	2-5m	2m	45L	600mm - 3/m <sup>2</sup>	116
11	<i>Leptospermum attenuatum</i>	Paperbark Tea Tree	3-5m	2m	45L	600mm - 3/m <sup>2</sup>	116
PL3 - PLANTING TYPE 3 - SUCCULENTS + GROUNDCOVERS Total Area: 58 m <sup>2</sup>							
12	<i>Carpobrotus glaucescens</i>	Pigface	0.3m	1m	200mm	300mm - 11/m <sup>2</sup>	128
13	<i>Cotyledon orbiculata</i> 'Silver Waves'	Wavy Leaved Pig's Ear	0.3m	1m	200mm	300mm - 11/m <sup>2</sup>	128
14	<i>Gazania tomentosa</i> 'Silver Beauty'	Gazania	1m	1m	200mm	300mm - 11/m <sup>2</sup>	128
15	<i>Kalanchoe luciae</i> 'Flapjack'	Flapjacks	0.4m	0.4m	200mm	300mm - 11/m <sup>2</sup>	128
16	<i>Senecio mandraliscae</i>	Blue Chalk Sticks	0.5m	1m	200mm	300mm - 11/m <sup>2</sup>	128

Total Plants: 2541

TREES



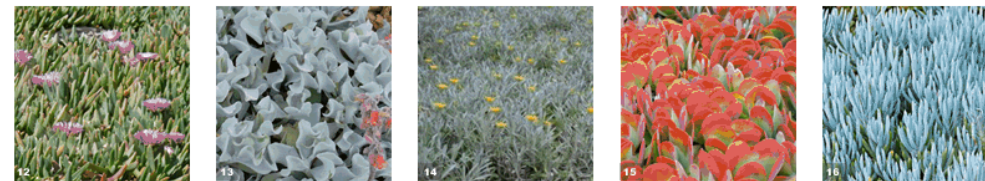
PL2 - PLANTING TYPE 2.



PL1 - PLANTING TYPE 1.



PL3 - PLANTING TYPE 3.



PV1 - BLUE STONE PAVERS



PV2 - IN SITU CONCRETE



REFER TO MATERIALS + FINISHES SCHEDULE FOR DETAILS

©2017. THIS DRAWING IS COPYRIGHT OF TYRRELLSTUDIO PTY LTD.

NOTES:  
DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS GOVERN.  
ALL DIMENSIONS ARE SHOWN IN MILLIMETRES UNLESS OTHERWISE NOTED.  
ALL DIMENSIONS SHALL BE VERIFIED ON SITE BEFORE PROCEEDING WITH THE WORK.  
TYRRELLSTUDIO SHALL BE NOTIFIED IN WRITING OF ANY DISCREPANCIES.  
THIS DRAWING MUST BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS AND DRAWINGS.  
THIS DRAWING IS AN UNCONTROLLED COPY UNLESS OTHERWISE NOTED.

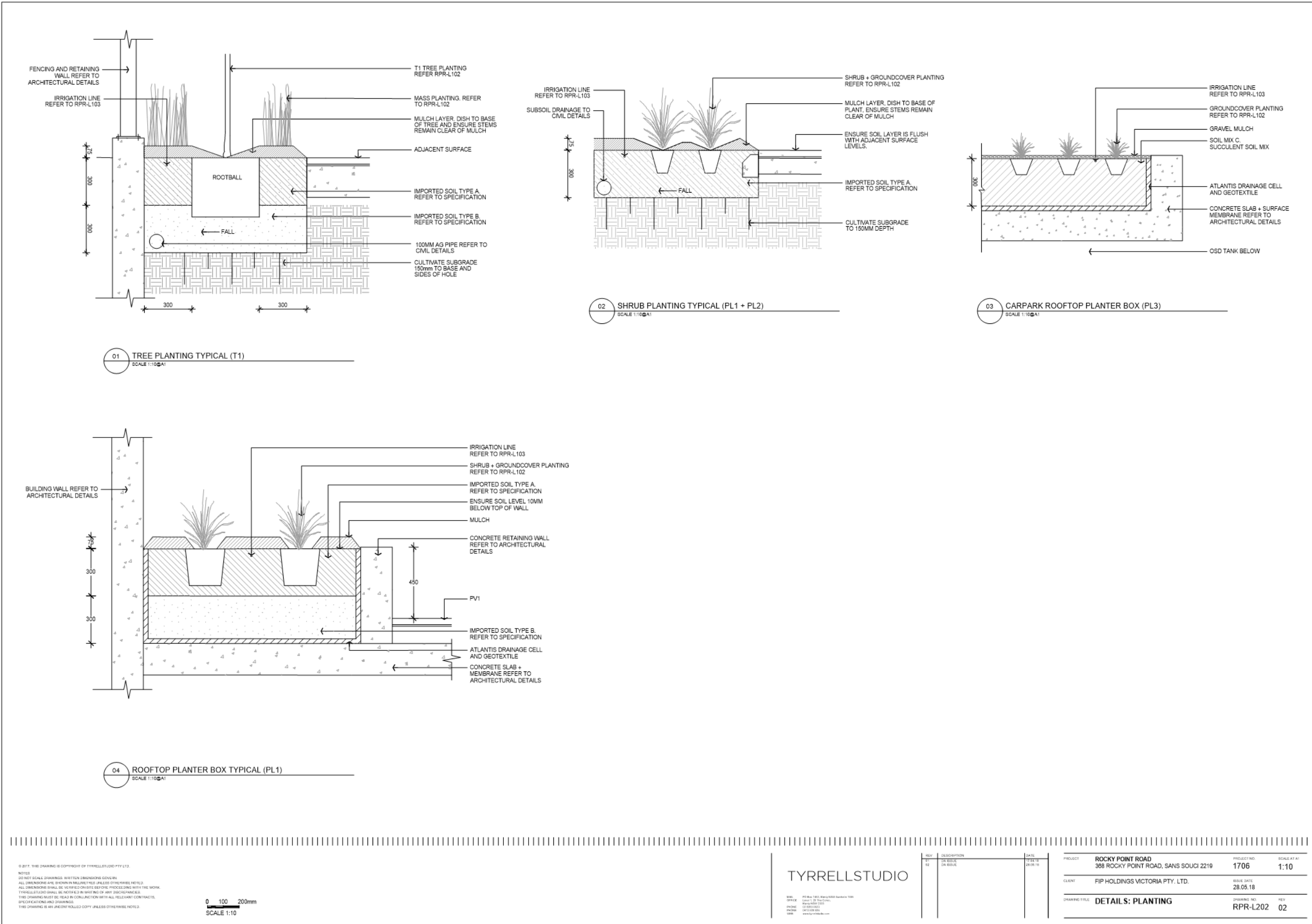


TYRRELLSTUDIO

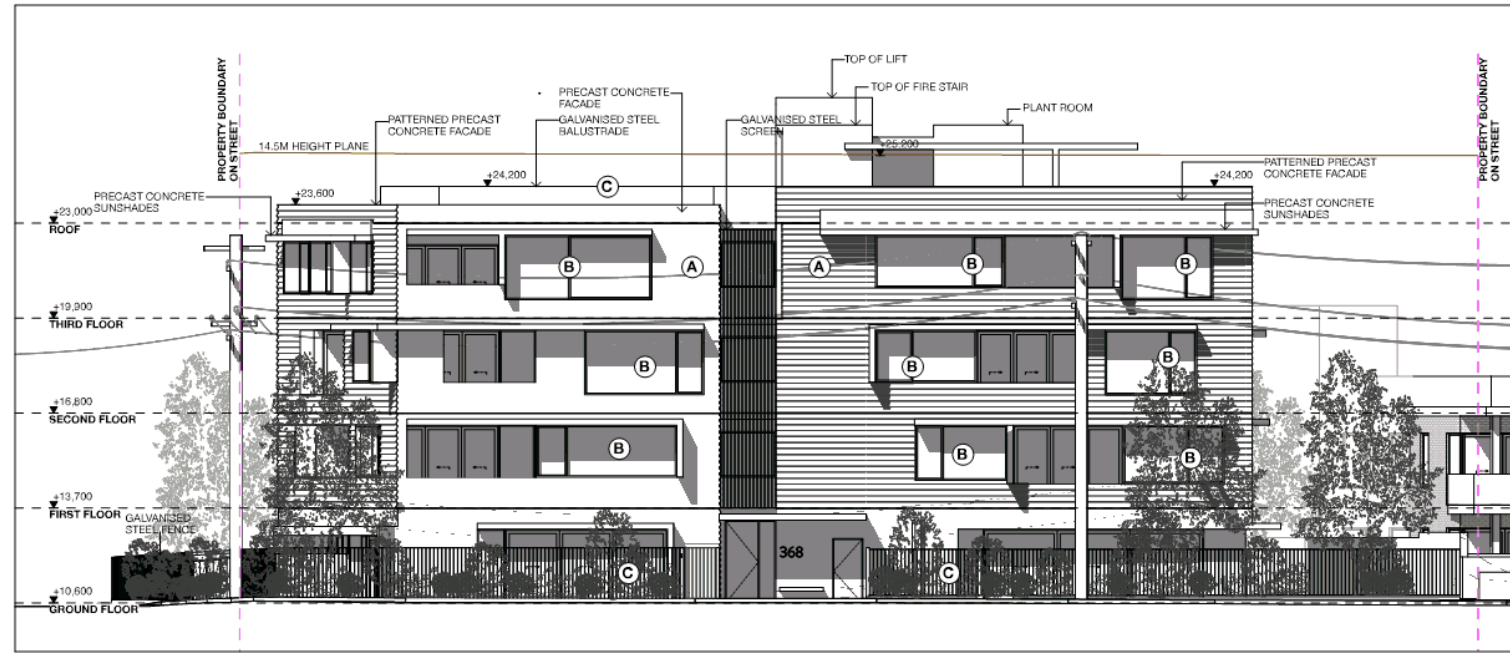
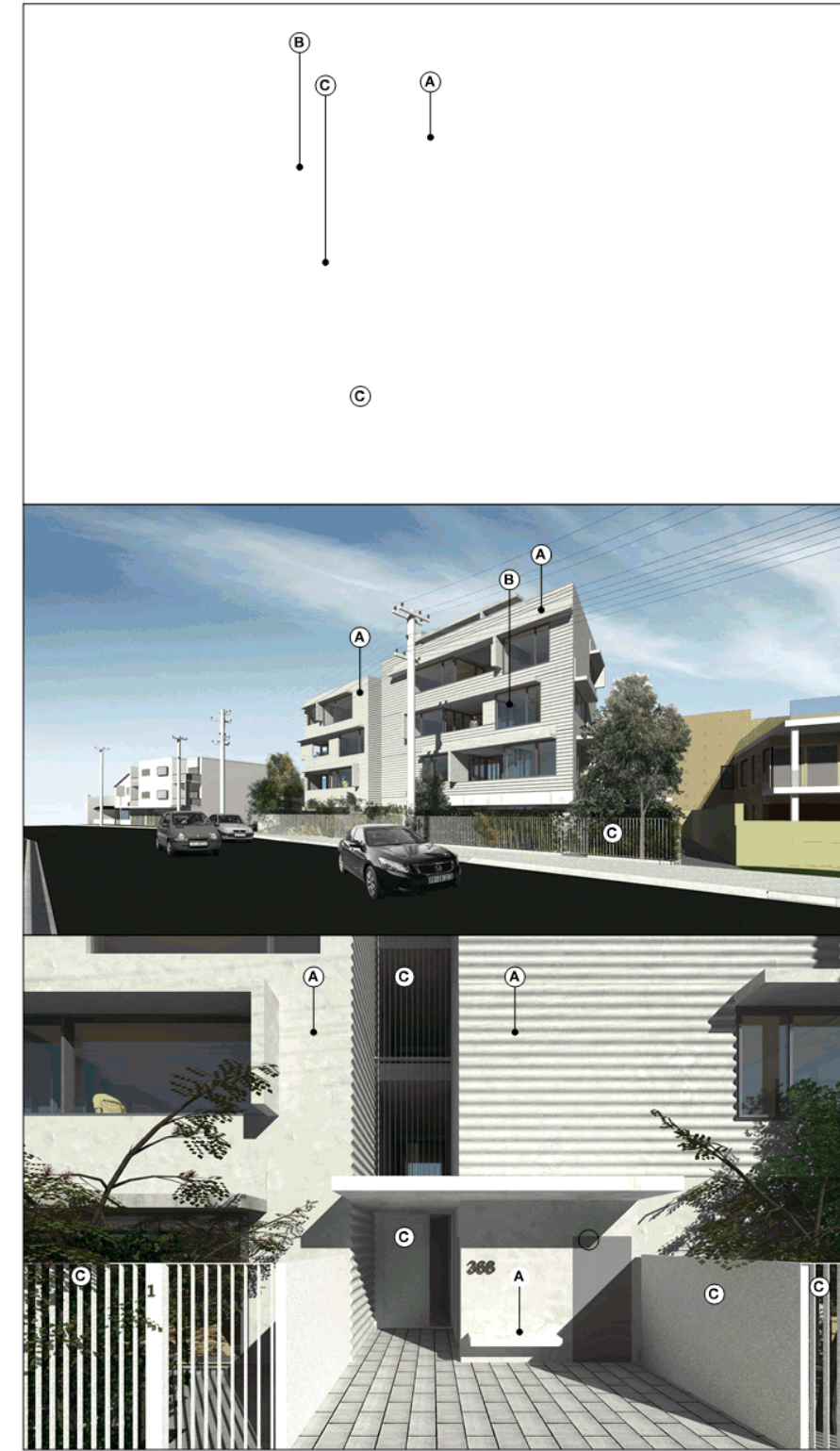
100/1000  
100/1000  
100/1000  
100/1000

REV	DESCRIPTION	DATE
01	DA ISSUE	15.08.18
02	DA ISSUE	21.08.18
03	DA ISSUE	17.09.18
04	DA ISSUE	28.08.18

PROJECT	ROCKY POINT ROAD 368 ROCKY POINT ROAD, SANS SOUCI 2219	PROJECT NO.	1706	SCALE AT A1	1:100
CLIENT	FIP HOLDINGS VICTORIA PTY. LTD.	ISSUE DATE	28.08.18		
DRAWING TITLE	PLANTING + MATERIAL IMAGES	DRAWING NO.	RPR-L201	REV	04







**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT FOR CONSTRUCTION  
COPYRIGHT BENNETT AND TRIMBLE PTY LTD. 18/08/2018  
ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF BENNETT AND TRIMBLE PTY LTD. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. ANY UNAUTHORIZED REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT IS STRICTLY PROHIBITED. BENNETT AND TRIMBLE PTY LTD. ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS DOCUMENT. THE USER AGREES TO INDEMNIFY AND HOLD BENNETT AND TRIMBLE PTY LTD. HARMLESS FROM AND AGAINST ALL SUCH CLAIMS AND DAMAGES.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

**GENERAL NOTES**

- ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
- CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
- CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
- SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
RIP Holdings Victoria  
Pty Ltd

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NAME**  
ROCKY POINT ROAD  
988 ROCKY POINT ROAD,  
SANA SOUCI 2219

**PROJECT NORTH**

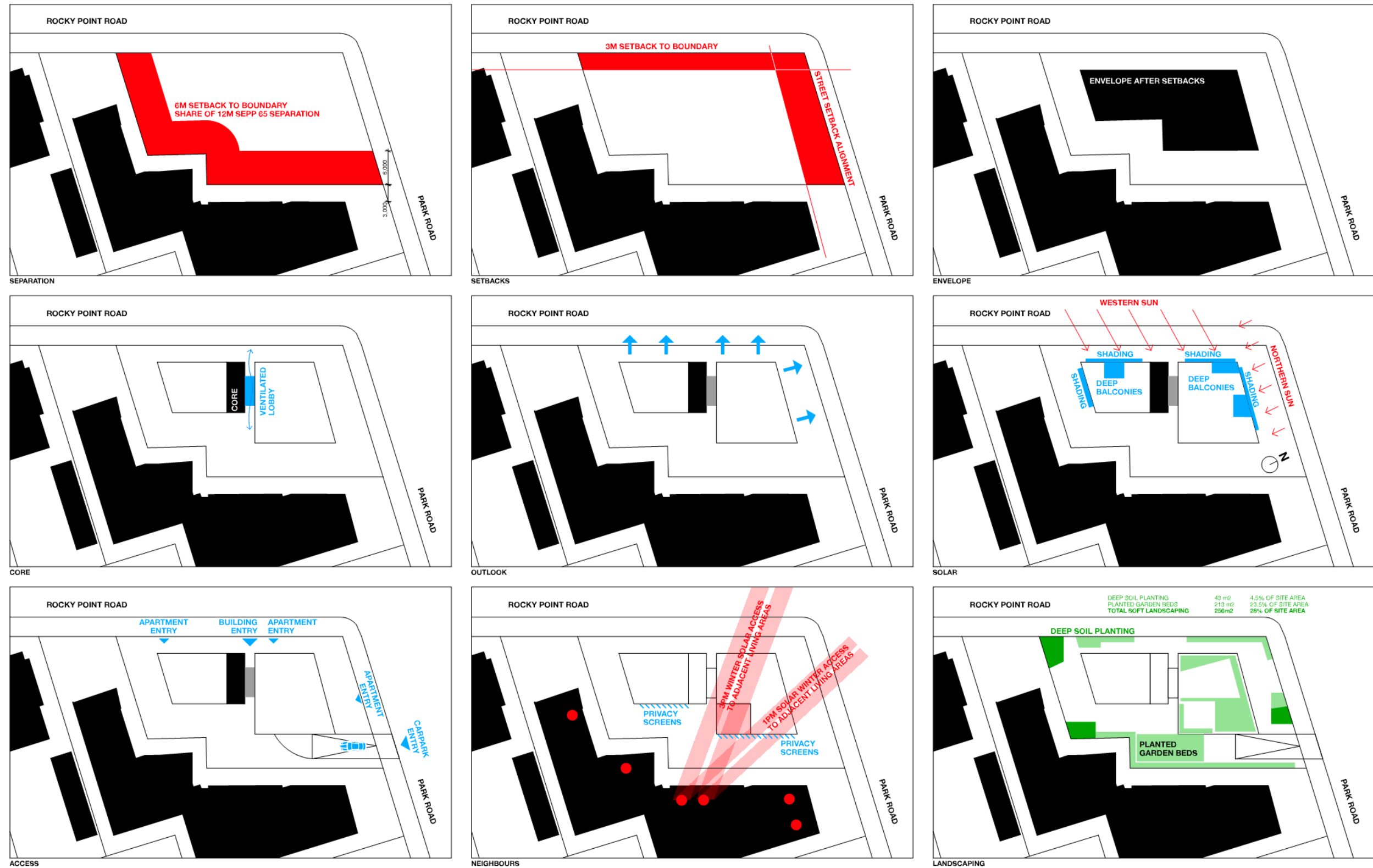
**SCALE:**  
@A1

**STATUS**  
CONCEPT DESIGN

**DRAWING TITLE**  
Materials and Finishes

**DRAWING NUMBER**  
DA500

**REVISION**  
G



**BENNETT AND TRIMBLE**  
 L2, 333 GEORGE STREET  
 SYDNEY NSW 2000  
 BENNETTANDTRIMBLE.COM

INTELLECTUAL PROPERTY  
 COPYRIGHT BENNETT AND TRIMBLE PTY LTD. 1982-2008  
 ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT IS TO BE  
 REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY  
 MEANS, ELECTRONIC OR MECHANICAL, INCLUDING  
 PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION  
 STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE  
 WRITTEN PERMISSION OF BENNETT AND TRIMBLE PTY LTD.  
 THIS DOCUMENT IS THE PROPERTY OF BENNETT AND TRIMBLE  
 PTY LTD. AND IS TO BE USED ONLY FOR THE PROJECT  
 SPECIFICALLY IDENTIFIED IN THE TITLE OF THIS DOCUMENT.  
 ANY UNAUTHORIZED USE OR REPRODUCTION OF THIS DOCUMENT  
 WITHOUT THE WRITTEN PERMISSION OF BENNETT AND TRIMBLE  
 PTY LTD. IS STRICTLY PROHIBITED AND WILL BE  
 PROSECUTED TO THE FULL EXTENT OF THE LAW.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

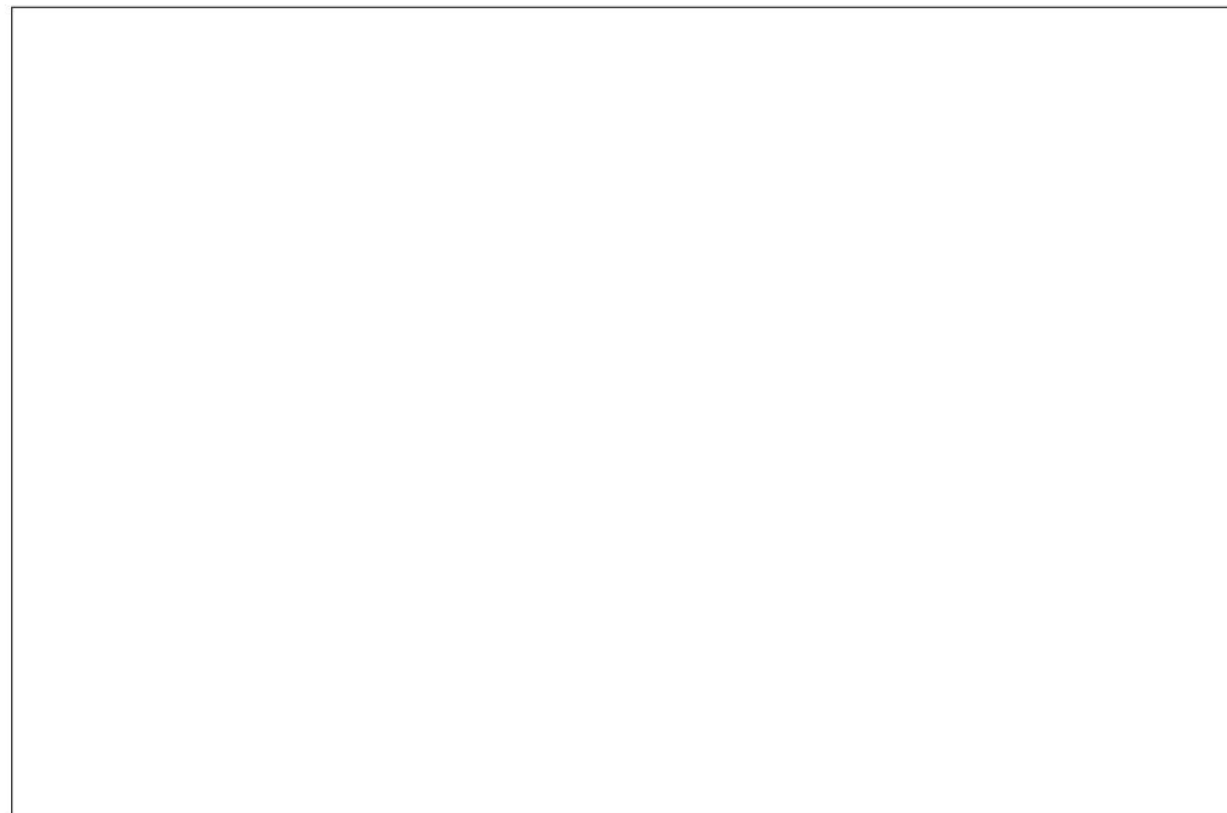
**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
 FIP Holdings Victoria  
 Pty Ltd  
**PROJECT NAME**  
 ROCKY POINT ROAD  
 388 ROCKY POINT ROAD,  
 SANA SOUCI 2219

**PROJECT NORTH**  
 PROJECT NORTH  
**SCALE:**  
 @A1  
**STATUS**  
 CONCEPT DESIGN

**DRAWING TITLE**  
 Project Diagrams  
**DRAWING NUMBER**  
 DA101  
**REVISION**  
 G



**BENNETT AND TRIMBLE**  
**L2, 333 GEORGE STREET**  
**SYDNEY NSW 2000**  
**BENNETTANDTRIMBLE.COM**

INTELLECTUAL PROPERTY  
 COPYRIGHT BENNETT AND TRIMBLE PTY LTD. 184 2006  
 OF PRINTING, AGREED IN WRITING. ALL RIGHTS TO THE  
 USE OF THIS DOCUMENT ARE RESERVED TO BENNETT AND  
 TRIMBLE. NO PART OF THIS DOCUMENT OR THE  
 CONTENTS HEREIN MAY BE REPRODUCED, COPIED,  
 TRANSMITTED, OR IN ANY MANNER PUBLISHED,  
 PERFORMED, OR BY ANY MEANS, ELECTRONIC,  
 MECHANICAL, OR BY ANY INFORMATION STORAGE  
 AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN  
 PERMISSION OF BENNETT AND TRIMBLE PTY LTD.  
 BENNETT AND TRIMBLE PTY LTD. 184 2006

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

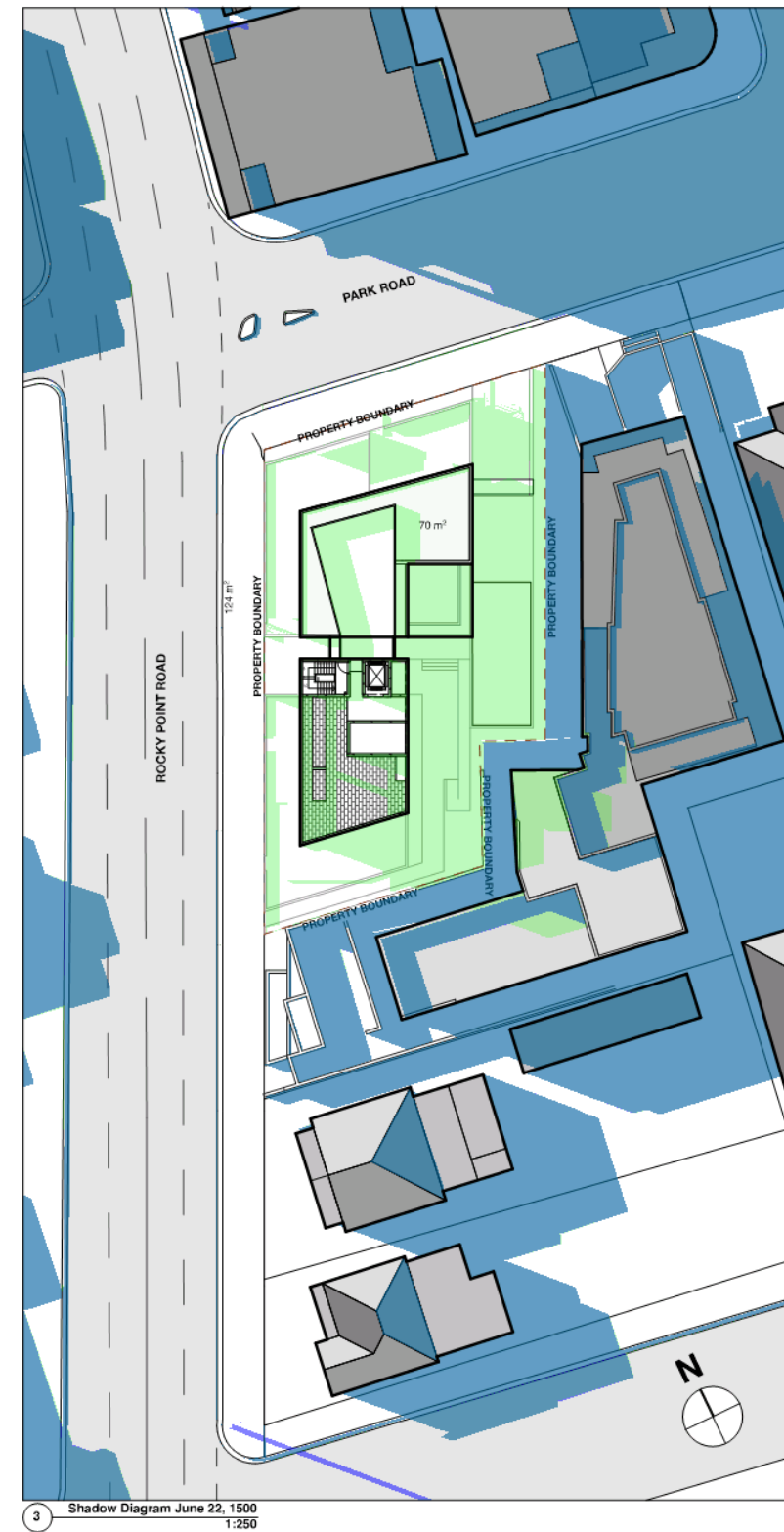
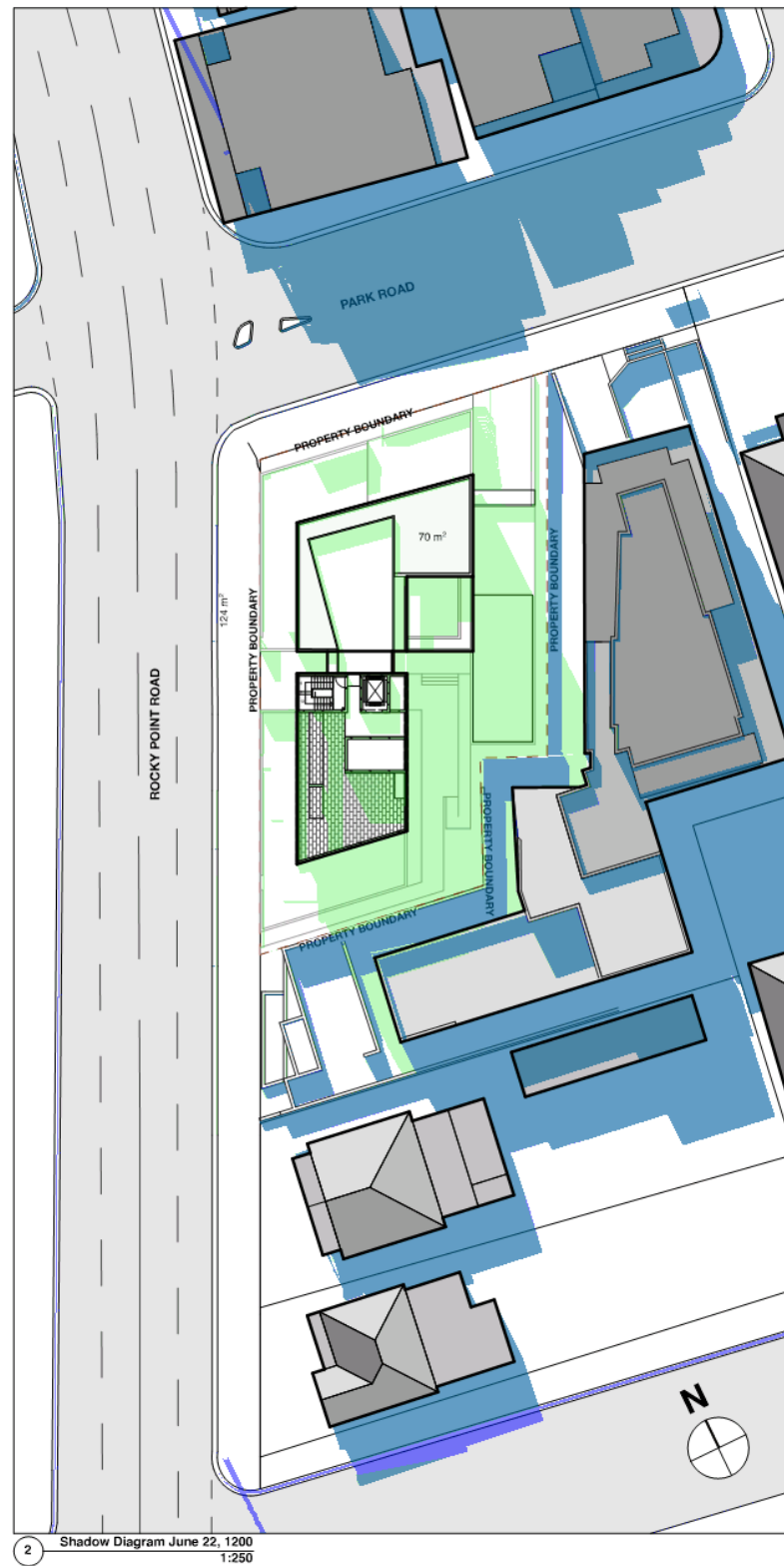
**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
 RFP Holdings Victoria  
 Pty Ltd  
**PROJECT NAME**  
 NOMINATED ARCHITECT:  
 MARCUS TRIMBLE #7626  
**PROJECT NUMBER**  
 170131

**PROJECT NORTH**  
**SCALE:**  
 @A1  
**STATUS**  
 CONCEPT DESIGN

**DRAWING TITLE**  
 Project Images  
**DRAWING NUMBER**  
**DA102**  
**REVISION**  
**G**



**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT LEGAL. PROPERTY OF BENNETT AND TRIMBLE PTY LTD. USE OF THIS DOCUMENT IS LIMITED TO THE PROJECT AND SITE SPECIFIC. THIS DOCUMENT MAY ONLY BE USED FOR THE EXPIRES PERIOD AND FOR THE PROJECT. ANY CHANGES AND DELAYS, AS NOTED IN ANY VARIATION REQUEST AND TRIMBLE, AND THE DOCUMENT MAY BE RE-USED FOR OTHER PROJECTS. ANY RE-USE OF THIS DOCUMENT WITHOUT THE WRITTEN CONSENT OF BENNETT AND TRIMBLE IS STRICTLY PROHIBITED. BENNETT AND TRIMBLE IS NOT RESPONSIBLE FOR ANY LOSS OR DAMAGE CAUSED BY THE USE OF THIS DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

- EXISTING SHADOWS
- ADDITIONAL SHADOWS

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
FIP Holdings Victoria  
Pty Ltd

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NAME**  
ROCKY POINT ROAD  
388 ROCKY POINT ROAD,  
SANA SOUCI 2219

**PROJECT NORTH**

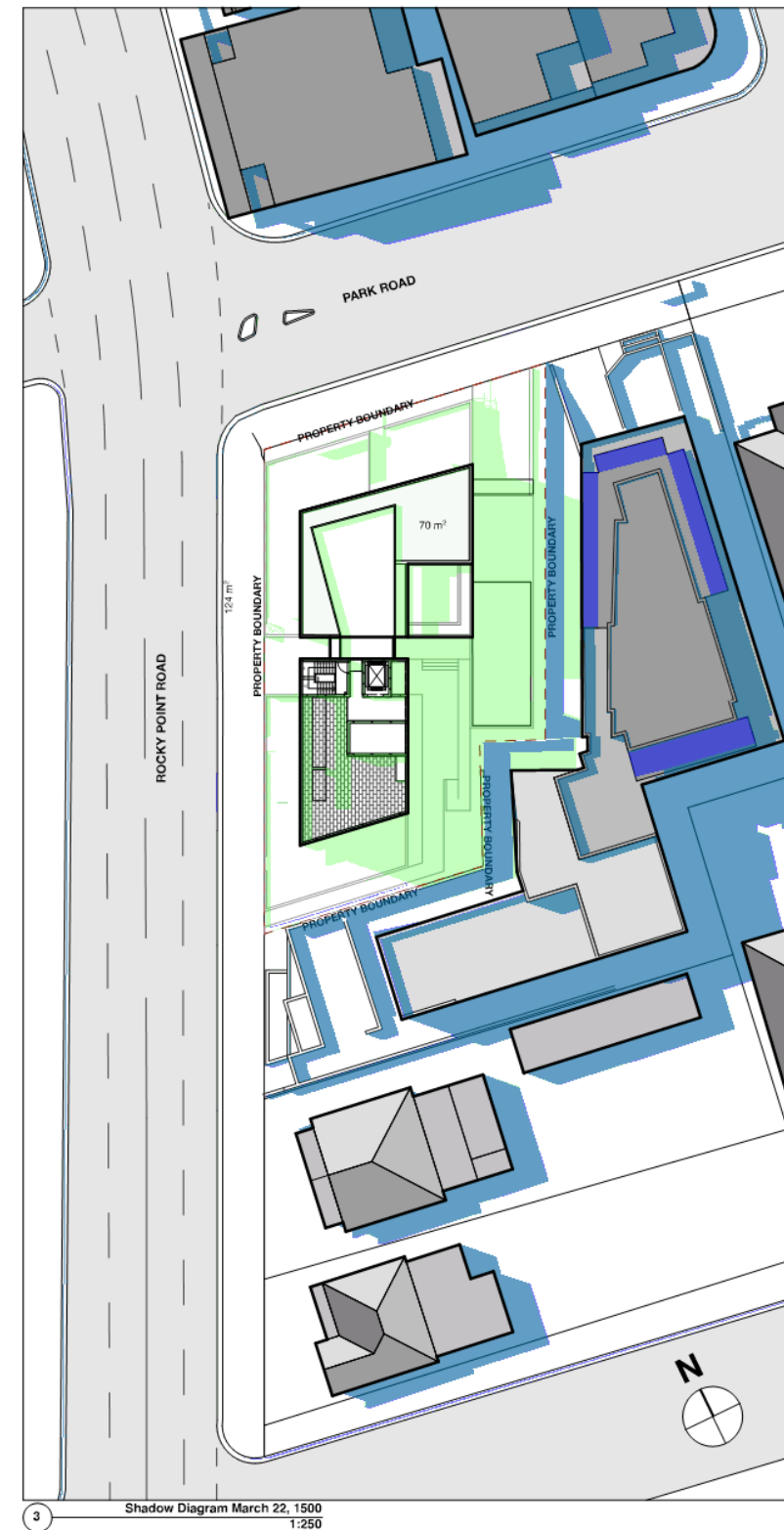
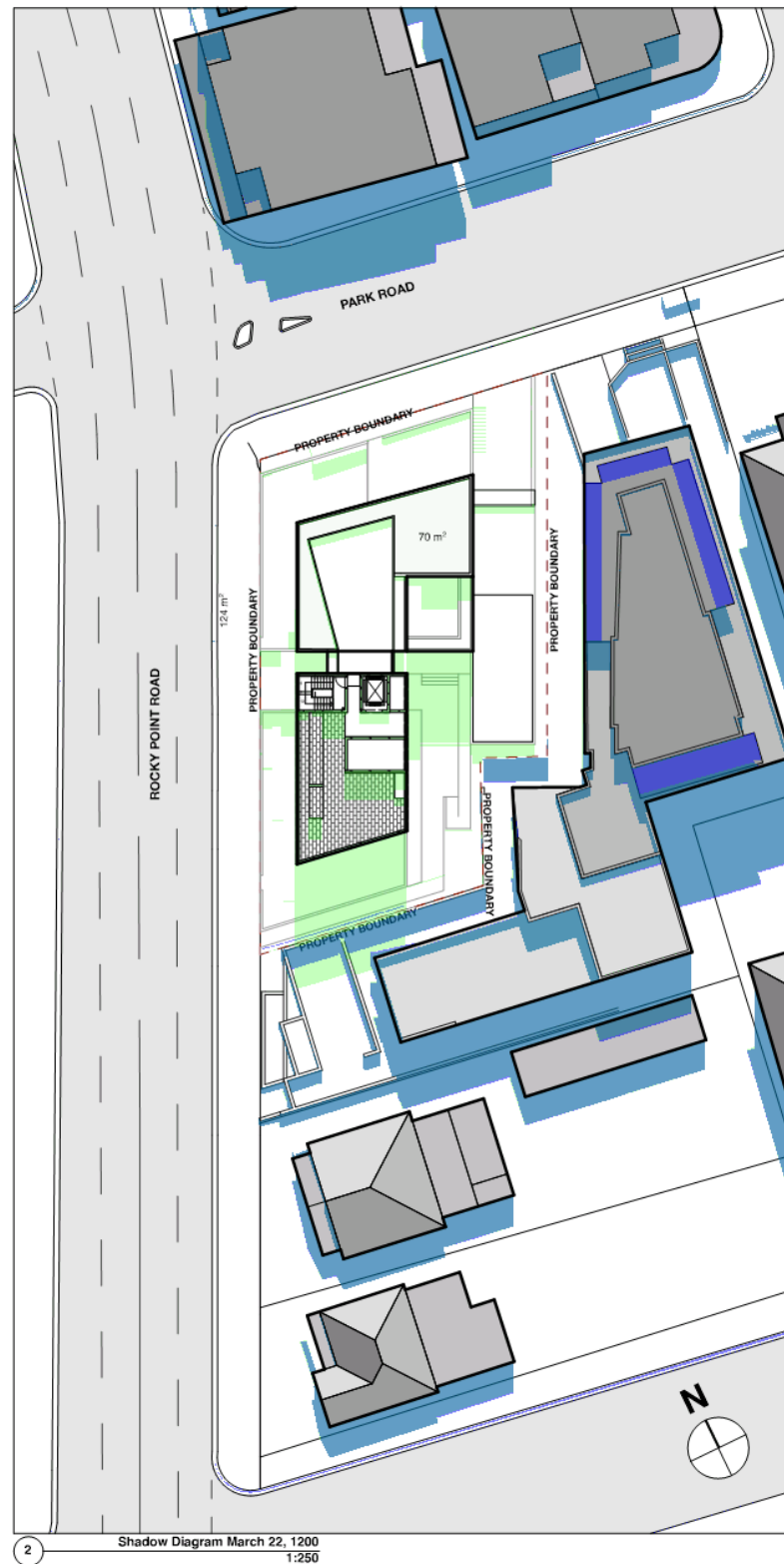
**SCALE:**  
1:250 @A1

**STATUS**  
CONCEPT DESIGN

**DRAWING TITLE**  
Shadow Diagrams June 22

**DRAWING NUMBER**  
DA300

**REVISION**  
G



**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT LEGAL. PROPERTY OWNERSHIP RIGHTS RESERVED. ALL RIGHTS RESERVED. THIS DOCUMENT IS NOT TO BE USED FOR ANY OTHER PURPOSES. ANY REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF BENNETT AND TRIMBLE IS STRICTLY PROHIBITED. ANY UNAUTHORIZED USE OF THIS DOCUMENT IS AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO BENNETT AND TRIMBLE. BENNETT AND TRIMBLE SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING FROM THE USE OF THIS DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

- EXISTING SHADOWS
- ADDITIONAL SHADOWS

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
RIP Holdings Victoria Pty Ltd

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NAME**  
ROCKY POINT ROAD  
388 ROCKY POINT ROAD,  
SANA SOUCI 2219

**PROJECT NORTH**

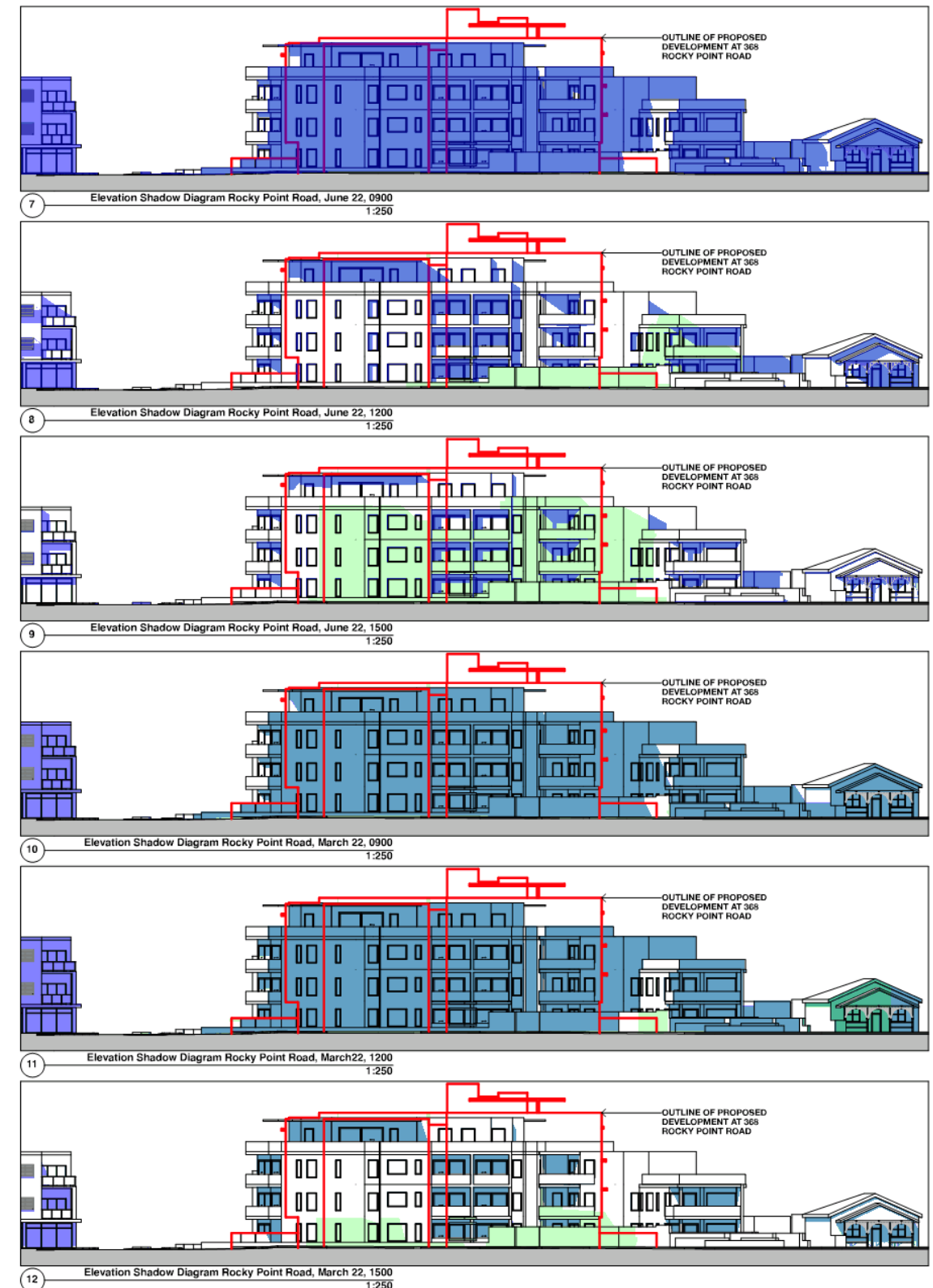
**SCALE:**  
1:250 @A1

**STATUS**  
CONCEPT DESIGN

**DRAWING TITLE**  
Shadow Diagrams March 22

**DRAWING NUMBER**  
DA301

**REVISION**  
G



**BENNETT AND TRIMBLE**  
 L2, 333 GEORGE STREET  
 SYDNEY NSW 2000  
 BENNETTANDTRIMBLE.COM

INTELLECTUAL PROPERTY  
 COPYRIGHT BENNETT AND TRIMBLE PTY LTD. (IN 2006)  
 OF RECORDS, APPLICABLE IN WRITING. ALL RIGHTS RESERVED. THE  
 USE OF THIS DOCUMENT IS RESTRICTED TO THE PROJECT  
 FOR WHICH IT WAS PREPARED. ANY REUSE OR  
 MODIFICATION OF THIS DOCUMENT WITHOUT THE  
 WRITTEN PERMISSION OF BENNETT AND TRIMBLE  
 IS PROHIBITED. THIS DOCUMENT IS THE PROPERTY  
 OF BENNETT AND TRIMBLE AND IS TO BE RETURNED  
 TO THEM UPON COMPLETION OF THE PROJECT.  
 BENNETT AND TRIMBLE ACCEPTS NO LIABILITY FOR  
 ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL  
 DAMAGES, ARISING FROM THE USE OF THIS  
 DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

EXISTING SHADOWS  
 ADDITIONAL SHADOWS

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

CLIENT  
 FIP Holdings Victoria  
 Pty Ltd  
 PROJECT NAME  
 ROCKY POINT ROAD  
 988 ROCKY POINT ROAD,  
 SANA SOUCI 2219

PROJECT NORTH  
 SCALE:  
 @A1  
 STATUS  
 CONCEPT DESIGN

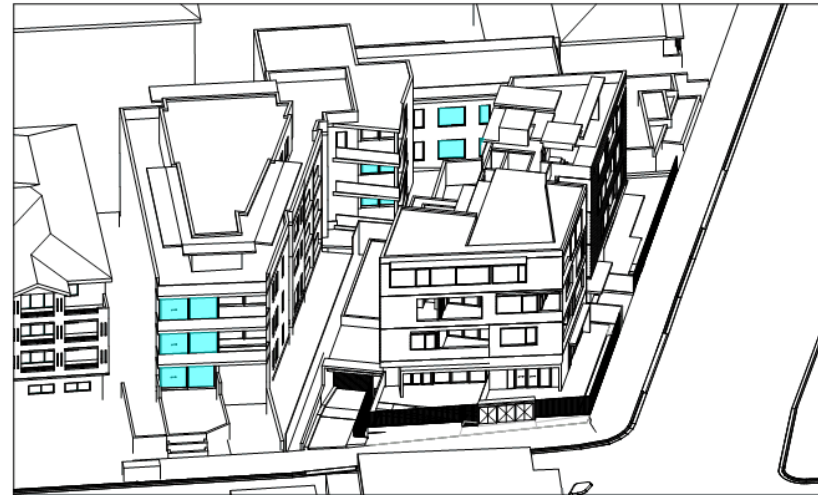
DRAWING TITLE  
 Elevation Shadow Diagram  
 DRAWING NUMBER  
**DA302**  
 REVISION  
**G**



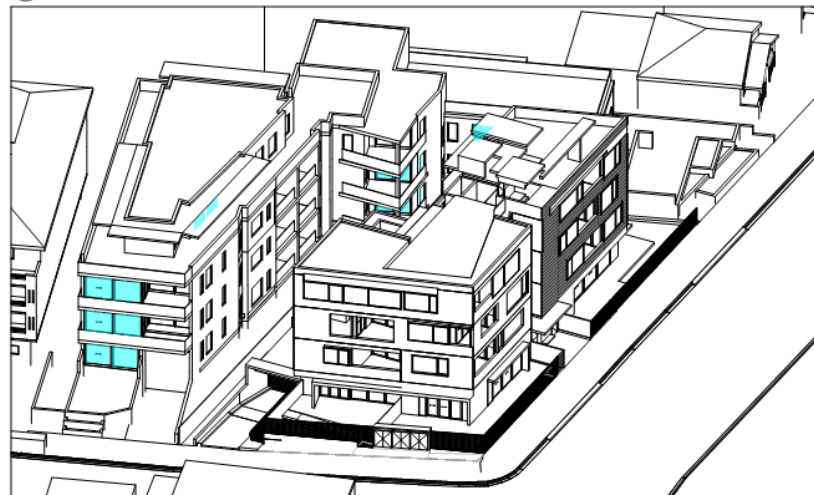
1 0900 June 22  
1:250



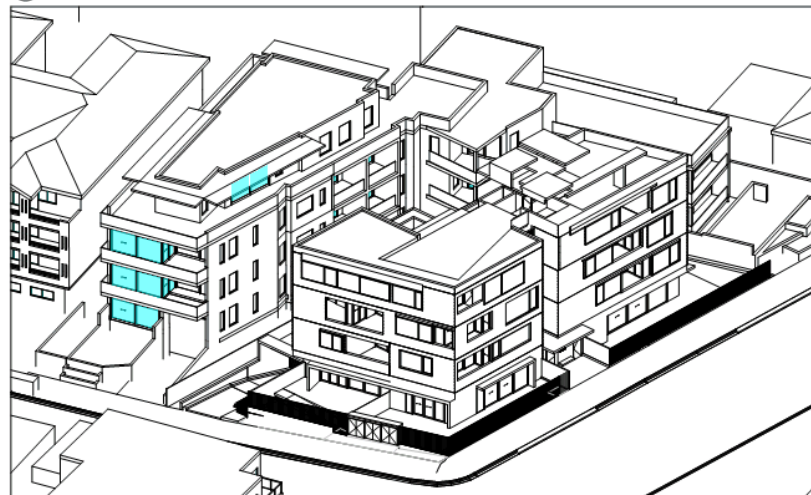
2 1000 June 22  
1:250



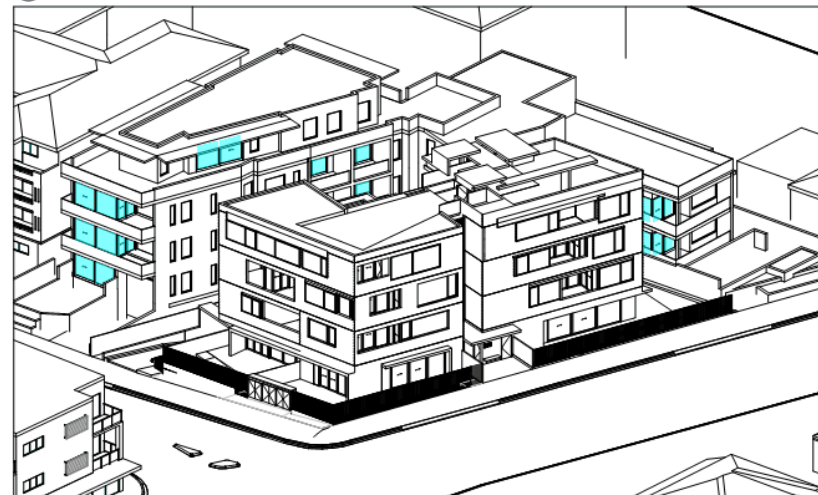
3 1100 June 22  
1:250



4 1200 June 22  
1:250



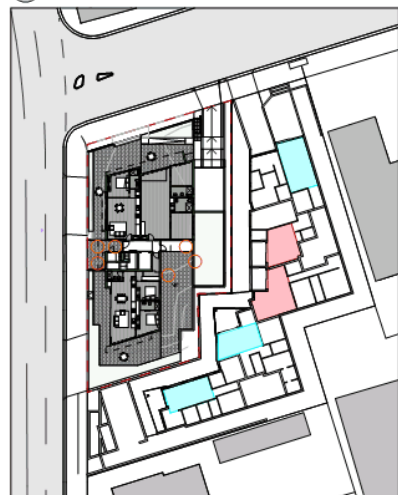
5 1300 June 22  
1:250



6 1400 June 22  
1:250



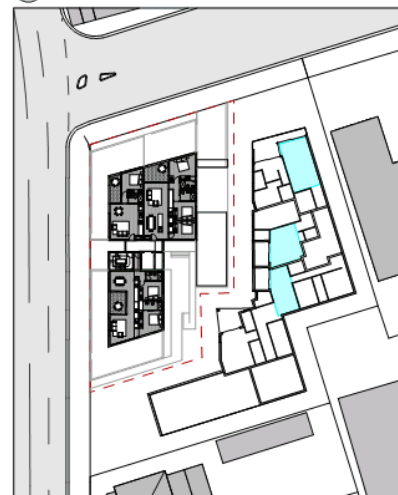
7 1500 June 22  
1:250



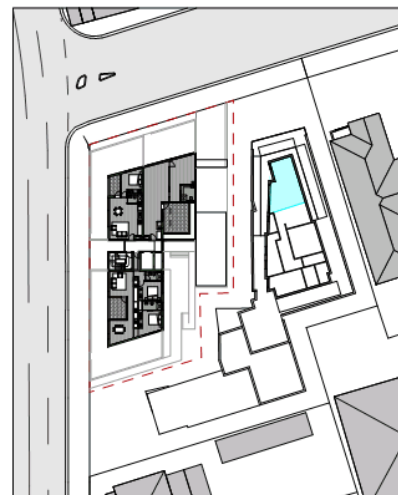
8 374 Rocky Point Road Ground Floor  
1:500



9 374 Rocky Point Road First Floor  
1:500



10 374 Rocky Point Road Second Floor  
1:500



11 374 Rocky Point Road Third Floor  
1:500

**BENNETT AND TRIMBLE**  
L2, 333 GEORGE STREET  
SYDNEY NSW 2000  
BENNETTANDTRIMBLE.COM

NOT LEGAL INQUIRY  
COPYRIGHT BENNETT AND TRIMBLE PTY LTD. 1982-2006  
ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF BENNETT AND TRIMBLE PTY LTD. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. ANY UNAUTHORIZED REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT IS STRICTLY PROHIBITED. BENNETT AND TRIMBLE PTY LTD. ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS DOCUMENT. THE DOCUMENT IS PROVIDED AS IS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES. BENNETT AND TRIMBLE PTY LTD. ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS DOCUMENT.

ISSUE	DATE	FOR
A	05.04.17	REVIEW
B	01.05.17	REVIEW
C	16.05.17	REVIEW
D	17.05.17	90% DA
E	1.09.17	DA
F	16.11.17	DA
G	23.03.18	DA

**GENERAL NOTES**

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, AND WITH MANUFACTURERS RECOMMENDATIONS AND INSTRUCTIONS.
2. CONTRACTOR TO CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATION OR SET OUT.
3. CONTRACTOR TO CONFIRM STRUCTURAL INTEGRITY OF ALL MEMBERS AND CONNECTIONS PRIOR TO FABRICATION.
4. SHOP DRAWINGS TO BE PROVIDED AND APPROVED BY ARCHITECT PRIOR TO CONSTRUCTION.

**CLIENT**  
FIP Holdings Victoria  
Pty Ltd  
**PROJECT NAME**  
ROCKY POINT ROAD  
988 ROCKY POINT ROAD,  
SANA SOUCI 2219

**NOMINATED ARCHITECT:**  
MARCUS TRIMBLE #7625

**PROJECT NUMBER**  
170131

**PROJECT NORTH**  
DRAWING TITLE  
Sun Eye Views June 22

**SCALE:**  
@A1  
**STATUS**  
CONCEPT DESIGN

**DRAWING NUMBER**  
DA303  
**REVISION**  
G



## STATEMENT OF ENVIRONMENTAL EFFECTS

---

Construction of a four storey residential flat building over basement parking

368 Rocky Point Road  
Sans Souci

Prepared for: FIP Holdings Victoria Pty Ltd

REF: 0078/17

DATE: 11 September 2017







## Contents

<b>1. INTRODUCTION</b>	<b>1</b>
<b>2. SITE ANALYSIS AND CONTEXT</b>	<b>2</b>
2.1 The Site	2
2.2 Connectivity and Access to Public Transport	2
2.3 Surrounding Development	2
<b>3. DESCRIPTION OF THE PROPOSAL</b>	<b>6</b>
3.1 Proposed Residential Flat Building	6
3.2 Landscaping	7
3.3 Waste management	7
<b>4. ENVIRONMENTAL PLANNING ASSESSMENT</b>	<b>8</b>
4.1 Preamble	8
4.2 Statutory and policy compliance	8
4.2.1 SEPP No.55 – Remediation of Land	8
4.2.2 SEPP No. 65 – Design Quality of Residential Flat Buildings	9
4.2.3 SEPP Building Sustainability Index: BASIX 2004	9
4.2.4 Rockdale Local Environmental Plan 2011	9
4.2.5 Rockdale Development Control Plan 2011	10
4.3 Impacts on Natural & Built Environment	10
4.3.1 Topography & Scenic Impacts	10
4.3.2 Micro-climate Impacts	10
4.3.3 Water & Air Quality Impacts	11
4.3.4 Flora & Fauna Impacts	11
4.3.5 External Appearance & Design	11
4.4 Economic & Social Impacts	13
4.5 The Suitability of the Site	13
4.5.1 Access to Services	13
4.5.2 Parking and Access	13
4.5.3 Hazards	13
4.6 The Public Interest	13
<b>5. CONCLUSION</b>	<b>14</b>



## FIGURES

Figure 1 Aerial photograph of site and surrounds .....	2
Figure 2 No. 371 Rocky Point Road as viewed from Park Road across the subject site.....	3
Figure 3 Adjoining development at No. 374 Rocky Point Road .....	3
Figure 4 View of the site and adjoining development from Rocky Point Road .....	4
Figure 5 View across the site from Park Road .....	4
Figure 6 Development to the north opposite the site .....	5
Figure 7 Section showing height non-compliance .....	25
Figure 8 Height of buildings map.....	29

## TABLES

Table 1 Section 79C Matters for Consideration.....	8
--	---

## ANNEXURES

Annexure A. SEPP 65 Apartment Design Guide – Compliance Table .....	15
Annexure B. Rockdale LEP 2011 – Compliance Table .....	21
Annexure C. Clause 4.6 Variation - Building Height .....	24
Annexure D. Clause 4.6 Variation – FSR .....	32
Annexure E. Rockdale DCP 2011 – Compliance Table .....	39





## 1. Introduction

---

This Statement of Environmental Effects has been prepared for the applicant of the proposed development. The report is to accompany a development application to Bayside Council seeking consent for the construction of a residential flat building at No. 368 Rocky Point Road, Sans Souci.

More specifically, the proposed development involves the construction of a four storey residential flat building comprising 5 x 1 bedroom, 5 x 2 bedroom and 2 x 3 bedroom apartments (12 in total). Of the 12 apartments, two have been provided as adaptable dwellings. The proposal will provide a contemporary residential flat building which is consistent with the intended future form of development in the area.

The proposal complies with the Apartment Design Guide controls, the Rockdale LEP 2011 FSR standard and the relevant Rockdale DCP 2012 controls for residential flat buildings. A minor non-compliance with the height of buildings development standard of the rooftop plant room and stair access only is sought, and a Clause 4.6 variation request is provided at Annexure C of this report. A request for a minor variation to the FSR standard in accordance with Clause 4.6 is included in Annexure D.

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of S.79C of the Environmental Planning & Assessment (EP&A) Act, 1979.

This Statement is divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.



## 2. Site Analysis and Context

### 2.1 THE SITE

The subject site is located on the corner of Rocky Point Road and Park Road and is known as No. 368 Rocky Point Road. It comprises one allotment legally described as Lot X in DP 162302. A site locality plan is provided at Figure 1 and the site is edged red.

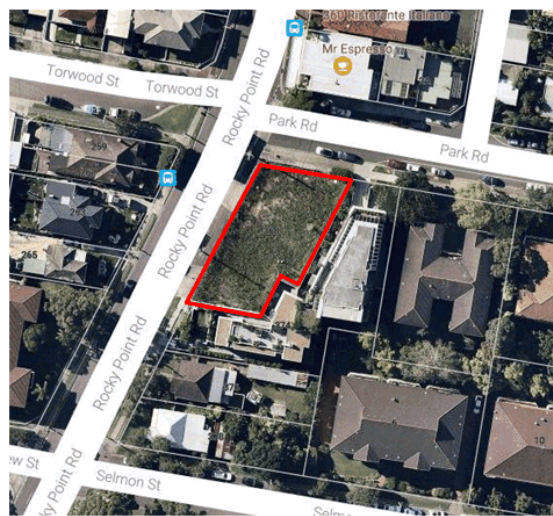


Figure 1 Aerial photograph of site and surrounds

The subject site is an irregularly shaped property with a frontage to Rocky Point Road of 40.44m, a secondary frontage to Park Road of 24.54m, combined eastern boundary length of 41.8m and combined southern boundary length of 24.6m, giving a total site area of 896m<sup>2</sup>. The site is relatively flat with a slight fall to the north-eastern corner.

The site is currently vacant. It was previously occupied by a service station and has been remediated for residential use.

### 2.2 CONNECTIVITY AND ACCESS TO PUBLIC TRANSPORT

The site is located approximately 2.5km south-east of Carlton railway station which provides is part of the Sydney Metro network. The site is located in close proximity to bus stops with high frequency services operating along Rocky Point Road.

### 2.3 SURROUNDING DEVELOPMENT

The site is located in an area characterised by three and four storey residential flat buildings to the east and south on Park Road and Rocky Point Road, and three storey mixed use developments to the north along Rocky Point Road.



Figure 2 shows the adjoining development to the east and south, which is known as No. 374 Rocky Point Road, and wraps around the subject site. It contains a part three/part four storey residential flat building, approved on 4 May 2011 with Development Consent DA-2011/179.



Figure 2 No. 374 Rocky Point Road as viewed from Park Road across the subject site

The four storey portion of the development at No. 374 Rocky Point Road addresses Park Road (Figure 3) and the height of the building reduces to two storeys with a roof terrace for the part of the building fronting Rocky Point Road (Figures 4 and 5).



Figure 3 Adjoining development at No. 374 Rocky Point Road



Figure 4 View of the site and adjoining development from Rocky Point Road



Figure 5 View across the site from Park Road

The development to the north on the opposite corner of Park Road and Rocky Point Road consists of three storey mixed use development (Figure 6).



Figure 6 Development to the north opposite the site in Park Road

The Ramsgate local centre is located less than one kilometre to the east of the site and Kogarah CDB is 5 kilometres to the north of the site. Both centres have a variety of community, recreational and commercial services. Various recreational playing fields and playgrounds are located in close proximity to the site. Sans Souci primary school is within walking distance.

The proposal is representative of the desired future character of the area as the zoning, height and FSR controls now envisage the area to be a high density residential environment given its proximity to the Kogarah CBD and transport services.



## 3. Description of the proposal

---

### 3.1 PROPOSED RESIDENTIAL FLAT BUILDING

It is proposed to construct a four storey residential flat building over basement parking. The proposal comprises 5 x 1 bedroom, 5 x 2 bedroom and 2 x 3 bedroom apartments, providing a total of 12 apartments. Of the 12 apartments, two have been provided as adaptable dwellings with associated adaptable parking spaces. The proposal is well described on the submitted plans prepared by *Bennett and Trimble Architects* and is detailed as follows.

#### Basement Level

The basement contains 17 parking spaces, residential storage cages, a bin store room, bicycle and motorbike parking and a lift to the upper levels. The basement is accessed via a driveway that is located at the north-eastern corner of the site from Park Road. As detailed in the accompanying Traffic Report, vehicular access, geometry and parking space dimensions have been designed to comply with AS2890.1.

#### Ground Floor

The ground floor has been designed to provide two legible pedestrian access points from Rocky Point Road, each to a lobby and secure entrance. The central entry point provides access to the three units at ground floor and the units above via lift access. The second pedestrian entry point is located at the south-western corner of the site and provides accessible access along the southern boundary to the ground floor units and the upper level units via the lift.

Landscaping is provided at the site frontages and south-eastern part of the site which assists with defining private and public spaces and softening the appearance of the building. Three dwellings are located at the ground floor level consisting of 1 x 1 bedroom and 2 x 2 bedroom dwellings, with one of the 2 bedroom units being adaptable. Each dwelling contains a courtyard area that extends off the main internal living space.

Landscape treatments assist with separating common and private open space areas of the proposed units and existing adjoining units.

#### Levels 1 and 2

Levels 1 and 2 are similar in configuration. Each floor contains 1 x 1 bedroom, 1 x 2 bedroom and 1 x 3 bedroom apartments per level. The apartments contain functional internal living areas with private open space in the form of balconies that face the northern or western boundaries overlooking Park Road and Rocky Point Road respectively. Each apartment is dual aspect to provide high levels of solar access and natural ventilation.

#### Level 3

Level 3 contains 2 x 1 bedroom and 1 x 2 bedroom apartments. Each dwelling is dual aspect and contains generous internal proportions that assist with functional and high amenity living. Private open space areas in the form of balconies are provided to each apartment, with two of the units having direct access to additional private open space on the rooftop terrace above.

Architectural detailing and articulation is provided to the facades which, when coupled with the proposed landscaping, ensures the proposal integrates into the desired future character of the area for high density residential living.







### 3.2 LANDSCAPING

Details of the proposed landscaping are shown on the Landscape Plan which accompanies the development application. The Landscape Plan concentrates deep soil planting along the boundaries to soften the interface between the proposed building and the adjoining dwellings.

Landscaping at the site frontages clearly defines the interface between the public and private domain with deciduous plantings to provide seasonal variation and interest.

Whilst the density of development on the site will increase, so too will the range of tree species within suitable locations at ground level that will ensure the long term improvement of the landscaped quality of the site.

### 3.3 WASTE MANAGEMENT

The proposal incorporates a bin storage area at the basement level that will accommodate the required number of bins. The building manager will transfer bins to the street kerb fronting the site for collection.

A detailed Waste Management Plan has been submitted with the application detailing the nature and volumes of waste as a result of the demolition and construction phases as well as the intended disposal and recycling of those materials.





## 4. Environmental Planning Assessment

### 4.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 79C of the EP&A Act, 1979.

### 4.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 79C(1)(a) of the EP&A Act, 1979, are identified in the following Table:

EP & A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.79C(1)(a)(i)	SEPP No. 55 – Remediation of Land	✓	✓	
"	SEPP No. 65 – Design Quality of Residential Apartment Buildings (Amendment No. 3)	✓	✓	
"	SEPP (BASIX) 2004	✓	✓	
"	Rockdale LEP 2011	✓	✓	
S.79C(1)(a)(iii)	Rockdale DCP 2011	✓	✓	
	Any other prescribed matter:			
S.79C(1)(a)(iv)	<ul style="list-style-type: none"> <li>AS 2601-1991: Demolition of structures.</li> </ul>	-	-	✓

The matters identified in the above Table as requiring specific comment are discussed below. The primary statutory documents that relate to the subject site and the proposed development are SEPP No. 65 and Rockdale Local Environmental Plan 2011 (RLEP 2011).

The primary non-statutory document relating to the subject site and proposed development are Rockdale Development Control Plan (DCP) 2011 and the Apartment Design Guide. The relevant provisions of these documents and other relevant planning controls are summarised below and the proposal's compliance with them assessed.

#### 4.2.1 SEPP No.55 – Remediation of Land

This State Environmental Planning Policy (SEPP) was gazetted on 28 August 1989 and applies to the whole State. It introduces planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected.

The site was previously occupied by a service station. Remediation and validation of the site was conducted in 2014. Easterly Point Environmental conducted a non-statutory contaminated land audit under the *Contaminated Land Management Act 1997*, and prepared a Section A Site Audit Statement and Site Audit Report stating the site is suitable for residential use. The requirements of SEPP No. 55 are therefore satisfied.





#### 4.2.2 SEPP No. 65 – Design Quality of Residential Flat Buildings

Schedule 1 of the Policy sets out the 9 'Design Quality Principles' and Clause 28(2) requires that the consent authority, in determining a development application to take into consideration:

- The advice (if any) of a relevant design review panel;
- The design quality of the residential flat development when evaluated in accordance with the design quality principles; and The Apartment Design Guide.
- A Design Verification has been submitted with the application detailing compliance with the design quality principles and in satisfaction of Clause 50 of the EP&A Act.

Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to:

- “
- (a) visual privacy,
  - (b) solar and daylight access,
  - (c) common circulation and spaces,
  - (d) apartment size and layout,
  - (e) ceiling heights,
  - (f) private open space and balconies,
  - (g) natural ventilation,
  - (h) storage.”

In addition, Clause 30(1) of the SEPP states that a development application cannot be refused if it complies with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes. The proposal achieves compliance with the relevant requirements for ceiling height, apartment size and on-site parking.

A compliance table is provided at Annexure A detailing compliance with the applicable Design Criteria contained within the Apartment Design Guide. The compliance table identifies that the proposal is consistent with most ADG design criteria with the exception of communal open space and deep soil zone. The reasons justifying non-compliance with these guidelines are detailed in Annexure A. The variations will have no detrimental impacts to the amenity of neighbours, the streetscape or the amenity and utility of spaces for future residents.

#### 4.2.3 SEPP Building Sustainability Index: BASIX 2004

SEPP (Building Sustainability Index: BASIX) 2004 commenced on 1 July 2004 and applies to the proposed development. In accordance with the provisions of the SEPP, a BASIX Certificate is submitted with the application and confirms that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

#### 4.2.4 Rockdale Local Environmental Plan 2011

Rockdale Local Environmental Plan 2011 (RLEP 2011) applies to the subject site. Under the LEP, the subject site is within Zone R4 – High Density Residential and, amongst other things, residential flat buildings are identified as permissible with consent in the zone.





Provided at Annexure B is a compliance table which identifies the relevant objectives and development standards that apply to the proposal and undertakes an assessment of the proposed development against those relevant provisions.

As indicated, the proposal complies with all relevant objectives and development standards, with the exception of building height. A Clause 4.6 variation request is provided at Annexure C in relation to the lift overrun breaching the height control. The proposal also exceeds the FSR control to RLEP 2011 to a minor degree and a request for this variation is included in Annexure D.

#### 4.2.5 Rockdale Development Control Plan 2011

Rockdale Development Control Plan (DCP) applies to the subject site. The provisions of the DCP that apply to the proposal are contained in Annexure E along with an assessment of the performance of the proposal with those controls.

Section 79C(3A) to the EP&A Act, 1979 provides instruction in the assessment of development applications which seek variation to the standards in a development control plan and states as follows:

*“(3A) Development control plans*

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.”*

As detailed at Annexure E, the proposed development has been designed to comply with the relevant controls. A variation is sought to the landscaped area and dwelling mix controls. These have been identified and justified in the table in Annexure E.

### 4.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

#### 4.3.1 Topography & Scenic Impacts

The subject site requires excavation to accommodate the proposed basement level. The development has been designed to ensure that the basement is concealed below ground level while allowing the site's perimeter to contain deep soil landscaping.

The proposal results in a height and density of development that is consistent with the emerging and desired future character of the area and is consistent with reasonable public expectations and Council's strategic planning intention for the locality.

As such, the proposal will not generate any adverse topographical or scenic impacts.

#### 4.3.2 Micro-climate Impacts

The proposed development will have no significant impact on the micro-climate of the locality.





#### 4.3.3 Water & Air Quality Impacts

The proposed development will have no significant impact on air or water quality in the locality. Standard conditions of consent relating to construction management will ensure that no silt laden water enters the stormwater system.

The completed project will be connected to Council's stormwater drainage system and will incorporate on-site stormwater detention in accordance with the submitted stormwater drainage plans.

The proposed development will be connected to the sewer and is not likely to generate any unusual liquid waste, odour or fumes. It is therefore unlikely to have any adverse impact in terms of air or water quality.

#### 4.3.4 Flora & Fauna Impacts

The site is currently vacant and cleared, having previously been occupied by a service station. A Landscape Plan is submitted with the application and details to the range of suitable trees, shrubs and ground covers that are both suited to the site and the locality.

Whilst the density of development will increase in accordance with the applicable planning controls, the landscaping will be suitably augmented in a rational configuration that will ensure its long term retention. Deep soil planting can be achieved in 'pockets' along all site boundaries and landscaping of the podium surface is proposed surrounding the building. The proposal will therefore have a positive impact in terms of contribution to local biodiversity and landscape quality of the area.

#### 4.3.5 External Appearance & Design

The proposed development provides clearly defined pedestrian and vehicular access points that extend from Rocky Point Road and Park Road respectively. At ground level, the proposal will incorporate hard and soft landscaping elements that are appropriate to the scale and form of development. The basement level is concealed predominantly below ground level, with landscaping along each street frontage utilised to soften the interface between the proposed building and the street.

The design of the building ensures functional internal layouts for each dwelling with building orientation and window openings being determined by sensitivity of the adjoining properties and optimising solar access and natural ventilation. The proposal will facilitate passive surveillance of both streets.

The building adopts a contemporary appearance with the street front façades containing interesting and articulated presentation through the use of balcony design and architectural elements.

The massing achieves compliance with the setbacks and ADG separation controls. The building is consistent with the street setbacks of the adjoining developments as per the DCP and 6m side setbacks as per the ADG, resulting in a building which reinforces the streetscape and high density residential character of the area.

Materials used are detailed on the material schedule submitted with this application and have been selected for high durability and compatibility with the contemporary design. The orientation of apartments and common circulation space is responsive to the context of the site and results in a suitable form that is reasonably anticipated under the applicable planning controls.

##### 4.3.5.1 Solar Access

Shadow diagrams and sun-eye view diagrams of the proposal have been prepared and are submitted with the development application in accordance with Council's submission requirements.





In terms of solar access, the proposal complies with the solar access requirements of the Apartment Design Guide as it achieves a minimum 2 hours of solar access to all living room windows and private open space areas for between 9.00am and 3.00pm during mid winter.

Chapter 4.4.2 of Rockdale DCP 2011 contains controls for solar access and states in relation to residential flat buildings:

“ *b. Living rooms and private open spaces for at least 70% of apartments in a development and adjoining properties should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.*”

All proposed units comply with the ADG requirement of receiving a minimum of 2 hours solar access to living rooms and private open space areas during midwinter. In relation to the adjoining properties it is important to note the neighbouring residential flat building was approved under DA-2011/179 prior to the ADG requirements for separation and prior to the current DCP setback requirements. Therefore the neighbouring residential flat building was approved with a setback of 3m from the common boundary.

In light of the footprint of the adjoining development, the design of the proposal achieves a minimum of 2hrs of direct sunlight to 70% of the neighbouring apartments in line with the ADG. 10 out of 14 apartments (71%) in the adjoining building will receive 2hrs of sunlight, further, 8 out of 14 apartments (57%) will receive 3 hours of direct sunlight.

At 9.00am during mid-winter, the proposal casts shadow over some north-facing windows of the adjoining units fronting Rocky Point Road and there is no impact on the units fronting Park Road. At 12.00 noon during midwinter, shadow cast by the proposal is limited to the north-facing windows of the southern adjoining units, and a portion of the west-facing windows of the adjoining units to the east. At 3.00pm shadow impacts affect the western façade of the neighbouring building with the exception of the uppermost storey. For the majority of the year, the additional shadows are minimal.

The building provides 6m setbacks to the southern and eastern site boundaries consistent with the requirements of the ADG and responds well to the site context and adjoining pattern of development to minimise the shadow impacts as far as practicable without unreasonably compromising the development potential of the site. This overshadowing of the adjoining dwellings to the east and south of the site would reasonably be expected as part of redeveloping the subject site in a manner envisaged by the planning controls.

#### 4.3.5.2 Views

There are no significant views of waterways or iconic buildings afforded from the site or from buildings in the immediate vicinity of the site. The proposal is of a scale and form reasonably expected at the site and will not result in any significant or unreasonable view loss impacts.

#### 4.3.5.3 Aural & Visual Privacy

The proposed development has been designed to minimise as far as practicable the likelihood of any adverse overlooking or invasion of aural privacy of neighbouring properties. This has been achieved by responsive orientation and layout of the apartments and private open spaces as well as the use of architectural treatments that minimise direct lines of sight to the adjoining residential properties.

Specifically, the design philosophy of the proposal seeks to orient the indoor and outdoor living areas of new apartments to both street frontages to assist with passive surveillance and to maintain privacy of internally adjoining dwellings.

In terms of maintaining the privacy of the adjoining properties, the proposal complies with the setback and separation requirements of the ADG at all levels. As such, the proposal is considered acceptable in terms of aural and visual privacy impacts on adjoining development and the amenity of future residents.





#### 4.4 ECONOMIC & SOCIAL IMPACTS

The proposed development will result in an increase in the available housing stock in the locality by the provision of a high quality residential development. The subject site enjoys good access to commercial services, community facilities and public transport routes. The proposed development will utilise existing infrastructure including electricity, sewer, water and telecommunication services.

The proposal incorporates a suitable mix of 1, 2 and 3 bedroom apartments all of which are tailored for modern living and contribute to the existing housing stock within the locality.

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.

#### 4.5 THE SUITABILITY OF THE SITE

##### 4.5.1 Access to Services

The site is located within an established area with good access to services and public transport. As the site is within an established urban area, electricity, sewer, telephone, and water services are readily available to the subject site.

##### 4.5.2 Parking and Access

The on-site parking provided complies with the requirements of the Rockdale DCP 2011. The design and layout of on-site parking and vehicle access/egress is compliant with AS2890.1

##### 4.5.3 Hazards

The site is not in an area recognised by Council as being subject to landslip, flooding, bushfire or any other particular hazards. The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.

#### 4.6 THE PUBLIC INTEREST

The proposed development has been designed to relate to the size, shape and context of the site and has been designed in accordance with the desired future character for development in the area as defined by current planning controls.

The minor numeric variations to development standards for building height and FSR do not prevent the achievement of the objectives related to these controls and therefore do not undermine the intent and purpose of planning controls adopted in the public interest.

The proposal will provide high quality residential accommodation and has been designed to minimise as far as practicable any adverse effects on existing and future neighbouring properties. The proposal is consistent with the applicable LEP, DCP and Apartment Design Guide provisions except where identified and justified in this Statement. Accordingly, the proposed development is considered to be in the public interest.





## 5. Conclusion

---

The proposed development has been assessed in light of Section 79C of the Environmental Planning & Assessment Act, 1979, State Environmental Planning Policies and Council's planning instruments.

The proposal is permissible with Council's consent within the zone and meets the relevant requirements of the Rockdale LEP 2011, with the exception of the minor rooftop elements breaching the height control and a minor variation to the FSR control. These variations have been identified and justified in this Statement. The proposal is consistent with the Design Criteria of the Apartment Design Guide and complies with the applicable built form provisions of Council's DCP with the exception of the requirements for communal open space. It has been demonstrated that most apartments are to be provided with private open space areas that significantly exceed the relevant requirements and the lack of communal open space will not compromise the amenity of future residents.

The siting, design and external appearance of the proposal is considered to be appropriate and consistent with the desired future character of the locality and the setting of this isolated corner site. The proposal is not likely to result in any unreasonable loss of privacy to any adjoining or nearby residents and will offer high levels of amenity for the future occupants.

The completed development will have no unreasonable impact on solar access to adjoining residential properties, nor will the proposal change the topography, micro-climate, air or water quality of the locality.

Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects.

Accordingly, in the circumstances of the case, the proposal is considered to be in the public interest and worthy of Council's support.







## ANNEXURE A

### SEPP 65 Apartment Design Guide – Compliance Table



SEPP 65 APARTMENT DESIGN GUIDE (DESIGN CRITERIA) COMPLIANCE TABLE							
Clause / Control	Requirement	Proposal	Complies?				
Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site (site area of 896m <sup>2</sup> requires 224m <sup>2</sup> of COS)	The proposal does not provide communal open space. The ground floor units and two of the top floor units are provided with generous courtyards or rooftop private open space areas which exceed the ADG guidelines. In addition, the site is located within walking distance to Bona Park and other local parks and sporting fields. The amenity of the proposed apartments will not be compromised by the non-provision of communal open space.	On merit				
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	N/A – refer above	N/A				
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements:	107m <sup>2</sup> deep soil provided in total (11.9%)	On merit				
	<table border="1"> <thead> <tr> <th>Site Area</th> <th>Minimum Dimension</th> <th>Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>650m<sup>2</sup> to 1,500m<sup>2</sup></td> <td>3m</td> <td>7%</td> </tr> </tbody> </table>	Site Area		Minimum Dimension	Deep Soil Zone (% of site area)	650m <sup>2</sup> to 1,500m <sup>2</sup>	3m
Site Area	Minimum Dimension	Deep Soil Zone (% of site area)					
650m <sup>2</sup> to 1,500m <sup>2</sup>	3m	7%					
Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	6m to eastern and southern boundaries	Yes				

**SEPP 65 APARTMENT DESIGN GUIDE (DESIGN CRITERIA) COMPLIANCE TABLE**

	<b>Building Height</b>	<b>Habitable Rooms and Balconies</b>	<b>Non-habitable rooms</b>		
	Up to 12m (4 storeys)	6m	3m		
Bicycle and Car Parking	For development in the following locations: <ul style="list-style-type: none"> <li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</li> </ul>			NA – DCP rates apply	See Annexure E
Solar Access and Daylight	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.			All units receive in excess of 2 hours of sunlight to living room windows and private open space areas during mid-winter as outlined on the plans.	Yes
Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.			All units are naturally cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line			There are no units proposed which have a depth greater than 12 metres.	Yes

**SEPP 65 APARTMENT DESIGN GUIDE (DESIGN CRITERIA) COMPLIANCE TABLE**

<p>Ceiling Height</p>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> <li>Habitable Rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> <li>2 storey apartments - 2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area</li> <li>Attic Spaces - 1.8m at the edge of the room with a 30 degree minimum ceiling slope.</li> <li>If located in a mixed use area - 3.3m for ground and first floor to promote future flexibility</li> </ul> <p>These minimums do not preclude higher ceilings if desired.</p>	<p>All habitable rooms have 2.7m ceiling heights.</p> <p>Non-habitable rooms contain ceiling heights that are at least 2.4m</p>	<p>Yes</p> <p>Yes</p>
<p>Apartment Layout</p>	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio - 35m<sup>2</sup>                  1 Bedroom - 50m<sup>2</sup>                  2 Bedroom - 70m<sup>2</sup>                  3 Bedroom - 90m<sup>2</sup></p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:                  3.6m for studio and 1 bedroom apartments                  4m for 2 and 3 bedroom apartments</p>	<p>NA</p> <p>All 1 bedroom apartments are at least 50m<sup>2</sup>                  All 2 bedroom apartments are at least 70m<sup>2</sup>                  All 3 bedroom apartments are 95m<sup>2</sup></p> <p>The units that have two bathrooms provide the additional 5m<sup>2</sup>.</p> <p>N/A</p> <p>All windows meet the requirements of the BCA.</p> <p>All master bedrooms comply with these requirements, refer to the plans for compliance.</p> <p>All bedrooms of proposed units comply with these requirements, refer to the plans for compliance.</p> <p>All living areas of proposed units comply with these requirements, refer to the plans for compliance.</p>	<p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

SEPP 65 APARTMENT DESIGN GUIDE (DESIGN CRITERIA) COMPLIANCE TABLE			
Environmental Performance	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All units have a minimum width of 4 metres, refer to the plans for compliance.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Refer to plans for compliance.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Complies.	Yes
Open Space	All apartments are required to have primary balconies as follows:		
	Studio - 4m <sup>2</sup>		
	1 Bedroom - 8m <sup>2</sup> (Minimum depth of 2m)	All 1 bedroom balconies exceed 2m in depth and are 8m <sup>2</sup> – 47m <sup>2</sup>	Yes
	2 Bedroom - 10m <sup>2</sup> (Minimum depth of 2m)	All 2 bedroom balconies exceed 2m in depth and are 10m <sup>2</sup> – 81m <sup>2</sup>	Yes
	3 Bedroom - 12m <sup>2</sup> (Minimum depth of 2.4m)	All 3 bedroom balconies exceed 2.4m in depth and are 12m <sup>2</sup>	Yes
The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Noted.	-	
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	The ground floor units have a courtyard between 53m <sup>2</sup> and 93m <sup>2</sup> with a minimum depth of 3m.	Yes
Common Circulation Space	The maximum number of apartments off a circulation core on a single level is 8.	Maximum of 3 dwellings off a single circulation space.	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A	
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Required storage is provided within the basement and within each dwelling as indicated on the submitted plans.	Yes
	<ul style="list-style-type: none"> <li>• Studio - 4m<sup>2</sup></li> <li>• 1 Bedroom - 6m<sup>2</sup></li> <li>• 2 Bedroom - 8m<sup>2</sup></li> <li>• 3 Bedroom - 10m<sup>2</sup></li> </ul> At least 50% of the required storage is to be located within the apartment		





## **ANNEXURE B**

**Rockdale LEP 2011 –  
Compliance Table**

ROCKDALE LEP 2011 COMPLIANCE TABLE			
Clause / Control	Requirement	Proposal	Complies?
4.2 Zone Objectives & Land Use Table	<p>R4 – High Density Residential Zone</p> <p>Objectives</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a high density residential environment.</li> <li>To provide a variety of housing types within a high density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> <p>Residential flat buildings are permissible with consent from Council.</p>	<p>The proposed development is entirely consistent with the relevant zone objectives in that the residential flat building will provide a range of suitable dwelling types that meet the housing needs of the community within a high density residential environment. The number of adaptable dwellings proposed provides suitable housing for the elderly and people with a disability and the building clearly promotes a high quality urban outcome with minimal environmental impacts.</p> <p>The proposal is best described as a residential flat building and is permissible with consent from Council.</p>	Yes
4.3(2) Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map – 14.5 metres.	The maximum height of the building is 14.8m.	On merit Refer to 4.6 Variation in Annexure C
4.4(2) Floor space ratio	The FSR of a building on any land is not to exceed the maximum FSR shown for the land on the Floor Space Ratio Map – 1:1	1.09:1	On merit Refer to 4.6 Variation in Annexure D
6.1 Acid sulfate soils	Class 5 - Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	The excavation for the basement level produces a level at RL 7.4 which is above 5m AHD, however is within 500m of Class 1, 2, 3 or 4 land. An Acid Sulfate Soils Management Plan has been submitted with the application under separate cover.	Yes





ROCKDALE LEP 2011 COMPLIANCE TABLE			
6.7 Stormwater	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) will include, where practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) will avoid, or if a disturbance or impact cannot be avoided, will minimise and mitigate, any disturbance or impact of stormwater runoff on:</p> <p>(i) properties adjoining the land on which the development is proposed to be carried out, and</p> <p>(ii) native bushland, and</p> <p>(iii) receiving waters.</p>	Stormwater plans have been submitted with the application.	Yes





## ANNEXURE C

### Clause 4.6 Variation - Building Height



## Clause 4.6 variation statement – maximum height (clause 4.3)

### 1. Height of buildings control

Clause 4.3 (2) of Rockdale Local Environmental Plan 201 (RLEP 2011) relates to maximum permitted building height for a site and refers to the *Height of Buildings Map*. The relevant map identifies the subject site as having a maximum height of 14.5m. Building height is defined as:

“ **building height** (or **height of building**) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

*including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like..”*

The maximum height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.

### 2. Proposed variation to height of building development standard

The development application proposes the construction of a residential flat building. The building is four storeys with private roof top terraces and is compliant with the 14.5m height control. The fire stair access to the rooftop plant and the rooftop plant room have a maximum height of 14.8m. The stair access and plant room exceed the maximum building height limit by a maximum 0.3m which is a variation to the control equivalent to 2%. The height is breach is identified in Figure 5.

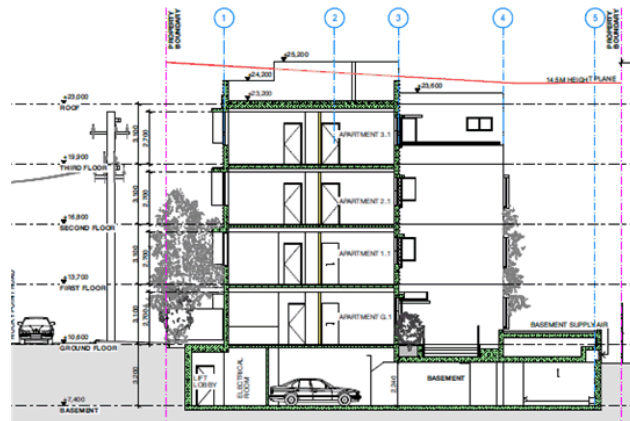


Figure 7 Section showing height non-compliance



### 3. Clause 4.6 to RLEP 2011

The objectives and provisions of clause 4.6 to RLEP 2011 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,

(c) clause 5.4,

(ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,

(cb) clause 4.3A."

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

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This 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 4.3 height of buildings 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."

As previously noted, the *Height of Buildings Map* nominates a maximum building height of 14.5m 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 14.8m to the fire stair access to the rooftop plant and the rooftop plant room 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 establish the maximum limit within which buildings can be designed and floor space can be achieved”**

The height has been established at 14.5m for the site. The fire stair access to the rooftop plant and the rooftop plant room is recessed from the perimeter of the building and will not be readily visible from the adjoining streets. It does not contribute to the bulk and scale of the building overall, being a minor but essential structure to the overall design and function of the building. The stair and plant room do not contribute to the FSR of the development.

For these reasons the proposed building height meets Objective (a).

**Objective (b): “to permit building heights that encourage high quality urban form”**

A building height control of 14.5m allows for a four storey residential flat building compliant with the floor-to-ceiling height controls of the ADG. The proposal is four storeys and compliant with the relevant floor-to-ceiling height requirements.

The design of the building ensures functional internal layouts and adopts a contemporary appearance with the street front façades containing interesting and articulated presentation through the use of balcony design and architectural elements. The massing has been determined by setbacks and ADG controls. The building is consistent with the street setbacks of the adjoining developments as per the DCP and 6m side setbacks as per the ADG, resulting in a building which reinforces the streetscape and domestic character of the area.

The built form of the building is of a high quality urban form and the minor non-compliance for the fire stair access and the rooftop plant do not detract from achieving Objective (b).

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

The proposed variation to the building height control for the fire stair access and the rooftop plant room will not have adverse impacts on adjoining areas. The non-compliant sections of the building do not contribute to the shadow cast onto adjoining properties or the public domain as it is centrally located to the building footprint.

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

The height of buildings map for the site is provided at Figure 8, with the site edged in red. As can be seen from the map excerpt, the land to the east and south also has a height limit of 14.5m, and the land to the north along Rocky Point Road has a height limit of 16m. The minor non-compliance of the fire stair access and the rooftop plant does not offend the objective of achieving a transition in height and land use intensity.



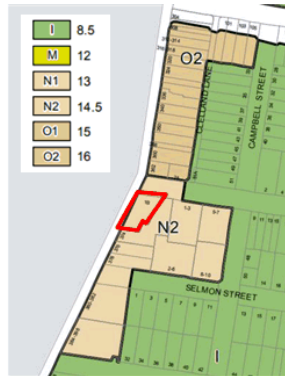


Figure 8 Height of buildings map

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

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of Zone R4 High Density Residential are as follows:

- “
- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.”

The proposed development is demonstrably consistent with the relevant zone objectives in that it provides a mix of 1, 2 and 3 bedroom apartments within a high quality development envisaged by the controls for the R4 High Density Residential zone.

For these reasons the development proposal meets the objectives for development in Zone R4.

**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 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.

To insist on strict compliance would thwart and preclude the redevelopment of the land to a reasonable standard, and not allow the site to reach its full development potential.

The proposed height encroachment 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 height strictly to the maximum height allowable given the absence of amenity related



impacts. There will be no additional shadow, no obstruction of views and no opportunities for overlooking resulting from the small sections of the building exceeding the height control.

In short, we consider that there are sufficient environmental planning grounds to justify the applicant's proposed variation to the height 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 relates to the fire stair access and the rooftop plant room only. The remainder of the building is below the maximum height control.

Strict compliance would be counterproductive in terms of amenity and accessibility for future residents, streetscape and impacts to neighbouring properties.

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, with the majority of the building complying with the 14.5m height limit, so as to not impact on the privacy and amenity of neighbouring properties. Insisting on strict compliance in this instance would result in a deletion of the fire stair and relocation of the plant room to the basement with potential loss of off street parking.

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.

#### **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 height of buildings 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 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.





## ANNEXURE D

### Clause 4.6 Variation – FSR





## Clause 4.6 variation statement – maximum FSR (clause 4.4)

### 1. Floor space ratio control

Clause 4.4 (2) of Rockdale Local Environmental Plan 201 (RLEP 2011) 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. Gross floor area is defined as:

" *gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) *the area of a mezzanine, and*
- (b) *habitable rooms in a basement or an attic, and*
- (c) *any shop, auditorium, cinema, and the like, in a basement or attic,*

*but excludes:*

- (d) *any area for common vertical circulation, such as lifts and stairs, and*
- (e) *any basement:*
  - (i) *storage, and*
  - (ii) *vehicular access, loading areas, garbage and services, and*
  - (f) *plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
  - (g) *car parking to meet any requirements of the consent authority (including access to that car parking), and*
  - (h) *any space used for the loading or unloading of goods (including access to it), and*
  - (i) *terraces and balconies with outer walls less than 1.4 metres high, and*
  - (j) *voids above a floor at the level of a storey or storey above."*

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 application proposes the construction of a residential flat building. The building is four storeys with private roof top terraces and is proposes an FSR of 1.09:1. The non-compliance is 80.64m<sup>2</sup> which is a variation to the control equivalent to 9%.

### 3. Clause 4.6 to RLEP 2011

The objectives and provisions of clause 4.6 to RLEP 2011 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,
- (c) clause 5.4,
- (ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,
- (cb) clause 4.3A."

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:

- "
- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,
  - (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,
  - (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation."

As previously noted, the *Floor Space Ratio Map* nominates a maximum FSR of 1:1 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 1.09:1.

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 the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale"**

The maximum FSR has been established at 1:1 for the site. The proposed development provides for a mix of 1, 2 and 3 bedroom units, complies with the required parking provisions of the DCP and meets the objectives of the R4 High





Density Residential zone objectives. The proposed development is in line with the type of development envisaged for the site, and as described against Objective (c) below, provides for a suitable transition in the intensity of development between the site and higher density development permitted to the north along Rocky Point Road. The degree to which the proposal exceeds the maximum FSR is equivalent to a two-bedroom apartment and adequate on-site parking, vehicle and pedestrian movement pathways and utility services are proposed to account for the number of proposed apartments.

For these reasons the proposed FSR meets Objective (a).

**Objective (b): “to minimise adverse environmental effects on the use or enjoyment of adjoining properties”**

The design of the building ensures functional internal layouts and the massing has been determined by the side setbacks of the DCP and ADG separation controls. The three dimensional building envelope is compliant with setback and height controls with the minor exception of rooftop structures which do not contribute to floor space or building bulk. The proposed building form and layout of apartments will not have any adverse impact on adjoining properties, does not contribute to additional overshadowing beyond a compliant scheme and provides compliant separation between buildings 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 residential apartments despite the non-compliance and 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 or likely to undergo a substantial transformation”**

As described in the Clause 4.6 variation for the height non-compliance, the FSR map (Figure 9), indicates the land to the east and south also has an FSR maximum of 1:1, and the land to the north along Rocky Point Road has an FSR maximum of 2:1. The minor non-compliance of the FSR does not offend the objective of maintain visual relationships between areas, as most of the land surrounding the site has already been developed, with the subject being the last to redeveloped in the immediate locality.

The proposal matches the built form, bulk and scale of surrounding residential flat buildings and the proposed non-compliance with FSR will not be perceptible in the streetscape and character of the locality.

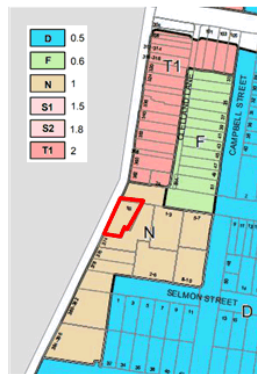


Figure 9 Height of buildings map

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 R4 High Density Residential are as follows:

- “
- *To provide for the housing needs of the community within a high density residential environment.*
  - *To provide a variety of housing types within a high density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.”*

The proposed development is demonstrably consistent with the relevant zone objectives in that it provides a mix of 1, 2 and 3 bedroom apartments within a high quality development envisaged by the controls for the R4 High Density Residential zone.

For these reasons the development proposal meets the objectives for development in Zone R4.

#### **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.

To insist on strict compliance would thwart and preclude the redevelopment of the land to a reasonable standard, and not allow reasonable development potential.

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.

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, with 1, 2 and 3 bedroom units 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 with the minor exception of small rooftop elements which do not add to FSR. Insisting on strict compliance in this instance would result in the reduction in size of some units, thus reducing the internal amenity for future residents and/or the variety of apartment sizes.

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.





#### 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.







## ANNEXURE E

Rockdale DCP 2011 –  
Compliance Table



Table 2 Rockdale DCP 2011 Compliance Table			
Clause / Control	Requirement	Proposal	Complies?
<b>PART 4 General Principles for Development</b>			
<b>4.1 Site Planning</b>			
<b>4.1.5 Contaminated Land</b>	Development on land that is or has previously been used for a purpose which is likely to have contaminated the site is to follow the procedures and guidelines contained in SEPP No. 55 – Remediation of Land.	The site was previously occupied by a service station. Remediation and validation of the site was conducted in 2014. Easterly Point Environmental conducted a non-statutory contaminated land audit under the Contaminated Land Management Act 1997, and prepared a Section A Site Audit Statement and Site Audit Report stating the site is suitable for residential use.	Yes
<b>4.1.9 Lot size and Site Consolidation</b>	Residential Flat Buildings: A minimum frontage width of 24m is required.  Avoidance of Isolated Sites: Developers must satisfy Council that adjoining parcels not included in their development site are capable of being economically developed.	The site has a frontage to Rocky Point Road of 40.44m and a frontage to Park Road of 24.5m.  Development of the site will not isolate adjoining sites.	Yes  Yes
<b>4.2 Streetscape and Site Context</b>			
<b>Site Context</b>	Development is to respond and sensitively relate to the broader urban context including topography, block patterns and subdivision, street alignments, landscape, views and the patterns of development within the area.	The proposal responds to its corner location and provides a high quality building appearance from Rocky Point Road and Park Road. The proposed siting of the building is appropriate for the orientation and shape of the site and the pattern of adjoining development.	Yes
<b>Streetscape Character</b>	The building design and use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape.  Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings	The proposal has a similar high-density scale and style to surrounding infill redevelopments.  The proposed boundary setbacks to Park Road and Rocky Point Road are consistent with the adjoining development.	Yes  Yes



Table 2 Rockdale DCP 2011 Compliance Table			
<b>Pedestrian Environment</b>	Residential buildings adjacent to the street must address the street by having a front door and/or living room or kitchen window addressing the street. The frontage of buildings and their entries are to be readily apparent from the street. Buildings are designed to overlook streets and other public areas to provide casual surveillance.	Units have been designed with a primary orientation to the street frontages, providing a suitable streetscape address and passive surveillance.	Yes
	Vehicle entries are discrete and minimise conflicts with pedestrians. Where possible, development is to take advantage of opportunities to provide driveway access from rear laneways.	The proposal provides vehicular access/egress from Park Road which is a lower order street than Rocky Point Road.	Yes
<b>4.3 Landscape Planning and design</b>			
<b>4.3.1 Open Space and Landscape Design</b>	Landscaped areas, as defined by the LEP, for residential flat buildings are to total 15% of the site area.	The soft landscaped area (deep soil) on the site accounts for approximately 110m <sup>2</sup> , equating to approximately 12% of the site area. Additional planted areas are provided over the basement roof at the ground level which provides an additional 80m <sup>2</sup> , bringing the total landscaped area on the site to 21%.	On merit
	Landscaped areas should adjoin the landscaped area of neighbouring properties so as to provide for a contiguous corridor of landscape and vegetation.	Landscaped areas are provided to all setbacks of the site, generally adjoining the landscaped setbacks of the development to the east and south.	Yes
	Where a basement car park protrudes above ground level and is not wrapped in residential or retail uses, the walls are to be screened with appropriate treatments, such as planting	The basement protrudes above ground level at the eastern and northern elevations and landscape screening will be provided to screen the external walls.	Yes
	With the exception of development applications for single dwellings, street trees are to be provided in accordance with Council's Masterplan	Council may wish to impose a condition of consent.	Yes



Table 2 Rockdale DCP 2011 Compliance Table			
<b>4.3.2 Private Open Space</b>	Private open space is to be clearly defined for private use through planting, fencing or landscape features	The development uses a variety of these features to delineate private open space at the ground level.	Yes
	Development should take advantage of opportunities to provide north-facing private open space to achieve comfortable year-round.	All units are oriented to the north or west to the street frontages. Compliance is achieved with the solar access requirements of the ADG.	Yes
	Private open space must take account of the visual and acoustic privacy of its occupants and neighbours. Development must ensure that the usability of private open space of adjoining buildings is not reduced through overlooking and overshadowing.	As above, private open space has been oriented away from properties to the east and south. Overshadowing of the proposal is discussed further at Section 4.3.6 of this Statement	Yes
	The primary private open space of each unit must directly connect to the living area. Balcony design is to: a. maximise habitability; b. provide privacy, e.g. the use of adjustable screens; and c. provide for a variety of uses, including clothes drying in open air.	Open plan living with glass sliding doors to balcony or terrace spaces are provided for all units. Each dwelling has a balcony that is compliant with the minimum dimensions and area requirements. All balconies are separated with dividing common walls between apartments. Each balcony is of a suitable size to enable drying areas in addition to private open space areas.	Yes
<b>4.3.3 Communal Open Space</b>	A primary communal open space area of adequate dimensions must be provided for use by all residents, for a residential flat building which has 12 or more dwellings.	This provision is overridden by the ADG – refer to comments in the ADG compliance table in Annexure A.	See Annexure A
<b>4.4 Sustainable building design</b>			
<b>4.4.1 Energy Efficiency</b>	A BASIX certificate is to be submitted with the development application for residential development.  A report on energy and water efficiency is to be submitted with the development application for any building works with a construction cost of \$1,000,000 or more.	A BASIX Certificate has been submitted in support of the application.	Yes

Table 2 Rockdale DCP 2011 Compliance Table			
<p><b>4.4.2</b> <b>Solar Access</b></p>	<p>Living rooms and private open spaces for at least 70% of apartments in a development and adjoining properties should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.</p>	<p>Shadow diagrams (9am, 12, 3pm) at mid winter are provided and indicate that all proposed apartments will meet the solar access requirements of the Apartment Design Guide.</p> <p>Refer to the ADG compliance table at Annexure A. Shadowing impacts have been addressed in Section 4.3.6.</p>	<p>Yes</p>
<p><b>4.4.5</b> <b>Visual and Acoustic Privacy</b></p>	<p>The windows of a habitable room with a direct sightline to the windows of a habitable room of an adjacent dwelling and located within 9m:</p> <ul style="list-style-type: none"> <li>a. are sufficiently off-set to preclude views into the windows of the adjacent building; or</li> <li>b. have sill heights of 1.7m above floor level; or</li> <li>c. have fixed obscure glazing in any part of the window below 1.7m above floor level.</li> </ul> <p>Balconies, terraces, rooftop recreation areas and the like should be located to minimise overlooking of an adjoining property's open space or windows. Techniques such as recessing, screens or landscaping may be used to prevent direct views into habitable rooms or private open space of adjacent dwellings.</p> <p>The use of the roof top area for recreational purposes is permissible subject to</p> <ul style="list-style-type: none"> <li>a. internal stair access and the usable area of roof being set back at least 1500mm from the edge of the building.</li> </ul> <p>The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties.</p>	<p>Visual privacy requirements are contained in the Apartment Design Guide which is addressed at Annexure A. The proposed building complies with the required 6m setback to the eastern and southern boundaries.</p> <p>As above. Blade walls, dwelling orientation and planter boxes have been provided where necessary to ensure visual privacy.</p> <p>The private roof terraces are accessed by spiral staircases. The staircase for each unit is located towards the street frontages and away from adjoining properties.</p> <p>The proposal will maintain adequate noise impacts for satisfactory amenity as examined by the acoustic report prepared by Acoustic and Air.</p> <p>Refer to the Acoustic Report submitted separately.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



Table 2 Rockdale DCP 2011 Compliance Table			
	<p>Bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings. Bedrooms of one dwelling may share walls with living rooms of adjacent dwellings provided appropriate acoustic measures are documented. Where party walls are provided they must be carried to the underside of the roof.</p> <p>An Acoustic Report is to be submitted at Development Application stage &amp; post construction stage to ensure that the above standards have been achieved.</p>	<p>Noise attenuation will comply with all BCA requirements.</p> <p>Refer to submitted Acoustic Report.</p>	<p>Yes</p> <p>Yes</p>
<p><b>4.4.6</b></p> <p><b>Noise Impact</b></p>	<p>Where development must comply with the Australian Standard 2021 – 2000 Acoustic – Aircraft Noise, in relation to interior noise levels, the applicant is to provide an Acoustic report prepared by a suitably qualified Noise Consultant to advise on appropriate measures to be incorporated into the design of the building so it will meet this standard.</p> <p>Details of any mitigation measures must be included with the Development Application submission. The mitigation measure must be consistent with the BASIX certificate.</p> <p>External walls facing potential sources of noise are to be constructed of materials with good sound insulating quality and have no large openings that would transmit noise.</p> <p>The building plan, walls, windows, doors and roof are to be designed to reduce intrusive noise levels from potential sources of noise.</p> <p>Balconies and other external building elements are to be located, designed and treated to minimise noise infiltration.</p>	<p>See submitted Acoustic Report for full details of recommendations. Subject to compliance with the recommendations of the report, it is concluded that the proposal is acceptable in terms of the extent of noise impacts on each dwelling.</p> <p>The mitigation measures are consistent with the BASIX certificate.</p> <p>Refer to the submitted Acoustic Report.</p> <p>The exposure of noise sensitive areas have been limited and will be constructed in accordance with the submitted Acoustic Report.</p> <p>As above.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 2 Rockdale DCP 2011 Compliance Table			
	Where new windows face potential sources of noise, they are required to be fitted with noise attenuating glass to minimise the impact of background noise from non-compatible development.	Refer to the recommendations of the Acoustic Report for details of attenuation measures.	Yes
	Design landscaping of communal and private open space to create a buffer between new residential development and adjacent potential sources of noise.	Landscaping is proposed along all site boundaries.	Yes
<b>4.5 Social equity</b>			
<b>4.5.1</b>	Residential flat buildings are to comply with the following dwelling mix:		
<b>Housing Diversity and Choice</b>	3 Bedroom: 10% - 20% 2 Bedroom: 50% - 75% 1 Bedroom/studio: 10% - 30%	16.6% of the proposed units are 3 bedroom dwellings. 41.7% of the proposed units are 2 bedroom dwellings. 41.7% of the proposed units are 1 bedroom dwellings.	Yes On merit On merit
	For multi-dwelling housing, residential flat buildings and shoptop housing, adaptable housing complying with AS 4299 is to be provided at a rate of 10% for developments exceeding 30 dwellings.	Whilst the number of 1 and 2 bedroom units is slightly less than the required mix the proposed mix of apartment sizes is considered appropriate and the non-compliance minor. The proposal provides 2 (16%) adaptable dwellings that comply with AS 4299.	Yes
	For residential flat buildings and shoptop housing, development is to provide barrier free access to at least 20% of dwellings.	All dwellings have barrier free access.	Yes
<b>4.5.2</b>	The siting, design and construction of premises available to the public are to ensure an appropriate level of accessibility, so that all people can enter and use the premises. Access is to meet the requirements of the Disability Discrimination Act, the relevant Australian standards and the Building Code of Australia.	See Access Report submitted with the application for compliance with this provision.	Yes
<b>4.6 Car parking, access and movement</b>			

Table 2 Rockdale DCP 2011 Compliance Table					
	Vehicle	Bicycle	Motorbike		
<b>Parking Rates</b>	<ul style="list-style-type: none"> <li>1 space/studio, 1 and 2 bedrooms apartments</li> <li>2 spaces/3 bedrooms apartments or more</li> <li>Visitor parking: 1 space/5 dwellings</li> </ul>	1 space/10 dwellings	1 space/15 dwellings	14 residential spaces provided 3 visitor spaces provided 2 bicycle and 1 motorbike space provided	Yes Yes Yes
	Multi Dwelling Housing/ Residential Flat Buildings/ Shoptop Housing				
	5 x 1B = 5 spaces 5 x 2B = 5 spaces 2 x 3B = 2 spaces 12/5 = 2.4 visitor spaces Total required = 14.4 spaces				
	2 bicycle spaces and 1 motorbike space required.				
<b>Car park Location and Design</b>	Vehicle access points and parking areas are to be: a. easily accessible and recognisable to motorists b. located to minimise traffic hazards and the potential for vehicles to queue on public roads d. located to minimise the loss of on-street car parking and to minimise the number of access points. Multiple driveway crossings are not permitted. e. designed to minimise conflict with pedestrians, particularly in locations with heavy pedestrian traffic such as shopping centres.  Car parking and service/delivery areas are to be located so that they do not visually dominate either the development or the public domain.  Car parking areas must be well lit, well laid out and facilitate convenient manoeuvring into and out of spaces and should have a legible circulation pattern with adequate signage.  Basement car parking is to be:			The parking entry is clearly identifiable to motorists. Cars will enter the building and queuing is not expected. Refer to the submitted Traffic Report.  There will be no loss to on-street parking.  No conflicts expected with direct pedestrian access to the existing footpath network.  Parking areas do not dominate the public domain. Basement parking is provided which is accessed from Park Road.  The basement will be well lit, provide ease of manoeuvrability and will feature adequate signage.	Yes  Yes  Yes  Yes  Yes





Table 2 Rockdale DCP 2011 Compliance Table			
	<p>a. adequately ventilated, preferably through natural ventilation;</p> <p>c. located fully below natural ground level;</p> <p>d. designed for safe and convenient pedestrian movement and to include separate pedestrian access points to the building; and</p> <p>All visitor car parking must be clearly marked, and must not be behind a security shutter unless an intercom system is provided for access.</p> <p>Parking spaces for people with a disability are to be provided in close proximity to lifts or access points.</p> <p>Garage doors must be treated as an integrated element of the building design.</p> <p>Where building uses will require the provision of loading facilities they are to be designed in such a way as to permit all loading and unloading to take place wholly within the site and prevent conflict with pedestrian and vehicular movement within or surrounding the site.</p>	<p>Mechanical ventilation to be provided to the basement level as natural ventilation is not available.</p> <p>Located within the building footprint and below natural ground level.</p> <p>The basement enables safe and convenient pedestrian access.</p> <p>Visitor parking to be marked.</p> <p>Adaptable parking is located in the most convenient location to access the lifts.</p> <p>Basement entry is integrated into the building design.</p> <p>NA</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>NA</p>
<b>Car Wash Facilities</b>	<p>For buildings with 5 dwellings or more, at least one visitor car parking space is to be equipped with car wash facilities which has a cold water tap and is connected to the sewer system</p>	<p>One of the visitor parking spaces within the basement can be used as a car wash bay.</p>	<p>Yes</p>
<b>Pedestrian Access and Sustainable Transport</b>	<p>Pedestrian access within a development must be legible and separated from vehicular access wherever possible.</p> <p>Provide safe and convenient pedestrian access from car parking and other public areas, with well co-ordinated signage, lighting, security, direct paths of travel with stairs and disabled access ramps.</p>	<p>Separate access provided from Rocky Point Road.</p> <p>Provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 2 Rockdale DCP 2011 Compliance Table			
	Provide legible bicycle access between the cycle network and bicycle parking areas, which does not create conflict with pedestrian traffic. All bicycle parking is to be secure and where provided within the public domain must be designed to minimise obstruction of pedestrian movement.	The bicycle access and secure parking is located within the secured basement.	
<b>4.7 Site facilities</b>			
<b>Air Conditioning &amp; Communication</b>	A master TV antenna or satellite dish is to be provided. Individual antennas or dishes may not be placed on balconies or verandahs.	Council may impose suitable conditions.	Yes
<b>Waste Storage and Recycling Facilities</b>	Development must comply with Council's Technical Specification – Waste Minimisation and Management regarding construction waste and on going management of waste facilities.	See Waste Management Plan for full details of compliance with these provisions.	Yes
	Waste must be minimised through source separation of waste, reuse and recycling by ensuring appropriate storage and collection facilities. Waste storage areas/facilities must be appropriately located so that they are easily accessed by tenants and do not have negative impacts on the streetscape or the residential amenity of occupants and neighbours with regards to smell, visual appearance or noise disturbance.	The bin store room is located within the basement, which provides storage of sufficient garbage and recycling bins, available to all tenants by the lift.	Yes
	Development must incorporate convenient access for waste collection.  For mixed uses, storage facilities should be designed to cater for different needs of multiple tenants as well as future changes in uses.	The garbage room will be access by the building maintenance staff and will be mechanically ventilated.  Not applicable.	Yes  NA
<b>Service Lines/Cables</b>	Substation facilities must meet Energy Australia's requirements and if able to be viewed from the street, must be screened by landscaping to 1.5m.	The substation will be suitably located in accordance with applicable requirements.	Yes

Table 2 Rockdale DCP 2011 Compliance Table			
<b>Laundry Facilities and Drying Areas</b>	Laundry facilities are to be incorporated into each dwelling unit.	Laundry facilities provided in each unit.	Yes
	Drying areas are not to be located forward of the building line or within the setback to any street frontage and should be screened from public view.	Drying areas are to be located within the private open space of each dwelling and screened within hooded balconies.	Yes
	Design should allow residents to hang clothes to dry in an open, and preferably sunny, part of the site.	Residents can hang clothes within their balcony behind the solid form sections of the balustrades.	Yes
<b>Letterboxes</b>	Letterbox points are to be integrated with building design and are preferably to be located in a covered area. Letterboxes are to be centrally located either/or close to the major street entry and lockable.	Letterboxes are located in the ground floor lobby fronting Rocky Point Road.	Yes
<b>Hot Water Systems</b>	All hot water systems/units located on the balcony of a dwelling must be encased in a recessed box. All associated pipe work is to be concealed.	Can be conditioned.	Yes
<b>Part 5 Building Types</b>			
<b>5.2 Residential Flat Buildings</b>			
<b>Site Coverage</b>	1. Building footprints for residential flat buildings are limited to 35% of the site area. The building footprint fits within the front, side and rear setback requirements and responds to site features, privacy, solar access and outdoor space design principles. Exceptions to this requirement may be considered in flood prone areas where podium development is warranted.	The building footprint results in 33% site coverage.	Yes
<b>Development Setbacks</b>	2. The building footprint of residential flat buildings is established in accordance with the following building setbacks:	The street setbacks are consistent with adjoining buildings: 3m to Rocky Point Road and 5 m to Park Road.	Yes
		6m setback to eastern and southern boundaries.	Yes

Table 2 Rockdale DCP 2011 Compliance Table			
	Setback	Requirement	
	<b>Street Setbacks</b>	to be consistent with the prevailing setback along the street within the range of 3-9m secondary street/lane 3-5m	Rear setback N/A – corner lot. Noted.
	<b>Side Setback</b>	min 3m for buildings up to three storeys min 4.5m for all levels for buildings more than three storeys	-
	<b>Rear Setback</b>	min of 12m or 15% length of site, whichever is the greater	
	3. Balconies that are not enclosed, and do not adversely affect adjoining properties in terms of privacy or overshadowing, may encroach on the side setback by up to 300mm.		
<b>Apartment Size</b>	NA – refer to ADG		
<b>Building Design</b>	<p>6. Facade design must respond to environmental conditions such as orientation, noise, breezes, privacy and views, through the use of appropriate sun shading devices, noise barriers, privacy screens, and the careful location of balconies, terraces and loggias.</p> <p>7. Strengthen the relationship of the building with the street through the use of entry lobbies, entry porches, loggias, balconies, bay windows.</p> <p>8. Solid balustrading should be included in the facade design to provide screening of clothes line and other paraphernalia.</p>		<p>The proposal has been design in accordance with the recommendations of the Acoustic Report.</p> <p>The entry lobby is provided from Rocky Point Road and is clearly identifiable.</p> <p>Solid balustrading is proposed. Refer to architectural plans.</p>
			Yes
			Yes
			Yes
			N/A



Table 2 Rockdale DCP 2011 Compliance Table			
9. The design should consider expressing a hierarchy of floor levels by defining a base, middle, and top to the building, including podium and penthouse expression.	The facades include appropriate architectural treatments for vertical and horizontal features appropriate to the scale of the building. There is no need to create a hierarchy of base, middle and top.		Yes
10. Large expanses of blank walls are to be avoided through the use of architectural design features, modelling and fenestration.	Blank walls have been avoided.		N/A
11. The building line of a street wall building should generally be parallel with the street boundary alignment.	Building is parallel to each street boundary but does not create a street wall.		Yes
12. Private open space elements such as balconies should be predominantly north, east and west facing and should be designed to ensure visual and acoustic privacy.	Balconies have been oriented to Park Road and Rocky Point Road to ensure appropriate visual and acoustic privacy.		Yes
13. Express important corners by giving visual prominence to parts of the façade through a change in building articulation, material, colour, roof expression or increased height.	The building appropriately addresses the corner of Park Road and Rocky Point Road through fenestration and material selections.		NA
14. Existing residential flat buildings with no existing balcony enclosures are not permitted to enclose any balcony. Applications for balcony enclosures may only be considered when the enclosures are: a. integrated with a design for the entire building; and b. improve internal amenity through environmental control.	NA		
15. All external plumbing must be recessed or concealed and all internal plumbing must be ducted or concealed. Copper pipes must be exclusively used between the meter and service points.	Complies.		Yes
16. All proposed staircases to the upper levels of buildings must be internal.	Complies.		Yes



Table 2 Rockdale DCP 2011 Compliance Table			
	<p>17. Façade fixtures such as sun shading devices and blade walls should not be the only means of façade modelling, and must instead be integrated with the overall facade composition to add another layer of detail and interest.</p>	<p>The proposal incorporates a number of design elements to achieve a contemporary façade presentation.</p>	<p>Yes</p>
	<p>18. The selection and mix of building materials must complement the overall composition and emphasise the scale, proportion and rhythm of the façade. Heavy materials such as brick, stone and concrete can provide a solid building base or express key elements, whilst lighter materials such as glazing, cladding and lightly coloured rendered surfaces reduce perceived bulk and add relief to the façade.</p>	<p>Building style and materials selected are consistent with newer development in the locality.</p>	<p>Yes</p>
	<p>19. The floor level of the upper most storey must be at least 3.5m below the maximum permitted height to achieve a variety of roof forms. maximum permitted height Parapeted roof line min 3.5m maximum permitted height Raked roof line min 3.5m</p>	<p>The floor level of the fourth storey is 4.5m below the 14.5m height limit.</p>	<p>Yes</p>
	<p>20. Use the roof level for communal purposes or articulate the upper storeys, with differentiated roof forms, maisonettes or mezzanine penthouses and the like</p>	<p>The roof level is proposed for use as private open space terraces for two of the fourth storey units.</p>	<p>Yes</p>
	<p>21. Plant rooms, lift overruns and mechanical ventilation rooms must not be located on the roof of a building where they can be visible from a public place. Such services must be integrated into the design of the building, or alternatively located in the basement of the building.</p>	<p>Lift overrun and plant will not be visible from the ground or street level as they are located centrally to the building.</p>	<p>Yes</p>
	<p>22. The profile and silhouette of parapets, eaves and roof top elements must be considered in roof design.</p>	<p>Roof profile reflects contemporary architectural design and incorporates elements found throughout the Rockdale area.</p>	<p>Yes</p>
	<p>23. The roof design must be sympathetic to the existing streetscape, and have regard to existing parapet and roof lines of adjoining properties that are of a similar building height.</p>	<p>Flat roof proposed which is consistent with the surrounding built form, existing and proposed with regard to style.</p>	<p>Yes</p>

Table 2 Rockdale DCP 2011 Compliance Table			
<b>Building Entry</b>	24. The entry is to be designed so that it is a clearly identifiable element of the building in the street.	Clearly identifiable entry points are provided from Rocky Point Road.	Yes
	25. Utilise multiple entries – main entry plus private ground floor apartment entries to activate the street edge. At least 50% of ground floor dwellings are to have individual gates and direct access off the street.	Direct line of sight from the residential lobby to the street frontage.	Yes
	26. Provide as direct a physical and visual connection as possible between the street and the entry.	Barrier free access proposed from Rocky Point Road.	Yes
	27. At least one main entry with convenient, barrier-free access must be provided in all new development.	Provided.	Yes
	28. Provide separate entries from the street for: • pedestrians and cars; and • different users, for example, for residential and commercial users in a mixed use development.	Separate pedestrian and vehicular access provided. NA	Yes NA
	29. Design entries and associated circulation space of an adequate size to allow movement of furniture between public and private spaces.	Adequate dimension provided.	Yes
	30. Pedestrian entries should be located on primary frontages.	Pedestrian entry is from Rocky Point Road with accessible path of travel via ramps to lobby area.	Yes
<b>Lift Size and Access</b>	31. Lifts are to be provided in all residential flat buildings. Multiple stairlift cores should be provided to encourage multiple street entries and ease of access to apartments. Where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to 8.	A lift is provided to provide access to three units per floor.	Yes
		Complies.	Yes



Table 2 Rockdale DCP 2011 Compliance Table			
	32. 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.	Complies.	Yes
	33. Lifts are to be accessible from all levels of the building, including all basement levels. Level access to the lift from all basement levels must be provided.	NA	NA
	34. Each dwelling on a level above the sixth storey is to have access to two lifts.	Complies	Yes
	35. All common corridors are to have a minimum width of 2 metres to enable bulky goods (white goods, furniture etc) to be easily transported through the building.	Complies	Yes
	36. All common corridors are to be provided with natural light and ventilation where feasible.		

