

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 11 September 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 Local Planning Panel Meeting - 28 August 2018 3

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2017/558 - DA-2017/558 - 24 Oswell Street, Rockdale.....11

6.2 F18/404 - DA-2016/1155/3 - 671-683 Gardeners Road, Mascot.....92

6.3 F18/404 - DA-2016/117/5 - 671-683 Gardeners Road, Mascot.....126

6.4 SF18/1595 - DA-2017/1085 - 49 George Street, Eastlakes.....192

6.5 DA-2017/224/B - DA-2017/224/B - 206 Rocky Point, Kogarah; 152-200
Rocky Point Road, Kogarah.....264

- 6.6 DA-2016/296/C - DA-2016/296/C - 7-13 Willis Street Wolli Creek.....348
- 6.7 SF18/1668 - DA-2013/197/4 - 40-54 Baxter Road, Mascot403
- 6.8 SF18/1844 - DA-2017/1185 - 256 Coward Street, Mascot457

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

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

11/09/2018

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 28 August 2018
Report by	Bruce Cooke, Acting Manager Governance & Risk
File	SC17/815

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 28 August 2018 be confirmed as a true record of proceedings.

Present

Jan Murrell, Chairperson and Independent Specialist Member
Robert Montgomery, Independent Specialist Member
Helen Deegan, Independent Specialist Member
Christopher Middlemiss, Community Representative

Also Present

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
Eric Alessi, Development Assessment Planner
Brendon Clendenning, Creative Planning Solutions Pty Limited
Ian Vong, 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 6.00 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, as confirmed in the signed Declaration of Interest forms.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 14 August 2018

Decision

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

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

Decision

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

5 Reports – Planning Proposals

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

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

Recommendation to Council

- 1 That Bayside Local Planning Panel recommends 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 recommends 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Panel Reason

The Panel is satisfied that, with the benefit of having reviewed the assessment report for the existing development approved for the site, this does not change the circumstances. The Panel's position remains the same as previously indicated: that is, it recommends to the Council that it may proceed with the planning proposal.

6 Reports – Development Applications

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

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

Mr Walter Gordon was available to speak to the application.

Determination

That the Section 4.55(1A) application for removal of Condition 144 relating to ongoing maintenance is APPROVED.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

The Panel considers the request is appropriate and is of the view that the approval should not condition maintenance of Council-owned land in the circumstances of this particular case.

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

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

Mr Walter Gordon was available to speak to the application.

Determination

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, is APPROVED 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

Council is to issue a consolidated consent to ensure the development that is built is consistent with the original application and all approved modifications.

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

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

The following person spoke:

- Mr Walter Gordon from Meriton spoke for the officer's recommendation.

Determination

- 1 That the Section 4.55(1A) Application to modify Development Consent No. DA-16/143 at UB5E of 130-150 Bunnerong Road, Eastgardens, is 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. 93(d) as follows:

On Bunnerong Road, adjacent to the development, the road shall be upgraded in accordance with RMS specifications. Approval of RMS is required prior to commencing any works within the road reserve.
- c amend Condition No. 112 to refer to this Section 4.55(1A) Application.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

- The request to reduce the tree preservation bond period from 24 to 6 months is considered reasonable.
- In relation to Condition 93(d) the applicant has provided evidence of approval by RMS for the works within the Bunnerong Road reserve.

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

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

Mr Walter Gordon was available to speak to the application.

Determination

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, is APPROVED 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

With the amended arborist's report the Panel is satisfied that the amended conditions reflect the details provided in that report.

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

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

Mr Walter Gordon was available to speak to the application.

Determination

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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

The Panel agrees that it is reasonable to amend Condition 88 to allow for a variation to the timing of land dedication.

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

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

The following people spoke:

- Mr Jeff Mead, town planner from Planning Ingenuity, spoke for the officer's recommendation.
- Mr Nicholas Lycenko, registered architect, was available to speak to the application.
- Mr William Karavelas, applicant, was available to speak to the application.

Determination

- 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, is 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

The applicant has provided appropriate responses to the matters raised by the previous Panel, resulting in a better design resolution for the site.

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

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

The following person spoke:

- Mr Jeff Mead, town planner from Planning Ingenuity, spoke to the application and responded to the Panel's questions.

Determination

- 1 That this item be deferred to allow the applicant to submit Clause 4.6 requests for variations to the FSR and height for the amended plans and to clearly demonstrate the differences in what a compliant scheme would provide for in terms of overshadowing and FSR.
- 2 That the above information is to be provided to the Council to allow assessment and, if necessary, re-notification within two weeks and for the matter to be referred back to the Panel in a timely manner.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Deferral

The Panel considers the applicant should be given the opportunity to submit amended Clause 4.6 variations to demonstrate that compliance is unnecessary, in particular with respect to overshadowing resulting from a complying development as opposed to the proposal in the amended plans.

The Chairperson closed the meeting at 6:45 pm.

Jan Murrell
Chairperson

Bayside Local Planning Panel

11/09/2018

Item No	6.1
Application Type	Development Application
Application No	DA-2017/558
Lodgement Date	07/11/2017
Property	DA-2017/558 - 24 Oswell Street, Rockdale
Ward	Rockdale
Owner	Mrs W Hijazi & Mr H Jouni
Applicant	Space 0.618:1
Proposal	Demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots.
No. of Submissions	Thirty-four (34) submissions from thirty-one (31) objectors have been received by Council.
Cost of Development	\$725,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- A. That Development Application DA-2017/558 for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots, be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment act 1979* for the following reasons:
1. 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 *Rockdale Local Environmental Plan 2011*:
 - a) Clause 2.3 Zone objectives and Land Use Table – the proposed development is not consistent with the objectives for the R2 Low Density Residential Zone in which the development is proposed to be carried out.
 - b) Clause 4.1 Minimum subdivision lot size – the site area does not achieve the minimum subdivision lot size for dual occupancy development.
 - c) Clause 4.4 Floor space ratio – the floor space ratio of the proposed development exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map.
 - d) Clause 4.6 – The applicant's written request to justify the contravention of clause 4.1 of the *Rockdale Local Environmental Plan 2011* has been
-

considered, however the consent authority is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) of clause 4.6.

Further, the consent authority is not satisfied that the proposed development will be in the public interest because it is inconsistent with the objectives of clause 4.1 and also the objectives of the R2 Low Density Residential Zone in which the development is proposed to be carried out.

As such, pursuant to clause 4.6(4) of the *Rockdale Local Environmental Plan 2011*, development consent must not be granted for the development.

- e) Clause 4.6 – The applicant has not provided a written request that seeks to justify the contravention of the development standard under clause 4.4 of the *Rockdale Local Environmental Plan 2011*. Pursuant to clause 4.6(3) of the *Rockdale Local Environmental Plan 2011* development consent must not be granted for the development.
2. 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 following objectives and provisions of *Rockdale Development Control Plan 2011*:
- a) Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.
 - b) Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswald Street. The design of the proposed development has not adequately ensured the retention of significant trees.
 - c) Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
 - d) Part 4.2 Streetscape – Streetscape character – The use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.
 - e) Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – the proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswald Street where the current vehicle access to the site is located.
 - f) Part 4.3.2 Private Open Space – The large roof top terraces on both dwellings give rise to unreasonable overlooking opportunities to adjoining property, and also impacts on acoustic amenity. The private

open space area for Dwelling 1 will not receive adequate solar access at ground level, and the dwelling only achieves compliance overall by virtue of the oversized roof top terraces – see Part 4.4.2 Solar Access.

- g) Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.
- 3. Having regard to the proposed development's non-compliances with the above-mentioned development standards of the *Rockdale Local Environmental Plan 2011*, as well as the development controls under the *Rockdale Development Control Plan 2011*, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development will have an unacceptable impact on the natural and built environment.
 - 4. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site.
 - 5. 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.

B. The objectors be advised of the decision of the Panel.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Architectural Plan [↓](#)
- 3 Amended Landscape Plan [↓](#)
- 4 Survey Plan [↓](#)
- 5 Statement of Environmental Effects [↓](#)
- 6 Clause 4.6 Submission [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/558
Date of Receipt:	7 November 2017
Property:	24 Oswell Street, Rockdale NSW 2216
Owner:	Mrs Wafaa Hijazi and Mr Haithem Jouni
Applicant:	Space 0.618:1
Proposal:	Demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots
Recommendation:	Refusal
No. of Submissions:	Thirty-four (34) submissions from thirty-one (31) objectors have been received by Council.
Author:	Ben Tesoriero - Creative Planning Solutions Pty Limited
Date of Report:	4 September 2018

Key Issues

- **Minimum lot size** – The subject site does not achieve the minimum lot size (in terms of area) for subdivision of a dual occupancy development under clause 4.1 of the *Rockdale Local Environmental Plan 2011*. Similarly, the subject site does not achieve the minimum site area for a dual occupancy development under Part 4.1.9 of the *Rockdale Development Control Plan 2011*.
- **Clause 4.6 written request** – The clause 4.6 written request submitted by the applicant does not adequately address why it is unreasonable or unnecessary to enforce strict compliance with the development standard under clause 4.1. Furthermore, no environmental planning grounds to justify the variation to the development standard in the circumstances of the case have been presented by the applicant in their written request.

The proposed development is not considered to be in the public interest as it is inconsistent with the objectives of clause 4.1 and also the objectives of the R2 Low Density Residential Zone in which the development is proposed to be carried out.

As such, pursuant to clause 4.6(4) of the *Rockdale Local Environmental Plan 2011*, development consent must not be granted for the development.

- **Floor space ratio** – The proposed development exceeds the maximum floor space ratio prescribed for the site under clause 4.4 of the *Rockdale Local Environmental Plan 2011*. No clause 4.6 written request has been submitted in support of the variation, and as per clause 4.6(3) of the *Rockdale Local Environmental Plan 2011* development consent must not be granted for the development.
- **Rockdale Development Control Plan non-compliances** – The proposed development cannot be supported on the basis of the following non-compliances with the relevant provisions of the *Rockdale Development Control Plan 2011*:
 - Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.
 - Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswell Street. The design of the proposed development has not adequately ensured the retention of significant trees.
 - Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
 - Part 4.2 Streetscape – Streetscape character – The proposal's use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.
 - Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – the proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswell Street where the current vehicle access to the site is located.
 - Part 4.3.2 Private Open Space – The large roof top terraces on both dwellings give rise to unreasonable overlooking opportunities to adjoining property, and also impacts on acoustic amenity. The private open space area for Dwelling 1 will not receive adequate solar access at ground level, and the dwelling only achieves compliance overall by virtue of the oversized roof top terraces – see Part 4.4.2 Solar Access.
 - Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.
- **Submissions** – Thirty-four (34) responses were received from thirty-one (31) objectors.

Recommendation

A. That Development Application DA-2017/558 for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots, be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:

1. 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 *Rockdale Local Environmental Plan 2011*:

- a) Clause 2.3 Zone objectives and Land Use Table – the proposed development is not consistent with the objectives for the R2 Low Density Residential Zone in which the development is proposed to be carried out.
- b) Clause 4.1 Minimum subdivision lot size – the site area does not achieve the minimum subdivision lot size for dual occupancy development.
- c) Clause 4.4 Floor space ratio – the floor space ratio of the proposed development exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map.
- d) Clause 4.6 – The applicant's written request to justify the contravention of clause 4.1 of the *Rockdale Local Environmental Plan 2011* has been considered, however the consent authority is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) of clause 4.6.

Further, the consent authority is not satisfied that the proposed development will be in the public interest because it is inconsistent with the objectives of clause 4.1 and also the objectives of the R2 Low Density Residential Zone in which the development is proposed to be carried out.

As such, pursuant to clause 4.6(4) of the *Rockdale Local Environmental Plan 2011*, development consent must not be granted for the development.

- e) Clause 4.6 – The applicant has not provided a written request that seeks to justify the contravention of the development standard under clause 4.4 of the *Rockdale Local Environmental Plan 2011*. Pursuant to clause 4.6(3) of the *Rockdale Local Environmental Plan 2011* development consent must not be granted for the development.
2. 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 following objectives and provisions of *Rockdale Development Control Plan 2011*:

- a) Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.
 - b) Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswald Street. The design of the proposed development has not adequately ensured the retention of significant trees.
 - c) Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
 - d) Part 4.2 Streetscape – Streetscape character – The use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.
 - e) Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – the proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswald Street where the current vehicle access to the site is located.
 - f) Part 4.3.2 Private Open Space – The large roof top terraces on both dwellings give rise to unreasonable overlooking opportunities to adjoining property, and also impacts on acoustic amenity. The private open space area for Dwelling 1 will not receive adequate solar access at ground level, and the dwelling only achieves compliance overall by virtue of the oversized roof top terraces – see Part 4.4.2 Solar Access.
 - g) Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.
3. Having regard to the proposed development's non-compliances with the above-mentioned development standards of the *Rockdale Local Environmental Plan 2011*, as well as the development controls under the *Rockdale Development Control Plan 2011*, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development will have an unacceptable impact on the natural and built environment.
4. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site.

5. 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.

B. The objectors be advised of the decision of the Panel.

Background

Site History

A review of subject site's development history using Council's online development application search returned the following results:

- On 11 July 2017, DA-2017/183 (construction detached dual occupancy development) was refused by the Bayside Local Planning Panel for the following reasons:
 1. Non-compliance with *Rockdale Local Environmental Plan 2011* with regard to the following provisions, and as such failure to satisfy Section 79C(1)(a)(i) of the *Environmental Planning & Assessment Act 1979*:
 - The objectives of the R2 Low Density Residential zone;
 - Clause 4.1 (Minimum subdivision lot size);
 - Clause 4.3 (Height of building); and
 - Clause 4.4 (Floor space ratio).
 2. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(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:
 - Part 4.1 (Site Planning);
 - Part 4.2 (Streetscape and Site Context);
 - Part 4.3 (Landscape Planning and Design);
 - Part 4.4 (Sustainable Building Design); and
 - Part 5.1 (Low and Medium Density Residential).
 3. Section 79C(1)(a)(iv) The applicant has failed to provide Council with the all requested information outlined within Council's letter dated 7 February 2017,

as requested in accordance with Section 54 of the *Environmental Planning and Assessment Regulation 2000*.

4. Pursuant to the provisions of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is likely to create unacceptable impacts to the surrounding development and the locality in the following regards:
 - a. Likely impact of the development on the built environment is poorly considered and unacceptable.
 - b. Likely impact of the development on the privacy of adjoining neighbours is unacceptable.
 - c. Likely impact of the development on the internal amenity of the future residents is unacceptable.
 5. Pursuant to the provisions of Section 79C(1)(d) of the *Environmental Planning and Assessment Act 1979*, the proposal has not adequately considered the concerns raised in the public submissions received against the development.
 6. Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest as it does not satisfy the objectives of the local planning instruments, being the RLEP 2011 and RDCP 2011, and will result in unacceptable impacts on the built environment.
- On 15 September 2017 a Section 82A Review of Determination (No. S82-2017/9) was lodged in relation to DA-2017/183.
 - On 7 November 2017, S82-2017/9 was withdrawn by the applicant as a review of determination (previously Section 82A Review) could not be undertaken on development applications determined by a local planning panel.
- Note, the Act has since been amended to allow applications determined by a local planning panel to be reviewed.*
- On 7 November 2017, the subject development application, DA-2017/588 was lodged with Council.

Development Application History

The history of the subject application (DA-2017/588), after being lodged on 7 November 2017 is summarised as follows:

- On 9 November 2017, the application was notified to adjoining land owners and publicly exhibited on Council's website for two weeks. In total thirty-four (34) responses were received from thirty-one (31) objectors. The issues raised in the submissions are summarised below:
 - The proposed subdivision does not reflect and reinforce the predominant subdivision pattern in the area;
 - The building height and FSR are not compliant with the development standards under LEP2011;
 - The proposal does not satisfy the provisions under Part 4 of the RDCP2011 having regard to site planning, streetscape and site context, landscape planning and design, sustainable building design, nor does it satisfy the controls relating to low and medium density residential development under Part 5.1 of the RDCP2011;
 - The proposal will result in unacceptable impacts on surrounding development, including the privacy of neighbours, and the internal amenity of future residents;
 - Damage to the sandstone rock wall on the Holland Avenue frontage is not supported;
 - Overshadowing impacts of the proposed development on adjoining property and also poor internal solar access;
 - The proposal will result in unacceptable view loss;
 - The proposed materials and finishes are out of character with the local area;
 - The development is Inconsistent with the objectives of the R2 Low Density Residential zone under the RLEP2011; and
 - Traffic and parking impacts of the proposal, including that Holland Avenue is too narrow to accommodate additional vehicles. Access to the property should be maintained to Oswell Street.
- On 5 February 2017, an additional information request letter was sent to the applicant. The letter raised the following issues that needed to be addressed within the application:
 - **View and vistas:** Part 4.1.1 of the *Rockdale Development Control Plan* (RDCP) 2011 prescribes that 'Development on highly visible sites is to complement the character of the area'. The proposed development is considered to become a highly visible element within the Holland Avenue streetscape, particularly when noting the reduced setback to the Holland

Avenue frontage, location of massing, and significant excavation into the rock face of the Holland Avenue frontage. In this regard, the development has not demonstrated that sufficient regard to ensure the appearance of development at highly visible sites complements the existing character of the area and its skyline. An opportunity was provided for the applicant to consider design changes that better fit the visibility of the site and character of the local area.

- **Streetscape impacts:** Development control 4 section 4.2 (streetscape) of the RDCP 2011 outlines that building design, use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape. Furthering this control, development control 17 of section 5.1 (Building design) requires attention to be given to the roof as an important architectural element in the street which can provide continuity and character. The proposal was considered to result in a significant contrast to the building design and roof elements present in the existing streetscape of Oswell St and that of Holland Ave. Particularly noting the proposal's use of contemporary architectural features such as a flat roof, large rooftop terrace, and use of modern materials such as glazing, rendered brick, and factory coloured aluminium panels. In this regard, the development had not demonstrated that sufficient regard to the existing streetscape had been incorporated into the design of the proposal. An opportunity was provided for the applicant to consider design changes that better respond to the positive character of the streetscape, as demonstrated through the use of roof continuity and materials.
- **Holland Ave streetscape - rock outcrop façade:** Development control 29 of Section 4.2 (Streetscape) of the RDCP2011 outlines that the excavation of sandstone or rock outcrop for the purpose of providing a garage is not permitted where: the rocky outcrop forms a significant part of the streetscape and character of the locality, or where adequate on street parking is available, or where alternative access to a site is available. It is acknowledged that the proposal seeks to excavate the rock façade on the Holland Ave streetscape for use of basement garage. In order to satisfy development control 29, the proposal must firstly demonstrate that viable alternative access to both proposed dwellings is not available from Oswell Street before the excavation of the rock outcrop for the purpose of a garage will be considered. Secondly, the design and construction of the proposal had not adequately considered the importance of the rock outcrop, being an integral part of the streetscape character. In this regard, should viable access from Oswell Street not be shown, it was recommended that the design and construction of the proposal be amended to better integrate the proposed basement car park into the rock façade. As guided by

development control 30 of the same section, the design and construction of the garage entry was to utilise sandstone, stone coloured mortar and a recessive coloured door.

- **Height discrepancy;** Clause 4.3(2) restricts the maximum height of buildings on the subject site to 8.5m. An assessment of the submitted survey plan and proposed ridge level height of the rooftop terrace access lobby suggest that Dwelling 1 will exhibit a height of 8.56m (RL 48.9 – RL 40.34). It is noted that a height verification statement, prepared by J.P Bates & Inwood Pty Ltd (dated 12/07/17) has been submitted with the application. The letter states that 'no part of the ground and first floor of the proposed residence extends above the 8.5 metre height plane', however, it is the lobby access to the proposed rooftop terrace that exceeds the 8.5 metre height plane. In this regard, the applicant was advised that the proposal will need to be modified in order to comply with the height of building development standard of clause 4.3, or a written request pursuant to clause 4.6 needed to be submitted for Council's consideration. The applicant was advised that the height exceedance was indicative of development that has had insufficient regard to site topography and features.
- **Minimum lot size:** Clause 4.1(3) of the *Rockdale Local Environmental Plan 2011* (LEP2011) restricts the minimum lot size for the subdivision on which there is an existing dual occupancy, or a dual occupancy proposed to 350m² for each resulting lot, and each resulting lot will have one (1) dwelling on it. The proposal provides for a lot size of 346.19m² for proposed lot 700, and a lot size of 348.46m² for proposed lot 701. It is noted that a written request pursuant to clause 4.6 of the LEP2011 accompanies the application. However, with consideration to the non-compliances and deficiencies outlined above, the proposal was considered to not appropriately demonstrate that compliance with the development standard is unreasonable or unnecessary, particularly noting the nonconformity with the objectives of clause 4.1 and the R2 Low Density Residential zone of the RLEP 2011.
- **Landscape plan is inconsistent with Site Plan:** The submitted Landscape Plan, prepared by Outliers Design Studio (LA-001, dated 26/03/17), is not consistent with the submitted Site Plan, prepared by Space 0.618:1 (1-01, dated 08/17). The proposed driveway locations differ which has consequential impacts on the existing street trees of Holland Avenue. The submitted plans were required to be made consistent.
- **Access way widths;** The Rockdale Technical Specifications outline that for dual occupancy developments the maximum boundary width of an access driveway is 3m and separated by 6m along the kerb. In this regard, the

proposal should be amended to ensure both access driveways are a maximum 3m wide at the boundary.

- **BASIX Certificate:** The submitted BASIX Certificate (No. 759666M) was not valid as it was out-of-date. To be valid, a BASIX Certificate must be lodged within 3 months of the date of issue. Refer to clause 2A of schedule 1 of the *Environmental Planning Assessment Regulation 2000*. Should items 1 – 7 outlined above be adequately addressed, a revised and valid BASIX Certificate was to be submitted to Council. Note. The BASIX energy targets and thermal comfort stringency changed on 1 July 2017.
- **Public submissions:** The subject DA was notified to surrounding properties in accordance with the provisions of the RDCP 2011. In response numerous submissions objecting to the proposed development have been received. It is noted that pursuant to the purposes of Section 4.15(1)(d) of the Act, Council must take into consideration any submissions made in relation to the DA. The applicant was therefore given the opportunity to provide a response to these issues raised.
- On 19 March 2018, the applicant submitted amended architectural plans, a revised BASIX Certificate, and additional commentary justifying the proposals impact on the streetscape. The amended architectural plans incorporated the following changes:
 - Reduction in overall height (150mm), achieved by reducing the Level 1 and Level 2 slab and ceiling thickness. The development now complies with the building height development standard.
 - Reduction in overall GFA, achieved by excluding A/C unit and associated lobby area on rooftop level. Nonetheless, development continues to be non-compliant - 352sqm (by the calculation of the applicant's own architect), which is an exceedance of the FSR development standard by 4.75sqm.
 - Introduction of face brick, cladding, and stone on both street facades.

In addition to the amended plans and BASIX Certificate, the architect provided further commentary on the proposal's impact on the streetscape and provided examples of flat roof forms along Holland Avenue and Oswell Street including the recently approved dwelling at 3 Holland Avenue and recently constructed dwelling at 10 Oswell Street.

Note: The dwelling house at 10 Oswell Street constitutes unauthorised building works and has been the subject of an Order. A building certificate application to regularise the unauthorised works has not yet been determined by Bayside Council. As such, although the dwelling appears as a flat roof style building from the street, the dwelling house is not considered to be a building design within the local area that should be looked upon as a good planning precedent.

- On 6 April 2018 the new Low Rise Medium Density Housing Code was published which from 6 July 2018 will allow one and two storey dual occupancies, manor houses and terraces to be carried out as complying development in certain areas within New South Wales. Under the Code dual occupancies can be carried out as complying development on lots as small as 400m².
- On 16 April 2018, the applicant submitted an amended landscape plan.
- At the Bayside Council meeting of 13 June 2018 Council voted in support of writing to the Minister for Planning & Environment to seek a 12 month moratorium of the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017* to allow Council time to fully explore impacts as part of the LEP and DCP Review, with a report outlining the findings of the review and recommendations being tabled at or before the June 2019 Council meeting.
- On the 6 July 2018, the Low Rise Medium Density Housing Code commenced for many councils in NSW, however the Department of Planning and Environment deferred the commencement of the Code for the Bayside Council local government area until 1 July 2019.

The assessment undertaken in this report is based on the amended architectural plans received on 19 March 2018 and amended landscape plan received on 16 April 2018.

Proposal

Council is in receipt of development application DA-2017/588 at 24 Oswell Street, Rockdale, which seeks consent for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front and side fences, and Torrens Title Subdivision from one lot into two lots

In detail, the development application seeks consent for the following works:

Dwelling 1 – corner of Oswell Street and Holland Avenue

Garage Floor Level – RL37.0

A two-car garage is located beneath the Ground Floor of Dwelling 1. Storage areas are also provided on this level. Vehicular access to this garage is via Holland Avenue, with an internal staircase leading up to the ground floor of the dwelling.

Ground Floor – RL40.0

The Ground Floor of Dwelling 1 will include pedestrian access from Oswell Street. The front porch and entry opens into an open-plan room comprising of a kitchen (with walk-in pantry), lounge and dining room. Also on the ground floor is a study, powder room,

laundry, a staircase leading to the basement garage, and a separate staircase leading to the first floor of the dwelling.

Adjacent to the kitchen and lounge room, to the south, are sliding doors which open out onto a paved alfresco area with BBQ, and a turf area beyond.

First Floor – RL43.4

The First Floor of Dwelling 1 comprises of four bedrooms, a retreat area, and a bathroom. The master bedroom also includes a walk-in-robe, an en-suite bathroom, and a wraparound balcony that adjoins the southern and eastern side of the building.

Roof Terrace – RL46.45

A roof top terrace is proposed for Dwelling 1 which is accessed via the dwelling's internal staircase. This roof terrace is setback from the building edge, and has an open area of around 54m², and an enclosed access area of approximately 2m². A 1.7m high privacy screen is proposed on the western boundary of the rooftop area. The roof of the staircase onto the rooftop terrace reaches a height of RL48.75.

Dwelling 2 – fronting Holland Avenue

Garage Floor Level – RL36.6

A two-car garage is located beneath the Ground Floor of Dwelling 2. A storage area is also provided on this level. Vehicular access to this garage is via Holland Avenue, with an internal staircase leading up to the ground floor of the dwelling.

Ground Floor – RL39.6

The Ground Floor of Dwelling 2 will include pedestrian access via stairs from Holland Avenue. The front porch and entry opens into an open-plan room comprising of a kitchen, lounge and dining room. Also on the ground floor is a study, powder room, laundry, and a staircase leading to the first floor or basement of the dwelling.

Adjacent to the kitchen are sliding doors which open out onto a paved alfresco area with a turf area beyond.

A large paved patio area is also located within the northern portion of this allotment, within the front setback to Holland Avenue. A smaller paved area with a clothesline is located adjacent to the laundry within the rear setback of the dwelling.

First Floor – RL43.1

The First Floor of Dwelling 1 comprises of four bedrooms, a retreat area, and a bathroom. The master bedroom also includes a walk-in-robe, an en-suite bathroom, and a wraparound balcony that adjoins the southern and eastern side of the building.

Roof Terrace – RL46.2

A roof top terrace is proposed for Dwelling 2 which is accessed via the dwelling's internal staircase. This roof terrace is setback from the building edge, and has an open area of around 39m², and an enclosed access area of approximately 2m². A 1.7m high privacy screen is proposed on the western boundary of the rooftop area. The roof of the staircase onto the rooftop terrace reaches a height of RL48.5.

Removal of Trees

The proposal seeks the removal the single tree on the subject site which is located within the front setback to Oswald Street. This tree is identified as a Canary Island Date Palm.

The proposal also requires the removal of two (2) Callistemon street trees within the verge of the subject site on the Holland Avenue frontage. The removal of these trees is to provide for access to the basement garage from this frontage.

Excavation

The proposal involves excavation up to 3.6m for the proposed below ground garages and up to 1.6m for the building footprint. This excavation is into the rocky outcrop off Holland Avenue.

Site location and context

The subject site is formally known as Lot 14 in Deposited Plan 13153 and has an address of 24 Oswald Street, Bexley. The site is rectangular in shape and has a total area of 694.5m².

The site is afforded a dual frontage with a primary frontage of 15.1 metres to Oswald Street and a secondary frontage of 45.72m metres to Holland Avenue. Refer to **Figure 1** for an extract of the applicant's submitted survey plan.

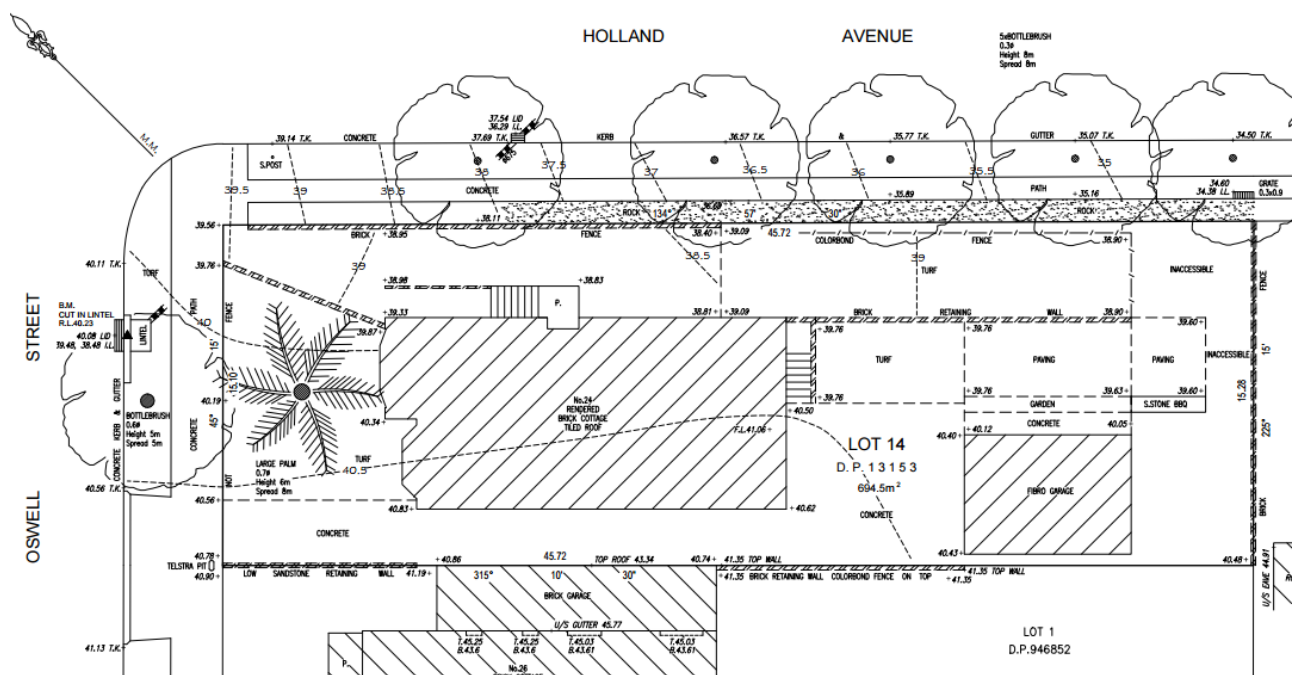


Figure 1 - Extract of the Site Plan, illustrating dual frontage and allotment shape

Source: Applicant's submitted survey plan.

The subject site contains a single-storey rendered brick dwelling house on a stone base with a tiled hipped roof. Other improvements on site include a detached fibro

garage within the rear yard that is accessed via a driveway along the southern side of the dwelling house connecting to Oswald Street.

The subject site is clear of any significant vegetation apart from a Canary Island Date Palm located within the front setback (refer to **Figure 3**).

The subject site is located on a corner allotment. A single Callistemon street tree is located within the verge on the primary street frontage (Oswald Street), and five Callistemon street trees are located on the verge of the Holland Avenue street frontage.



○ **Figure 2 – Image of subject site captured from the street intersection of Oswald Street and Holland Avenue. The view is looking south-east towards the site. The existing dwelling house on the subject site is identified within the middle of the image.**

Source: Site inspection photograph taken by CPS, dated 6 May 2018

Adjoining the site to the south-western side boundary is a single storey brick dwelling house with a tiled roof at 26 Oswald Street (refer **Figure 3**).

Adjoining the rear boundary to the south-east is a two-storey brick dwelling house with a tiled roof located at 1 Holland Avenue (refer to **Figure 4**). On this site a recent development application (DA-2014/78) for the construction of a 1m high masonry extension on top of the existing masonry retaining wall at the front boundary line of the property was approved.

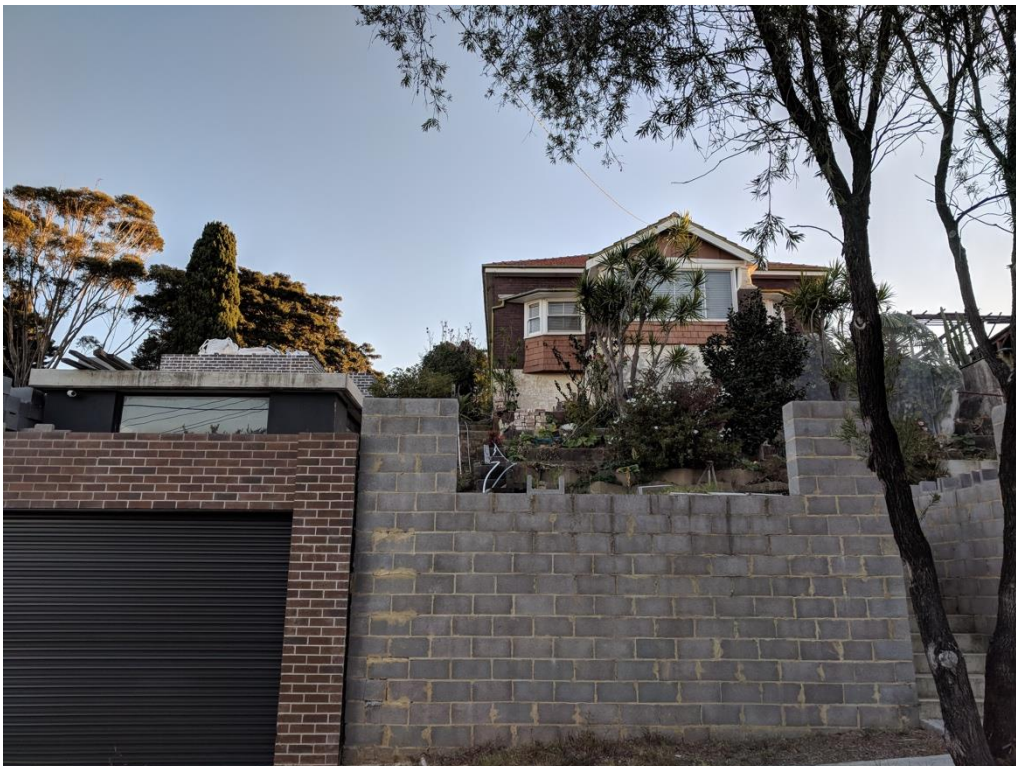
Adjacent to the north on the opposite side of Oswald Street are a mix of dwelling houses and attached dual occupancy developments ranging from one to three-storeys in height (refer to **Figure 5**).

Adjacent to the east on the opposite side of Holland Avenue are dwelling houses ranging from one to three-storeys in height (refer to **Figure 6**).



○ **Figure 3 – Image of the adjoining single storey dwelling house to the south-west of the subject site at 26 Oswell Street.**

Source: Site inspection photograph taken by CPS, dated 6 May 2018



○ **Figure 4 – Image of the adjoining two storey dwelling house to the rear of the subject site at 1 Holland Avenue.**

Source: Site inspection photograph taken by CPS, dated 6 May 2018



○ ○
○ **Figure 5 – Image of the two / three-storey developments located to the north of the subject site on the opposite side of Oswald Street.**

Source: Site inspection photograph taken by CPS, dated 9 January 2017



○ **Figure 6 – Image of the two / three storey dwelling houses located to the east of the subject site on the opposite side of Holland Avenue (2 Holland Avenue).**

Source: Site inspection photograph taken by CPS, dated 6 May 2018

The subject site is located within an established low density residential neighbourhood that is characterised by mostly dwelling houses (refer to **Figure 7**). Further to the south

of the subject site there are denser forms of residential development including town houses and residential flat buildings.



- **Figure 7– Aerial image of the low density residential neighbourhood. The subject site is**
- **highlighted in yellow.**

Source: maps.six.nsw.gov, retrieved on 14 June 2017.

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*.

Section 4.15(1) - Matters for Consideration - General

Section.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

In accordance with the BASIX SEPP, any development that contains one or more dwellings must be accompanied by a valid BASIX Certificate.

Following Council's request for additional information, the proposal is now accompanied by BASIX Certificate 759666M_02 dated 19 March 2018.

The submitted BASIX certificate illustrates that the development achieves the water, thermal comfort and energy targets required by the BASIX SEPP.

In this regard, the proposal satisfies the provision and objectives of this SEPP.

State Environmental Planning Policy No 55 – Remediation of Land

In accordance with clause 7 of SEPP 55, a consent authority must consider whether the land is contaminated before providing consent to the carrying out of any development on the land.

In accordance with the Planning Guidelines SEPP 55 – Remediation of Land, prepared by Department of Urban Affairs and Planning in 1998, the history of land use needs to be considered as an indicator of potential contamination. Where there is no reason to suspect contamination after acting substantially in accordance with these guidelines, the proposal may be processed in the usual way. It is noted that Table 1 on page 12 of the guidelines provides for a list of activities that is likely to cause contamination.

The guideline further provides for a list of potential contamination indicators, which have been considered in this assessment and are addressed as follows:

- **Zoning:** the subject site is currently zoned for residential purposes, that is R2 Low Residential Density, as per the RLEP 2011;
- **Previous zoning:** prior to the RLEP 2011 the subject site was also zoned for residential purposes, being 2(a) Low Density Residential, pursuant to the RLEP 2000;

- **Proposed use:** the proposed development seeks to continue using the land for residential purposes;
- **Discharge from adjoining land:** adjoining properties are similarly zoned for residential purposes;
- **Physical evidence of contamination:** subject to a desktop review of aerial imagery and the site inspection, there is no evidence to suggest that the subject site or any adjoining sites have previously been used for commercial, industrial, or agricultural activities as detailed in Table 1 of the guidelines; and
- **Environmental Licences or Notices:** There are no known clean-up notices or licences issued by the Environmental Protection Authority that apply to the site.

Therefore, there is no evidence to suggest that the land is contaminated or in need of further land contamination investigation. Accordingly, the subject site is considered to have satisfied the provisions of SEPP 55.

Rockdale Local Environmental Plan 2011

The following are the relevant matters from the RLEP 2011 that need to be taken into consideration.

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes– see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.1 Minimum Subdivision Size	Yes	No - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	No- see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R2 Low Density Residential

The subject site is zoned R2 – Low Density Residential under the provisions of the RLEP 2011. Within this zone development for the purpose of ‘dual occupancies’ are permitted with consent. Pursuant to the Dictionary of the RLEP 2011, a ‘dual occupancy’ is defined as follows:

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

Note. Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Note. Dual occupancies (detached) are a type of dual occupancy—see the definition of that term in this Dictionary.

The proposed development is defined as ‘dual occupancy (detached)’. Subject to the proposed Torrens Title subdivision of the dual occupancy development, the proposal would be best described as two (2) ‘dwelling houses’, each being located on their own lot of land. Pursuant to the Dictionary of the RLEP 2011 a ‘dwelling house’ is defined as follows:

dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary.

Dwelling houses are permitted with development consent within the R2 – Low Density Residential zone.

Accordingly, the proposal to construct a dual occupancy development and subsequent Torrens Title subdivision resulting in two (2) dwelling houses each located on their own lot of land, is permissible with consent in the R2 zone.

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

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

As discussed in further detail later in this assessment report, the proposal does not achieve compliance with the minimum subdivision lot size development standard under clause 4.1 of the RLEP2011. As such, it can be argued the proposal does not provide for a dwelling density outcome that complies with the low density residential

environment, as established by the development standard under clause 4.1 of the RLEP2011.

The proposal will nonetheless provide for the housing needs of the community, by virtue of the development being for the purposes of residential accommodation.

The proposal will not impact on the ability for adjoining land to provide facilities or services to meet the day to day needs of residents.

It is contended however that the proposal will impact on the character and amenity of the local area. See further discussion on the assessment of character under Part 4.2 of the *Rockdale Development Control Plan 2011*.

Note: The dwelling house at 10 Oswell Street constitutes unauthorised building works and has been the subject of an order. A building certificate application to regularise the unauthorised works has not yet been determined by Bayside Council. As such, although the dwelling appears as a flat roof style building from the street, the dwelling house is not considered to be a building design within the local area that should be looked upon as good precedent.

Having regard to the above, the proposal will not achieve consistency with the objectives of the R2 zone.

2.7 Demolition requires consent

The proposal seeks approval for the demolition of existing structures on the site. There are no objections to the proposed development subject to compliance with AS2601. The proposed demolition works can therefore be granted consent subject to conditions ensuring compliance with AS2601.s

4.1 Minimum subdivision lot size

Clause 4.1(3B) of the RLEP2011 restricts the minimum lot size for the subdivision on which there is an existing dual occupancy or a dual occupancy proposed, to 350m² for each resulting lot.

The proposal seeks to subdivide the proposed dual occupancy development, wherein proposed lot 700 will have a lot size of 346.19m², and proposed lot 701 will have a lot size of 348.46m². Accordingly, the proposal does not comply with development standard under clause 4.3 representing a variation of 1.1% for Lot 700, and 0.44% for Lot 701.

Clause 4.6(3) of the RLEP2011 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Having regard to clause 4.6(3), the applicant has submitted a written request to justify the contravention of the development standard which includes reasons why, in the opinion of the applicant, strict compliance with the development standard is unreasonable or unnecessary in the case of the proposed development.

Notably however, the written request does not provide environmental planning grounds to justify contravening the development standard. Only the last sentence of the written request which states the development will not result in any detrimental environmental impacts.

Having regard to the above, the written request submitted by the applicant does not satisfy clause 4.6(3) of the RLEP2011. For this reason, development consent must not be granted for development.

Pursuant to clause 4.6(4) of the RLEP2011, 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.*

Regarding clause 4.6(4)(a), the following provides an assessment against each of the reasons why the applicant has argued compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, per clause 4.6(3)(a) of the RLEP2011:

- The proposal is generally compliant with the requirements and controls of the LEP and DCP with the exception of a minor non-compliance of 4sqm for Lot 700 and 2sqm for Lot 701 dwelling relating to the minimum lot size requirement which equates to approximately 0.99% percent. The proposal complies with the other applicable development standards and has not sought to maximise the floor space possible on the site.*

Assessing Officer Comment: The variation to the minimum subdivision lot size standard, when expressed as a percentage, is 1.1% for Lot 700, and 0.44% for Lot 701. As such, the applicant's stated variations are somewhat incorrect.

The applicant's assertion that the proposal complies with the applicable development standards and has not sought to maximise the floor space possible on the site is not agreed. This is because the applicant's plans demonstrate a non-compliance with the floor space ratio (FSR) development standard under clause 4.4 of the RLEP2011 – see further discussion below.

Regarding the RDCP2011, non-compliances with the following controls have also been identified:

- Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.
- Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswald Street. The design of the proposed development has not adequately ensured the retention of significant trees.
- Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
- Part 4.2 Streetscape – Streetscape character – The use of a flat roof design proposed in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.
- Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – the proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswald Street where the current vehicle access to the site is located.
- Part 4.3.2 Private Open Space – The large roof top terraces on both dwellings dual occupancy development give rise to unreasonable overlooking opportunities to adjoining property, and also impacts on acoustic amenity.
- Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.

Having regard to the above, it is evident the proposal is not compliant with the RLEP2011 and RDCP2011, but rather includes other fundamental compliance issues which remain unresolved.

- *The proposal has minimal impact on the adjoining properties in terms of privacy, amenity and shadow impacts with the site enjoying a north-south orientation.*

Assessing Officer Comment: Privacy impacts will arise from the roof top terraces, both in terms of visual privacy and also acoustic privacy owing largely to the size of the roof top terraces and the opportunity for these spaces to be used for entertaining purposes rather than passive outdoor recreation.

The ground and first floor of the dwellings do not provide overlooking opportunities to adjoining properties. The windows on the western elevation,

which adjoin neighbouring property at 26 Oswell Street, and the windows of the first-floor windows adjoining the southern property (2 Holland Avenue) include sill heights of 1.6m.

In terms of overshadowing, the adjoining development will continue to receive the minimum solar access required by the RDCP 2011, being a minimum of 3 hours to 50% of private open space area between hours of 9am and 3pm during mid-winter. It could however be argued that a development that complied with the FSR development standard that was located on an allotment that met the minimum lot size requirements would result in marginally less overshadowing of adjoining property.

- *The proposed subdivision is in keeping with the existing subdivision pattern along Oswell Street and Holland Avenue having similar allotment sizes to what is being proposed.*

Assessing Officer Comment: Allotments within Holland Avenue have a lot size of at least 400m² or greater. With the exception of two smaller allotments at the corner of Oswell Street and Wolli Creek Road, allotments within the visual catchment of the subject site on Oswell Street generally have an area of 400m² or greater.

The proposal will introduce two (2) new allotments to the local area that have an area of 346.19m² and 348.46m².

Having regard to the above, it is not agreed that the proposed will result in allotment sizes similar to the existing subdivision pattern along Oswell Street and Wolli Creek Road.

- *The proposed variation will not detract from the streetscape of Oswell Street and Holland Avenue and will not impact on the bulk and scale of the development from the street or the adjoining dwellings at the rear.*

Assessing Officer Comment: The proposal includes a design which is considered to detract from the streetscape by virtue of its flat roof design, excavation of the sandstone rock wall to Holland Avenue, loss of street tree vegetation on Holland Avenue, selection of glass balustrade finishes to Holland Avenue, and overlooking and acoustic impacts that will be created from the large roof top terraces.

The proposal also includes a gross floor area which exceeds the maximum permitted under the provisions of the RLEP2011. As such, the notion that the building includes a bulk and scale that will not impact on the street or adjoining dwellings is difficult to support. It is argued a building that did comply with the development standards would have a lesser visual impact on the streetscape.

- *The proposal has been designed to ensure that each dwelling is of a sufficient size to serve its intended purpose and usage. The proposal demonstrates*

compliance with the landscape, private open space and required car parking areas.

Assessing Officer Comment: The proposal achieves compliance with the car parking requirements. Regarding private open space however, it is noted the large roof top terraces of the dual occupancy development are afforded with unreasonable overlooking opportunities to the adjoining property. As a result the proposal does not achieve compliance with the private open space development controls under Part 4.3.2 of the RDCP2011.

The proposal will also result in an unsympathetic landscape presentation to Holland Avenue by virtue of the glass balustrading included on top of the sandstone rock walls. Landscape implication also occurs as a result of the loss of two street trees, and the removal of the large tree within the Oswell Street setback. Due to the topography of the local area the site is in a prominent location within the streetscape. The loss of vegetation will mean the proposed non-compliant building envelope will be more dominant in the street as there is a reduction in screening vegetation.

- *The proposed shortfall of 6sqm is a minor variation to the overall requirement and will not compromise the internal amenity of the development.*

Assessing Officer Comment: The 5.35m² variation to the development standard is minor only so far as its numeric value. However it is not agreed that the proposed variation is minor in terms of the resultant impacts from the building design for the reasons already raised above. With regard to internal amenity, the submitted shadow diagrams illustrate that the ground floor POS area of Dwelling 1, where the clothes line is proposed to be located, will receive less the required amount of direct sunlight in mid-winter. The proposal therefore relies on the rooftop terrace to ensure the dwelling is afforded with more than 3 hours of sunlight to more than 50% of the POS.

However given the 54m² rooftop terrace for Dwelling 1 has been assessed as having an excessive area which gives rise to visual and acoustic privacy impacts, the appropriateness of this space being relied upon to achieve compliant solar access is questioned. Should the development be recommended for approval, a condition of consent would likely be recommended to reduce the size of the rooftop terrace area to 24m². In this case, the amount of compliant solar access to the private open space area of Dwelling 1, as a percentage, would be reduced to less than 50% and not comply with the provisions of the RDCP2011.

Having regard to the above, it is not agreed that the shortfall in site area will not compromise internal amenity. A larger site, may enable for area being afforded as private open space to improve the level of solar access compliance.

4.3 Height of buildings

Clause 4.3 restricts the maximum height of buildings on the subject site to 8.5 metres.

The proposal provides for a height of 8.41m (RL/TOW: 48.75 – EGL 40.34) at the point of the covered stairwell access to the rooftop terrace for Dwelling 1.

Accordingly, the amended proposal now complies with clause 4.3.

4.4 Floor space ratio - Residential zones

Clause 4.4 restricts the subject site to a maximum floor space ratio (FSR) of 0.5:1.

In accordance with the submitted floor plans prepared by *Space 0.618:1*, the proposed FSR of the dual occupancy development is non-compliant at 0.51:1, which equates to a gross floor area (GFA) exceedance of 7.27m².

Furthermore, the resulting FSR of the proposed dwelling houses when subdivided in accordance with the proposed draft subdivision plan also fails to comply with the FSR standard. Dwelling 1 would exhibit an FSR of 0.512:1 and Dwelling 2 would exhibit an FSR of 0.508:1.

Pursuant to clause 4.6(3) of the RLEP2011, 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. For this reason alone, development consent cannot be granted to DA-2017/558.

5.9 Preservation of trees or vegetation

Clause 5.9 requires consent or a permit to be obtained before removing, injuring or destroying any vegetation.

The proposal seeks the removal of one (1) tree within the front setback to Oswell Street. This tree is identified as a Canary Island Date Palm.

The proposal will require the removal of two (2) Callistemon street trees that are within the Holland Avenue, to enable the provision of vehicular access to the basement garage.

Council's Tree Management Officer has reviewed the proposal and makes the following comments:

- *Existing site trees may be removed. Adequate replacement planting is proposed in the landscape works with eight semi mature trees proposed.*
- *Two Callistemon street trees at the side of the site in Holland Avenue will be removed by Council on payment of the relevant fees. There is no opportunity for replacement street trees.*
- *All other street trees are to be retained and protected.*

In this regard, the removal of the proposed trees is considered acceptable subject to compliance with the proposed landscape plan.

5.10 Heritage conservation

The subject site does not contain any Heritage listed items, pursuant to the RLEP 2011 Heritage Map – Sheet HER_003.

The nearest heritage listed items to the subject site is Gardiner Park, located 130m west, and “Wilga” (dwelling), which is located 130m to the north-west. Due to the physical separation distance the proposal is not considered to unduly impact the heritage value of these heritage items.

6.1 Acid Sulfate Soil - Class 5

In accordance with the RLEP 2011 Acid Sulfate Soils Map – Sheet ASS_003, the subject site is identified as (potentially) containing Class 5 Acid Sulfate Soils (ASS).

For any 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 water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land, an acid sulfate soils management plan is required.

The subject site is not located within 500 metres of land identified as containing Class 1, 2, 3, or 4 ASS. In this regard, the provisions of clause 6.1 do not need to be considered any further.

6.2 Earthworks

The proposal seeks consent for earthworks associated to the construction of basement parking.

Excavation for the garages is required to maximum depths of approximately 3.4m, located on the Holland Ave street frontage. The excavation will be predominantly in rock. Lesser excavations of 1.0m to 1.7m depth are required at the uphill (western) side of each dwelling for benching to the future rear ground levels.

A Geotechnical Assessment Report, prepared by Davies Geotechnical was submitted in response to Council’s additional information request. The report concluded that the proposed development is considered feasible, subject to the engineering design and recommendations of the report.

In this regard, the objectives of clause 6.2 can be satisfied subject to compliance with the recommendations of the Geotechnical Assessment Report.

6.7 Stormwater

Council’s Development Engineer has reviewed the proposed stormwater management solution accompanying the proposed development and provides no objection subject to recommended conditions of consent.

6.12 Essential Services

With reference to the existing use of the site, it is noted that connection to essential services are already available. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No draft environmental planning instruments have been identified as being applicable to the proposed development.

Section.4.15(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 RDCP 2011. A compliance table for the proposed development is provided below. Detailed discussions are provided for non-complying aspects of the proposal in respect to the RDCP 2011.

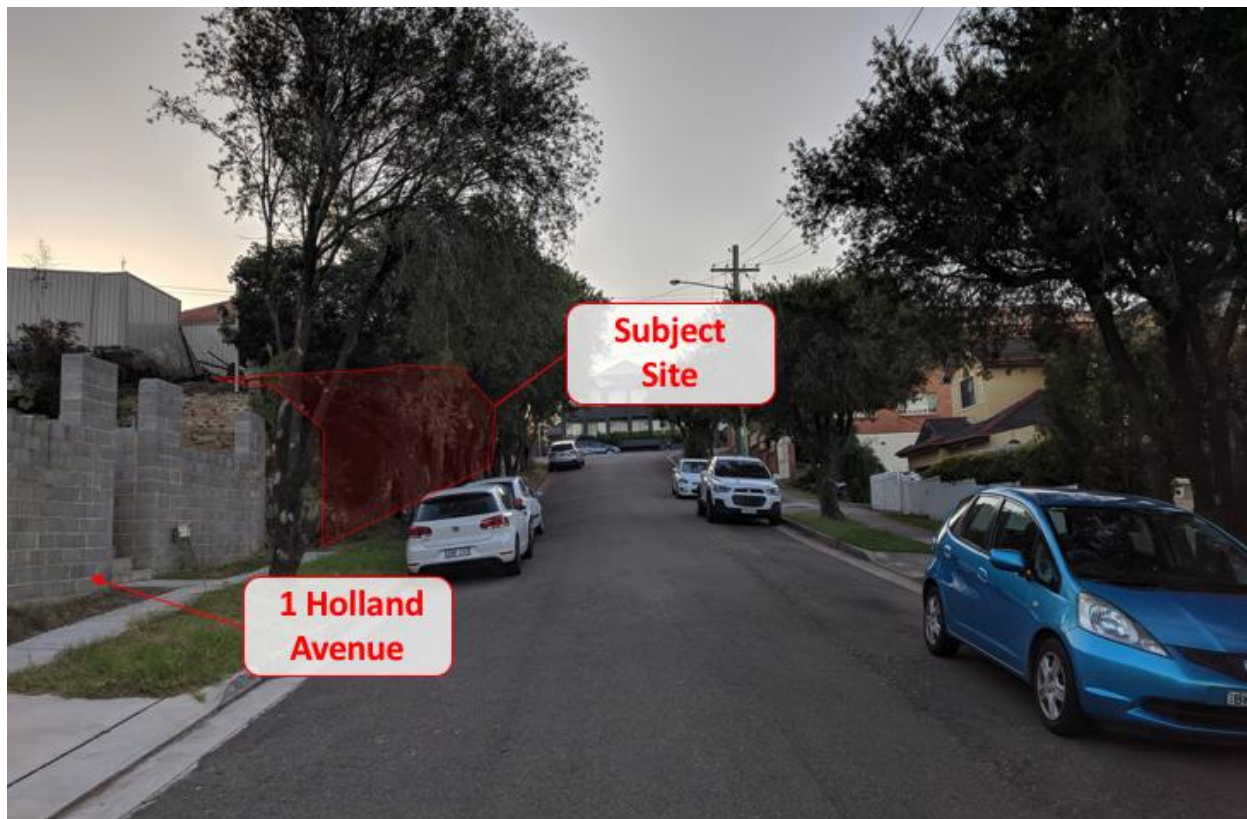
Relevant Parts of the RDCP 2011	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	No	No – see discussion
4.1.2 Heritage Conservation	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.7 Tree Preservation	No	No – see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	No	No – see discussion
4.2 Streetscape - Site Context	No	No – see discussion
4.2 Streetscape – Building Design	No	No – see discussion
4.2 Streetscape – Rock outcrop	No	No – see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes – see discussion
4.3.2 Private Open Space – Impact on neighbouring private open space	No	No – see discussion
4.4.2 Solar Access	No	No – see discussion
4.4.5 Visual privacy	No	No – see discussion

Relevant Parts of the RDCP 2011	Compliance with objectives	Compliance with standard/provision
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates - Other Uses	Yes	Yes
4.6 Car Park Location and Design	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes
5.1 Setbacks	Yes	Yes
5.1 Building Design	No	No – see discussion

Part 4.1.1 – Views and Vistas

Control 3 of Part 4.1.1 outlines that development on highly visible sites, such as ridgelines, must be carefully designed so that it complements the character of the area and its ridgeline.

The subject site is located in a visually prominent spot within the context of the local area, specifically when viewing from the lower parts of Holland Avenue. Refer to **Figures 10** and **11** for street view images.



○ **Figure 9 - Image from southern end of Holland Avenue looking north towards the subject site.**
(Source: Site Image taken on 6 May 2018, as adapted)



○ **Figure 10 - Image from western side of Oswald Street looking east towards the Subject Site.**
(Source: Google streetview image, as adapted)

As illustrated in **Figure 9**, the existing dwelling is not readily perceptible from the public domain as it is concealed by the existing mature Callistemon street trees, particularly from the Holland Avenue streetscape.

The scale of the proposed development on the subject site with the removal of two (2) of the five (5) street trees and integration of the development into the sandstone outcrop on Holland Avenue will increase the prominence of the site in the local area.

This prominence is somewhat exacerbated through the following attributes of the proposal:

- Non-compliant site area to accommodate dual occupancy subdivision under the clause 4.1 of the RLEP2011.
- Non-compliant site area to accommodate a dual occupancy development under Control 4.1.9 of the RDCP2011.
- Non-compliant FSR when having regard to the development standard under clause 4.4 of the RLEP2011.
- The proposal includes a flat roof design in an area that is characterised by pitched roof forms.
- As mentioned, the loss of street trees and site vegetation will reduce the level of vegetation screening for new buildings on the land.
- Despite the controls within the RDCP2011 which seek to protect sandstone outcrops, the proposal will include excavation to the sandstone outcrop on Holland Avenue. The visual impact of this on Holland Avenue will be exacerbated due to the proposed removal of two street trees.

The proposed building form, although increased in scale when compared to the existing dwelling, will have a reasonable impact on views enjoyed in the local area. The property at 26 Oswell Street will lose part of the western view of the roofscape of the dwellings in Banksia.

A brief assessment of the view impact has been undertaken in accordance with the four-step assessment of the 'view sharing' planning principle as established in *Tenacity Consulting v Warringah* [2004] NSWLEC 140:

- *Step 1: Assessment of views to be affected:*
The views in question are of the roofscape of the dwellings in Banksia. The view is enabled by the natural topography of the local area.
- *Step 2: Location views are obtained from the property:*
The views are not available from the entire property but limited to portions of the rear yard of adjoining properties. The view can only be enjoyed while standing in the rear yard as the boundary fence blocks the view from seated positions.
- *Step 3: Extent of impact:*
The extent of impact on those views as a result of the development are moderate, due to development of the rear setback of the subject site across where the view is enjoyed.
- *Step 4: Reasonableness of proposal:*

The reasonableness of any view loss must be considered with regard to the proposal's ability to comply with the relevant planning controls. In this regard, it is noted that the proposal is to occur on an allotment which does not meet the minimum lot size requirements of the RLEP2011 and RDCP2011. Furthermore, the proposal includes a non-compliant FSR. A compliant site and building may result in reduced view impacts, however the improvement would be minimal given the minor nature of the minimum lot size and FSR non-compliances.

Having regard to the above, the proposal is considered to respond poorly to the Views and Vistas control under Part 4.1.1 of the RDCP2011.

Part 4.1.9 – Lot size and Minimum Site Frontage

Control 1 of Part 4.1.9 outlines that a lot on which dual occupancy development is proposed must exhibit a minimum lot size of 700m² and a minimum frontage of 15m.

The subject site has a total site area of 694.5m² and a frontage of 15.1m to Oswell Street and 45.7m Holland Avenue. Accordingly, the subject site represents a variation of 5.5m² to the minimum lot area controls of the RDCP 2011.

The non-compliance with the minimum lot area for a dual occupancy development under the RDCP2011 is in line with the minimum subdivision development standard under clause 4.1 of the RLEP2011. As demonstrated earlier in this assessment report, the applicant's clause 4.6 written request to vary the minimum lot size development standard has not been supported.

Part 4.2 Streetscape – Site Context

Development Control 1 of Part 4.2 outlines that development must respond and sensitively relate to the broader urban context, including topography block patterns and subdivision, street alignments, landscape, views and patterns of development within the area'

The broader urban context has been considered in this report and is described in the urban context analysis provided in **Attachment 2**.

The proposal has been found to provide an inappropriate relationship to the urban context, as demonstrated by the following:

- Proposal does not support the envisaged urban scale as guided by the local planning controls and objectives by virtue of the non-compliances with development standards and development controls identified within this assessment report - i.e. clause 4.1 and clause 4.4 of the RLEP2011.
- As mentioned, the proposal will introduce lot sizes less than the minimum requirements under the RLEP2011, and also present these allotments in a layout which is inconsistent with the prevailing pattern of Holland Avenue and Oswell Street – particularly when considering the resultant lot areas and positioning of the buildings on the allotments in the context of other buildings in the street.
- The proposal will see the loss of two street trees on the Holland Avenue frontage, and a tree within the front setback of the Oswell Street frontage. The loss of this vegetation is an important consideration in the context of the site's prominent

location, non-compliant site and building size, and sandstone rock wall excavation to Holland Avenue.

- With the proposal's flat roof, the development does not relate to the streetscape character which is dominated by pitched roofs.
- The commencement Low Rise Medium Density Housing Code has been deferred for the Bayside local government area, and as a result there is no certainty that the complying development provisions that would otherwise permit a dual occupancy development on the site will come into force – particularly given the report to the Bayside Council meeting on 13 June 2018 by Council's Strategic Planner which indicates Council's intention to fully explore the impacts of the Code as part of the LEP and DCP Review.

When considering the proposal in light of the planning principle 'compatibility with context' established in *Project Venture v Pittwater Council* [2005] NSWLEC 191 at paragraphs 22-33, it is noted that compatibility within the urban context does not mean 'sameness' with surrounding buildings. Instead development must be capable of existing together in harmony with surrounding buildings. To test whether a proposal is compatible with its context the court case refers to two (2) questions that should be asked:

1. Are the proposal's physical impacts on surrounding development acceptable? (The physical impacts include constraints on the development potential of surrounding sites)
2. Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The proposal's physical impacts on surrounding development are considered acceptable, as discussed in this report and summarised in the following:

- **Overshadowing:** The proposal complies with the RDCP2011 overshadowing development controls. The impact of overshadowing resulting from the proposal, during the winter solstice, is limited to early morning where a shadow is cast over the side boundary of the adjoining development at 26 Oswell Street. The remainder of the day the shadow is cast over the subject site or Holland Avenue.

Despite the above, it is noted that a compliant site and FSR would likely result in a built form outcome that has a reduced level of shadowing across adjoining property.

- **Privacy:** Windows and balconies that are afforded with overlooking opportunities to adjoining properties are provided with window sill heights of 1.6m or are fixed with a privacy screen.

The large roof top terraces (54m² for Dwelling 1 and 39m² for Dwelling 2) however will give rise to overlooking opportunities, and also be of a size and dimension for each dwelling to facilitate entertaining rather than just passive outdoor recreation. As such, both visual and acoustic privacy will be compromised by the development.

It is understood at a recent Bayside Local Planning Panel meeting (BPP) it was resolved to restrict roof terraces to 24m². It is also understood the BPP and are

now consistently applying this 24m² control and have encouraged Council to investigate implementation of this as part of the review of the RLEP2011 and RDCP2011.

- **Noise:** The use of the detached dual occupancy dwellings is not considered to be a noisy land use and is appropriate for the residential context of the local area. The internal layout of the proposal is conducive to minimising noise with active use rooms located away from lot boundaries. The use of the roof top terraces will however give rise to potential acoustic impact by virtue of the size being sufficient for entertaining purposes.
- **Excavation:** The impact of the garage excavation works within the sandstone outcrop on nearby properties has been considered in the geotechnical report prepared by Davies Geotechnical. The report found that remoteness of the location of the garage excavation from adjoining boundaries greatly reduced the potential for any excavation impacts. The report includes a range of controls and measures to ensure potential impacts are negligible.

While the excavation works have been reported as being satisfactory from a geotechnical perspective, the visual impacts of the excavation works on the secondary street frontage need to be considered. Part of the rock wall will be replaced with the two garage openings, as well as the pedestrian entry stairs to Dwelling 2. These works will necessitate the removal of two street trees which will exacerbate the visual impacts of the sandstone wall excavation.

- **Development potential constraints:** As the proposal complies with the height and setback controls, the proposal goes some way toward minimising the potential impacts of the development on surrounding sites. However, it is argued that a dual occupancy development on a compliant site area, and a building with a compliant FSR would have a reduced imposition on adjoining development.

With reference to question 2, it is acknowledged that for new development to exist in harmony with surrounding buildings it must respond to the essential elements that make up the character of the surrounding urban environment. The most important contributor to urban character is the relationship between the built form to surrounding space created by building height, setbacks, and landscaping. These are discussed as follows:

- **Consistent height plane:** The height of the proposed development follows that of adjoining development on Oswell Street and Holland Avenue. **Figure 11** illustrates the consistent height plane between the proposed development and adjoining development on 26 Oswell Street. Within the Holland Avenue streetscape a two-storey dwelling with an RL height of 48.64m was recently approved on 3 Holland Avenue (DA-2017/429) and the existing dwelling on 1 Holland Avenue exhibits an of RL 48.14m AHD. The subject proposal has a RL height of 48.5m for the immediate adjoining dual occupancy dwelling.

Despite the above, it is acknowledged that the proposal includes a flat roof design, and as such imposes a greater building mass on the street despite maintaining compliance with the overall building height limit.



○ *Figure 11 - Streetscape diagram of Oswald Street, illustrating a consistent height plane with adjoining dwelling at 26 Oswald Street.*

(source: Streetscape diagram, prepared by Space 0.681:1)

- **Consistent setbacks:** The proposal complies with the minimum setback controls stipulated by the RDCP 2011, with a proposed street setback of 3m to Holland Avenue, and 6m to Oswald Street.
- **Appropriate landscaping:** A positive response has been received from Council's landscape referral officer in relation to the development's proposed landscaping. Despite this, it is however noted the development will result in the loss of two street trees on the Holland Avenue frontage, and only large tree on the site within the Oswald Street frontage.

While in time it could be argued that the vegetation planting on the site, as well as replacement street tree planting, will result in a satisfactory landscape outcome, until such planting achieves maturity, there will however be a negative impact on the landscape character of the street.

Part 4.2 Streetscape – Building Design

Development Control 4 of Part 4.2 of the RDCP2011 outlines that 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'

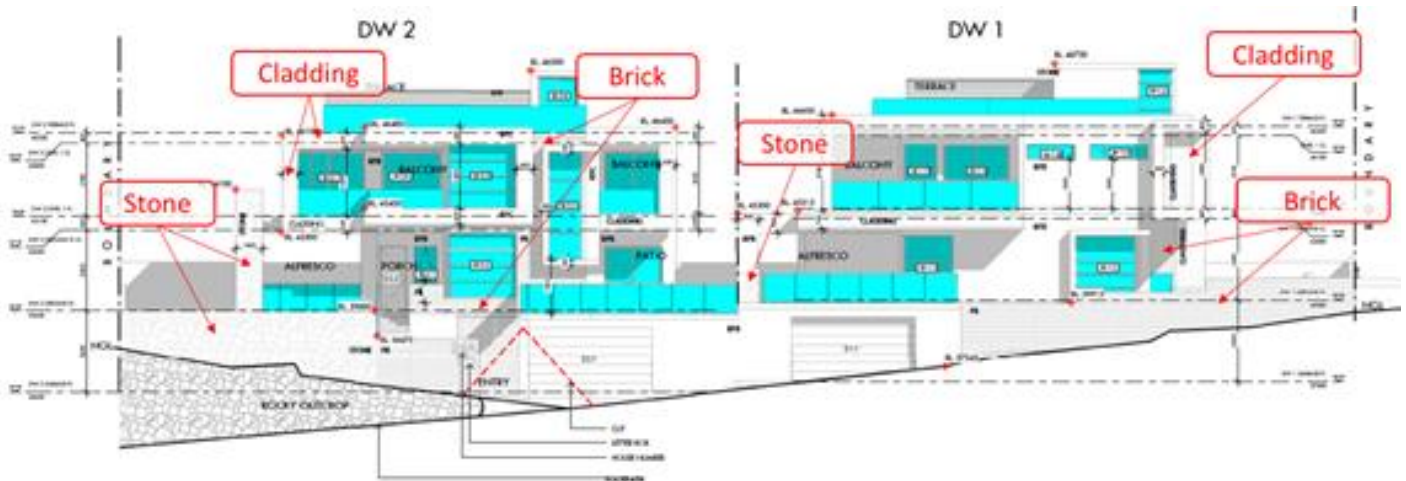
It is evident that the local area comprises a variety of building design and materials resulting in some diversity of architectural expressions within Oswald Street and Holland Avenue. However, a comment theme that occurs throughout the local area is pitched roof forms.

The proposal, with a flat roof design is discordant in the streetscape.

The likelihood of the streetscape to change and include dual occupancy buildings with flat roofs is considered to be low given the nature of Council's planning controls under

the RDCP2011, and also given the complying development provisions for dual occupancies under the Low Rise Medium Density Housing Code has been deferred.

It is however noted that the proposed development utilises a contemporary modular design, with the building façades including building materials that are apparent in surrounding buildings, e.g. face brick, stone, and cladding (refer to **Figure 12**), and therefore is considered to have had regard to the surrounding buildings.



○ **Figure 12 – Elevation diagram of the Oswell Street frontage, illustrating building materials apparent in the local area**

(source: North Front Elevations, prepared by Space 0.618:1)

Having regard to the above, while the amended proposal includes satisfactory elevation materials and finishes, the lack of a pitched roof form means the building design is incompatible with the streetscape, and non-compliant with Part 4.2 of the RDCP2011.

Part 4.2 Streetscape – Rock outcrop

Development Control 29 of Part 4.2 of the RDCP2011 outlines that the excavation of sandstone or rock outcrops for the purpose of providing a garage is not permitted where:

- a. the rocky outcrop forms a significant part of the streetscape and character of the locality; or
- b. adequate on street parking is available; or
- c. alternative access to a site is available.

and, where excavation of a rock outcrop to provide off-street car parking is considered acceptable, the design and construction of the garage entry is to utilise sandstone, stone coloured mortar and a recessive coloured door.

The subject site includes a rock outcrop on the Holland Avenue frontage – refer to *Figure 13* below.



○ **Figure 13 – Holland Ave – Rock outcrop (24 Oswell Street)**

○ Source: CPS May 2018

Having regard to the controls in Part 4.2 of the RDCP2011,

- a) The sandstone rock wall contributes to the streetscape.
- b) As demonstrated within Figure 13 above and also the aerial image in *Figure 7*, adequate on-street parking is available at the site.
- c) 24 Oswell Street is a corner allotment, and as such alternative access to the site is available from the Oswell Street frontage – as is the case with the current vehicular arrangements for the existing dwelling house on the site.

Furthermore, the proposal has not demonstrated that the design and construction of the garage entry will utilise sandstone, stone coloured mortar and a recessive coloured door. These issues were raised with the applicant as part of Council's additional information letter.

In this regard the excavation of the rock outcrop for garage purposes fails to achieve compliance with the provision of Part 4.2 of the RDCP 2011.

Part 4.3.1 Open Space and Landscape Design

Control 3 of Part 4.3.1 outlines that landscaping must relate to building scale and assist integration of the development with the existing street character.

It is noted that the area above the garage (to be utilised as a private open space area) does not include any landscaping treatment but instead is supplemented by glass

balustrade fencing. This is considered to result in a detracting element of the rock face feature on Holland Avenue, and is therefore non-compliant with Part 4.3.1 of the RDCP2011.

Part 4.3.2 Private Open Space

Part 4.3.2 outlines that private open space (POS) must take account of the visual and acoustic privacy of its occupants and neighbours, and development must ensure that the usability of private open space of adjoining buildings is not reduced through overlooking and overshadowing.

The proposed roof top terraces of the dual occupancy development are afforded with unreasonable overlooking opportunities to the adjoining property at 26 Oswald Street and to 1 Holland Avenue, as a result of the topographic relationship between the properties and the subject site. The size of the roof top terraces would furthermore allow for entertaining activities to occur thereon.

The impact of the proposal on the visual and acoustic privacy for adjoining developments and to that of the proposed dual occupancy dwelling themselves is unreasonable.

Part 4.4.2 Solar Access

Part 4.4.2 requires for dwellings within low and medium density residential development, and on adjoining properties, to receive a minimum three (3) hours direct sunlight to habitable rooms and to at least 50% of POS between 9.00am and 3.00pm in mid-winter.

The submitted shadow diagrams illustrate that the ground floor POS area of Dwelling 1, where the clothes line is proposed to be located, will receive less the required amount of direct sunlight in mid-winter. The proposal therefore relies on the rooftop terrace to ensure the dwelling is afforded with more than 3 hours of sunlight to more than 50% of the POS.

However given the 54m² rooftop terrace for Dwelling 1 has been assessed as having an excessive area which gives rise to visual and acoustic privacy impacts, the appropriateness of this space being relied upon to achieve compliant solar access is questioned. Should the development be recommended for approval, a condition of consent would likely be recommended to reduce the size of the rooftop terrace area to 24m² which would then compromise compliance with the solar access controls under Part 4.4.2 of the RDCP2011.

Part 4.4.5 Visual Privacy

Control 1 of Part 4.4.5 requires the windows of habitable rooms with direct sightlines to windows of habitable rooms of adjacent dwellings located within 9m to be treated with higher window sills, obscuring, or be offset. Balconies are further required to be located as to minimise overlooking into adjoining property windows or POS areas.

The windows on the western elevation of the proposal which adjoin the property at 26 Oswell Street, and the windows of the first-floor rooms adjoining the southern property (2 Holland Avenue) have sill heights of 1.6m.

Control 3 permits the use of the roof top area for recreational purposes subject to the internal stair access being provided to the roof top area from within the building; and the usable area of roof being setback back at least 1500mm. Other devices such as privacy screens and planter boxes should be incorporated to protect the visual and acoustic amenity of neighbouring properties.

The proposed roof top terraces are provided with 1.7m high privacy screens on the western boundaries and set in approximately 4m from the western building edge. The usable area of the terrace is not however consistently setback 1.5m from the remaining building edges. As a result, the proposed roof top terraces of the dual occupancy development are afforded with unreasonable overlooking opportunities to the adjoining property at 26 Oswell Street and to 1 Holland Avenue, which is exacerbated by the topographic relationship between the neighbouring properties and the subject site. Furthermore, the size of the roof top terraces would allow for entertaining activities to occur thereon.

The impact of the proposal on the visual and acoustic privacy for adjoining developments and to that of the proposed dual occupancy dwelling themselves is therefore unreasonable.

Part 5.1 Building Design

Part 5.1 requires building design and architectural style to interpret and respond to the positive character of the locality, including the dominant patterns, textures and compositions of buildings.

As discussed in depth earlier in this report, subject to recommended conditions of consent the proposal is considered to appropriately respond to the positive character of the locality, through the following:

- Flat roof design proposed in an area that is characterised by pitched roof forms;
- Floor space ratio for the development that exceeds the maximum permitted under the RLEP2011, and a site which does not meet the minimum lot size requirements of the RLEP2011 and RDCP2011;
Impact to the sandstone outcrop on Holland Avenue, with the proposed design and construction of the garage entry not utilising sandstone, stone coloured mortar and a recessive coloured door;
- Loss of street tree vegetation and inappropriate landscape presentation to Holland Avenue with the intended glass balustrading to the private open space areas; and
- A building design that gives rise to overlooking opportunities and subsequent loss of visual and acoustic privacy from the large roof terrace areas.

In this regard, the proposal is considered not to satisfy the objectives and the provisions of Part 5.1 of the RDCP 2011.

Section.4.15(1)(a)(iv) - Provisions of regulations

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved.

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

Likely impacts on the natural and built environment:

The likely impacts of the development on the natural and built environment have been considered within the assessment of the applicable EPI's.

Likely social and economic impacts of the development:

The proposed dual occupancy development is considered to have a positive social and economic impact on the locality as it will improve the supply of housing and also provide for housing choice, being an alternative to the single dwelling houses that are prevalent in the local area.

However given thirty-four (34) objections have been received in relation to the proposed development, there may also be some negative social cohesion impacts as a result of the development.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder redevelopment of the site for residential accommodation.

However, given the subject site fails to meet the minimum lot size requirements for dual occupancy development, it can be argued that the site is not suitable for the proposed development.

Furthermore, given the applicant's design response which includes a number of non-compliances with Council's RLEP2011 and RDCP2011, it is also argued that the proposed building itself is not suitable for the subject site.

Section.4.15(1)(d) - Public submissions

The development has been notified in accordance with the provisions of RDCP2011. In response, thirty-four (34) submissions has been received from thirty-one (31) submitters. The submissions raised the following concerns:

- *The proposed subdivision does not reflect and reinforce the predominant subdivision pattern in the area;*

Comment: The proposal will result in a non-compliant subdivision of the land at 24 Oswell Street when having regard to the provisions of clause 4.1 of the RLEP2011.

It is also considered that the resultant subdivided allotments will be incongruous with the prevailing subdivision pattern in the local area. The applicant's clause 4.6 written request to vary the development standard under clause 4.1 of the RLEP2011 has not adequately demonstrated by it is unreasonable or unnecessary in the circumstances of the case to enforce strict compliance with the development standard, not has the applicant demonstrated why, on environmental planning grounds, the variation should be supported.

- *The building height and FSR are not compliant with the development standards under LEP2011;*

Comment: The amended proposal now includes a maximum building height of less than 8.5m which is compliant with the applicable height standard. The applicant's amended plans demonstrate a FSR that is non-compliant with the development standard under clause 4.4 of the RLEP2011. No clause 4.6 written request to vary the clause 4.4 development standard has been submitted to Council for assessment.

- *The proposal does not satisfy the provisions under Part 4 of the RDCP2011 having regard to site planning, streetscape and site context, landscape planning and design, sustainable building design, nor does it satisfy the controls relating to low and medium density residential development under Part 5.1 of the RDCP2011;*

Comment: The proposed development has been assessed against Part 4 and Part 5.1 of the RDCP2011 and found to be non-compliant in a number of aspects, including, Part 4.1.1 Views and Vistas, Part 4.1.9 – Lot size and Minimum Site Frontage, Part 4.2 Streetscape – Building Design – flat roof design proposed in area characterised by pitched roofs, Part 4.2 Streetscape – Rock outcrop, Part 4.3.2 Private Open Space, and Part 5.1 Building Design.

- *The proposal will result in unacceptable impacts on surrounding development, including the privacy of neighbours, and the internal amenity of future residents;*

Comment: The assessment of the proposed development has found the roof top terraces will give rise to overlooking opportunities, both to adjoining property and also within the proposed development. This overlooking will impose on visual privacy. Additionally, acoustic privacy also has the potential to be compromised by virtue of the roof top terrace sizes which are large enough to be used for entertaining purposes rather than just passive outdoor recreation only.

- *Damage to the sandstone rock wall on the Holland Avenue frontage is not supported;*

Comment: The provisions of the RDCP2011 (Development Control 29 of Part 4.2) allow for the excavation of sandstone or rock outcrops in circumstances satisfied by the proposed development. Having regard to the controls in Part 4.2 of the RDCP2011,

- a) The sandstone rock wall contributes to the streetscape.

- b) As demonstrated within *Figure 13* earlier in this assessment report and also the aerial image in *Figure 7*, adequate on-street parking is available at Oswell Street and Holland Avenue.
- c) 24 Oswell Street is a corner allotment, and as such alternative access to the site is available from the Oswell Street frontage – as is the case with the current vehicular arrangements for the existing dwelling house on the site.

The proposal also has not demonstrated that the design and construction of the garage entry will utilise sandstone, stone coloured mortar and a recessive coloured door. These issues were raised with the applicant as part of Council's additional information letter.

In this regard it is agreed with the objectors that the excavation of the rock outcrop for garage purposes fails to achieve compliance with the provision of Part 4.2 of the RDCP 2011.

- *Overshadowing impacts of the proposed development on adjoining property and also poor internal solar access;*

Comment: The proposed development will not result in unreasonable overshadowing to adjoining properties as guided by the RDCP2011 development controls for solar access. Due to the orientation of the subject site (north-east facing) solar access to the internal portions is inherently problematic. In an attempt to deliver compliant internal solar access to private open space areas, reliance on the roof top terraces is utilised. However, as outlined earlier the size of the roof top terraces has been raised as an issue. If the DA was to be approved with smaller roof top terraces, this may then result in a non-compliance with the RDCP2011 solar access provisions to private open space areas.

It is also noted that the proposal includes a non-compliant FSR which marginally contributes to a larger building than would otherwise be expected on the site when having regard to the development standards under the RLEP2011. As such, while the proposal remains compliant with the overshadowing controls of the RDCP2011, it is argued a building with a compliant FSR would potentially result in less overshadowing.

- *The proposal will result in unacceptable view loss;*

Comment: An assessment of the view loss undertaken in accordance with the four-step assessment of the 'view sharing' planning principle as established in *Tenacity Consulting v Warringah [2004] NSWLEC 140* found that impact was considered reasonable in the circumstances of the case:

- The views enjoyed by east adjoining development are not iconic views,
- The views are primarily enjoyed from the rear setback and are already impacted by the boundary fence,
- In order to maintain the view, the proposed development would require significant design changes and a considerable reduction in development potential.
- Given the proposal includes a non-compliant FSR, and that the development is occurring on an allotment that falls short of the minimum lot size

requirements under the RLEP2011, it is possible that a compliant building on the subject site would deliver better view sharing arrangements.

Having regard to the above, while it is agreed that the proposed development is not compliant with the relevant planning controls, and that a compliant building on the site would deliver improved view sharing arrangements, it must be noted that the non-compliances regarding the FSR and the minimum site area for dual occupancy development are minor in terms of their numerical deviation from the control.

As such, a compliant building on the land would likely only deliver a marginal improvement to the view sharing.

It also must be noted that the views in question are not iconic or water views, and as such are considered of lower retention value.

- *Materials and finishes out of character with the local area;*

Comment: The proposal incorporates building materials and finishes that are representative of more recent development local area, in particular the dwelling houses at 19 and 23 Oswell Street opposite the subject site.

It is however noted that the proposal has not adopted appropriate materials or finishes to the garage facades on the Holland Avenue frontage. The provision of the RDCP2011 require garages to be constructed of sandstone, stone coloured mortar and include a recessive coloured door, to enhance and compliment the sandstone wall as an aspect of the Holland Avenue streetscape.

The proposal also includes a pitched roof, which has been discussed in this assessment report as being discordant in the local area which is otherwise dominated by pitched roof forms.

- *Inconsistency with the objectives of the R2 Low Density Residential zone under the RLEP2011;*

Comment: Earlier in this report an assessment of the proposal against each of the objectives of the R2 Low Density Residential zone was undertaken. It was found that the proposal was unable to satisfy the first and third objectives of the zone for the following reasons:

- The proposal does not achieve compliance with the minimum subdivision lot size development standard under clause 4.1 of the RLEP2011. As such, it can be argued the proposal does not provide for a dwelling density outcome that complies with the low density residential environment, as established by the development standard under clause 4.1 of the RLEP2011.
- The proposal will introduce a building that is incongruous with the dominant character of the local area, and will have amenity impacts including compromised visual and acoustic privacy, and visual impact of the discordant building in the streetscape.

- *Traffic and parking impacts of the proposal, including that Holland Avenue is too narrow to accommodate additional vehicles. Access to the property should be maintained to Oswell Street.*

Comment: The proposal will incorporate a double garage for each dwelling which is in accordance with the parking requirements of the RDCP2011. Furthermore, the proposal has been considered by Council's Development Engineer who does not object to the proposed development on the grounds of traffic and parking impacts. In this regard, the proposed access and traffic impact are acceptable.

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

There is a general public interest in upholding the development standards and controls within Council's relevant planning instruments.

The proposed development is not considered to be in the public interest as it fails to achieve the objectives of the R2 Low Density Residential zone, and will not achieve compliance with key development standards contained within the RLEP2011 or development controls within the RDCP2011.

It must also be noted that the public notification of proposed development has received thirty-four (34) objections from thirty-one (31) respondents in the local area.

Section 7.12 Fixed development consent levies

Section 7.12 of the Act applies to the proposal. In this regard a standard condition of development consent has been imposed in respect to a level applied under this section.

The subject site is an area subject to the Civil Aviation (Building Controls) Regulation, and therefore requires separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

Civil Aviation Act, 1988

A referral was sent to Sydney Airport (the Civil Aviation Safety Authority) who has considered the proposal and provides no objection to the erection of the proposed development to a maximum height of 48.9m AHD. Should the DA be approved, a condition will need to be imposed in any development consent requiring the development to comply with the Sydney Airport approval.

Schedule 1 Draft Conditions of consent

In the event the Bayside Local Planning Panel decides to consent to the proposed development, despite the recommendation of this report, then the following non-standard conditions of consent should be imposed.

General conditions:

- **## Roof top terrace's**

The trafficable area of the roof top terraces must be reduced to a maximum 24m², and be setback a minimum 1.5m from the edge of the building.

The use of the roof top terrace(s) must not result in any offensive noise as defined by the Protection of the Environment Act 1997.

- **## Civil Aviation Act 1988 approval**

Refer to Sydney Airport General Terms of Approval

- **## Schedule of materials and finishes**

A schedule of materials and finishes must be submitted to Council for approval prior to the issue of a Construction Certificate.

The schedule of materials and finishes must reflect the construction materials proposed on the approved Elevations diagrams.

- **## Garage design and construction**

The design and construction of the proposed garage must utilise sandstone, stone coloured mortar and a recessive coloured door.

The applicant must submit a schedule of materials, colours, and finishes demonstrating the above to Council for approval.

- **## Additional landscaping on Oswell Street frontage**

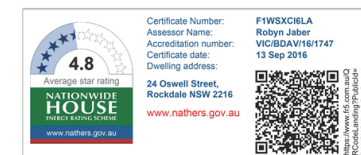
Additional planting opportunities must be provided above both of the proposed garages on the Oswell Street frontage. The planting must be fixed in place (e.g. planter boxes) and include similar shrub and perennial plantings as proposed in the approved Landscape Plan.

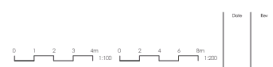
Plans demonstrating compliance with this conditions are to be submitted to Council for approval.

Schedule 2 Urban Design Assessment of Oswell Street and local area

Urban Design Criteria	Comment
Criteria 1 - Unique features and characteristics to be preserved or enhanced	<ul style="list-style-type: none"> ○ Tree lined street - Holland Ave ○ Presence of sandstone outcrop on Holland Ave ○ Holland Ave frontage (of subject site) includes an established landscaped character ○ Visibility- Site is on high side of Holland Avenue and is prominent.
Criteria 2 - Areas of dysfunction and conflict such as disproportionate scale or lack of human scale	<ul style="list-style-type: none"> ○ Scale – low density residential development comprising a mix of single and two storey dwellings with the presence of some dual occupancies ○ Local area is a low scale residential area typical of the R2 zone within the Rockdale area.
Criteria 3 - Areas where change is imminent or most likely to occur	<ul style="list-style-type: none"> ○ Development on the subject site was considered to be imminent with the impending Low Rise Medium Density Housing Code. However given the commencement of the Code has been deferred until 1 July 2019, it is no longer considered imminent. ○ Corner allotments are benefitted with greater street frontages are more likely to be redeveloped. ○ Local area is potentially subject to change with aged housing stock being replaced by newer contemporary homes. ○ Sites with sufficient site areas appear to be developing as dual occupancies
Criteria 4 - Themes and trends	<ul style="list-style-type: none"> ○ The general theme of the local area reflective of a low density residential area ○ Close proximity to Gardiner's Park. ○ Trend for contemporary houses on smaller allotments. Again, the commencement of the Code has been deferred and as such complying development outcomes for dual occupancy development in the area is now uncertain.
Criteria 5 – Landscape elements to reinforce rhythm and scale of the urban grain	<ul style="list-style-type: none"> ○ Local area has a well-developed landscaped character with grassed front setbacks and mature trees located in rear setbacks ○ Holland Ave streetscape is benefitted by mature street trees
Criteria 6 - Built form (consider frontage setbacks,	<ul style="list-style-type: none"> ○ Consistent street setbacks are provided to Oswell Street

Urban Design Criteria	Comment
frontage glazing, doors and canopies, floor levels and frontage landscapes)	<ul style="list-style-type: none"> ○ Variety of built form is present in the local area, however some consistent elements prevail such as pitched roofs. ○ Note - While integrity and cohesion is important, facades should provide an appropriate degree of variation, difference and visual distinction, to contribute to a varied and interesting streetscape.
Criteria 7 – materials, colours and textures which respond to and reinforce local characteristics (Identify the range of materials, finishes, colours and details employed in the local area. This should include natural materials that have influenced the site through its layers of history)	<ul style="list-style-type: none"> ○ Proposal appears to include materials which respond to materials of existing dwellings with the inclusion of brick façade, however the proposed flat roof design is incompatible with the visual character of the local area. ○ The proposed material may provide for improved functionality and performance
Criteria 8 – Architectural expression	<ul style="list-style-type: none"> ○ The proposal includes an architectural expression of contemporary dwelling construction trends, indicative of the projections framing living room windows, pattern provided by the mix of materials. Given the prevailing character of the street including pitched roofs and more traditional building forms, the development is not necessarily considered to complement the existing architectural expression of the local area.
Criteria 9 – Passive surveillance	<ul style="list-style-type: none"> ○ The proposal will result in an improvement to opportunities of passive surveillance by virtue of having an additional dwelling fronting Holland Avenue. Furthermore, the proposed dual occupancy development includes additional street facing windows from active use rooms which further support the opportunity for passive surveillance over Holland Avenue and Oswald Street. ○ There are however impacts associated with the additional passive surveillance, such as overlooking impacts of the adjoining property from the large roof top terraces.



[illegible]

Accepted:

project
14 ORRILL STREET, ROCKDALE

NOT FOR CONSTRUCTION - BDL 5

Verify all dimensions as in before proceeding with construction. Do not make drawings. Work to within dimensions; report any discrepancies for resolution, work to be carried out in accordance with relevant parts of the BCA and the Environmental Planning and Assessment Act and regulations under the Act.

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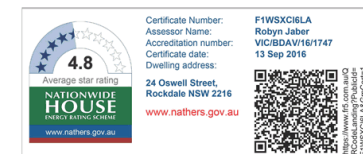
SURVEY PLAN

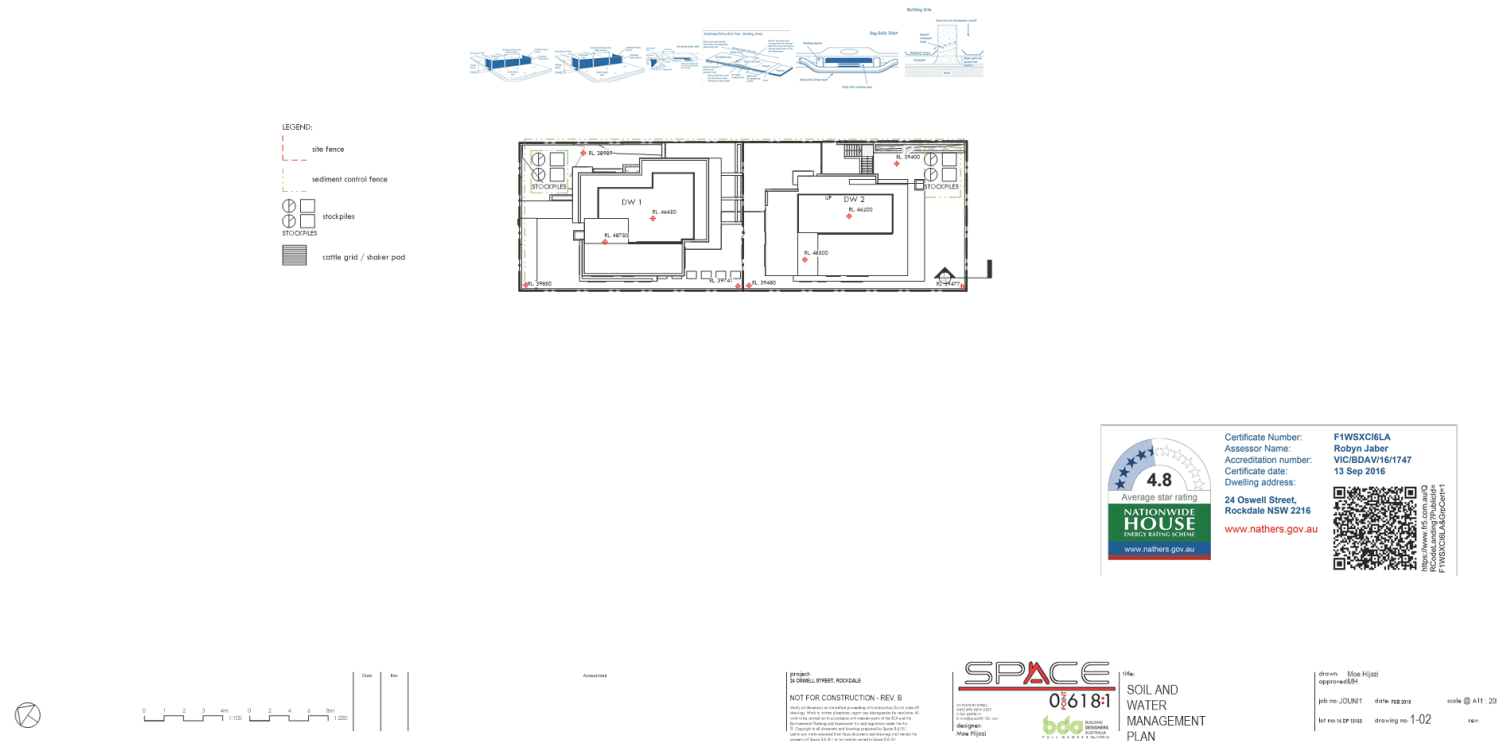
drawn: Moe Hijazi
approved:MH

job no: JOUN1 date: FEB 2018 scale @ A11 : 200

lot no: 14 CP 1032 drawing no: 1-00 rev:







[illegible]

drawn: MSH
approved: MSH

job no.: JOUN1 date: FEB 2018 scale @ A1: 100

lot no.: 14 DP 1018 drawing no.: 2-00 rev:



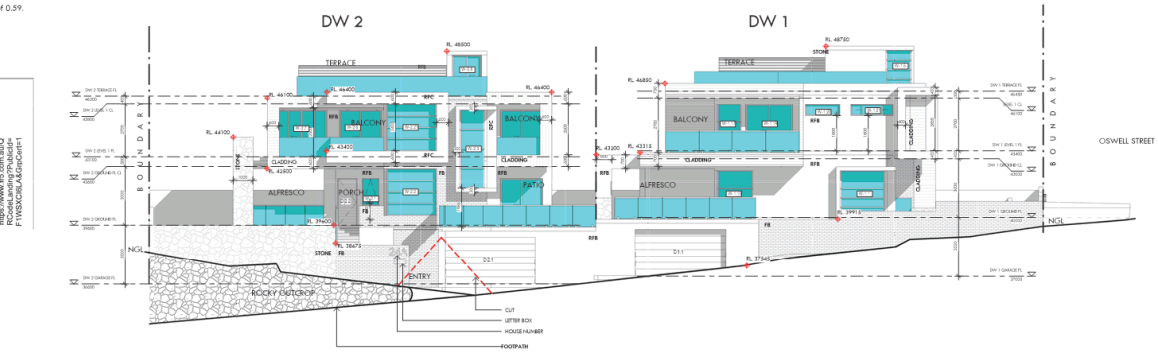
BASIC REQUIREMENTS:
 DW 1
 All external walls require R1.5 insulation (polyurethane rigid foam)
 The floor insulation for the first floor: R1.5
 The floor insulation for the ground slab: R1.5
 The ceiling insulation for the first floor: R2.5
 W1.11, W1.12, W1.13 are all double glazed with a U value of 4.8 and SHGC value of 0.59.
 DW 2
 All external walls require R1.0 insulation (polyurethane rigid foam)
 The ceiling insulation for the first floor: R2.5

4.8
Average star rating
NATIONWIDE HOUSE
Energy Rating Council
www.nathurs.gov.au

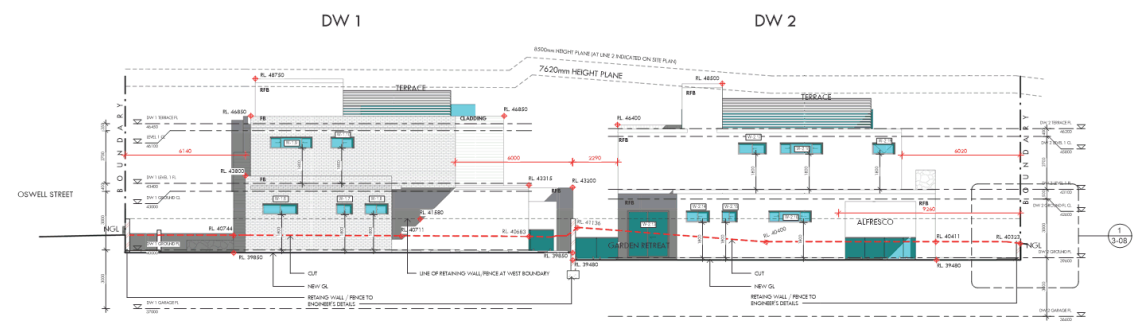
Certificate Number:
Assessor Name:
Accreditation number:
Certificate date:
Dwelling address:
**24 Oswell Street,
Rockdale NSW 2216**
www.nathurs.gov.au

F1WSXCISLA
Robyn Jaber
VIC01DAV16/1747
13 Sep 2016

F1WSXCISLA/assessor1



EAST SIDE ELEVATION
 DW 1
 DW 2



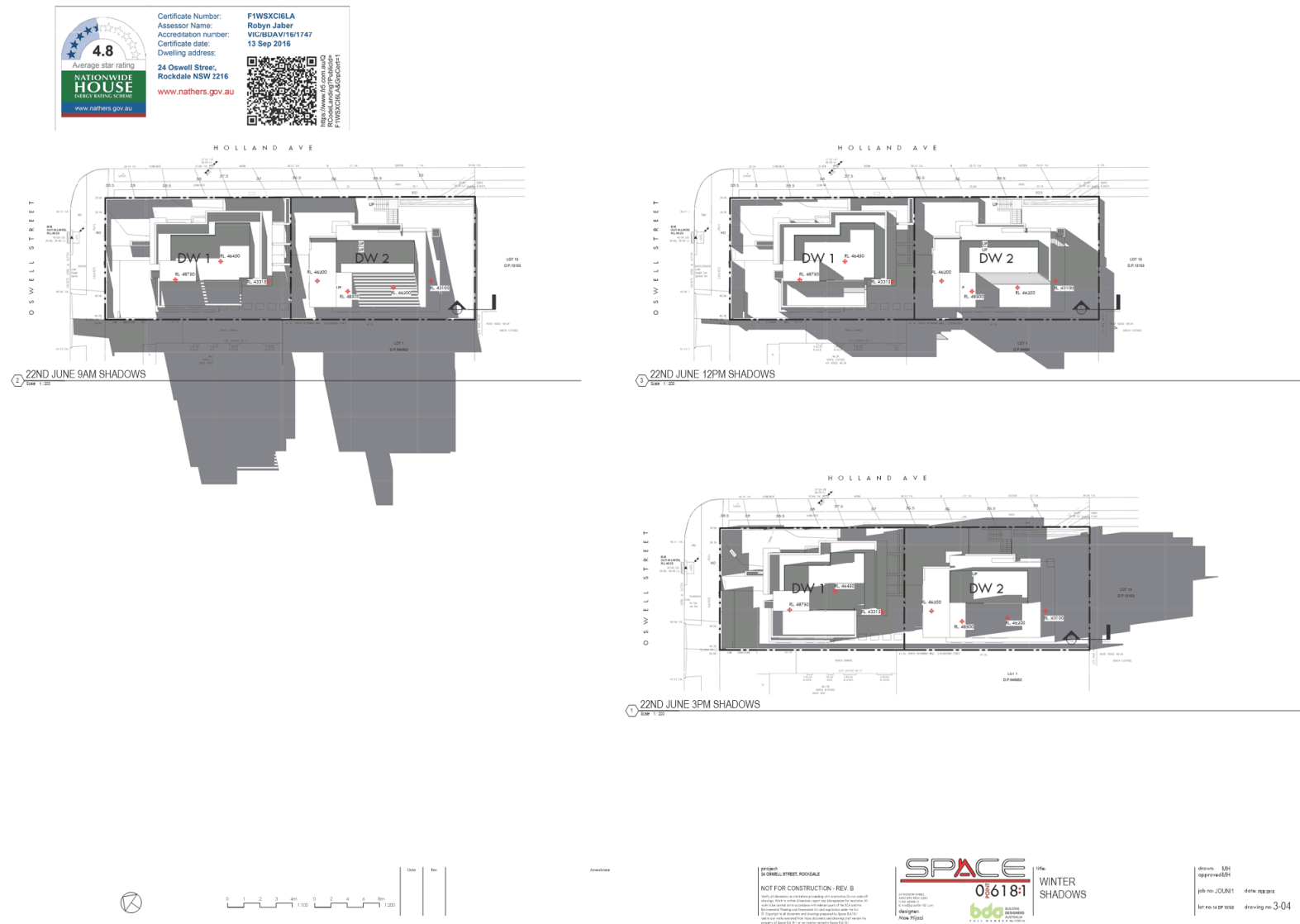
WEST SIDE ELEVATION
 DW 1
 DW 2



STUDY:
 24 OSWELL STREET, ROCKDALE
 NOT FOR CONSTRUCTION - REV B
 THIS DRAWING IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY APPROVALS AND TO ENSURE THAT THE DESIGN IS COMPLETED AND UP-TO-DATE BEFORE CONSTRUCTION BEGINS. ANY CHANGES TO THE DESIGN MUST BE APPROVED BY THE ARCHITECT.

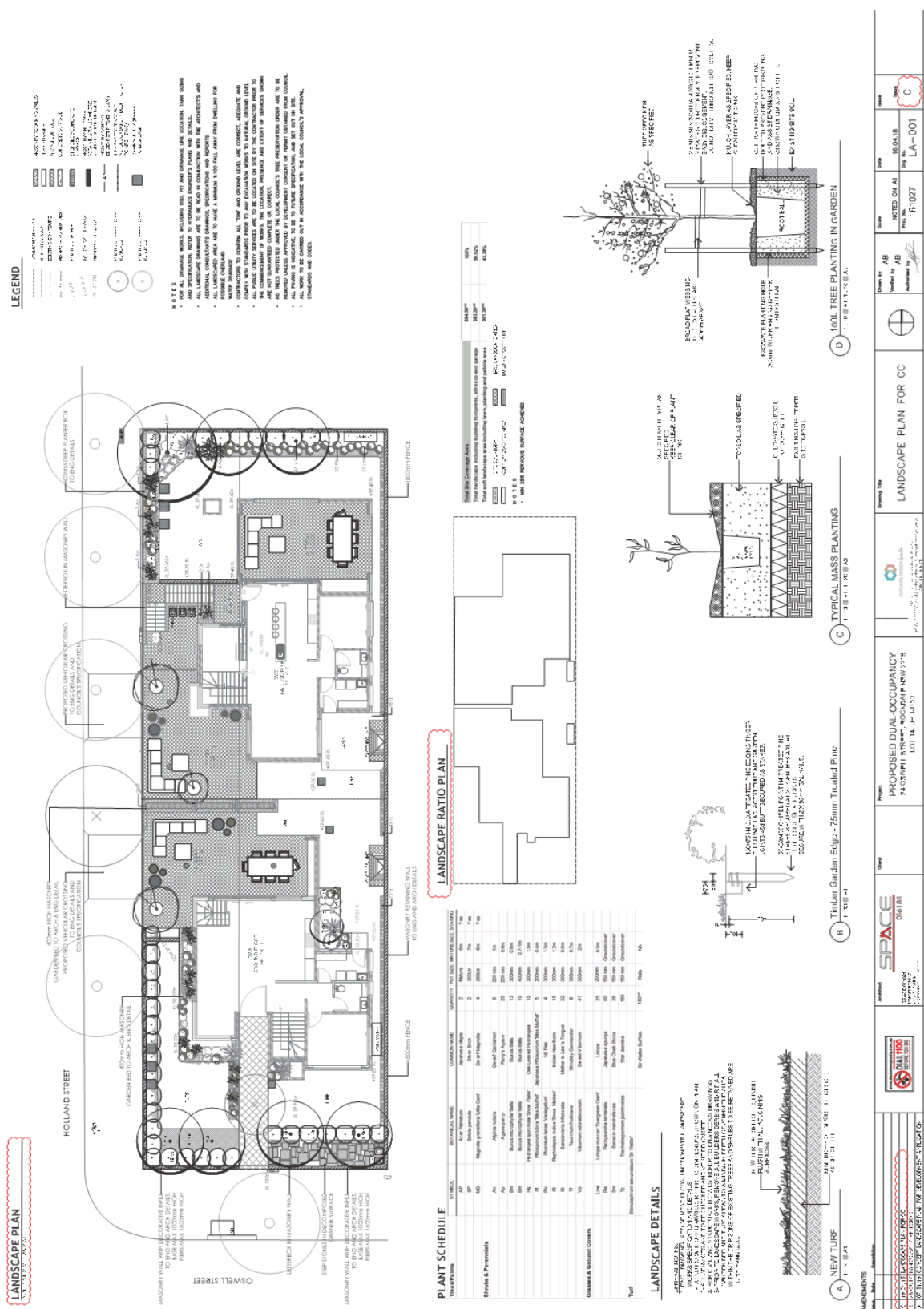
SPACE
 06181
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 bda

ELEVATIONS 2
 drawings: bda
 approved: bda
 job no: JCL001
 date: 18/09/2018
 scale: @ A11: 1:100
 for no: 14/2018
 drawing no: 3-01
 rev:









Site plan for J.P. Bates & P.Wood, Inc. showing Lot 14 and Lot 1. The plan includes a north arrow, street names (Cowell Street, Holland Avenue), and various lot dimensions and setbacks. A legend indicates that green hatched areas are 'EXISTING LOT 14 AND LOT 14.1' and yellow hatched areas are 'EXISTING LOT 14.1 AND LOT 14.2'. The plan also shows 'EXISTING LOT 14.1 AND LOT 14.2' and 'EXISTING LOT 14.1 AND LOT 14.2'.



4.8
Average star rating

**NATIONWIDE
HOUSE**
ENERGY RATING SCHEME

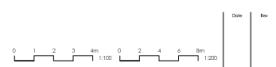
www.nathers.gov.au

Certificate Number: **F1WSXC16LA**
 Assessor Name: **Robyn Jaber**
 Accreditation number: **VIC/BDAV16/1747**
 Certificate date: **13 Sep 2016**
 Dwelling address: **24 Oswell Street,
 Rockdale NSW 2216**

www.nathers.gov.au



QR code linking to the certificate
www.nathers.gov.au/certificate/F1WSXC16LA



Appendix

project:
34 ORWELL STREET, ROCKDALE

NOT FOR CONSTRUCTION

Verify all dimensions on site before ground coverings. Work to achieve dimensions, report work to be carried out in accordance with Environmental Planning and Assessment Act 1979.

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title: SURVEY PLAN

drawn: Moe Hijazi
approved:MH

job no: JOUN1 date: AUGUST 17 scale @ A11 : 200

lot no: 14 DP 10362 drawing no: 1-00 rev:



STATEMENT OF ENVIRONMENTAL EFFECTS

24 OSWELL STREET,
ROCKDALE

Prepared by

S P A C E 0.618:1 D E S I G N

53 Station Street Anncliffe NSW 2205

24 OSWELL STREET, ROCKDALE NSW 2216

Space 0.618:1



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- 2.0 Site Location and Description
- 3.0 Description of Proposal
- 4.0 Statutory Considerations
 - 4.1 Section 79C(1)(a) Considerations
 - 4.1.1 Rockdale Local Environmental Plan (RLEP 2011)
 - 4.1.2 Rockdale Development Control Plan 2011
 - 4.1.3 Stormwater Management
 - 4.1.4 Pool and Spa Code
 - 4.2 Section 79C(1)b – Likely Impact of the Development
 - 4.3 Excavation
 - 4.4 Section 79C(1)c – Suitability of the Site
 - 4.5 Section 79C(1)d – Public Interest
 - 4.6 Acid Sulfate Surface
 - 4.7 Ground Water Protection
- 5.0 Subdivision
- 6.0 Trees
- 7.0 Heritage
- 8.0 Streetscape images
- 9. Conclusion

24 OSWELL STREET, ROCKDALE NSW 2216

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1.0 INTRODUCTION

This Statement of Environmental Effects is submitted to Rockdale City Council in regards to a development application for the construction of an detached two storey dual occupancy at the above mentioned address.

This report describes the site, locality and the proposed development proposed. It includes an assessment of the proposal in reflection to the codes stipulated in section 79C(1) of the Environmental Planning and Assessment Act 1979.

2.0 SITE DESCRIPTION & LOCATION

2.1 The site

LOT NUMBER & D.P. - LOT 14 D.P. 13153

ADDRESS – 24 OSWELL STREET, ROCKDALE

LOCATION - Southern side of Oswell St

TOTAL SITE AREA – 694.5m²

FRONTAGE - 15.1m

CURRENT USE - Single storey Residential dwelling

SURROUNDING LAND USES - Mixture of single residential dwellings

Zoning – R2 - Low Density Residential in alignment to Rockdale LEP 2011

24 OSWELL STREET, ROCKDALE NSW 2216

Space 0.618:1

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Fig. 1: Subject Site



Fig. 2: Streetscape of Existing Site

24 OSWELL STREET, ROCKDALE NSW 2216

Space 0.618:1

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3.0 PROPOSED DEVELOPMENT

Details of the proposal

The proposed development comprises of the demolition of existing structures and the construction of a detached dual occupancy on each lot, front fence with Torrens title subdivision.

4.0 STATUTORY CONSIDERATIONS

4.1 Section 79C(1)(a) Considerations

4.1.1 Rockdale Local Environmental Plan (RLEP 2011)

Zone R2Low Density Residential1Objectives of zone

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

2Permitted without consent

Home-based child care; Home businesses; Home industries; Home occupations; Roads

3Permitted with consent

Attached dwellings; Boarding houses; Building identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Hostels; Places of public worship; Recreation areas; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Seniors housing; Water supply systems

4Prohibited

Any development not specified in item 2 or 3

Space 0.618:1

24 OSWELL STREET, ROCKDALE NSW 2216



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4.1.2 Rockdale Development Control 2011

The proposed development compliance / non-compliance to the relevant codes of DCP 2011 as outlined in the table below.

Clause	Control	Proposed	Compliance / Non-Compliance
4.1.9(b)	Minimum Area 700m ²	694.5m ²	NO Within 1% of the req.
4.1.9(c) & 5.1.26	Width min 15m	15.1m ²	YES
4.2(a)	Max FSR : 0.5:1	0.5:1	YES
4.3	-Subdivision area > 700sqm -FSR not to exceed 0.5:1 for each lot	694.5m ²	NO Within 1% of the req. YES
4.4.3.1	Ceiling Height Min of 2700mm	Ground FL 3000mm Level 1 FL 2700mm	YES
	Building Height Max 8500mm	DW 1 8371mm	YES
		DW 2 8399mm	YES
5.1.1	Street Setback min 6m	DW 1 6.01m	YES
	Or average of adjoining dwellings Secondary 3m	DW 2 3.49m	YES
	Side setbacks ground = 900mm	DW 1 Ground = 0.962m	YES
	First floor = 1.5m	First floor = 1.512m DW 2 Ground = 0.962m First Floor= 1.522m	YES
	Rear setback Min ground fl = 3m	DW 1 Ground fl = 6m	YES
	Min first fl = 6m	First fl = 6m DW 2 Ground fl = 9.26m First fl = 6m	YES YES YES YES

Space 0.618:1


24 OSWELL STREET, ROCKDALE NSW 2216



4.1.9(d)	To maintain amenity in relation to overshadowing, privacy and views by having sensitive layout of buildings	Please refer to submitted shadow diagrams	YES Minimal overshadowing occurs
4.3.8	Landscape Min 25%	DW 1 157sqm (45%) DW 2 140sqm (40%)	YES
4.3.2.1	Private Open Space Min for 125m ² = 80m ²	DW 1 91m ² Dwelling No.2 = 130m ²	YES
	Visual and Acoustic Privacy	The proposal will not have a significant impact on the visual and acoustic privacy of adjoining properties. It is expected that Council will attach appropriate conditions of consent to ensure that the development does not impact on adjoining properties during construction.	YES
4.6.1	Car Parking 3 or more bedrooms = 2 space per dwelling	2 provided for each dwelling	YES
	Min dimensions per car space 5.5m x 2.5m	Provided - please refer to plans	YES
	Max grade for driveway 20% (1:5)	Max 1:77	YES
	Min width 2.4m Max width 3m	Width 3m	YES

Space 0.618:1

24 OSWELL STREET, ROCKDALE NSW 2216



8	Waste and Recycling	DW 1 Bin bay at front boundary DW 2 Bin bay near entry from Holland St	YES
	Storage	Provided in each garage	YES
	Laundries	Provided for each dwelling	YES
	Mechanical Ventilation	Provided to bathrooms	YES
	Crime Prevention	The proposal has living / bedroom areas are visible from the street	YES

4.1.3 Stormwater Management

Please refer to stormwater plans that were submitted with the development application package.

4.1.4 Pool and Spa Code

N/A

4.2 Section 79C(1)(b) Considerations - Likely Impact of the Development

The proposed development is not expected to have a significant impact on the environment. The development has been designed to maintain the privacy of adjoining residential properties and will not have an adverse impact on solar access.

4.3 Excavation

Minimal Excavation will be carried out to level the site and to reduce the overall bulk and scale of the proposal.

4.4 Section 79C(1)(c) Considerations - Suitability of the Site

The attributes of this site, and its location in regards to easy access to public transport and the size make it a suitable site for the proposed development. The site is appropriately zoned to accommodate a dual occupancy and its size and dimensions enable the provision of a building that provides a high level of amenity for occupants without having adverse impacts on neighbours.

4.5 Section 79C(1)(d) Considerations - Public Interest

Council will notify the application and consider any submissions received from the public during the exhibition period. There is no cause to suspect that the proposal is not in the public interest.

Space 0.618:1

24 OSWELL STREET, ROCKDALE NSW 2216



6**4.6 Acid Sulfate Surface**

Class 5

4.7 Ground Water Protection

Ground water protection zone 3.

The proposal will have no excavation below the water table. The two garages fronting Holland Ave will be above the street level of Holland Ave but below the street level of Oswell St.

5.0 Subdivision

Torrens Title Subdivision creating two lots from one is part of this development application package.

The site does not comply with the min 700sqm required to subdivide into two lots by less than 1%, a 1% variance in the min lot size requirement is so minor that it will have no impact on the future subdivision patterns of the area.

6.0 Trees

One street tree on Holland Street and one tree on site as per demolition plan are proposed to be removed.

7.0 Heritage

N/A

24 OSWELL STREET, ROCKDALE NSW 2216*Space 0.618:1*

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8.0 Streetscape Images



Next door – 26 Oswell Street



East towards Wolli Creek Rd

24 OSWELL STREET, ROCKDALE NSW 2216

Space 0.618:1


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8.0 CONCLUSION

The proposed development complies with all relevant codes stipulated in DCP 2011 and Rockdale LEP 2011 except the ones as shown and explained in the compliance table.

The proposed development will immensely improve the liveability of the dwelling for the occupants and will not have an adverse impact on adjoining properties.

Thank You
Moe Hijazi

Yours Faithfully

Moe Hijazi

30th October 2016

24 OSWELL STREET, ROCKDALE NSW 2216

Space 0.618:1



VARIATION 4.6

24 OSWELL STREET, ROCKDALE

1. What is the name of the environmental planning instrument that applies to the land?

ROCKDALE LEP 2011

2. What is the zoning of the land?

Zone R2 Low Density Residential

1 Objectives of zone

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

2 Permitted without consent

Home-based child care; Home businesses; Home industries; Home occupations; Roads

3 Permitted with consent

Attached dwellings; Boarding houses; Building identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Hostels; Places of public worship; Recreation areas; Respite day care centres; Secondary dwellings; Semidetached dwellings; Seniors housing; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

4. What is the development standard being varied?

Min lot size of 350m²

5. Under what clause is the development standard listed in the environmental planning instrument?

CLAUSE 4.1 (3B)

6. What are the objectives of the development standard?**Objectives**

- (1) The objectives of this clause are as follows:
- (a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,
 - (b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties,
 - (c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.
- (2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
- (3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size for the purposes of subclause (3).
- (3B) Despite subclause (3), development consent may be granted to the subdivision of a lot on which there is an existing dual occupancy, or on which a dual occupancy is proposed, if:
- (a) the area of each lot resulting from the subdivision is equal to or greater than 350 square metres, and
 - (b) each of the lots will have one of the dwellings on it.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) This clause does not apply to the subdivision of land in Zone R2 Low Density Residential on which the erection of an attached dwelling or a semi-detached dwelling is proposed.

7. What is the numeric value of the development standard in the environmental planning instrument?

350m²

8. What is proposed numeric value of the development standard in your development application?

346m² Lot 700

348m² Lot 701

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

0.99%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

- The proposal is generally compliant with the requirements and controls of Rockdale LEP 2011 and Rockdale DCP 2011 with the exception of a minor non-compliance of 4sqm for Lot 700 and 2sqm for Lot 701 dwelling relating to the minimum lot size requirement which equates to approximately 0.99% percent. The proposal complies with the other applicable development standards and has not sought to maximise the floor space possible on the site.
- The proposal has minimal impact on the adjoining properties in terms of privacy, amenity and shadow impacts with the site enjoying a north-south orientation.
- The proposed subdivision is in keeping with the existing subdivision pattern along Oswell Street and Holland Avenue having similar allotment sizes to what is being proposed.
- The proposed variation will not detract from the streetscape of Oswell Street and Holland Avenue and will not impact on the bulk and scale of the development from the street or the adjoining dwellings at the rear
- The proposal has been designed to ensure that each dwelling is of a sufficient size to serve its intended purpose and usage. The proposal demonstrates compliance with the landscape, private open space and required car parking areas.
- The proposed shortfall of 6sqm is a minor variation to the overall requirement and will not compromise the internal amenity of the development.

11. How would strict compliance hinder the attainment of the objects specified in Section 4.1 of the Act.

Strict compliance would not hinder the attainment of the objects in section 4.1 of the act, however the development proposal offers a better variety of house size. The land is being developed for its intended purpose in an orderly and economic manner. The development will not result in any detrimental environmental effects.

Bayside Local Planning Panel

11/09/2018

Item No	6.2
Application Type	Modification Application
Application No	F18/404
Lodgement Date	20/07/2018
Property	DA-2016/1155/3 - 671-683 Gardeners Road, Mascot
Ward	Mascot
Owner	Karimbla Properties (No. 46) PL
Applicant	Karimbla Properties (No. 46) PL
Proposal	Modification of conditions 54 and 58 and deletion of condition 59
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Section 4.55(1A) application for the Modification of conditions 54 and 58 and deletion of condition 59 of DA-2017/1155 be APPROVED subject to the following:

- (a) Amend Condition 54 for the landscaping to be completed prior to the occupation of the separate buildings;
 - (b) Amend Condition 58 to change the timing of the lodgement of Certificate of Survey to prior to the issue of the final Occupation Certificate.
 - (c) Retain the wording of Condition 59 as per the original development consent issued under DA-2017/1155, as the public domain works carried out for West Connex along Gardners Road and Kent Road relate to the footpath only.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)

Application Details

Application Number:	DA-2017/1155/03
Date of Receipt:	4 April 2018
Property:	671-683 Gardeners Road, Mascot (Lot 17 in DP 1238487)
Owner:	Karimbla Properties (No. 46) PL
Applicant:	Karimbla Properties (No. 46) PL
Proposal:	Modification of conditions 54 and 58 and deletion of condition 59
Recommendation:	Approval subject to amended conditions
Value:	Nil
Zoning:	B4 Mixed Use under Botany Bay Local Environmental Plan 2013
No. of submissions:	Nil
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	11 September 2018

Key Issues

The key issues relate to the following:

- The requirement to delete references to public domain works along Gardeners Road and Kent Road on the basis that these works are being carried out in relation to the West Connex;
- The changing of the timing of completion of landscaping works;
- The changing of the timing for the lodgement of the Certificate of Survey.

Recommendation

1. That the Section 4.55(1A) application for the Modification of conditions 54 and 58 and deletion of condition 59 is **PARTLY APPROVED** subject to the following:
 - (a) Amend Condition 54 for the landscaping to be completed prior to the occupation of the separate buildings;
 - (b) Amend Condition 58 to change the timing of the lodgement of Certificate of Survey to prior to the issue of the final Occupation Certificate.
2. Retain the wording of Conditions 59 as per the original development consent issued under DA-2017/1155, as the public domain works carried out for West Connex along Gardeners Road and Kent Road relate to the footpath only.

Site Description

The subject site is commonly known as 671-675 Gardeners Road, Mascot (Lot 17 in DP 1238487). The site is irregular in shape, an area of 6.21 Hectares, and the mixed use development is currently under construction. The surrounding area is characterised primarily by various forms of commercial and industrial developments and uses. The subject site is located on the southern side of Gardeners Road, between Kent Road to the west and Bourke Road 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-2017/1155

Development Application (DA) 2017/1155 was approved on 18 January 2018 under delegated authority for the following:

- Alterations to approved building (under DA-2016/117) by replacing childcare centre with four residential apartments and replacing indoor gym with retail spaces including a 24 hour/7 gym.

Approved Modifications DA-2017/1155/02

On 21 August 2018, the Bayside Local Planning Panel approved a modification under Section 4.55(1A) to modify conditions relating to the driveway design and the timing of the lodgement of a Certificate Survey from a Registered Surveyor.

Proposed Modifications DA-2017/1155/03

The applicant seeks to amend conditions as follows:

Condition 54: The amendment of this condition in two sections:

- Removing the requirement for landscaping in the public domain (i.e. Gardeners Road and Kent Road) based on these works being undertaken by the Roads and Maritime Services (RMS) as part of the West Connex works with the nearby St Peters Interchange; and
- The landscaping to be completed prior to the occupation of the separate buildings.

Condition 58: Modification of this condition to change the timing of the lodgement of the Certificate of Survey from a Registered Surveyor from any Occupation Certificate to the final Occupation Certificate.

Condition 59: The deletion of the condition relating to the installation and protection of all regulatory / parking and street signs fronting the property, on the basis of these works being undertaken as part of the public domain works relating to the West Connex works.

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 the approved development and relates to the amendment and deletion of development consent conditions.

(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 does not involve any physical amendments to the approved development.

(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*

Notification has been 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

Public Domain Works

This application was referred to the RMS for comment.

The RMS have advised that the only public domain works being undertaken on Gardeners Road and Kent Road relate to the footpath. On that basis, any approved landscaping works subject this development application along these two roads are still the responsibility of the applicant. Accordingly, it is recommended that the reference to the public domain is retained in Condition 54.

Noting the above, the RMS are also not removing any regulatory signs as part of these works. It has recommended that the condition is to be retained.

Landscaping

The applicant has inferred that a number of Occupation Certificates will be issued, given the scale of the approved development under DA-2016/117 as well as this DA.

Council is supportive of the rewording of this condition completed prior to the completion of the Occupation Certificate of the separate buildings, as it still provides a commitment to have this requirement completed

Timing of the Certificate of Survey

Condition 58 prescribed the submission of a Certificate of Survey from a Registered Surveyor to be submitted to the Principal Certifying Authority and Council relating to levels, the floor space ratio, building height and lot consolidation. This condition was previously amended by the Bayside Local Planning Panel on 21 August 2018 as part of DA-2017/1155 to modify the timing before the issue of the relevant Occupation Certificate.

Council is supportive of the rewording of this condition again to have this submission occur prior to the lodgement of the final Occupation Certificate, as it still provides a commitment to have this requirement completed. Furthermore, this survey will provide a full account of the completed development as per the approved plans under both DA-2017/1155 and also DA-2016/117.

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

Site suitability was assessed as part of the original Development Application, and the modifications to the conditions do not change the deemed acceptable suitability of the approved development on the subject site.

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 modified conditions will have no adverse impact on the public interest.

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. 2017/1155/3 for the modification of conditions 54 and 58 and deletion of condition 592 at 671-683 Gardeners Road, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for partial approval subject to modified conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 671-679 Gardeners Road, Mascot

DA No: 2017/1155/03

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing	Author	Dated
Ground Plan (Drawing No. DA-110-001, Revision S6)	Turner Architects	Dated 17/07/2017 Received 14/12/2017
Level 1 (Drawing No. DA-110-002, Revision S6)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Level 2 to 3 Plan (Drawing No. DA-110-003, Revision S6)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Level 4 Podium Plan (Drawing No. 110-004, Revision S7)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Level 5 to 13 Tower Plan (Drawing No. DA-110-005, Revision S8)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
North Elevation (Drawing No. DA-250-001, Revision S5)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
East Elevation (Drawing No. DA-250-002, Revision S4)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
South Elevation (Drawing No. DA-250-003, Revision S4)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
West Elevation (Drawing No. DA-250-004, Revision S4)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
East Elevation – North South Street (Drawing No. DA-250-005, Revision S4)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
West Elevation – Street (Drawing No. DA-250-006, Revision S4)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Gym Floor Plan (Drawing No. SF-MC-op4) Issue A	RML Services Group	Dated 08/09/2017 Received 15/09/2017

Reference Documents	Author	Dated
Cover Sheet	Turner Architects	Dated 17/07/2017 Received 15/09/2017
GFA Diagrams (Drawing No. DA-710-001, Revision S7)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
ADG Diagrams (Drawing No. DA-721-001, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Site Survey (Drawing No. 21386, Sheet 1 – 3)	B & P Surveys	Dated 25/05/2016 Received 15/09/2017
Adaptable Apartments (Drawing No. DA-810-001, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017

Materials and Finishes (Drawing No. Da-910-001, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Perspective 1 (Drawing No. DA-920-003, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Perspective 2 (Drawing No. DA-920-004, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Perspective 3 (Drawing No. DA-920-005, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Perspective 4 (Drawing No. DA-920-006, Revision S3)	Turner Architects	Dated 17/07/2017 Received 15/09/2017
Architectural Statement (Revision B)	Turner	Dated 10/08/2017 Received 15/09/2017
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 14/09/2017 Received 15/09/2017
Thermal Comfort & BASIX Assessment (Issue C)	Efficient Living	Dated 10/08/2017 Received 15/09/2017
Acoustic Report (Revision 2)	Acoustic Logic	Dated 06/09/2017 Received 15/09/2017
Waste Management Plan (Revision D)	Elephants Foot	Dated 13/09/2017 Received 15/09/2017
Transport Impact Assessment	Arup	Dated 14/09/2017 Received 15/09/2017
Access Report (Revision 2)	Wall to Wall Design & Consulting	Dated 11/09/2017 Received 15/09/2017
Landscape Cover (Revision A)	Context	Dated -/09/2017 Received 15/09/2017
Streetscape / Public Domain Plan (Page 2, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Masterplan Ground Level (Page 3, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Masterplan Podium Level Building F (Page 4, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Masterplan Podium Level (Page 5, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Section Ground Level (Page 6, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Section Ground Level (Page 7, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Landscape Section Podium Level (Page 8, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Planting / Indicative Palette & Schedule (Page 9, Issue A)	Context Landscape Design Pty Ltd	Dated -/09/2017 Received 15/09/2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated -/08/2017 Received 15/09/2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 31/08/2017 Received 15/09/2017
Gym Internal Arrangement (Drawing No. 174338 V1)	Spin Creative Design Pty Ltd	Dated 11/09/2017 Received 15/09/2017

2. This Consent relates to land in Lot 1 in DP 777315 Lot 500 in DP 1030729 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. 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 the each building in the development are fulfilled.
- 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

6. The following conditions are imposed by the **Sydney Water**:
- (a) Sydney Water Servicing
 - (i) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. The proponent is advised to 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> Plumbing, building and developing> Developing Land development or telephone 13 20 92.
 - (b) Building Plan Approval
 - (i) The developer must have the 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 next to assets).
 - (c) 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. 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.

(d) 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:

1. *Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.*
2. *Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.*

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/>

(e) 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.

(f) 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.

- (ii) Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.
7. The following conditions are imposed by the **NSW Roads and Maritime Service**
- (a) ~~The driveway width is to be in accordance with AS2890.1-2004 (Parking Facilities, Part 1: Off Street car parking; i.e 6 to 9 metres in width for a minimum distance of 6 metres from the property boundary.~~
Reason ~~The proposed modification to the vehicular access on Gardeners Road appears to result in the vehicular crossover being excessively wide. This may encourage multiple vehicles exiting the premises simultaneously, which may obstruct driver sightlines to Gardeners Road. Further, this would create an excessive crossing with for pedestrians utilising the footpath on the site frontage.~~
 - (b) The swept path of the longest vehicle (to service the site) entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement. (DA-2017/1155/02)

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION, EXCAVATION OR BUILDING WORKS

- 8. 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.
- 9. 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.
- 10. Prior to the commencement of excavation or any 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.
- 11. A Construction Management Program shall be submitted to, and approved in writing by the PCA prior to the commencement of excavation or any 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,
 - (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.
12. Prior to the commencement of excavation or any building works, 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) and approved by the relevant road authority. 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.*
13. Prior to the commencement of any excavation or building work, 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.
14. 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.

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. Prior to the commencement of any 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.

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

21. The applicant must, prior to the issue of the construction certificate pay the following fees:

(a) Development Control	\$1,450.00
(b) Footpath Crossing Deposit (As per condition 18)	\$81,535.05
22. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$81,535.05** (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.
23. Prior to the issue of the construction certificate a detailed management plan of the Gym shall be prepared and approved by Council. The plan shall ensure that the amenity of the residents shall be protected, with particular reference to how the gym is managed through unmanned hours.
24. 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 **\$122,151.62** is payable, prior to the issue of the construction certificate, as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions for the residential and retail is as follows (as indexed as of the date of consent) are as follows

a) Community Facilities:	\$18,780.03
b) Administration:	\$1,399.58
c) Open Space & Recreation (Mascot):	\$1,905.37
d) Open Space & Recreation (Citywide):	\$81,576.62
e) Transport (Mascot):	\$10,803.67
f) Transport (Citywide):	\$7,686.35
TOTAL:	\$122,151.62

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.

25. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
 - (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 residential flat 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.
26. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

- (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.

27. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

- (a) Disabled car parking spaces shall be provided and clearly marked as per the 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.

28. The drawings for the construction certificate for the car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit 59 units	36 spaces
0.9 space / bed unit 134 units	121 spaces
1.4 space / bed unit 50 units	70
1 visitor space / 7 dwellings	35 spaces
Retail Spaces	24 of which 12 shall be allocated to the Gym located in RG07
TOTAL REQUIRED	286
TOTAL PROVIDED	276

Excess car parking spaces within the development at 1-5 Kent Road are to be reallocated to 671-683 Gardeners Road so as to make up the shortfall identified in the table above.

Any parking in excess of 289 car parking spaces is to be allocated to a residential apartment or the retail tenancy.

29. 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 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 6 September 2017, Report reference number 20160869.1/1706A/R1/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.

30. 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.

DURING WORKS

31. 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.
32. Planter boxes including grass knolls 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 or grass knolls 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 materials. 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 any 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) Any walls shall be finished externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
33. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 34.
- (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. 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. 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) 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.
35. 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.
36. 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.
37. 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 10m2 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.
38. 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.
39. 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.
40. 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.
41. 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.

42. 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.
43. 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.
44. The following shall be complied with during construction and demolition:
 - (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 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 08:00am to 04:00pm
 - (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.
45. 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.
46. 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

47. Prior to the issue of any Occupation Certificate, the applicant is to provide the following:
 - (a) Certification is to be provided to the Certifying Authority that all apartments should provide at least 10m³ of storage to comply with the minimum requirements for storage under the ADG with at least 50% of this storage requirement contained within the apartment.

48. 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.
49. Prior to the issue of any 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.
50. Any Stratum subdivision of the development shall be the subject of a further Development Application to Council.
51. 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.
52. 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 notice board in the communal room, where it can easily be observed and read by persons entering the building.
53. 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.
54. 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 **the Occupation Certificate of the separate buildings**. 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 in accordance with the Council stamped and approved landscape documentation, the conditions of development consent all times. **(DA-2017/1155/03)**
55. 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 Bayside Council prior to the Issue of an Occupation Certificate.
56. Prior to release of the Occupation Certificate the developer must submit to the 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).
57. 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.
58. Prior to the issue of the relevant final 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 3.43:1 and a maximum height of 46.34m and up to a maximum of RL 51m AHD, as approved under this Development Consent No. 2017/1155, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
 - (c) The development as built, stands within a consolidated lot otherwise described as Lot 1 in DP 777315 and Lot 500 in DP 1030729. (DA-2017/1155/02) **(DA-2017/1155/03)**
59. 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.
60. 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).
- 61.
- (a) Prior to the issue of any Occupation Certificate, the retail spaces are to be allocated to the closest spaces to the retail tenancy.
 - (b) Prior to the issue of any Occupation Certificate, 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.
62. 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

63. The use of the retail tenancies RG 08, 09, 10 and RG 26 are subject to a separate approval (DA or complying development certificate).
64. 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.
65. Ongoing maintenance of the road verges and footpaths and nature strips in Kent Road Gardeners Road 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.
66. 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.
67. Any air conditioning units 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.
68. Visible light reflectivity from building materials use on new building facades must not exceed 20%.
69. The following shall be complied with at all times:
- (a) All loading and unloading associated with the retail tenancy is to be undertaken within the loading dock (basement) of Building C (1-5 Kent Road, Mascot).
 - (b) No garbage collection associated with the retail premises is permitted between 10pm and 6am.
 - (c) The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
70. The following shall be complied with at all times:
- (a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council, other than permitted by Exempt and Complying provisions;
 - (b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
 - (c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
71. 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. This is to be complied with at all times.

Gym Conditions

72. A maximum of four (4) people may be employed at the Gym in association with the use.
73. The ongoing operation of the gym must meet relevant noise criteria as stipulated in condition 66. The operation of the gym shall not transmit vibration throughout the building, in particular to residential apartments and in order to ensure this, shock mats shall be installed in relevant areas to avoid the interference with the amenity of inhabitants.

74. No signage other than exempt or complying signage shall be installed in relation to the gym, any signage installed must maintain an active street frontage to allow passive surveillance to occur to the public domain. Signage detail beyond the provisions of exempt and complying within the LEP or SEPP will require an application to Council.
75. The operation of the gym shall be undertaken in accordance with relevant conditions of consent and the plan of management approved by Council.

Statement Environmental Effects

Section 4.55 Application

671-675 Gardeners Road, Mascot

Amend Conditions 54 and 58 and delete Condition 59

16 July 2018

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Statement of Environmental Effects

671-675 Gardeners Road, Mascot

Amend conditions 54 and 58 and delete Condition 59

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Annexure 1: Amended Conditions

1 Introduction

This Statement of Environmental Effects relates to a Section 4.55 Application seeking Council's consent to amend DA 2017/1155.

The subject Section 4.55 Application seeks to amend conditions 54 and 58 and delete Condition 59.

This Statement:

- describes the site and its surrounding area,
- details the nature of the proposed development, and
- undertakes an assessment of the proposal under the heads of consideration in Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979.

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues.

2 Site and Surroundings

2.1 The Site

The site is known as 671-675 Gardeners Road, Mascot. **Figure 1** shows the general location of the site and **Figure 2** shows an aerial view of the site and its boundaries.

The site comprises Lot 17 in Deposited Plan 1238487.

The site is currently under construction in accordance with DA 16/117 and DA 2017/1155 – refer section 3.1 of this Statement.

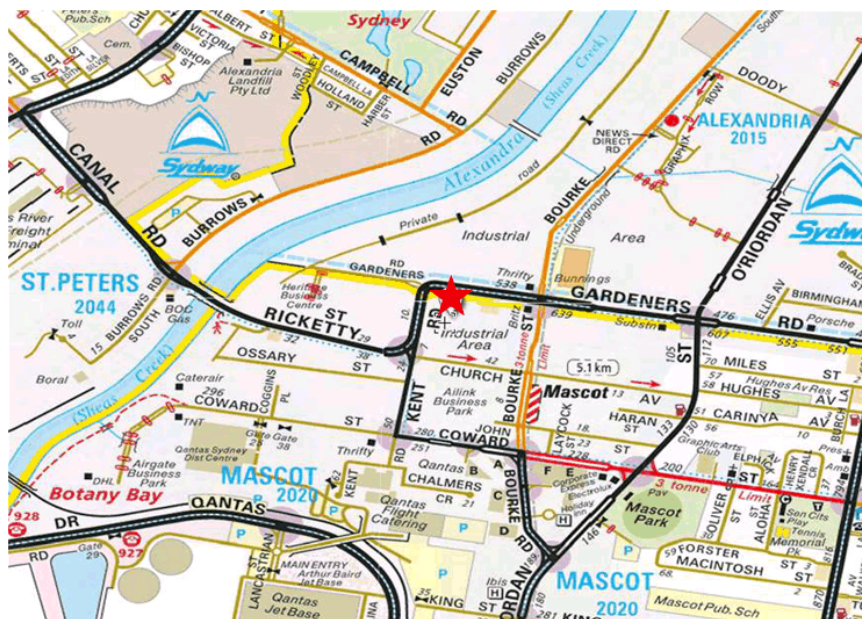


Figure 1: Location of subject site marked with red star

Statement of Environmental Effects
671-675 Gardeners Road, Mascot
Amend conditions 54 and 58 and delete Condition 59



Figure 2: Aerial view of subject site – red border (as at 24 February 2016)

2.2 Surroundings

The existing surrounding area is in transition from industrial to residential and some commercial landuses. The transition reflects changes occurring over the Mascot area more broadly.

The site is located within 400 metres (7 minute walk) to Mascot Railway Station and the town centre that surrounds the station.

The adjoining site to the east has been demolished and sits vacant for future redevelopment.

To the north of the site, on the other side of Gardeners Road, is a mix of commercial and light industrial development.

The adjoining site to the south (1-5 Kent Road) has recently been approved for redevelopment. The approved development, once completed, is to be combined with the proposed development on the subject site.

To the west of the site, on the other side of Kent Road, are existing light industrial buildings.

Statement of Environmental Effects

671-675 Gardeners Road, Mascot
Amend conditions 54 and 58 and delete Condition 59

3 Proposed Modifications

3.1 Existing Consents

On 19 January 2017, the Council issued its consent for approval of DA 16/117 for the following development:

Integrated Development Application for the construction of two residential flat buildings incorporating two x 4 storey podiums, 2 x 14 storey towers containing a total of 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 255 cars and 24,648sqm of gross floor area; construction of a new north-south private publically accessible open space link; associated excavation, earthworks and landscaping.

On 18 January 2018, the Council issued its consent for approval of DA 2017/1155 for the following development:

Alterations to approved building by replacing childcare centre with four residential apartments and replacing indoor gym with retail spaces including a 24 hour 17 gym.

3.2 Proposed Amendments

It is proposed to amend conditions 54 and 58 and delete Condition 59 in DA 2017/1155.

Annexure 1 contains a copy of the proposed amended conditions, and the following paragraphs provide explanation for the proposed changes.

Statement of Environmental Effects

671-675 Gardeners Road, Mascot

Amend conditions 54 and 58 and delete Condition 59

4 Threshold Test – Substantially the Same

It is considered that the development is substantially the same as the original approval.

The proposed amendments involve altering conditions only. The proposal results in no physical changes to the approved development. Overall, the development remains substantially the same in form as the approved development.

On this basis, the proposed amendments are considered to constitute substantially the same development and are, therefore, accessible under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

5 Environmental Planning Assessment

5.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

5.1.1 Botany Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site is zoned B4 Mixed Use. The proposal is permitted in the zone subject to consent from the Council.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

5.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

5.3 Section 4.15(1)(a)(iii): Development Control Plans

5.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 (DCP) applies to the subject site. However, none of its provisions are relevant in the assessment of the proposed amended conditions.

5.4 Section 4.15(1)(a)(iiia): Planning Agreements

Not applicable.

5.5 Section 4.15(1)(a)(iv): Regulations

The Section 4.55 Application has been made in accordance with the requirements contained in Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

5.6 Section 4.15(1)(b): Likely Impacts

The proposed changes will have no adverse impact. No material change will result from the proposed modifications.

5.7 Section 4.15(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

5.8 Section 4.15(1)(d): Submissions

Should notification be required for the proposal, Council will consider submissions at the close of the notification period.

5.9 Section 4.15(1)(e): The Public Interest

For the reasons set out in this Statement, it is considered that the public interest would be best served by approval of the Section 4.55 under consideration, particularly, given the absence of any demonstrable adverse impacts resulting from the proposal.

Statement of Environmental Effects

671-675 Gardeners Road, Mascot
Amend conditions 54 and 58 and delete Condition 59

6 Conclusion

The subject Section 4.55 Application seeks to amend conditions 54 and 58 and delete Condition 59.

The proposal satisfies the relevant heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act, 1979.

It is considered that the proposal provides an appropriate response to the planned development of the site and will assist in the orderly and economic development of the land.

The development is substantially the same as when originally approved for the purposes of Section 4.55 of the Environmental Planning and Assessment Act and will have no implications upon the public domain.

It is therefore submitted that Council grant consent to the Section 4.55 application and amend the development consent in the manner requested.

Annexure 1: Amended Conditions

CONDITION 54

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 any Occupation Certificate ~~of separate buildings~~. 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 in accordance with the Council stamped and approved landscape documentation, the conditions of development consent all times.

Reason for amendment:

West Connex is to be undertaking these works to the public domain as part of its program. Therefore, the condition reference to public landscaping is no longer valid on the consent.

The change to the occupation reference/timing is to enable the project to continue but still meet the objective of the condition.

CONDITION 58

Prior to the issue of ~~any the final~~ 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 3.43:1 and a maximum height of 46.34m and up to a maximum of RL 51m AHD, as approved under this Development Consent No. 2017/1155, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (c) The development as built, stands within a consolidated lot otherwise described as Lot 1 in DP 777315 and Lot 500 in DP 1030729.

Reason for amendment:

The change to the occupation reference/timing is to enable the project to continue but still meet the objective of the condition.

CONDITION 59

~~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.~~

Reason for amendment:

West Connex is to be undertaking these works to the public domain as part of its program. Therefore, the condition is no longer valid on the consent.

Bayside Local Planning Panel

11/09/2018

Item No	6.3
Application Type	Modification Application
Application No	F18/404
Lodgement Date	04/04/2018
Property	DA-2016/117/5 - 671-683 Gardeners Road, Mascot
Ward	Mascot
Owner	Karimbla Properties (No. 46) PL
Applicant	Karimbla Properties (No. 46) PL
Proposal	Amendment of a series of conditions
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Section 4.55(1A) application for the modification of Conditions 38, 83, 85, 86, 87, 88, 90, 93, 96, 97 and 101, and deletion of Condition 95 at 671-683 Gardeners Road, Mascot be APPROVED.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/117/05
Date of Receipt:	4 April 2018
Property:	671-683 Gardeners Road, Mascot (Lot 17 in DP 1238487)
Owner:	Karimbla Properties (No. 46) PL
Applicant:	Karimbla Properties (No. 46) PL
Proposal:	Modification of Conditions 38, 83, 85, 86, 87, 88, 90, 93, 96, 97 and 101, and deletion of Condition 95
Recommendation:	Approval subject to amended conditions
Value:	Nil
Zoning:	B4 Mixed Use under Botany Bay Local Environmental Plan 2013
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	11 September 2018

Key Issues

The key issues relate to the following:

- The modification of a series of conditions relating to landscaping, public domain works and stormwater management.

Recommendation

1. That the Section 4.55(1A) application for the Modification of Conditions 38, 83, 85, 86, 87, 88, 90, 93, 96, 97 and 101, and deletion of Condition 95 is **APPROVED** subject to the following:
 - (a) Modify Condition 38 relating to the reduction in the duration of the Street Tree Maintenance Bond from 24 months to 12 months.

- (b) Modify Condition 83 relating to the deferment of the completion of damages from site works to occur prior to the release of the damage deposit.
- (c) Modify Condition 85 relating to the changing the timing of the stormwater drainage system certification to be prior to the release of the relevant Occupation Certificate.
- (d) Modifying Condition 86 relating to the deferment of the completion of kerb and gutter work to the issue of the final Occupation Certificate.
- (e) Modifying Condition 87 relating to the deferment of the submission of inspection reports for works in the road reserve to the Principal Certifying Authority to prior to the issue of the final Occupation Certificate.
- (f) Modifying Condition 88 relating to the changing of the registration of positive covenants relating to on-site detention and other stormwater devices to be prior to the release of the relevant Occupation Certificate.
- (g) Modifying Condition 90 relating to the deferment of the timing of the creation of an easement for public access over the proposed north-south link to be prior to the issue of the final Occupation Certificate.
- (h) Modifying Condition 93 relating to the deferment of the completion of the public domain landscaping works to be prior to the release of the final Occupation Certificate.
- (i) Deletion of Condition 95 as it is a repeat of Condition 93.
- (j) Modifying Condition 96 relating to the deferment of the completion the public footpaths and new community park to prior to the issue of the final Occupation Certificate.
- (k) Modification of Condition 97 relating to the changing the timing of landscaping certification to the relevant Occupation Certificate.
- (l) Modification of Condition 101 relating to the deferment of the timing of the lodgement of the Certificate of Survey to prior to issue of the relevant Occupation Certificate.

Site Description

The subject site is commonly known as 671-675 Gardeners Road, Mascot (Lot 17 in DP 1238487). The site is irregular in shape, an area of 6.21 Hectares, and the mixed use development is currently under construction. The surrounding area is characterised primarily by various forms of commercial and industrial developments and uses. The subject site is located on the southern side of Gardeners Road, between Kent Road to the west and Bourke Road 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-2016/117

Development Application (DA) 2016/117 was approved by the Sydney Central Planning Panel on 19 January 2017 for the following:

- The construction of two residential flat buildings incorporating two x 4 storey podiums, 2 x 14 storey towers containing 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 255 cars and 24,648m² of gross floor area;
- Construction of a new north-south private / publically accessible open space link; and
- Associated excavation, earthworks and landscaping.

Approved Modification DA-2016/117/02

A Section 96(1A) application was lodged on 15 February 2017 to amend a series of conditions. At the time of writing, this application had yet to be determined.

Approved Modification DA-2016/117/03

On 12 December 2017, Council approved under delegated authority a modification under the former Section 96(1A) provisions (now Section 4.55(1A)) as follows:

- Amend Condition 77(c) pertaining to the hours of construction of the approved mixed use development; and
- Amend Condition 117 to refer to the current Section 96(1A) application.

Approved Modification DA-2016/117/04

A Section 96(1A) application lodged on 21 July 2017 to amend a series of conditions relating to trees and landscaping. This was withdrawn by the applicant on 2 July 2018.

Proposed Modifications DA-2016/117/05

The applicant seeks to amend a series of conditions as such:

- (m) Condition 38: Reduction in the duration of the Street Tree Maintenance Bond from 24 months to 12 months.
- (n) Condition 83: Deferment of the completion of damages from site works to occur prior to the release of the damage deposit.
- (o) Condition 85: Changing the timing of the stormwater drainage system certification to be prior to the release of the relevant Occupation Certificate.
- (p) Condition 86: Deferment of the completion of kerb and gutter work to the issue of the final Occupation Certificate.
- (q) Condition 87: Deferment of the submission of inspection reports for works in the road reserve to the Principal Certifying Authority to prior to the issue of the final Occupation Certificate
- (r) Condition 88: Changing the registration of positive covenants relating to on-site detention and other stormwater devices to be prior to the release of the relevant Occupation Certificate.
- (s) Condition 90: Deferring the timing of the creation of an easement for public access over the proposed north-south link to be prior to the issue of the final Occupation Certificate.
- (t) Condition 93: Deferring the completion of the public domain landscaping works to be prior to the release of the final Occupation Certificate.
- (u) Condition 95: Deletion of this condition as it is a repeat of Condition 93.
- (v) Condition 96: Deferring the completion the public footpaths and new community park to prior to the issue of the final Occupation Certificate.
- (w) Condition 97: Changing the timing of landscaping certification to the relevant Occupation Certificate.
- (x) Condition 101: Deferring the timing of the lodgement of the Certificate of Survey to prior to issue of the relevant Occupation Certificate.

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 the approved development and relates to a series of development consent conditions in terms of modifying the timing of completion of various works and other commitments.

(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 does not involve any physical amendments 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*

Notification has been 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.

S.4.15(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***Condition 38 – Reduction in the duration of the Street Tree Maintenance Bond from 24 months to 12 months***

It is considered that the reduction of the timing to 12 months is considered acceptable as this has been permitted with other developments.

Condition 83 – Deferment of the completion of damages from site works to occur prior to the release of the damage deposit

It is considered that the deferment of these works is far beneficial to Council as it allows us to make the final determination as to whether any rectification works, particularly in the public domain, have been completed to our satisfaction before the release of the damage deposit.

Condition 85 – Changing the timing of the stormwater drainage system certification to be prior to the release of the relevant Occupation Certificate

It is considered that the changing of the timing of the certification is acceptable as it has been implied by the applicant that multiple Occupation Certificates will be issued for the approved development, and thus still allows for these works to be certified at the completion of each stage.

Condition 86 – Deferment of the completion of kerb and gutter work to the issue of the final Occupation Certificate

It is considered that the proposed deferment is acceptable as it will ensure a more streamlined and efficient approach given that multiple Occupation Certificates will be issued for this development, and still ensure that the works will be completed.

Condition 87 – Deferment of the submission of inspection reports for works in the road reserve to the Principal Certifying Authority to prior to the issue of the final Occupation Certificate

It is considered that this proposed deferment is acceptable, as it will incorporate works as prescribed in Condition 86.

Condition 88 – Changing the registration of positive covenants relating to on-site detention and other stormwater devices to be prior to the release of the relevant Occupation Certificate

It is considered that this proposed modification is acceptable, as it will ensure consistency with the certification procedures as prescribed under Condition 85.

Condition 90 – Deferring the timing of the creation of an easement for public access over the proposed north-south link to be prior to the issue of the final Occupation Certificate

It is considered that the deferment of the timing to the final Occupation Certificate is acceptable, as multiple Occupation Certificates will be issued, and still ensures that this easement will be created and registered.

Condition 93 – Deferring the completion of the public domain landscaping works to be prior to the release of the final Occupation Certificate

It is considered that the deferment of the timing to the final Occupation Certificate is acceptable, as it will ensure a more streamlined and efficient approach given that multiple Occupation Certificates will be issued for this development, and still ensure that the works will be completed.

Condition 95 – Deletion of this condition as it is a repeat of Condition 93

Whilst worded differently, it is agreed that the intention of the condition is the same as condition 93, and thus supports its deletion.

Condition 96 – Deferring the completion the public footpaths and new community park to prior to the issue of the final Occupation Certificate

It is considered that the deferment of the timing is acceptable as it is consistent with other similar amendments as part of this application relating to the public domain and will still ensure the completion of these works.

Condition 97 – Changing the timing of landscaping certification to the relevant Occupation Certificate

As stated previously, there will be multiple Occupation Certificates issued for this approved development and will still ensure that the intent of the condition is satisfied.

Condition 101 – Deferring the timing of the lodgement of the Certificate of Survey to prior to issue of the relevant Occupation Certificate

DA-2017/1155, which relates to the same development, had this same requirement prescribed under Condition 58. A modification application for that DA has requested that this condition is modified to be deferred to the issue of the final Occupation Certificate. This DA is being also being reported as an item to this Bayside Planning Panel meeting, with the recommendation that the modification is supported. For the purposes of consistency, it is recommended that this condition is modified with the same wording.

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

Site suitability was assessed as part of the original Development Application, and the modifications to the conditions do not change the deemed acceptable suitability of the approved development on the subject site.

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 development will have no adverse impact on the public interest. The proposal will still 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. 2016/117/05 for the Modification of Conditions 38, 83, 85, 86, 87, 88, 90, 93, 96, 97 and 101, and deletion of Condition 95 at 671-683 Gardeners 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: 671-679 Gardeners Road, Mascot

DA No: 2016/117/05

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 Plan (Drawing No. DA-110-001, Revision S6)	Turner Architects	Dated 20/12/2016 Received 04/01/2017
Level 1 (Drawing No. DA-110-002, Revision S5)	Turner Architects	Dated 26/10/2016 Received 04/01/2017
Level 2 to 3 Plan (Drawing No. DA-110-003, Revision S5)	Turner Architects	Dated 26/10/2016 Received 04/01/2017
Level 4 Podium Plan (Drawing No. 110-004, Revision S5)	Turner Architects	Dated 03/11/2016 Received 04/01/2017
Level 5 to 13 Tower Plan (Drawing No. DA-110-005, Revision S7)	Turner Architects	Dated 20/12/2016 Received 04/01/2017
Plant Rooms (Drawing No. DA-110-006, Revision S3)	Turner Architects	Dated 03/11/2016 Received 04/01/2017
Roof Plan (Drawing No. DA-110-007, Revision S3)	Turner Architects	Dated 03/11/2016 Received 04/01/2017
North Elevation (Drawing No. DA-250-001, Revision S4)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
East Elevation (Drawing No. DA-250-002, Revision S3)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
South Elevation (Drawing No. DA-250-003, Revision S3)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
West Elevation (Drawing No. DA-250-004, Revision S3)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
East Elevation – North South Street (Drawing No. DA-250-005, Revision S3)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
West Elevation – Street (Drawing No. DA-250-006, Revision S3)	Turner Architects	Dated 01/11/2016 Received 04/01/2017
Cross Section (Drawing No. DA-350-001, Revision S2)	Turner Architects	Dated 01/11/2016 Received 04/01/2017

Referenced documents

Drawing No.	Author	Dated Received
Cover Sheet	Turner Architects	Dated 09/11/2016 Received 22/11/2016
Site Plan (Drawing No. DA-100-001, Revision S3)	Turner Architects	Dated 03/11/2016 Received 22/11/2016
Site Analysis (Drawing No. DA-100-002, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
GFA Diagrams (Drawing No. DA-710-001, Revision S7)	Turner Architects	Dated 20/12/2016 Received 04/01/2017
Shadow Diagrams (Drawing No. DA-720-001, Revision S3)	Turner Architects	Dated 02/11/2016 Received 22/11/2016
View from Sun Analysis Sheet 1 (Drawing No. DA-720-002, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
View from Sun Analysis Sheet 2 (Drawing No. DA-720-003, Revision S2)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
View from Sun Analysis Sheet 3 (Drawing No. DA-720-004, Revision S1)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
View from Sun Analysis Sheet 4 (Drawing No. DA-720-005, Revision S1)	Turner Architects	Dated 12/09/2016 Received 22/11/2016
Podium Shadow Diagrams (Drawing No. 720-006, Revision S1)	Turner Architects	Dated 03/09/2016 Received 22/11/2016
ADG Diagrams (Drawing No. DA-721-001, Revision S2)	Turner Architects	Dated 31/10/2016 Received 22/11/2016
Site Survey (Drawing No. 21386, Sheet 1 – 3)	B & P Surveys	Dated 24/05/2016 Received 27/07/2016
Adaptable Apartments (Drawing No. DA-810-001, Revision S1)	Turner Architects	Dated 08/07/2016 Received 27/07/2016
Materials and Finishes (Drawing No. Da-910-001, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
CGI View from north west Gardeners Road (Drawing No. DA-920-001, Revision S2)	Turner Architects	Dated 26/07/2016 Received 27/07/2016
CGI View from north east Gardeners Road (Drawing No. DA-920-002, Revision S2)	Turner Architects	Dated 26/07/2016 Received 27/07/2016

Drawing No.	Author	Dated Received
Perspective 1 (Drawing No. DA-920-003, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 2 (Drawing No. DA-920-004, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 3 (Drawing No. DA-920-005, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 4 (Drawing No. DA-920-006, Revision S2)	Turner Architects	Dated 22/07/2016 Received 27/07/2016
Perspective 5 (Drawing No. DA-920-007, Revision S1)	Turner Architects	Dated 08/07/2016 Received 27/07/2016
SEPP 65 Report (Revision A)	Turner	Dated 08/07/2016 Received 27/07/2016
Design Verification Statement (Revision A)	Turner	Dated 08/07/2016 Received 27/07/2016
Statement of Environmental Effects and DCP Assessment Table	Meriton Property Services Pty Ltd	Dated 25/07/2016 Received 27/07/2015
Clause 4.6 Variation	Urbis	Received 01/12/2016
Thermal Comfort & BASIX Assessment (Issue B)	Efficient Living	Dated 03/11/2016 Received 03/11/2015
Acoustic Report (Revision 1)	Acoustic Logic	Dated 17/06/2016 Received 27/07/2016
Waste Management Plan (Revision C)	Elephants Foot	Dated 11/07/2016 Received 27/07/2016
Transport Impact Assessment	Arup	Dated 11/07/2016 Received 27/07/2016
Access Report (Revision 2)	Wall to Wall Design & Consulting	Dated 04/07/2016 Received 27/07/2016
BCA Compliance Assessment Report (1423-96, Rev 00)	AED Group	Dated 27/06/2016 Received 27/07/2016
Arboricultural Assessment Report	Tree and Landscape Consultants (TALC)	Dated 20/06/2016 Received 27/07/2016
Amended Arborist Report	TALC	Dated 06/09/2016 Received 21/09/2016
Amended Arborist Report	TALC	Dated 28/10/2016

Drawing No.	Author	Dated Received
		Received 28/10/2016
Landscape Cover (Revision C)	Context	Dated October 2016 Received 28/10/2016
Landscape Masterplan (Page 1, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Streetscape / Public Domain Plan (Page 2, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Landscape Masterplan (Page 3, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Landscape Masterplan Podium Level (Page 4, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Landscape Section Ground Level (Page 5, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Landscape Section Ground Level (Page 6, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Landscape Section Podium Level (Page 7, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Planting / Indicative Palette & Schedule (Page 8, Issue C)	Context Landscape Design Pty Ltd	Dated October 2016 Received 28/10/2016
Plan of Management	Meriton Property Services Pty Ltd	Dated 11/07/2016 Received 27/07/2016
Construction Management Plan	Meriton Property Services Pty Ltd	Dated June 2016 Received 27/07/2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 31/05/2016 Received 27/07/2016
Civil Infrastructure Development Application Report (Revision 1)	at&l	Dated 11/07/2016 Received 27/07/2016
Detailed Site Assessment	Coffey	Dated 31/10/2012 Received 27/07/2016
Site Auditor Interim Advice (Ref: 16112_IA1)	Zoic Environmental Pty Ltd	Dated 23/11/2016 Received 23/11/2016
Geotechnical Site Investigation	Coffey	Dated 18/05/2016

Drawing No.	Author	Dated Received
		Received 27/07/2016
Flood Report (Ref: X14220.0)	Calibre Consulting	Dated 12/10/2015 Received 27/07/2016
Qualitative Wind Impact Assessment (Revision 0)	SLR	Dated 11/07/2016 Received 27/07/2016
QS Report	Steven Wehbe	Dated 11/07/2016 Received 27/07/2016
8.00 Apartment Schedule (Revision S2)	Turner	Dated 29/11/2016 Received 29/11/2016

- 2 No construction works (including excavation) shall be undertaken prior to the issue of a Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 777315 Lot 500 in DP 1030729 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 the 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

7 The following condition is imposed by Ausgrid and is to be complied with.

- (a) Ausgrid has identified the following assets to be affected by the development works:
 - (i) Existing substation(/s) within site boundary and associated underground cables. Including the easement, lease or right of ways over these electrical assets.
 - (ii) Close proximity of overhead and/or underground cable/s on public land

Ausgrid require that due consideration be given to the compatibility of proposed development with 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. In general, conditions to be adhered to by the developer include, but are not limited to, the following:

- (b) 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.
- (c) 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.
- (d) Any work undertaken near Overhead Power lines needs to be done in accordance with:
 - (i) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - (ii) Ausgrid Network Standards
 - (iii) Ausgrid Electrical Safety Rules
- (e) 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.

- (f) 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.
- (g) 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).
- (h) 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.

8 The following conditions are imposed by the **Sydney Water**:

- (a) Water and Wastewater
 - (i) Strategic investigation shows that the trunk water and wastewater systems have adequate capacity to service the proposed development.
 - (ii) The drinking water main available for connection is the 150mm main on the southern side of Gardeners Road. Depending on the final location of the connection to the water network and number of dwellings within the approved development, local system amplifications may be required.
 - (iii) The wastewater main available for connection is the existing 300mm main in Gardeners Road. A minor extension to provide a connection point within the boundary of the development will be required.
 - (iv) Detailed requirements will be provided at Section 73 application phase.
- (b) 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 urbangrowth@sydneywater.com.au. Further advice and requirements for this proposal are at attachments 1. If you require any further information, please contact Manwella Hawell of Urban Growth Strategy on of Urban Growth 02 8849 4354 or e-mail manwella.hawell@sydneywater.com.au
- (c) Sydney Water Servicing
 - (i) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. The proponent is advised to 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> Plumbing, building and developing> Developing Land development or telephone 13 20 92.
- (d) Building Plan Approval
 - (i) The developer must have the 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 next to assets).

(e) 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. 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.

(f) 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:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

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/>

(g) 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) 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/RWT-Calculator.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.

(h) 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.

- (ii) Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

9 The following conditions are imposed by the **NSW Roads and Maritime Service**

- (a) All redundant driveways are to be removed and replaced won Gardeners Road with kerb and gutter to Roads and Maritime requirements. The design and construction of the kerb and gutter crossing on Gardeners 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 the relevant 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.

- (b) 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.
- (c) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- (d) A construction zone will not be permitted on Gardeners Road.
- (e) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Gardeners Road during construction activities.
- (f) The swept path of the longest vehicle (to service the site) entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (g) 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 charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be forwarded to:
 1. The Sydney Asset Management
 2. Roads and Maritime Services
 3. 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: 8849 2124.

- (h) 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.
- (i) All vehicles are to enter and leave the site in a forward direction.
 - (j) 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 AS 2890.2-2002 for heavy vehicle usage.
 - (k) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath.
- 10 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) Information required by Sydney Airport prior to any approval is set out below:
 - (i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - (ii) 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.

- (g) Application for Approval of Crane Operation
- (i) Pursuant to s. 183 of the Airports Act 1996 and Regulation 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 DEMOLITION, EXCAVATION OR BUILDING WORKS

- 11 The applicant must, prior to the commencement of any works, pay the following fees:
- (a) Development Control \$12,900.00
 - (b) Builders Damage Deposit & Performance Bond \$531,300.00 (# No. 12)
- 12 Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$531,300.00** (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.
- 13 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,

- (b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (i) The additional load on the system, and
 - (ii) The relocation and/or adjustment of the services affected by the construction.
 - (c) As part of this development, the Ausgrid lighting poles along Kent and Gardeners Roads fronting the site, will need to be decommissioned and new lighting poles shall be constructed satisfying V3 lighting requirements for Kent and Gardeners Roads 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 (where required), 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 staged Construction Certificate.
 - (f) 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.
- 14 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.
- 15 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.
- 16 Prior to the commencement of excavation or any 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.

- 17 A Construction Management Program shall be submitted to, and approved in writing by the PCA prior to the commencement of excavation or any 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,
 - (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.
- 18 Prior to the commencement of excavation or any building works, 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) and approved by the relevant road authority. 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.

- 19 Prior to the commencement of any excavation or building work, 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.
- 20 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.
- 21 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.
- 22 Prior to the demolition of any building or structure, a Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.

- 23 A 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.
- 24 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.
- 25 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.
- 26 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.
- 27 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.
- 28 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.
- 29 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.
- 30 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.
- i)
- 31 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.
- 32 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
- 33 In order to ensure that a total of nine (9) trees including: three (3) London Plane trees (Tree #32, Tree #31 and Tree #30) to the west of the site along Kent Road, together with two (2) Paperbark trees (Tree #24 and Tree #25) and four (4) Tallowood (Trees #20, Tree #20a, Tree #20b and Tree #20c), within the setback to Gardeners Road are retained and protected during construction, and their health and structural stability ensured, the following is required:
- (a) A revised storm water/drainage layout is required to be submitted to Council for review and approval prior to the issue of construction certificate. The storm water/drainage layout is required to be revised – with consultation with the Consultant Arborist - to ensure that the trees identified for retention will not be adversely impacted, in accordance with AS4970-2009 Protection of Trees on Development Sites.
 - (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 20th June 2016 and Statement of Aboricultural Issues dated 28 October 2016). 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. 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.

- 34 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.
- 35 Prior to the commencement of any 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.

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

- 36 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.
- 37 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- (a) Waste Levy \$7,408.60;
 - (b) Street Tree Maintenance Bond \$10,000.00 (# No. 36)
- 38 Prior to the issue of any Construction Certificate, 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 24 12 months after final inspection of new street trees by Council. At the completion of the 24 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. **(DA-2016/117/05)**
- 39 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.
- (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)*

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

- (a) Provisions made in the Civil Infrastructure Development Application Report, project no. 16-381-01 by AT&L, dated July 2016 and 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 (upto the maximum discharge rate stated in the point above), the a direct connection to Council/RMS pit and pipe system isrequired,
- (d) 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,
- (e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- (f) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- (g) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- (h) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- (i) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- (j) The submission of detailed calculations including computer modelling where required to support the proposal.

40 Evidence that a NSW Environment Authority (EPA) Accredited Site Auditor appointment has been appointed to the site is required to be provided to Council prior to the issue of any Construction Certificate.

41 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 Council's Section 94 Contributions Plans, a contribution of **\$3,420,043.94** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions (as indexed as at 2015/16) for residential and commercial/retail are as follows (including application of credit):

a) Community Facilities:	\$ 525,810.26
b) Administration:	\$ 39,187.02
c) Open Space & Recreation (Mascot):	\$ 53,346.79
d) Open Space & Recreation (Citywide):	\$ 2,284,013.26
e) Transport (Mascot):	\$ 302,483.16
f) Transport (Citywide):	\$ 215,203.46
TOTAL:	\$ 3,420,043.94

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.

- 42 Prior to the issue of the Construction Certificate for the relevant stage, the applicant shall submit amended plans to Council for approval, showing the following:
- (a) As per the Qualitative Wind Impact Assessment prepared by SLR, the following recommendations are to be shown on a set of amended plans:
- (i) A 1.8m vertical shield or screen along the western perimeter of the retail outdoor dining area to help shield potential westerly winds impacting the area;
 - (ii) Local shade cloths to the Level 4 communal open space of Buildings D and E to further protection from adverse winds;
 - (iii) A 1.8m balustrade surrounding the perimeters of both proposed Level 4 communal open space and childcare open spaces for further shielding.
 - (iv) Scattered landscaping within the proposed level 4 childcare open space is recommended to help break up adverse winds.
- 43 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.
- 44 Prior to the issue of a Construction Certificate, the construction certificate drawings are to show the sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree to be retained and not located where it will limit the planting of trees on the site. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.

- 45 The Applicant has permission to remove 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 #21, Tree #22, Tree #23, Tree #26, Tree #27, Tree #28, Tree #29, Tree #33, as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 20th June 2016). Note: Trees are not permitted to be removed until the Construction Certificate has been issued.
- 46 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.
- 47 The private domain landscape areas shown on the plan by Context, Plans 01 to 08 (Issue C, dated October 2016) 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 any Construction Certificate. 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 Gardeners Road frontage.
 - (c) Canopy trees are to be used extensively within the ground level community park. 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 nine (9) existing trees identified for retention shall be shown on all plans.
 - (h) Barbeque facilities to be incorporated within the Level 4 Podium Courtyard.
 - (i) Within the new ground level community park (between Buildings E and F), 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 is required to be indicated.

- (j) Privacy to the balconies facing the communal open space at podium level are to be adequately treated through fencing and mounding to provide a sufficient landscape screen.
- (k) Adequate screen planting is to be provided in front of the perforated metal screen to the car park along Gardeners Road.
- (l) Full details including plans, sections and material palettes indicating the proposed treatments of the interface between the privately owned through site link (between buildings E and F) and the public domain (along the northern boundary) are to be submitted to Council's Landscape Architect for review and approval prior to issue of the Construction Certificate for above ground works. The proposed treatments (including, but not limited to fencing, landscaping and paving) shall not impede public access and is not to be inconsistent with Condition 88 of the Development Consent. The proposed treatment should take the following into consideration:
 - (i) Landscaping based solutions are encouraged over any type of fencing;
 - (ii) The treatment will need to read as being publically accessible;
 - (iii) It should be fully permeable, with large-scale, wide gates that will allow full access to the space during the day for the public;
 - (iv) Materiality will need to be in keeping with the Public Domain Manual for Mascot Station Precinct and the opportunity exists to be innovative and creative with use of such materials such as corten steel blades or similar treatments (for fencing).

- 48 The public domain landscape areas shown on the plan by Context, Plans 01 to 08 (Issue C, dated October 2016) 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 any Construction Certificate. The landscape documentation is to be prepared by Context Landscape Architects and shall include, but not be limited to:

- (a) The clear delineation of all public domain areas as follows:
 - (i) Kent Road and Gardeners Road footpath areas.
- (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, Gardeners Road, and within the community park between Building E and Building F.
- (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 at the north of the new North South Street. 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) 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) 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 detailed public art proposal.
 - (n) A way finding signage 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) The nine (9) existing retained trees shall be shown on all plans.
- 49 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (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 residential flat 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.

- 50 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (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.
- 51 Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- (a) Disabled car parking spaces shall be provided and clearly marked as per the Transport Impact Assessment, by ARUP, dated 11 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.
- 52 Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
- 53 The drawings for the construction certificate for the car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	35 spaces
0.9 space / bed unit	118 spaces
1.4 space / bed unit	70
1 visitor space / 7 dwellings	34 spaces
Retail Spaces	12
Child Care Centre	34
TOTAL REQUIRED	303
TOTAL PROVIDED	255

Excess car parking spaces within the development at 1-5 Kent Road are to be reallocated to 671-683 Gardeners Road so as to make up the shortfall identified in the table above.

Any parking in excess of 303 car parking spaces is to be allocated to a residential apartment or the retail tenancy.

- 54 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 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 17 June 2016, Report reference number 20160869.1/1706A/R1/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.

- 55 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.
- 56 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.

DURING WORKS

- 57 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.

- 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 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 (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.

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- (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. 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. 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) 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.
- 62 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.
- 63 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.
- 64 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) Any Remedial Action Plan (RAP) required to be submitted as part of the Deferred Commencement Condition 1).
- 65 To ensure that the risk to the environment, workers and occupants of the residential premises is acceptable, any remediation or management measures for excavation and construction outlined in the contaminated land report provided as part of Deferred Commencement condition DC1 shall be complied with during excavation and construction.

- 66 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 10m2 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.
- 67 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.
- 68 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.
- 69 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.
- 70 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.
- 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 If required pursuant to deferred commencement condition DC1, 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.
- 73 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.
- 74 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.
- 75 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.
- 76 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.
- 77 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 06:00pm
 - (ii) Saturday 08:00am to 03:00pm 04:00pm

- (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.
- (Condition modified – DA-16/117/03)

- 78 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.
- 79 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

- 80 Prior to the issue of any Occupation Certificate, the applicant is to provide the following:
- (a) Certification is to be provided to the Certifying Authority that all apartments, including U423 (which provides 9.8m³ of storage and should provide at least 10m³) comply with the minimum requirements for storage under the ADG with at least 50% of this storage requirement contained within the apartment.
 - (b) The service rooms on the top level are to be provided with natural light and ventilation.
 - (c) The entry to the lobby of Building E is to provide a small meeting place facilitated by the provision of seating.
- 81 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.
- 82 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.
- 83 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. (DA-2016/117/05).

Reason – To restrict any damage done by this developer and not the damage caused by any WestConnex enabling works

- 84 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 associated with the development.

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.
- (e) 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.

- 85 Prior to the issue of any 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. **(DA-2016/117/05)**

- 86 Prior to the issue of any the relevant Occupation Certificate, the applicant shall carry out the following works:

- (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 Gardeners 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,
- (c) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
- (d) On Gardeners Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications. **(DA-2016/117/05)**

- 87 Prior to the issue of any the final 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. **(DA-2016/117/05)**
- 88 Prior to the issue of any 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 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. (DA-2016/117/05)*
- 89 Prior to the issue of any Occupation Certificate, Lot 1 in DP 777315 and Lot 500 in DP 1030729 are to be consolidated.
- 90 Prior to the issue of any the final Occupation Certificate, a new 16.6 wide "Easement for Public Access" shall be created over the proposed North-South Link. The draft plan of easement shall be lodged with Council for approval. The proposed new easement 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 Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes. **(DA-2016/117/05)**
- 91 Any Stratum subdivision of the development shall be the subject of a further Development Application to Council.
- 92 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.
- 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 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 the final Occupation Certificate. This amended plan supersedes 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.

- 94 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.
- 95 ~~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 any Occupation Certificate. 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 in accordance with the Council stamped and approved landscape documentation, the conditions of development consent all times. (DA-2016/117/05)~~
- 96 ~~Prior to the issue of any the final Occupation Certificate,~~ the public footpaths in Kent Road, Gardeners Road and in the new ground level community park shall be constructed in accordance with the approved Public and Private Domain Plans 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 prior to 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). (DA-2016/117/05)
- 97 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 an the relevant Occupation Certificate. (DA-2016/117/05)
- 98 ~~Prior to release of the Occupation Certificate~~ the developer must submit to the 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).
- 99 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.
- 100 Prior to the issue of the 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.
- 101 Prior to the issue of any the final 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 3.43:1 and a maximum height of 46.34m and up to a maximum of RL 51m AHD, as approved under this Development Consent No. 16/117, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
 - (c) The development as built, stands within a consolidated lot otherwise described as Lot 1 in DP 777315 and Lot 500 in DP 1030729. **(DA-2016/117/05)**
- 102 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.
- 103 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).
- 104
- (a) Prior to the issue of any Occupation Certificate, the retail spaces are to be allocated to the closest spaces to the retail tenancy.
 - (b) Prior to the issue of any Occupation Certificate, 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.
 - (c) Prior to the issue of any Occupation Certificate, customers and staff of the childcare centre are to be provided with swipe cards that access Level 4 only so as to protect the privacy of the two residences on Level 4, and also to restrict non-customers from accessing Level 4.
- 105 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

- 106 The use of the retail tenancy is subject to a separate approval (DA or complying development certificate).

- 107 The use of the child care centre is subject to a separate Development Application to be lodged with Council for approval. It should be noted in any future application that the primary outdoor area is to be located where the majority of solar access is provided.
- 108 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 109 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.
- 110 Ongoing maintenance of the road verges and footpaths and nature strips in Kent Road Gardeners Road 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.
- 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.
- (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.
- 112 Any air conditioning units 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.
- 113 Visible light reflectivity from building materials use on new building facades must not exceed 20%.
- 114 The following shall be complied with at all times:
 - (a) All loading and unloading associated with the retail tenancy is to be undertaken within the loading dock (basement) of Building C (1-5 Kent Road, Mascot).
 - (b) No garbage collection associated with the retail premises is permitted between 10pm and 6am.
 - (c) The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 115 The following shall be complied with at all times:
 - (a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council, other than permitted by Exempt and Complying provisions;
 - (b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
 - (c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 116 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. This is to be complied with at all times.
- 117 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. 16/117 dated as 27 July 2016 **and DA- 16/117/03 lodged with Council on 11 May 2017** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

(Condition modified – DA-16/117/03)

ADVISORY CONDITIONS

No response was received from the **NSW Police Service**. Standard conditions have been included below:

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.

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

Certified by Christopher Mackey
Team Leader, Development Assessment

Statement Environmental Effects

Section 96 Application

671-683 Gardeners Road, Mascot

Amend various conditions

28 March 2018

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Statement of Environmental Effects
671-683 Gardeners Road, Mascot
Amend various conditions

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Annexure 1: Amended Conditions

Statement of Environmental Effects
671-683 Gardeners Road, Mascot
Amend various conditions

1 Introduction

This Statement of Environmental Effects relates to a Section 96 Application seeking Council's consent to amend development consent No.16/117.

The subject Section 96 Application seeks to amend various conditions in relation to the timing of works.

This Statement:

- describes the site and its surrounding area,
- details the nature of the proposed development, and
- undertakes an assessment of the proposal under the heads of consideration in Section 79C (1) of the Environmental Planning and Assessment Act, 1979.

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues.

2 Site and Surroundings

2.1 The Site

The site is known as 1-5 (No.3) Kent Road, Mascot, and occupies a parcel of land on the eastern side of Kent Road, between Gardeners Road and Church Avenue. **Figure 1** shows the general location of the site and **Figure 2** shows an aerial view of the site and its boundaries.

The site comprises Lot 30 in Deposited Plan 789177. It has an 53.44 metre frontage to Kent Road; a 54.48 metre broken rear boundary; a 143.03 metre northern side boundary; and a 148.48 metre southern side boundary. The total site area is 7,820 sqm.

The site is currently under construction in accordance with DA 16/117 – refer section 3.1 of this Statement.

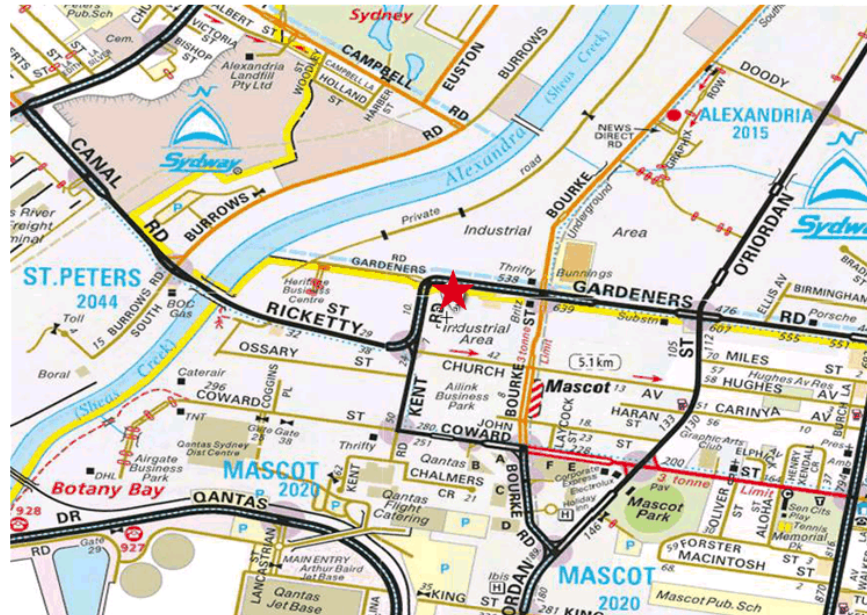


Figure 1: Location of subject site marked with red star



Figure 2: Aerial view of subject site – red border (as at 24 February 2016)

2.2 Surroundings

The existing surrounding area is in transition from industrial to residential and some commercial landuses. The transition reflects changes occurring over the Mascot area more broadly.

The site is located within 400 metres (7 minute walk) to Mascot Railway Station and the town centre that surrounds the station.

The adjoining site to the east has been demolished and sits vacant for future redevelopment.

To the north of the site, on the other side of Gardeners Road, is a mix of commercial and light industrial development.

The adjoining site to the south (1-5 Kent Road) has recently been approved for redevelopment. The approved development, once completed, is to be combined with the proposed development on the subject site.

To the west of the site, on the other side of Kent Road, are existing light industrial buildings.

3 Proposed Modifications

3.1 Existing Consent

On 19 January 2017, the Council issued its consent for approval of DA 16/117 for the following development:

Integrated Development Application for the construction of two residential flat buildings incorporating two x 4 storey podiums, 2 x 14 storey towers containing a total of 239 residential units, a retail tenancy, a childcare centre, private recreation facilities, at-grade and above ground 'sleeved' podium parking for 255 cars and 24,648sqm of gross floor area; construction of a new north-south private publically accessible open space link; associated excavation, earthworks and landscaping.

3.2 Proposed Amendments

It is proposed to make changes to Conditions 38, 77, 83, 85, 86, 87, 88, 90, 93, 95, 96, 97 and 101.

Annexure 1 contains a copy of the proposed amended conditions, and the following paragraphs provide explanation for the proposed changes.

4 Threshold Test – Substantially the Same

It is considered that the development is substantially the same as the original approval.

The proposed amendments involve altering conditions only. The proposal results in no physical changes to the approved development. Overall, the development remains substantially the same in form as the approved development.

On this basis, the proposed amendments are considered to constitute substantially the same development and are, therefore, accessible under Section 96 of the Environmental Planning and Assessment Act, 1979.

5 Environmental Planning Assessment

5.1 Section 79C(1)(a)(i): Environmental Planning Instruments

5.1.1 Botany Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site is zoned B4 Mixed Use. The proposal is permitted in the zone subject to consent from the Council.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

5.2 Section 79C(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

5.3 Section 79C(1)(a)(iii): Development Control Plans

5.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 (DCP) applies to the subject site. However, none of its provisions are relevant in the assessment of the proposed amended conditions.

5.4 Section 79C(1)(a)(iiia): Planning Agreements

Not applicable.

5.5 Section 79C(1)(a)(iv): Regulations

The Section 96 Application has been made in accordance with the requirements contained in Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

5.6 Section 79C(1)(b): Likely Impacts

The proposed changes will have no adverse impact. No material change will result from the proposed modifications. The amendment of the conditions will improve the development by better scheduling of work and providing a better outcome for the development.

5.7 Section 79C(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

5.8 Section 79C(1)(d): Submissions

Should notification be required for the proposal, Council will consider submissions at the close of the notification period.

5.9 Section 79C(1)(e): The Public Interest

For the reasons set out in this Statement, it is considered that the public interest would be best served by approval of the Section 96 under consideration, particularly, given the absence of any demonstrable adverse impacts resulting from the proposal.

Statement of Environmental Effects
671-683 Gardeners Road, Mascot
Amend various conditions

6 Conclusion

The subject Section 96 Application seeks to amend various conditions.

The proposal satisfies the relevant heads of consideration under Section 79(C) of the Environmental Planning & Assessment Act, 1979.

It is considered that the proposal provides an appropriate response to the planned development of the site and will assist in the orderly and economic development of the land.

The development is substantially the same as when originally approved for the purposes of Section 96 of the Environmental Planning and Assessment Act and will have no implications upon the public domain.

It is therefore submitted that Council grant consent to the Section 96 application and amend the development consent in the manner requested.

Annexure 1: Amended Conditions

CONDITION 38

Prior to the issue of any Construction Certificate, 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 ~~24-12~~ months after final inspection of new street trees by Council. At the completion of the ~~24-12~~ 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.

Reason for amendment:

The current period of 24 months is considered to be excessive. It is proposed to change the duration of maintenance period to 12 months.

CONDITION 83

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.

Reason for amendment:

It is proposed to require that all damages are rectified before the release of the damage deposit only. This is considered adequate to ensure all damage repairs are completed.

CONDITION 85

Prior to the issue of ~~any 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.

Reason for amendment:

The proposed wording of 'the relevant occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 86

| Prior to the issue of ~~any-final~~ Occupation Certificate, the applicant shall carry out the following works:

- (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 Gardeners 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,
- (c) On Kent Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
- (d) On Gardeners Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.

Reason for amendment:

The proposed wording of 'final occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 87

| Prior to the issue of ~~any-final~~ 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.

Reason for amendment:

The proposed wording of 'final occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 88

Prior to the issue of ~~any-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 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 ~~relevant~~ occupation.

Reason for amendment:

The proposed wording of 'the relevant occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 90

Prior to the issue of ~~any-final~~ Occupation Certificate, a new 16.6 wide "Easement for Public Access" shall be created over the proposed North-South Link. The draft plan of easement shall be lodged with Council for approval. The proposed new easement 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-final~~ Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

Reason for amendment:

The proposed wording of 'final occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 93

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-final~~ Occupation Certificate. This amended plan supersedes 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.

Reason for amendment:

The proposed wording of 'final occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 95

~~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 any Occupation Certificate. 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 in accordance with the Council stamped and approved landscape documentation, the conditions of development consent all times.~~

Reason for amendment:

Delete condition, as this is a repeat of condition 93.

CONDITION 96

Prior to the issue of ~~any-final~~ Occupation Certificate, the public footpaths in Kent Road, Gardeners Road and in the new ground level community park shall be constructed in accordance with the approved Public and Private Domain Plans 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 prior to 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).

Reason for amendment:

The proposed wording of 'final occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 97

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 ~~an-the relevant~~ Occupation Certificate.

Reason for amendment:

The proposed wording of 'the relevant occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

CONDITION 101

| Prior to the issue of ~~any the relevant~~ 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 3.43:1 and a maximum height of 46.34m and up to a maximum of RL 51m AHD, as approved under this Development Consent No. 16/117, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- (c) The development as built, stands within a consolidated lot otherwise described as Lot 1 in DP 777315 and Lot 500 in DP 1030729.

Reason for amendment:

The proposed wording of 'the relevant occupation certificate' is considered to be more suitable whilst ensuring the condition is satisfied.

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Item No	6.4
Application Type	Development Application
Application No	SF18/1595
Lodgement Date	25/05/2017
Property	DA-2017/1085 - 49 George Street, Eastlakes
Ward	Botany Bay
Owner	Sweet Tungka
Applicant	Space 0.618:1 Pty Ltd
Proposal	Demolition of existing structures and construction of new 2 x two storey semi-detached dwellings with basement parking
No. of Submissions	Four (4)
Cost of Development	\$1,301,735.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

It is RECOMMENDED that the Bayside Local Planning Panel, resolve:

- 1 That the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone.
 - 2 That Development Application DA-2017/1085 for the demolition of existing structures and construction of 2 x two storey semi-detached dwellings with basement parking at 49 George Street Eastlakes, be APPROVED pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, subject to the recommended conditions of consent.
 - 3 That any objectors be notified of the determination made by the Bayside Local Planning Panel.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Clause 4.6 Statement [↓](#)
- 3 Architectural Plans [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1085
Date of Receipt:	25 May 2017
Property:	49 George Street, Eastlakes Lot 85 and 86 Sec A in DP 3239
Owner:	Sweet Tungka
Applicant:	Space 0.618:1 Pty Ltd
Proposal:	Demolition of existing structures and construction of new 2 x two storey semi-detached dwellings with basement parking
Recommendation:	Approve the development, subject to conditions.
Value:	\$1,301,735.00
No. of submissions:	Four (4) objections
Author:	Sumeet Badhesha - Development Assessment Planner
Date of Report:	31 June 2018

Key Issues

Bayside Council received Development Application No. 2017/1085 on 25 May 2017 seeking consent for the demolition of existing structures and construction of two (2) storey semi-detached dwellings with basement parking at 49 George Street, Eastlakes.

The application was placed on public exhibition for a fourteen (14) day period from 23 June 2017 to 7 July 2017. Four objections were received and are summarised in greater detail in the report below. First set of amended plans were received by Council on 25 June 2018 and second amendment being received by Council on 26 June 2018. The application was not required to be re-notified as the amendments involve a reduction to the FSR and height of the dwellings, resulting in improvement amenity impacts on neighbouring properties.

Key issues in the assessment of the proposal include non-compliance with FSR. The proposed development seeks a departure of the maximum FSR for each site. The maximum FSR for semi-detached dwellings is 0.5:1. The proposed FSR for each site is 0.84:1. The variance is 68.88% for both lots. A clause 4.6 variation has been submitted with the application and is assessed in detail in the report below. The variance is acceptable considering the surrounding development has a similar FSR and the bulk of the development is not excessive.

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

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Recommendation

It is RECOMMENDED that the Bayside Planning Panel, resolve:

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

Background

History

There is no recent town planning history on the site. The site has been historically Torrens title subdivided into two lots consisting of a site area of 183.92sqm each.

Council requested additional information on 4 June 2018 relating to amendments to the plans regarding to FSR and basement car parking. This information was received on 25 June 2018. Further amendments to the plan regarding the FSR were requested on 26 June 2018, with amended plans being received on 26 June 2018.

Proposal

The development application seeks consent for the demolition of the existing dwelling and structures and construction of two semi-detached dwellings with basement car parking.

The specifics of the proposal are as follows:

- Demolition of all structures on the site;
- Construction of two x two storey semi-detached dwellings which each containing four bedrooms (one with ensuite), study, an open plan kitchen, combined family room and dining room, laundry, two bathrooms, alfresco area, juliet style balcony of master bedroom, and basement car parking.

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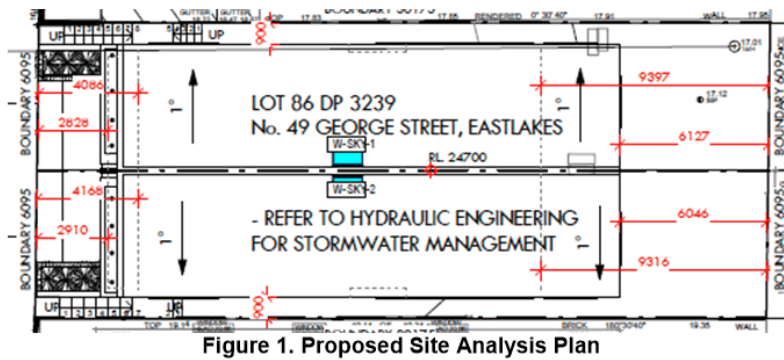


Figure 1. Proposed Site Analysis Plan

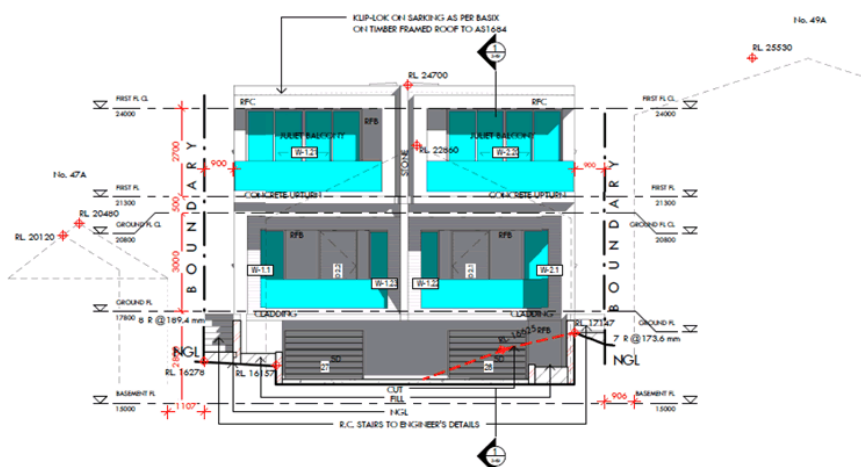


Figure 2. Proposed Southern Elevation (street frontage)

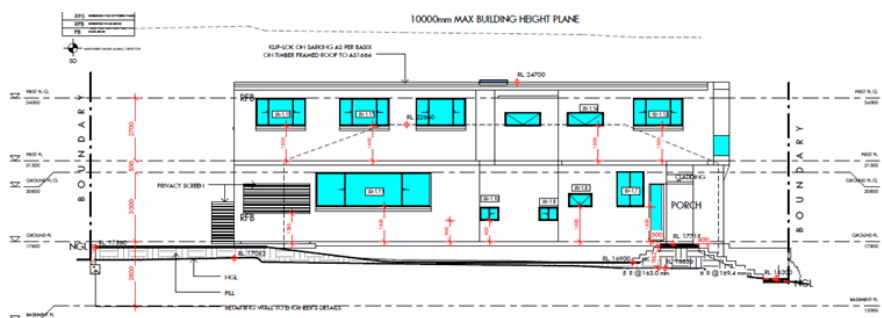


Figure 3. Proposed Western Elevation

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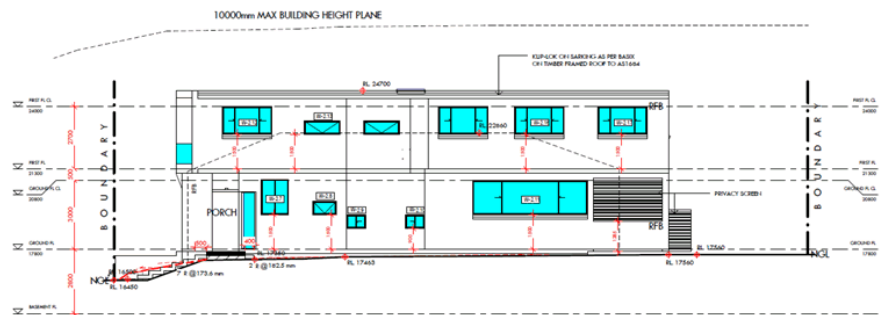


Figure 4. Proposed Eastern Elevation

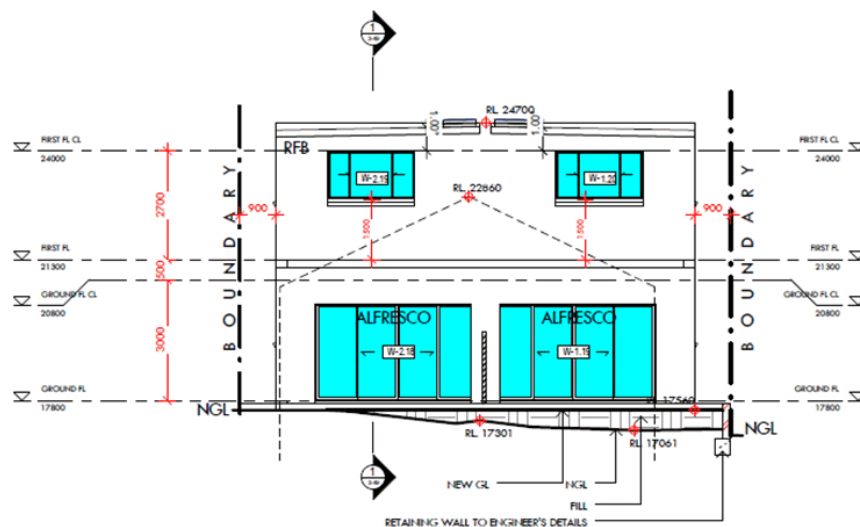


Figure 5. Proposed Northern Elevation

Site Description

The site is legally known as Lot 86 in DP 3239. The subject site is located on the northern side of George Street between St Helena Parade to the east and Maloney Street to the west. The site has a north-southern orientation with south being the street and north being the rear of the site. The site is located in the R2 Low Density Residential zone.

The subject site has been historically subdivided into two lots which are rectangular in shape with a total site area of 183.92sqm each and with street frontage and rear boundary widths of 6.095 metres, and western and eastern boundary lengths of 30.175 metres. The site has a gradual slope of 1.46 metres upwards from the front of the site to the rear of the site.

Existing development on the site comprises of a single storey detached brick dwelling house with a tiled roof and basement car parking, and a detached brick secondary dwelling to the rear of the site. The existing dwelling is constructed over both lots. The adjoining property at 49A George Street comprises of two storey semi-detached dwelling houses while the site at

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47A George Street comprises of a single-storey detached brick dwelling house. Development surrounding the site consists of predominantly single and two storey detached or semi-detached dwelling houses with then odd residential flat building and multi-dwelling development. The street consists of older housing stock which is currently undergoing re-development with numerous recently constructed developments.

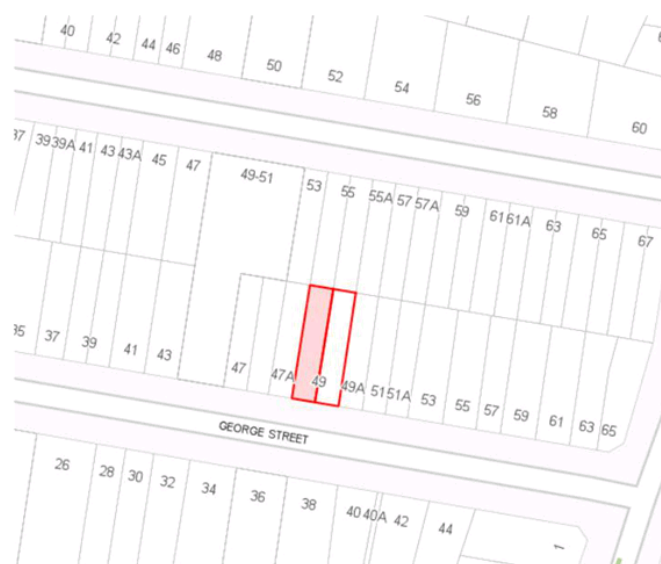


Figure 6. Locality Plan

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Figure 7. Aerial Plan of the subject site



Figure 8. Front elevation of the subject site

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Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 803100S_02 dated 18 April 2017 and BASIX Certificate No. 803152S_02 dated 18 April 2017 prepared by Space 0.618:1 committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

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

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	N/A	The site is zoned R2 Low Density Residential under the BBLEP 2013.

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Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Is the proposed use/works permitted with development consent?	Yes	The proposed use for semi-detached dwellings is permissible with Council's consent under the BBLEP 2013. The semi-detached dwellings are required to be on their own lot of land, which they will be as the site has already been subdivided.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the objectives in the BBLEP 2013.
Building Height	Yes	The maximum building height for the site is 10 metres. Proposed Height: 8.1 metres
Floor Space Ratio	No – Refer to Note 1 below	As the proposal is for a semi-detached development, the maximum FSR for the site is 0.50:1 under the provisions of Clause 4.4A. <u>Proposed GFA:</u> Dwelling 1: Basement – excluded from GFA as per LEP definition Ground floor – 65.80sqm First floor (excl. stairs) – 89.50sqm Total GFA – 155.30sqm FSR: 0.84:1 Dwelling 2: Basement – excluded from GFA as per LEP definition Ground floor – 65.80sqm First floor (excl. stairs) – 89.50sqm Total GFA – 155.30sqm FSR: 0.84:1 The Floor Space Ratio for each site does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation to the FSR Standard has been submitted as part of the proposal.
Is the site within land marked "Area 3" on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?	No – Refer to Note 1 below	The site is within Area 3 on the FSR Map. However, as the proposal is for semi-detached dwellings, the maximum permitted FSR is 0.50:1. Please see note 1 below for comments.
Is the land affected by road widening?	N/A	The site is not impacted by road widening.

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Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
(Clause 5.1 – Relevant Acquisition)		
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not a heritage item and is not located within a heritage conservation area.
The following provisions in Part 6 of the LEP apply to the development–		
6.2 – Excavation	Yes	The proposal involves excavation for the construction of basement parking for both dwellings. The site is not affected by acid sulfate soils and is not mapped as being within the groundwater zone.
6.3 – stormwater management	Yes	The application was referred to Council's Development Engineer for assessment. Recommended conditions have been included in the development consent.
6.9 – Development in areas subject to aircraft noise	Yes	The subject site is affected by Aircraft Noise being within ANEF contour 20-25. Conditions have been included that require the development to be constructed in accordance with AS2021.2015 which satisfies the clause.

Note 1 – Clause 4.6 variation relating to FSR variance

The development seeks an FSR of 0.84:1 for each site which results in a total GFA of 155.30sqm for each of the lots.

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

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

Pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or 'multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. Therefore the maximum permitted FSR is 0.5:1. The FSR for a detached dwelling house on the subdivided site is 0.85:1.

The proposal is for the demolition of the existing dwelling and construction of two x two storey semi-detached dwellings. The site consists of two Torrens title lots (Lot 117 and 118). The following table demonstrates the relevant lot sizes, the proposed gross floor area and floor space ratio of the two allotments:

Proposed	15 George Street	15A George Street
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Site Area	183.92sqm	183.92sqm
GFA	155.3sqm	155.3sqm
FSR	0.84:1	0.84:1
Variation to Standard	63.34sqm	63.34sqm

The applicant has provided a Clause 4.6 variation to the floor space ratio development standard which provides justification for the exceedance in gross floor area. Excerpts from the applicant's variation are outlined as follows:

Compliance with the development standard is unreasonable or unnecessary:

There are sufficient environmental planning grounds to justify contravening the development standard:

"Notwithstanding, the building scale, height and form are adequately addressed in the design. A delicate balance between increased density and compatibility to existing surrounding development has been achieved by reduction of bulk, use of appropriate colours, landscaping and other architectural treatment. No intrusion to privacy, minimal blocking of solar access and overshadowing of adjacent properties is expected as a result. The impact to the local character is not any different to any existing or future development in the area."

"The front elevation demonstrates that the proposal sits comfortably within the existing streetscape and surrounding area. The minor breach will not be incompatible with any future development."

"The consistency with the objectives of Cl. 4.4 Floor Space Ratio as outlined above satisfies the Wehbe test (i) and the absence of any environmental impacts, demonstrates that strict compliance with FSR standard is both unreasonable and unnecessary in this instance."

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

- 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies*

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to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Officer's comments:

The applicant requested a floor space ratio exceedance in a Clause 4.6 variation and stated that the proposal will achieve a better outcome by providing a more effective built form outcome than if it were redeveloped with a dwelling house on each already existing individual lots. Considering the narrowness of the lots width, construction of a suitably sized detached dwelling on each of the lot would not result in a good level of internal amenity. The proposed size and scale of the development is nevertheless compatible with the permitted bulk and scale of the area and the future desired character of the Eastlakes locality having a low density residential nature. The proposed two storey semi-detached dwellings will maintain an appropriate visual character by complying with the height and scale of two storey dwelling houses along George Street and its vicinity, whilst providing an appropriate correlation of the extent of the development on the site with respect to minimising visual privacy and overshadowing impacts on the adjoining properties. Similarly approved attached dwellings development at 15 George Street under DA-15/245 and 19 George Street under DA-15/109 were permitted an FSR of 0.84:1 for lots less than 200m², which is a variation of 68.90% and 68.02%, respectively, to the development standard. Further, DA-11/131 at 51 George Street approved a semi-detached dwellings development with an FSR of 0.95:1, representing a variation of 90.51%, which was assessed and determined under the provisions of the BBLEP 1995.

Compliance with development standard relating FSR within this locality is unreasonable in this circumstance of the case to ensure a sustainable development and a good planning outcome, as it is consistent with the bulk and scale of the other residential dwellings along the street.

4.6(3)(a) Are there are environmental planning grounds to justify the contravention of the standard

Officer's Comment:

Clause 4.4(a) of BBLEP 2013 stipulates a maximum FSR of 0.85:1 for dwelling houses on the subject land. Given subclause 4.4A(3)(a) refers only to dwelling houses, this clause could not

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apply to semi-detached dwellings, and therefore, subclause 4.4A(3)(d), relating to all forms of residential accommodation not listed elsewhere within clause 4.4A(3), is the clause which identifies the maximum FSR for the proposal. Subclause 4.4A(3)(d), requires a floor space ratio of 0.5:1, which is lower than what is permitted for dwelling houses, which is 0.85:1 for sites with an area of less than 200m². There is a substantial difference between the permitted FSR for the two forms of residential land use permissible within this locality. As the existing built form on George Street already consists of two storeys dwellings, the proposed development is not of unreasonable bulk and scale, particularly as it does not exceed the maximum floor space for a dwelling house in Area 3 as stipulated by Clause 4.4A(3)(a) of BBLEP 2013. The numerical variation to the FSR will not materially change the streetscape as compared to if the development occurred as detached dwellings. The proposed development is consistent with the surrounding low density residential developments. The proposed height does not exceed the height of existing two storey dwellings on George Street, and is also compliant with Council's LEP height requirement.

Cl. 4.6(4)(a)(ii): Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 are also taken into consideration:

- Objectives of Clause 4.6;
- Objectives of the Floor Space Ratio Standard;
- Objectives of the R2 Low Density Residential zone;
- Public Interest and public benefit of maintaining the development standard.

Objectives of Clause 4.6

The objectives of Clause 4.6 of the Botany Bay Local Environmental Plan 2013 are:

- a) *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Officer's Comments:

Notwithstanding the numerical non-compliance of the FSR, the proposal satisfies the objectives of Clause 4.6 and those of the floor space ratio standards as it will facilitate a two x two storey semi-detached dwelling houses within the R2 Low Density Residential zone that meets the required desired future character of the Eastlakes Precinct. The reasons outlined in the applicants Clause 4.6 variation are well founded and flexibility can be applied for as it achieves a better outcome for development in terms of improving internal amenity for the dwellings, ensuring site suitability, minimising the impact of the development on the adjoining properties and maintaining the suitable architectural design that is consistent with the surrounding development.

Objectives of the Floor Space Ratio Standard

The objectives of the Floor Space Ratio Standard are:

- a) *to establish standards for the maximum development density and intensity of land use,*
- b) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*

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- c) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- d) *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- e) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- f) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- g) *to facilitate development that contributes to the economic growth of Botany Bay.*

Officer's Comments:

The proposed FSR is consistent with the maximum FSR permissible for a dwelling house on lots less than 200m². The proposed semi-detached dwelling houses are of a similar bulk and scale of surrounding existing two storey dwelling houses on George Street. The proposal maintains an appropriate visual relationship with the neighbouring properties and the existing and future character of the area. The proposal is not considered to create adverse impacts on the privacy and views currently experienced by the adjoining sites and the size of the dwellings is similar to what is permitted for single detached dwellings on the existing allotments.

Objectives of the zone

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

- *To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents;*
- *To encourage development that promotes walking and cycling.*

Officer's Comments:

The proposed FSR variation will be in keeping with the bulk and scale of low density residential development within the R2 zone and is therefore consistent with the zone objectives in that providing for the housing needs of the community within a low density residential environment.

Public Interest and Public Benefit

The proposed variation to the floor space ratio standard will be in the public interest as it will provide two new semi-detached dwellings on the subject site without adverse impacts on the streetscape and the locality. The proposal is consistent with the desired future character of the Eastlakes Character Precinct as prescribed within Part 8- Character Precinct of the Botany Bay Development Control Plan 2013.

Summary

The request to vary the BBLEP FSR control pursuant to Clause 4.6 has been assessed in accordance with the provisions of Clause 4.6 and relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified.

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The proposal and Council's assessment has concluded that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal will achieve a better design outcome than if it were redeveloped with a dwelling house on each individual lot. Considering the narrowness of the lots width, construction of a suitably sized detached dwelling on each of the lot would not result in a good level of internal amenity.

The applicant's Clause 4.6 variation is well-founded and the departure in the FSR is compatible with the existing residential development and recently approved development within the locality that is in the public interest. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should be varied in the circumstances as discussed above.

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

There are no current Draft EPIs applicable to this development

S.4.15(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

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

Part 3A- Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	C2 Semi-detached dwelling house = 1 space	The basement of each dwelling is capable of accommodating 3 car spaces. The front setback also allows a vehicle to be parked on each site.	Yes

Part 3G – Stormwater Management

The application was referred to Council's Development Engineer who had no objections to the proposed development subject to appropriate conditions imposed in the consent.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour. Residential development in these areas is considered conditional under Table 2.1 of Australian Standard AS2021-2000 and development may take place subject to Council consent and compliance with the requirements of the AS2021-2015.

The standard requires that the external environment to the dwelling be considered for aircraft noise impacts. The following is required to be taken into account:

1. There is an existing residential premise on site and the development is for alterations and additions to this existing dwelling;

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2. The degree the land is affected by aircraft noise is related to the use and operation of the airport as it affects the subject dwelling house;
3. Development in the immediate surrounding environment is residential; and
4. The outdoor environment, given the curfew and current operating patterns, are such that in daylight hours there will be sufficient opportunity to utilise the private open space without the presence of aircraft noise.

A condition has been included in the development consent requiring a report to be prepared by a suitably qualified consultant and which demonstrates compliance with AS2021-2015, prior to the issue of a construction certificate.

Part 3K – Contamination

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

Part 3L – Landscaping and Tree Management

Under the provisions of the BBDCP 2013 a minimum landscape area of 27.59m² or 15% is required to be provided for each dwelling. Dwelling 1 provides a landscape area of 35.60m² or 19.36% and Dwelling 2 provides an area of 35.30m² or 19.19%. This complies.

Part 3N- Waste Minimisation and Management

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

Part 4A- Dwelling Houses

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

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement.	The proposal is in keeping with the desired future character of the area, and is compatible with the existing character of the streetscape, with respect to building siting and location, roof form, materials, design features, and streetscape presentation. The dwellings fit in within the R2 low density zone character.	Yes
C2 Development must be designed to reinforce and maintain the existing character of the streetscape.		

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C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).		
C5 Developments on sites with two or more frontages should address both frontages.	Both dwellings entry and habitable room windows are readily apparent from the street.	Yes
C6 The entrance to a dwelling must be readily apparent from the street.		
C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.		
4A.2.7 Site Coverage		
C2 For sites under 200m ² the maximum site coverage is assessed on merits. For these sites, the numerical control which applies to sites between 200m ² and 250m ² is considered appropriate – 65% maximum.	Proposed Lot A: 86.80m ² or 47.19%	Yes
	Proposed Lot B: 86.80m ² or 47.19%	Yes
4A.2.8 Building Setbacks		
C.1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1. <ul style="list-style-type: none">• Minimum front setback – comply with the prevailing street setback or 6 metres (min)• Minimum side setback - merit• Minimum rear setback – 4m	Dwelling 1: Front setback: Garage Floor: 5.54m Ground Floor: 4.086m / 2.42m (porch) First Floor: 2.828m East side setback: Garage, Ground and First Floor: nil (party wall) West side setback: Garage Floor: 2.1m Ground and First Floor: 0.9m Rear setback: Ground Floor: 5.07m First Floor: 6.127m	Yes – consistent with existing
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
		Yes
	Yes	

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<ul style="list-style-type: none"> • Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions • Eaves – 450mm minimum setback 	The side setbacks proposed on both sides are at least 900mm, and are in keeping with the visual pattern of surrounding developments and streetscape. The setback allows for privacy and visual amenity where possible, given the site orientation for sites adjacent.	Yes
	Common boundary between the two dwellings.	Yes
C5 Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	Modulation is provided in the proposal along the side elevations of the ground and first floor. A mix of colours and materials have also been incorporated to add interest.	Yes
4A.2.9 Landscape Area		
C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2 . Table 2 requires the following minimum landscaped area: <ul style="list-style-type: none"> • Sites less than 250sqm = 15% C8 Paving is restricted to 50% of the front setback area	Dwelling 1: 35.60sqm (19.36%) Dwelling 2: 35.30sqm (19.19%) Both dwellings do not comply with the maximum 50% paving within the front setback. This variation is considered acceptable due to the narrow widths of the lots, and in order to provide vehicular and pedestrian access to the dwellings. The front setback is consistent with other development within the street.	Yes Yes Acceptable
4A.3.1 Materials and Finishes		
C10 The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	A Schedule of Colours and Finishes was provided. The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, and add interest to the façade.	Yes
4A.3.2 Roofs and Attics/Dormer		
C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	The proposed roof is a flat roof. While the majority of the residential dwellings along the street have a pitched roof, there are numerous examples of recently constructed development with flat roofs within the street.	Yes

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4A.4.1 Visual Privacy		
<p>C2 Visual privacy for adjoining properties must be minimised by:</p> <ul style="list-style-type: none"> ▪ using windows which are narrow or glazing ▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings ▪ Screening opposing windows, balconies and courtyards; and ▪ Increasing sill heights to 1.5 metres above floor level. 	<p>The window selection and location for each dwelling are considered appropriate in providing internal amenity to the proposal, whilst minimising privacy impacts to neighbouring properties.</p> <p>All windows on the first floor have a minimum sill height of 1.5 metres. Additionally, the rooms are not principal living areas therefore they are not highly used as what a living area would be. Due to the dwelling being raised above the natural ground level and in order to maintain adequate privacy between adjoining dwellings, a condition has been included in the consent requiring the sill height of the family/dining room windows on the western and eastern side elevations to be a minimum of 1.7m above FFL. The balconies are limited to the front of the dwelling and off the master bedroom. The size of the balconies restricts the residents from using it for entertainment purposes.</p>	Yes
<p>C3 First floor balconies are only permitted when adjacent to a bedroom.</p> <p>C5 First floor balconies are only permitted at the rear of the dwelling if wholly located over the ground floor, providing the requirements in C1, C2 and C3 above are met.</p> <p>C7 Balconies are to be designed to minimise overlooking to other properties. Note: Where a proposed development increases the potential for overlooking of adjoining properties, the Council may require balconies to be limited in size and in some cases, fitted with privacy screens or fin walls. Partially recessed balconies are encouraged at the rear to ensure the privacy of surrounding properties is maintained.</p>	<p>Juliet style balconies are proposed off the master bedrooms on the first floor of both dwellings. The size of the balconies restricts the residents from using it for entertainment purposes.</p> <p>No other balconies are proposed</p>	Yes
4A.4.3 Solar Access		
C1 Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain	The applicant has submitted shadow diagrams with the application.	Yes

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<p>approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.</p>	<p>Due to the orientation of the site and positioning of the subject dwellings and adjoining dwellings, the rear yards of the subject site and adjoining sites will gain full sunlight during 21 June.</p> <p>As the site is oriented south, overshadowing from the development does not impact upon the adjoining property to the north. Some overshadowing upon the properties to the east and west is unavoidable, particularly in a subdivision pattern oriented south such as the subject site. The overshadowing impacts of the development are not unreasonable given the orientation of the site. Based on this assessment of the shadow diagrams against the BBDCP 2013 and with respect to the merit of the application, the proposal is considered acceptable.</p> <p>Please see note 2 below for detailed assessment.</p>	
4A.4.4 Private Open Space		
<p>C2 For sites less than 250sqm, a minimum area of 25sqm applies.</p> <p>C3 For terraces and decks to be included, these must have minimum size of 10sqm.</p>	<p>Each dwelling has at least 25sqm of POS.</p>	<p>Yes</p>
4A.4.7 Vehicle Access		
<p>C1 Driveways within a property shall have a minimum width of 3 metres.</p>	<p>Both dwellings are accessed by a shared driveway which has a minimum width of 7.4 metres as it is a double driveway.</p>	<p>Yes</p>
<p>C6 The number of vehicle crossings is to be limited to one (1) per allotment.</p>	<p>The proposal will result in one vehicle crossing per lot.</p>	<p>Yes</p>
4A.4.8 Car Parking		

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<p>C3 Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be:</p> <ul style="list-style-type: none"> (i) Located at the rear of the site with access from a rear lane; (ii) At the rear of the site with access from the street frontage; (iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or (iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment. 	<p>The proposal includes a basement for each dwelling which is capable of accommodating 3 car spaces each. The BBDCP 2013 requires 1 car space per semi-detached dwelling. The proposal exceeds the minimum requirement. Therefore complies.</p>	<p>Yes</p>
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Note 2 - Solar Access

The BBDCP 2013 states that the minimum amount of direct solar access to the dwelling's and adjoining dwellings primary open space area shall not be less than 2 hours between 9:00am and 3:00pm on the 21st June. In addition, Clause 6 states that where an existing development currently receives less than the required amount of sunlight (on 21st of June) the amount of sunlight available on the 21st of March or the 21st of September will be used as an alternative standard.

The subject allotment is south-north orientated with south being the front of the property and north being the rear of the property. Therefore any first/second floor addition or new two storey dwelling will cast a shadow on the allotments located to the east (No. 49A George Street) and west (47A George Street).

Shadow diagrams have been submitted which demonstrate that the proposal does comply with the solar access requirements of the BBDCP 2013. The proposed development is considered to be contemporary in design, within the height controls and appropriate setbacks as required within the BBLEP and the BBDCP 2013.

The proposed development casts morning shadows over No. 47A George Street. From midday and onwards, overshadowing on No. 49A George Street is expected. Therefore No. 49A George Street will enjoy full solar access up until midday, which is greater than the minimum 2 hours in accordance with Council's solar access requirements. Therefore the overshadowing impacts are considered to be acceptable.

The proposal is not considered to be of poor design. The dwelling has incorporated a low pitched roof to reduce the overall height of the development which is well below the maximum height control.

Overshadowing by fences have been taken into consideration. The dwelling at No. 49A George Street is located relatively close to the boundary therefore there is existing overshadowing (from the fence) on the western elevation of the dwelling.

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The area is a low-density residential area and is undergoing change with single and two-storey developments and will remain so. Existing single storey dwellings within the area will be redeveloped either by demolition and rebuilding, first floor additions or new two storey dwellings.

Due to the configuration of the site and surrounding context, overshadowing from the proposed development does not unreasonably impact upon the adjoining properties.

Therefore, based on this assessment of the shadow diagrams against the BBDCP 2013 and with respect to the merit of the application, the proposal is considered acceptable.

Part 8- Botany Character Precinct

Part 8.1.2 Desired Future Character of the Eastlakes Precinct has been considered in the assessment of the application. This section provides rationale for determining the appropriateness and descriptive strategic direction for development in Eastlakes.

The site is located within the R2 Low Density Residential zone of the Eastlakes Precinct between Maloney Street and St Helena Parade. However the site falls within the Special Area 'H2' which is characterised by narrow residential streets and a mixture of high density developments ranging from semi-detached dwellings, newer terrace style housing on narrow lots, single storey dwellings and some 3 storey walk up residential flat buildings.

It is considered the proposal is deemed to be compatible with the desired future character of Eastlakes Precinct.

The proposal maintains the existing setbacks along the street and is consistent with the form of surrounding development in the street and surrounding streets which are experiencing gradual redevelopment to newer style housing. The new dwellings are unlikely to significantly impact on the amenity of the adjacent properties other than solar which is discussed in detail in Note 2 above. The proposed development will replace a dated residential dwelling and is considered to enhance the public domain and streetscape within the Precinct.

The subject development application also maintains appropriate areas as soft landscaping, both at the rear and front and complies with the landscaping requirements under the BBDCP 2013. It is also compliant in height with a maximum of 8.1 metres which is well under the maximum height of 10 metres.

The facades of the development are articulated and provide a satisfactory presentation to the street. The ground floor on both dwellings is located behind the building setback of the first floor which comprises of juliet balconies leading out from the master bedrooms. This design gives a clear articulation and distinction between the ground and first floor and does not contribute to a garage dominant streetscape. The bulk and scale is satisfactory and the buildings have been articulated to minimise bulk.

Accordingly, the proposal is considered suitable for the subject site and is considered compatible with the desired future character as described in the BBDCP 2013 for the Eastlakes precinct.

S.4.15(1)(a)(iv) - Provisions of regulations

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

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

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

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

The proposed development, being for demolition of existing structures and construction of two semi-detached dwelling houses on existing Torrens Titled subdivided lots with basement parking within the R2 Low Density Residential Area, is an appropriate development in the context of the site and the locality.

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

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 days from 23 June 2018 to 7 July 2018. Four (4) objections were received and the issues that were raised in the objections are summarised below:

Issue 1: Privacy concerns

Concerns were raised regarding privacy impacts on the adjoining neighbouring properties to the side and rear of the subject site, in particular, in relation to the location and sill heights of the windows along the side and rear elevations of both dwellings. All windows on the first floor of both dwellings have a minimum sill height of 1.5 metres which is considered acceptable to maintain privacy. Due to the dwelling being raised above the natural ground level and in order to maintain adequate privacy between adjoining dwellings, a condition has been included in the consent requiring the sill height of the family/dining room windows on the western and eastern side elevations to be a minimum of 1.7m above FFL.

Issue 2: Setback from adjoining dwelling (No. 49A George Street) and length of proposed dwelling

Concerns have been raised regarding the proposed side setback from No. 49A George Street. The dwellings are setback a minimum of 0.9m from both eastern and western boundaries and are in accordance with the setback requirements stipulated within the BDDCP 2013.

Concerns regarding the overall length of the proposed dwellings have been raised. The length of the dwellings is consistent with the length of the dwellings to the east and west of the subject site. The development maintains an appropriate front setback and greater than required rear setbacks from both the ground and first floors of both dwellings.

No design changes are required and the proposed development is considered acceptable with the proposed front, side and rear setbacks.

Issue 3: Loss of sunlight/solar access

An assessment of overshadowing/solar access against the provisions of the BDDCP 2013 and the submitted shadow diagrams has been undertaken. Due to the orientation of the site, being south, overshadowing from the development does not unreasonably impact upon the adjoining properties. During June 21st, when the overshadowing impacts are worst, some overshadowing between the hours of 9am to 12pm is expected over No 47A George Street. From 12pm onwards No 47A George Street will enjoy full solar access. Between the hours of

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9am to 12pm, No. 49A George Street will enjoy full solar access. From midday and onwards No. 49A George Street is expected to be overshadowed. However due to the orientation of the site the rear yard is not affected.

This complies with the BBDCP 2013 solar access requirements. Further, the dwellings are of appropriate height, size and scale, and are setback a reasonable distance from neighbouring properties. Therefore the overshadowing impacts are considered to be acceptable and no design changes are required to be made.

Issue 4: Impact on the structural stability of No. 49A as result of the proposed basement parking

Concern is raised that due to the extent of excavation proposed for the basement, there could be damage to the adjoining property (No. 49A). Accordingly, a dilapidation report has been conditioned in the consent.

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

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

OTHER MATTERS

Section 7.11 Contributions (formerly s.94)

The City of Botany Bay's Section 7.11 Development Contributions Plan 2016 – Amendment 1 became effective on 19 June 2018. The below contribution applies to the proposed development:

Contribution Rates

1 x New 4 Bedroom dwellings: \$20,000.00
 1 x New 4 Bedroom dwellings: \$20,000.00
 1 x Existing dwelling: \$20,000.00

Credit

Since there is an existing dwelling house on the existing lot, the applicant is entitled to a credit. Therefore a credit applies to one dwelling.

Credit applicable: \$20,000.00

Subtotal: \$40,000.00- \$20,000.00= \$20,000.00

Total contribution

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

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Conclusion

Development Application No. 2017/1085 for the demolition of existing structures and construction of new 2 x two storey semi-detached dwellings with basement parking at 49 George Street, Eastlakes has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The development is compliant in height, site coverage, setbacks, solar access, landscaping, car parking and private open space. The amenity of the neighbouring development will not be adversely impacted by the proposal and acceptable amenity is provided to the proposal. The development is not considered out of context in the area and in the street as it proposes similar dwelling bulk and scale and setbacks. Therefore, the proposal is recommended for approval subject to conditions of consent.

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Attachment**Schedule 1 – Conditions of Consent****Premises: 49 George Street, Eastlakes****Da No.: DA-2017/1085****GENERAL CONDITIONS**

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

Drawing N°	Author	Dated Received
Dwg No. 0-01 Basix DW 1	Space0.618:1	Dated: May 2018 Received: 26 June 2018
Dwg No. 0-02 Basix DW 2		Dated: May 2018 Received: 26 June 2018
Dwg No. 1-001 Demolition Plan		Dated: May 2018 Received: 26 June 2018
Dwg No. 1-01 Proposed Site & Analysis Plan		Dated: May 2018 Received: 26 June 2018
Dwg No. 1-02 Soil and Water Management Plan		Dated: May 2018 Received: 26 June 2018
Dwg No. 1-03 Concept Landscape Plan		Dated: May 2018 Received: 26 June 2018
Dwg No. 2-00 Basement		Dated: May 2018 Received: 26 June 2018
Dwg No. 2-01 Ground Floor Plan		Dated: May 2018 Received: 26 June 2018
Dwg No. 2-02 First Floor		Dated: May 2018 Received: 26 June 2018
Dwg No. 3-00 Northern Elevation		Dated: May 2018 Received: 26 June 2018
Dwg No. 3-01 Western Elevation		Dated: May 2018 Received: 26 June 2018
Dwg No. 3-02 Eastern Elevation		Dated: May 2018 Received: 26 June 2018
Dwg No. 3-03 Southern Elevation		Dated: May 2018 Received: 26 June 2018
Dwg No. 3-49 Section 1		Dated: May 2018 Received: 26 June 2018
Dwg No. 5-00 Materials Schedule		Dated: May 2018 Received: 26 June 2018
Dwg No. 5-01 Driveway Profile		Dated: May 2018 Received: 26 June 2018

Reference Document(s)	Author	Date Received
Waste Management Plan	M.H	Dated 10 April 2017; Received 25 May 2017

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2. This Consent relates to land in Lots 85 & 86 Sec A in DP 3239 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates (as referenced at Condition No. 1) for the development are fulfilled.

Note:

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

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

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

6. To maintain privacy between adjoining developments, the family/dining room window (W-1.11) on the western elevation must have a sill height of 1.7m (from ground floor FFL). Revised plans reflecting the above change are required to be submitted prior to the issue of a Construction Certificate.
7. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
8. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
 - a) Footpath Crossing Deposit \$5,419.00 (See below)
 - b) Development Control \$3,081.00
 - c) Section 7.11 Contributions (Section 94) \$20,000.00 (See below)
9. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.

The contribution is broken down as follows:

- a) Community Facilities: \$1,600.00
- b) Open Space: \$16,800.00
- c) Transport: \$1,400.00
- d) Administration: \$200.00

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

10. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$5,419.00 (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

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months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

11. The building must be constructed in accordance with *AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*. Details of compliance must be outlined within a report prepared by a practicing professional acoustical consultant (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). The report must be submitted to the Certifying Authority prior to the release of any Construction Certificate and the building plans must be endorsed with the required acoustical measures.

The measures required must be implemented in accordance with the provisions of *AS 2021 – 2015* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of *AS2021 – 2015*. The required measures shall be incorporated into the plans submitted with the Construction Certificate.

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 (requirements for noise from air conditioners is outlined elsewhere within this consent).

12. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
13. A dilapidation report, including a photographic survey prepared by a Practicing Structural Engineer, must be prepared in respect of the property known as 49A George Street, Eastlakes. 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 Certifying Authority prior the release of the Construction Certificate.
14. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
15. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access

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to the property. No storage of construction materials and plants to be allowed in road reserve area.

16. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.
17. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, new concrete driveway laybacks shall be constructed. A new five and half (5.5) metre wide combined driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.

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

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

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

18. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
19. Prior to the commencement of works, the applicant must inform Council, in writing, of:

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- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
20. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
21. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
22. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
23. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
24. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
25. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or

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underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

- e) If the soil conditions required it:
 - i. Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii. Adequate provision must be made for drainage.
26. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
27. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- Induction training for on-site personnel;
- Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);

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- 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.

DURING WORKS

28. Inspections must be conducted by Council's Engineer at the following occasions:
 - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Final inspection of driveway layback and adjacent kerb and gutter,
 - e) Final inspection of Council's kerb and gutter,
 - f) Final inspection of Council's footpath.
29. 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;

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- iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an afterhour's contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
30. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
31. 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.
32. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
33. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
34. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
 - e) No demolition materials shall be burnt or buried on the site.
35. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:

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- a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings
36. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
37. No demolition materials shall be burnt or buried on the site.
38. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.
39. 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.
40. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
41. 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.
- 42.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
- 43.
- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

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- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - The additional load on the system; and
 - The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 44. The following shall be complied with during construction and demolition:
 - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 05:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing

All possible steps should be taken to silence construction site equipment.
- 45. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

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- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
47. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
48. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

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

49. The following amendments are requirement to be made to the approved landscape plan:
- a) One (1) locally indigenous small to medium sized tree is to be planted within the rear setbacks of each of the dwellings.
- Note: Please refer to *Part 10 – Landscaping Technical Guidelines for Development Sites* for tree species.
50. Street trees are to be provided in accordance with Botany Bay Street Tree Master Plan. The designated specie for George Street is *Cupaniopsis anacardioides* (Tuckeroo)

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- a) Trees provided shall conform to NATSPEC guide. Pot size supplied shall be not less than 100 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries.
 - b) Tree pits to be 3 metres long by 1.5 metres wide, or space between kerb and footpath, backfilled with imported soil/compost, water holding additive and fertiliser. Interface of tree pit and turf shall be with hardwood, 50mm x 150mm, edging set flush with adjoining kerb and path, provide pegs at both ends and centre of timber edge. Hardwood to flush kerb finished level with the front edge of footpath and top of kerb.
 - c) Mulching- Tree pit mulched shall conform to AS4454 and free of deleterious extraneous matter such as soil, weeds, wood slivers, stones. Mulch shall be in all tree pits to a depth of 75mm, when plants are installed, clear of all plant stems, and rake to an even surface flush with the surrounding finished levels. Mulch finished level shall be 50mm below kerb level.
 - d) Stakes and Ties- Three stakes (3) of 50 x 50 x 2500mm of durable hardwood, straight, free from knots or twists, pointed at one end. Provide ties fixed securely to the stakes, 50mm hessian webbing installed around the stakes and stem in a figure of eight pattern and stapled to the stakes.
51. Prior to release of any Occupation Certificate the applicant must submit to the Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and to certify that the construction meets the relevant 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).
52. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
53. Prior to the issue of an Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.
54. 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.
55. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On George Street, adjacent to development, reconstruct the existing footpath for the full length of the proposed new properties in accordance with Council Infrastructure Specifications; and
 - b) On George Street, adjacent to development, reconstruct the existing kerb and gutter for the full length of the proposed new properties in accordance with Council Infrastructure Specifications.

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56. 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.
57. Prior to the issue of the Occupation Certificate, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council. The relative location of the on-site detention system, in relation to the building footprint, shall be shown on a scale sketch and attached as an annexure to the plans/ forms.
58. 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 Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
59. The Council nature strip in George Street shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
60. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

61. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
62. 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.
63. 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*.
64.
 - 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.

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- b) Noise from any air-conditioning units (measured as the $L_{\text{aeq } 15 \text{ minute}}$) is not to exceed the background level (measured as the $L_{\text{a90 } 15 \text{ minute}}$) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

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

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Clause 4.6 Objection to Clause 4.4 - Floor Space Ratio (FSR) of the Botany Local Environmental Plan 2013

Introduction

This report is to be considered in conjunction with the Statement of Environmental Effects (SEE) for the application for the proposed demolition of all existing structures on site with the proposed construction of two storey attached dwelling with basement over two separate lots

The report is a submission pursuant to the requirements of Clause 4.6 of the BLEP 2013 to seek approval from Council for consent to be granted to an application that contravenes a development standard.

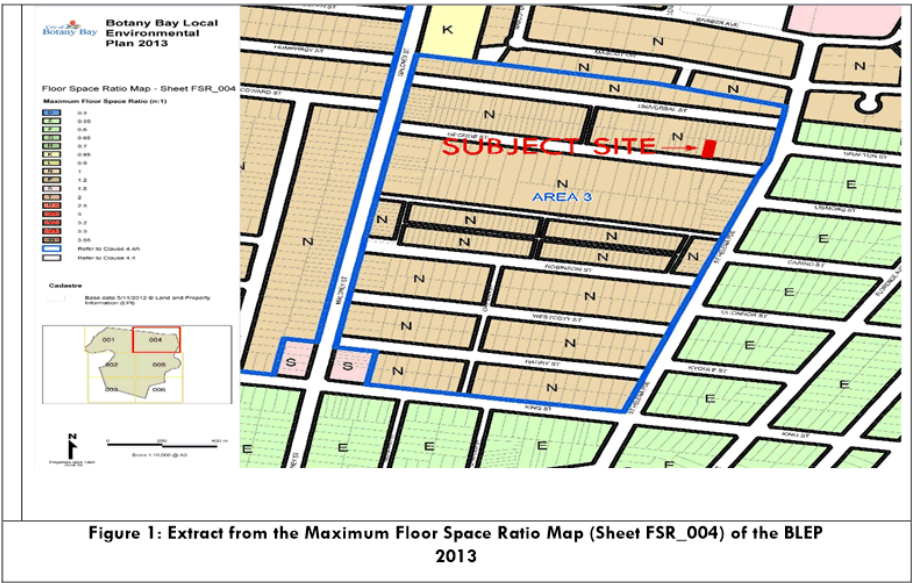
1. Clause 4.6 Objection

Development Standard

Pursuant to Clause 4.6 of the Botany LEP 2013 (BLEP 2013), this objection seeks to vary the FSR standard stipulated in Clause 4.4 that states:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The relevant portion of the maximum Floor Space Ratio Map (Sheet FSR_004) of the BLEP 2013 is shown on Figure 1 below. The maximum FSR for the site is 0.84:1 for dwelling house and 0.5:1 for semi-detached dwellings.



Proposed Variation

FSR		
Required	Proposed	Variation
0.5:1	0.84:1	68.88%

2. Justification for the exception and matters for consideration**Compliance to Clause 4.6 BLEP 2013**

The following provides the justification with regards to the objectives of 4.6 of the BLEP 2013.

(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.*

Comment

The non-complying element of the proposed development is 68.88% over the maximum FSR standard of 0.5:1. This numerical breach is considered acceptable as it is the outcome of a well-balanced urban design solution to achieve maximum site yield without adversely impacting on the local character of the area.

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances*

Comment

Strict compliance to the 0.5:1 FSR requirement means the loss of approx. 128.73m² of gross floor (GFA), equivalent of at least one dwelling. It will underutilize a well located site in terms of accessibility to public transport, parks, shops, community facilities and services.

- (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.*

Comment

The maximum FSR standard is not excluded from the clause.

- (3) *Written request required that seeks to justify the contravention of the standard by demonstrating:*

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

Comment

This report outlines the justification for the case that strict compliance with the 0.5:1 maximum FSR standard in BLEP 2013 is unreasonable and unnecessary.

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard*

Comment

The following outlines are various environmental planning instruments that support contravening the development standard.

- (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.

Comment

Sub Clause 3 has been adequately addressed above and in the SEE (Section 4.4 Botany Development Control Plan 2013 (BDCP 2013) B1: Residential Development – Dwelling Houses.

(ii) the proposed development is in the public interest (consistent with the objectives of the standard and the zone)

Comment

The objectives of Zone R2 Low Density Residential in the BLEP 2013 include the following:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage development that promotes walking and cycling.

The above objectives of the zone are met by the proposal for the following reasons:

- The proposed development provides community needs for housing.
- The proposal takes advantage of local amenities including proximity to Eastlakes retail, commercial and other town centre facilities and services without exceeding their capacities. The site is well placed with the proximity to the CBD of Sydney city and industrial areas with the opportunity for work and leisure areas within close proximity all accessible within walking and cycling distances.
- The development sits comfortably with the existing and future low density character of the street and surrounding area.
- Landscaping is used throughout the site to enhance the overall development by softening the hard surfaces including the driveways.

(b) the concurrence of the Director-General has been obtained.

3. **Wehbe v Pittwater Council [2007] NSW LEC 827**

In his decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five 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.

The five tests are considered in the table below.

<p><i>(i) The objectives of the standard are achieved notwithstanding non-compliance with the standard</i></p>	<p>The BLEP 2013 Clause 4.4 Floor space ratio and corresponding responses are as follows:</p> <p><i>(1) The objectives of this clause are as follows:</i></p> <p><i>(a) to establish standards for the maximum development density and intensity of land use,</i></p> <p><i>(b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,</i></p> <p><i>(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,</i></p> <p><i>(d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,</i></p> <p><i>(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,</i></p> <p><i>(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p> <p><i>(g) to facilitate development that contributes to the economic growth of Botany Bay.</i></p> <p>Comment</p> <p>The non-complying element of the proposed development is 68.88% excess over the maximum FSR standard of 0.5:1. This numerical breach is the result of maximizing site yield.</p> <p>Notwithstanding, the building scale, height and form are adequately addressed in the design. A delicate balance between increased density and compatibility to existing surrounding development has been achieved by reduction of bulk, use of appropriate colours, landscaping and other architectural treatment. No intrusion to privacy, minimal blocking of solar access and overshadowing of adjacent properties is expected as a result. The impact to the local character is not any different to any existing or future development in the area.</p> <p>The consistency with the objectives of Cl. 4.4 Floor Space Ratio as outlined above satisfies the Wehbe test (i) and the absence</p>
--	--

Clause 4.6 Objection. 49 George Street, Eastlakes

	of any environmental impacts, demonstrates that strict compliance with FSR standard is both unreasonable and unnecessary in this instance. With the site already subdivided into two lots, if the application was two detached single dwellings then the application would comply with the 0.84:1 FSR for dwelling houses.
<i>(ii) the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary</i>	Not applicable. The underlying objective or purpose of the standard is relevant to the development and is achieved as outlined in (i) above.
<i>(iii) the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable</i>	Not applicable. The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required.
<i>(iv) 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; and</i>	The council has approved 51 George Street, Eastlakes with an FSR of 0.84:1.

Clause 4.6 Objection. 49 George Street, Eastlakes

<i>(v) the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</i>	This exception to development standards request does not rely on this reason
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4. Winten Developments Pty Ltd v North Sydney Council [2001] NSWLEC 46

The exception to development standards request is assessed below against the accepted test for the assessment of development standard variation established by Winten Developments Pty Ltd v North Sydney Council [2001] NSWLEC 46.

A Is the planning control in question a development standard?	Yes, Cl. 4.4 of Botany LEP 2013 is a development standard.
B What is the underlying object or purpose of the standard?	The underlying objectives of the standard are assessed in Section 3.
C Is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?	Sections 2 & 3 demonstrates that compliance is unnecessary and unreasonable.
D. Is compliance with the development standard consistent with the aims of the Policy (to provide flexibility in the application of	The arguments contained in this Clause 4.6 variation support the case to allow flexibility in the application of the standard. The non-compliance with the development standard

Clause 4.6 Objection. 49 George Street, Eastlakes

development standards); and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979?	<p>allows for an orderly use of the land and has been designed with consideration to the desired future character of the area.</p> <p>Additionally, the Objects of the Act are satisfied as:</p> <ul style="list-style-type: none"> • The departure from the maximum FSR standard in the BLEP 2013 will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and • The departure from the maximum FSR standard in BLEP 2013 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls.
E. Is the objection well founded?	As the Clause 4.6 exception to development standards request appropriately addresses <i>Wehbe v Pittwater Council</i> [2007] NSW LEC 827, the proposed variation is well founded.

4.2 The public benefit of maintaining the standard

There is no public benefit in maintaining strict compliance with the development standard in this instance.

5. Summary justification

A summary of the matters set out in this cl. 4.6 exceptions to development standards request to vary the maximum FAR standards are follows:

Relevance of the FSR standard

- The non-complying element of the proposed development is a **68.88%** excess over the maximum FSR standard of 0.5:1. This numerical breach is considered acceptable as it is the outcome of a well-balanced urban design solution to achieve maximum site yield without adversely impacting on the local character of the area.
- Strict compliance to the FSR standard of 0.5:1 will result in the loss of 128.73m² of gross floor (GFA) or the equivalent of at least one dwelling.

Urban design and streetscape

- The building scale, height and form are adequately addressed in the design. A delicate balance between increased density and compatibility to existing surrounding development has been achieved by reduction of bulk, use of appropriate colours, landscaping and other architectural treatment. No intrusion to privacy, blocking of solar access and overshadowing of adjacent properties is expected as a result.
- The front elevation demonstrates that the proposal sits comfortably within the existing streetscape and surrounding area. The minor breach will not be incompatible with any future development.

Clause 4.6 Objection. 49 George Street, Eastlakes

The impact to the local character is not any different to any existing or future development in the area.

FSR standard objectives

The proposal satisfies the relevant objectives of BLEP 2013 Clause 4.4 Floor space ratio standard as follows:

(1)(a) *to establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site.*

- The building scale, height and form are adequately addressed in the design. A delicate balance between increased density and compatibility to existing surrounding development has been achieved by reduction of bulk, use of appropriate colours, landscaping and other architectural treatment. No intrusion to privacy, blocking of solar access and overshadowing of adjacent properties is expected as a result. The impact to the local character is not any different to any existing or future development in the area.
- There is consistency with the objectives of the standard, and the absence of any environmental impacts, would demonstrate that strict compliance with the maximum FSR standard is both unreasonable and unnecessary in this instance.

Objects of the Act

The Objects of the Act are satisfied as follows:

- The departure from the maximum FSR standard in the BLEP 2013 will have no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.
- The departure from the maximum FSR standard in the BLEP 2013 allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning controls.

Public interest

No unreasonable public disadvantages have been identified as it has been demonstrated that any environmental or other impacts associated with the development are minimal and/or can be adequately managed.

Other tests

The proposed variations satisfy the tests and considerations established in *Wehbe v Pittwater Council* [2007] NSW LEC 82 and *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46.

Clause 4.6 Objection. 49 George Street, Eastlakes

Conclusion

In summary, compliance with the development standard restricting the maximum FSR is unreasonable and unnecessary. This is because the objectives of the development standard can still be achieved notwithstanding non-compliance. The development standard is not an end in itself but rather a means of achieving desired outcomes.

Council is therefore urged to support this Clause 4.6 objection.

49 GEORGE STREET, EASTLAKES LOT 86 D.P. 3239 LGA: BAYSIDE COUNCIL

PLEASE REFER TO SHEET 0-01 FOR BASIX

0-00	COVER SHEET
0-01	BASIX DW 1
0-02	BASIX DW 2
0-03	DOOR AND WINDOW SCHEDULE
1-00	EXISTING SITE & SURVEY PLAN
1-01	PROPOSED SITE & ANALYSIS PLAN
1-001	DEMOLITION PLAN
1-02	SOIL AND WATER MANAGEMENT PLAN
1-03	CONCEPT LANDSCAPE PLAN
1-04	CONCEPT STORMWATER PLAN 1
1-05	CONCEPT STORMWATER PLAN 2
2-00	BASEMENT
2-01	GROUND FLOOR PLAN
2-02	FIRST FLOOR
3-00	NORTHERN ELEVATION
3-01	WESTERN ELEVATION
3-02	EASTERN ELEVATION
3-03	SOUTHERN ELEVATION
3-49	SECTION 1
4-00	9AM WINTER SHADOW
4-01	12PM WINTER SHADOW
4-02	3PM WINTER SHADOWS
4-03	9AM EQUINOX SHADOW
4-04	12PM EQUINOX SHADOW
4-05	3PM EQUINOX SHADOW
5-00	MATERIALS SCHEDULE
5-01	DRIVEWAY PROFILE

NOTE:

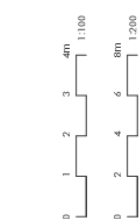
- ALL STORMWATER TO BE COMPLETED TO ENGINEER'S DETAILS
- ALL ENGINEERING REQUIRED TO BE READ IN CONJUNCTION WITH THE SUPPLIED DETAILS
- BUILDER TO VERIFY ALL WINDOW OPENINGS WITH THE WINDOW MANUFACTURER
- ALL EXISTING DIMENSIONS ON SITE DUE TO NATURE OF WORKS
- ALL DISTURBED VEGETATION TO BE REINSTATED
- ALL EROSION AND SEDIMENT CONTROL MEASURES TO BE INSPECTED DAILY BY SITE MANAGER
- MINIMIZE DISTURBED AREAS
- ALL STORMWATER TO BE CLEAR FROM FOOTPATHS, DRAINS AND GULLIES
- DRAINAGE IS TO BE CONNECTED TO STORM WATER SYSTEM AS SOON AS POSSIBLE
- ROADS AND FOOT PATH TO BE SWEEPED DAILY
- ALL CONCRETE DELIVERIES TO BE PLUMBED ON SITE
- PLACEMENT OF PUMP AND CONCRETE TRUCK
- ALL WASH DOWN TO OCCUR ON SITE
- WASH DOWN TYPES TO BE WASHED DOWN TO GRAVEL HARD STAND AREA
- PROVIDE THREE (3) METRE HIGH LIGHT TIMBER FRAME CORE AST1004
- PROVIDE COLOURED ALUMINIUM GUTTERS AND DOWNPIPES
- PROVIDE R.C. FLOORS TO ENG. DETAILS
- PROVIDE SELECTED POWDER COATED ALUMINIUM FRAMED WINDOWS & DOORS
- PROVIDE SELECTED POWDER COATED ALUMINIUM FRAMED DOORS TO EXTERNAL DOORS
- PROVIDE SOLID CORE INTERNAL DOORS
- PROVIDE 270mm CAVITY BRICK WALL CONSTRUCTION TO EXTERNAL WALLS
- PROVIDE 110mm BRICK WALLS TO INTERNAL WALLS
- PROVIDE 250mm BRICK VENEER WHERE STATED
- PROVIDE SELECTED RAUINGS TO BCA
- PROVIDE WATER PROOFING AS PER BCA TO ALL WET AREAS
- PROVIDE WATER PROOFING TO ALL EXISTING CONCRETE SLAB ON GROUND, DOWN TO CEILING CAVITY THEN PROVIDE A VAPOR BARRIER SYSTEM OR PROVIDE PLASTERBOARD BULKHEADS TO ACCOMMODATE DUCTING AND DIFFUSERS

SPACE
0618:1
bda
AUTHOR: Moe Higgs
DESIGNER: Moe Higgs
P U L L M E R N O 172914

file: COVER SHEET
Lot Number: 86 DP 3239
Job Number: 17-08
Shape: DA
date: 11/09/2018
scale: @ A3;
Class Type: 1A
drawing no: 0-00

project: 49 GEORGE STREET, EASTLAKES
Amendment:
Date:
Rev:

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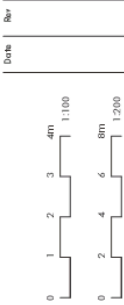


[illegible]

Door Schedule			
Mark	Level	Height	Width
2.1	GROUND FL	2700	1100
2.2	GROUND FL	2700	1100
2.3	GROUND FL	2100	820
2.4	GROUND FL	2400	1020
27	BASEMENT FL	2200	2400
28	BASEMENT FL	2200	2400
29	BASEMENT FL	2100	820
30	BASEMENT FL	2100	820
40	FIRST FL	2040	820
50	FIRST FL	2100	820
52	FIRST FL	2040	820
53	FIRST FL	2100	820
54	FIRST FL	2100	710
55	FIRST FL	2100	820
56	FIRST FL	2100	820
58	FIRST FL	2100	820
59	GROUND FL	2100	720
60	FIRST FL	2100	820
61	GROUND FL	2040	820
62	GROUND FL	2100	720
63	GROUND FL	2100	720
64	GROUND FL	2100	720
65	GROUND FL	2400	1020
66	FIRST FL	2100	820
67	FIRST FL	2100	820
68	FIRST FL	2100	710
69	GROUND FL	2040	820
70	FIRST FL	2100	820
71	GROUND FL	2100	820
72	FIRST FL	2400	1800
73	FIRST FL	2400	1800
74	FIRST FL	2100	820
Grand total: 32			

note:
- ALL WINDOWS AS PER BASIX CERTIFICATE
- VERIFY ALL WINDOW OPENINGS ON SITE

Window Schedule						
Mark	Location	AREA	Width	Height	Sill Height	Head Height
1.1	SOUTH	1.20	1000	1200	0	1200
1.7	WEST	1.86	1210	1340	1500	3040
1.8	WEST	0.63	1050	600	1500	2100
1.9	WEST	0.51	850	600	900	1500
1.10	WEST	0.51	850	600	900	1500
1.11	WEST	7.50	5000	1500	1500	3000
1.13	WEST	2.60	2170	1200	1500	2700
1.14	WEST	0.94	1570	600	1500	2100
1.15	WEST	2.60	2170	1200	1500	2700
1.16	EAST	0.94	1570	600	1500	2100
1.17	WEST	2.60	2170	1200	1500	2700
1.18	WEST	2.60	2170	1200	1500	2700
1.19	NORTH	9.82	4090	2400	0	2400
1.20	NORTH	2.60	2170	1200	1500	2700
1.21	SOUTH	9.59	3552	2700	0	2700
1.22	SOUTH	1.89	900	2100	400	2500
1.23	SOUTH	1.89	900	2100	400	2500
2.1	SOUTH	1.20	1000	1200	0	1200
2.7	EAST	1.86	1210	1540	1500	3040
2.8	EAST	0.63	1050	600	1500	2100
2.9	EAST	0.51	850	600	900	1500
2.10	EAST	0.51	850	600	900	1500
2.11	EAST	7.50	5000	1500	1500	3000
2.12	EAST	2.60	2170	1200	1500	2700
2.13	EAST	0.94	1570	600	1500	2100
2.14	EAST	2.60	2170	1200	1500	2700
2.15	EAST	0.94	1570	600	1500	2100
2.16	EAST	2.60	2170	1200	1500	2700
2.17	EAST	2.60	2170	1200	1500	2700
2.18	NORTH	9.82	4090	2400	0	2400
2.19	NORTH	2.60	2170	1200	1500	2700
2.20	SOUTH	9.59	3552	2700	0	2700
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SKV-2		0.96	800	1200		



Amendment

project
49 GEORGE STREET, EASTLAKES

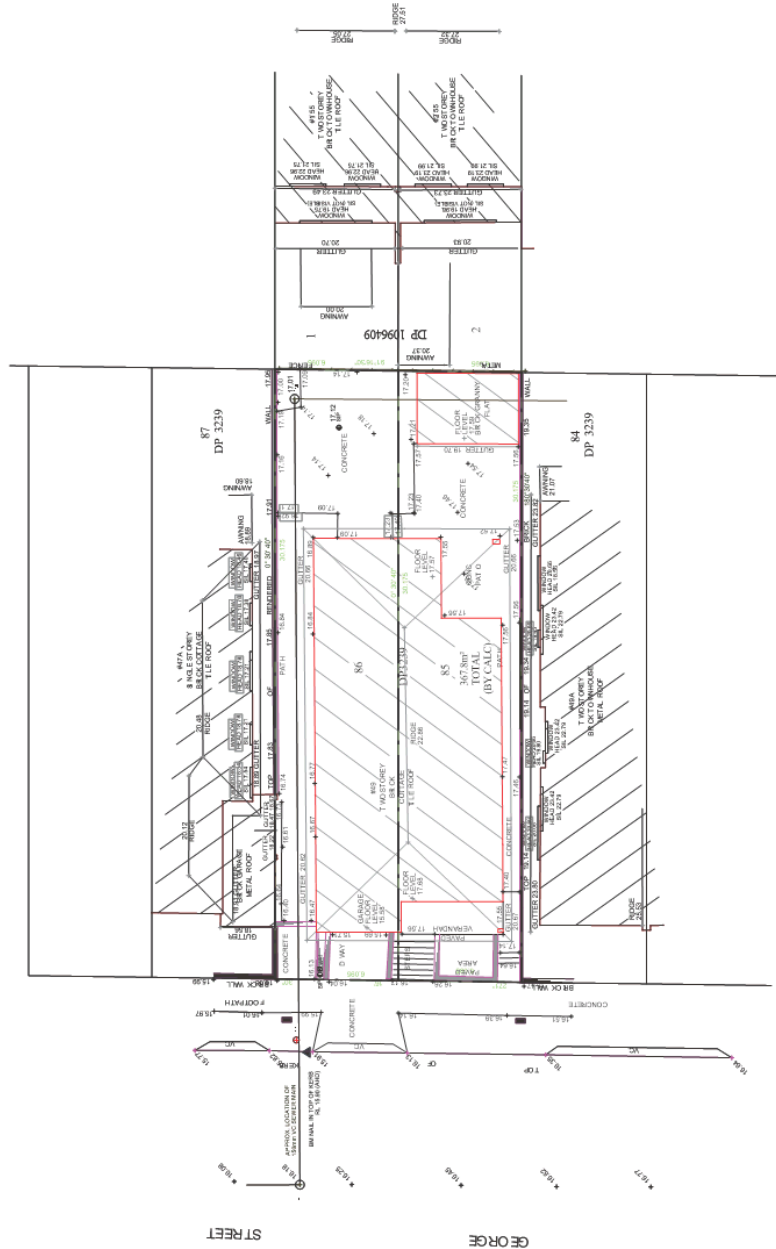
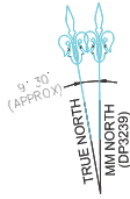
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file: DOOR AND WINDOW SCHEDULE
Lot Number: 86 DP 3239
Job Number: 17/08
Class Type: 1A
date: n.d. 18 scale: @ A3;
drawing no: 0-03.enr

SPACE 06181
DISCHER
AUTHOR
Moe Hlitz
PULLMERE No.172914

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project
4P GEORGE STREET, EASTLAKES

Amendment

Date

Bar

Site EXISTING SITE & SURVEY PLAN

Lot Number: 84 DP 3239

Job Number: 37-08

Shape: DA

Class: Type 1A

date: MAY 18

scale: @ A3: 1:200

drawing no: 1-00

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SPACE

06181

bdg

DESIGNER: Moe Higgs

AUTHOR: Moe Higgs

DATE: MAY 18

SCALE: @ A3: 1:200

DRAWING NO: 1-00

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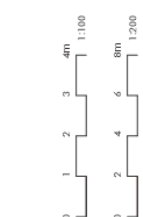
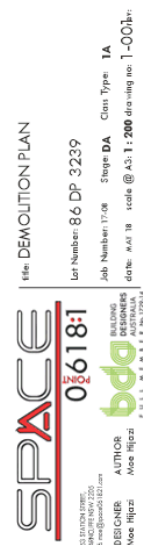
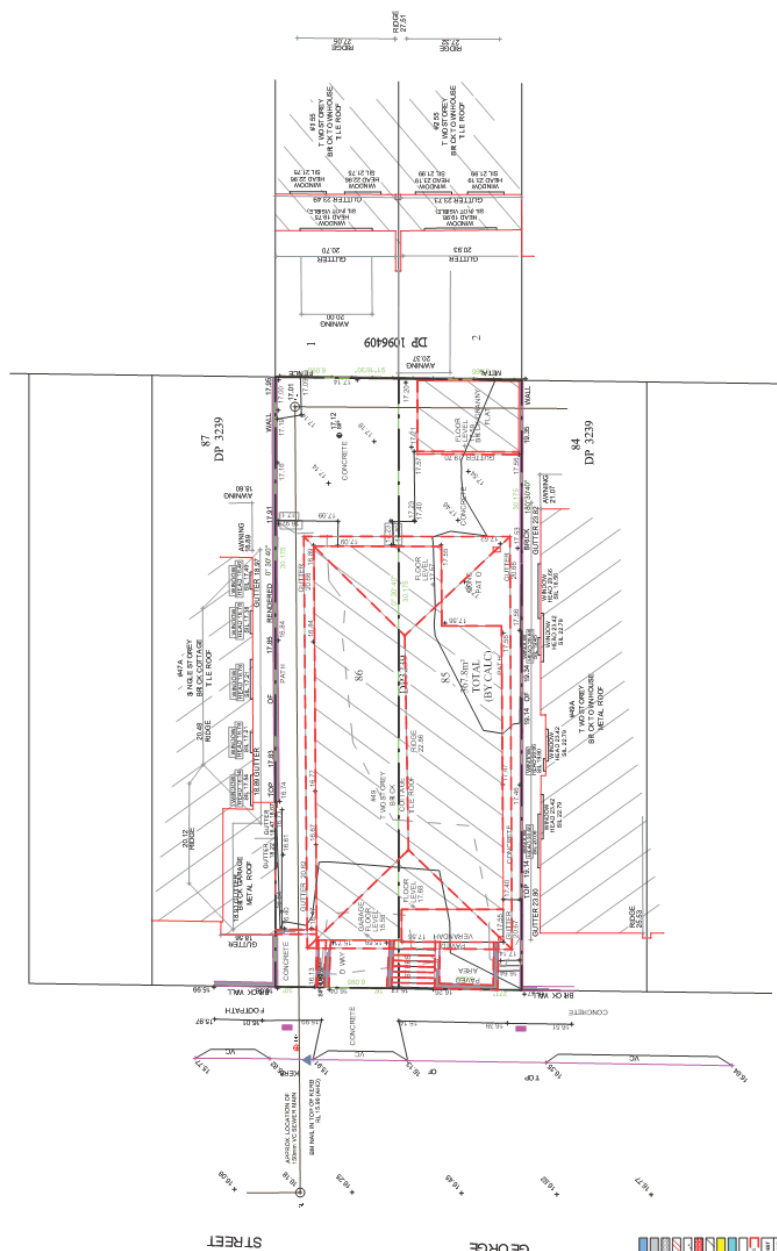
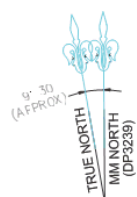
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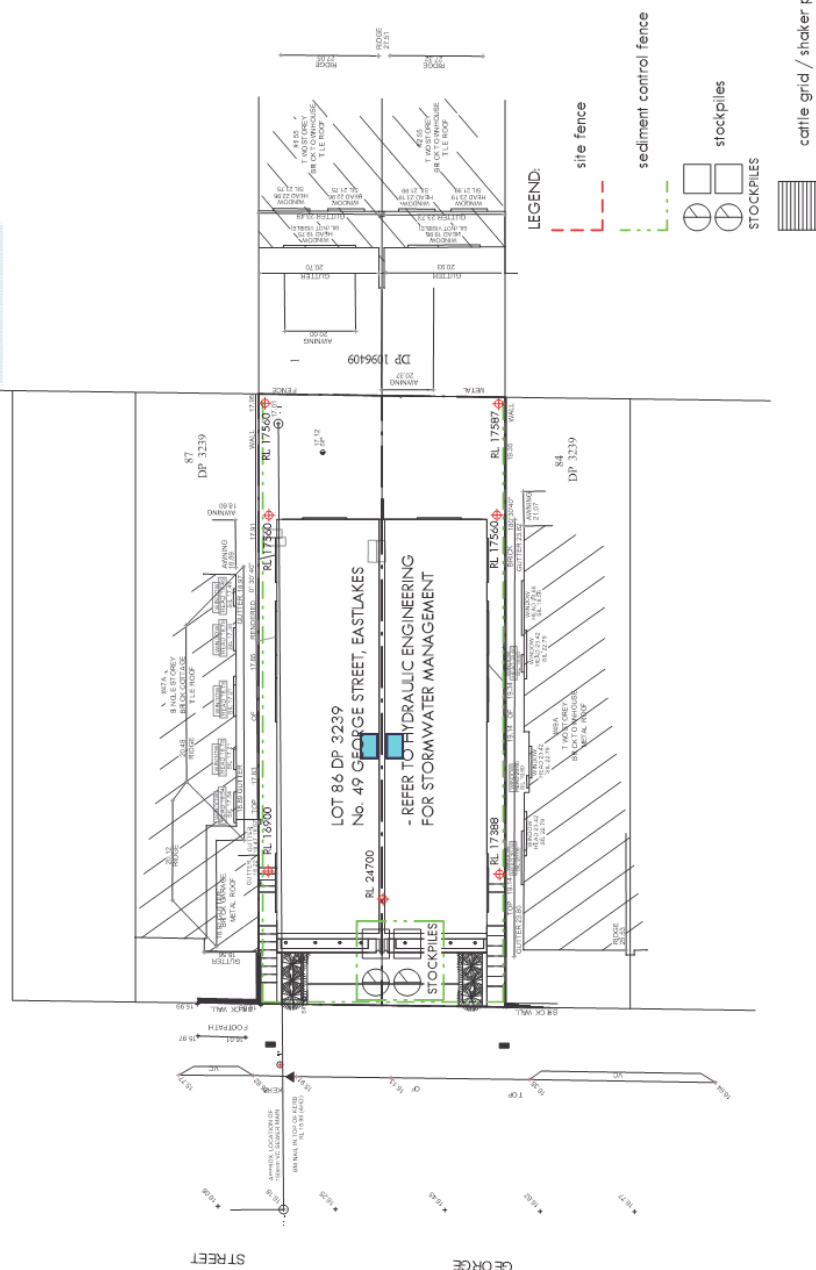
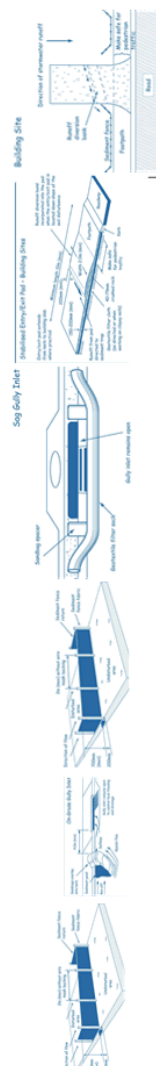
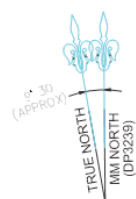
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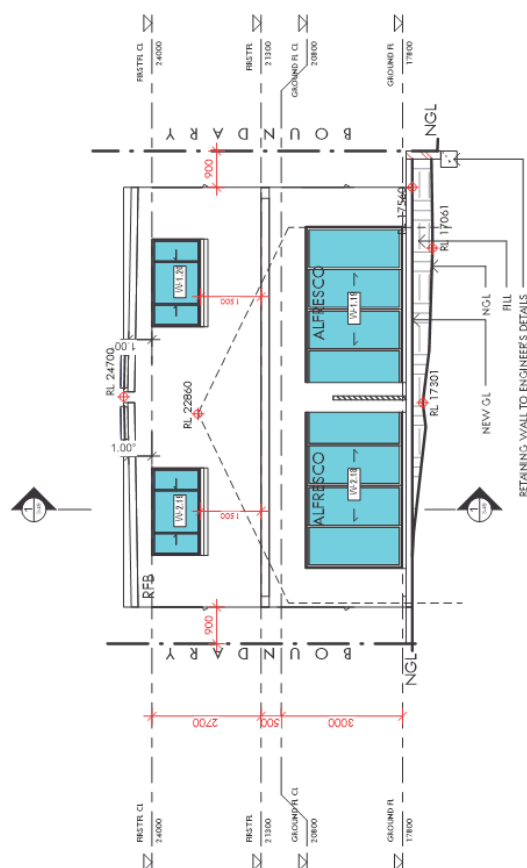
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MATERIALS		SCHEDULE
WALLS	INTERIOR - PAINT DULUX "MID WHITE"	
BRICK COLUMNS	CLAD IN UPVC CLADDING - SANDSTONE TILE	
RAILINGS	GLAZED RAILING TO HCC	
FRONT DOOR	SOLID CORE TIMBER TO MATCH UPVC CLADDING	
PRIVACY SCREENS	ALUMINIUM TO MATCH UPVC CLADDING	
WINDOWS	ALUMINIUM FRAMED GRAY	
GARAGE DOOR	ALUMINIUM TO MATCH UPVC CLADDING	
CLADDING	UPVC CLADDING TIMBER LOOK KERNAU OR ALICE	
AWNING / SHS	N/A	
ROOF + GUTTERS	LIGHT COLOURED COLORBOND	



project
49 GEORGE STREET, EASTLAKES

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Amendment

Date	Rev
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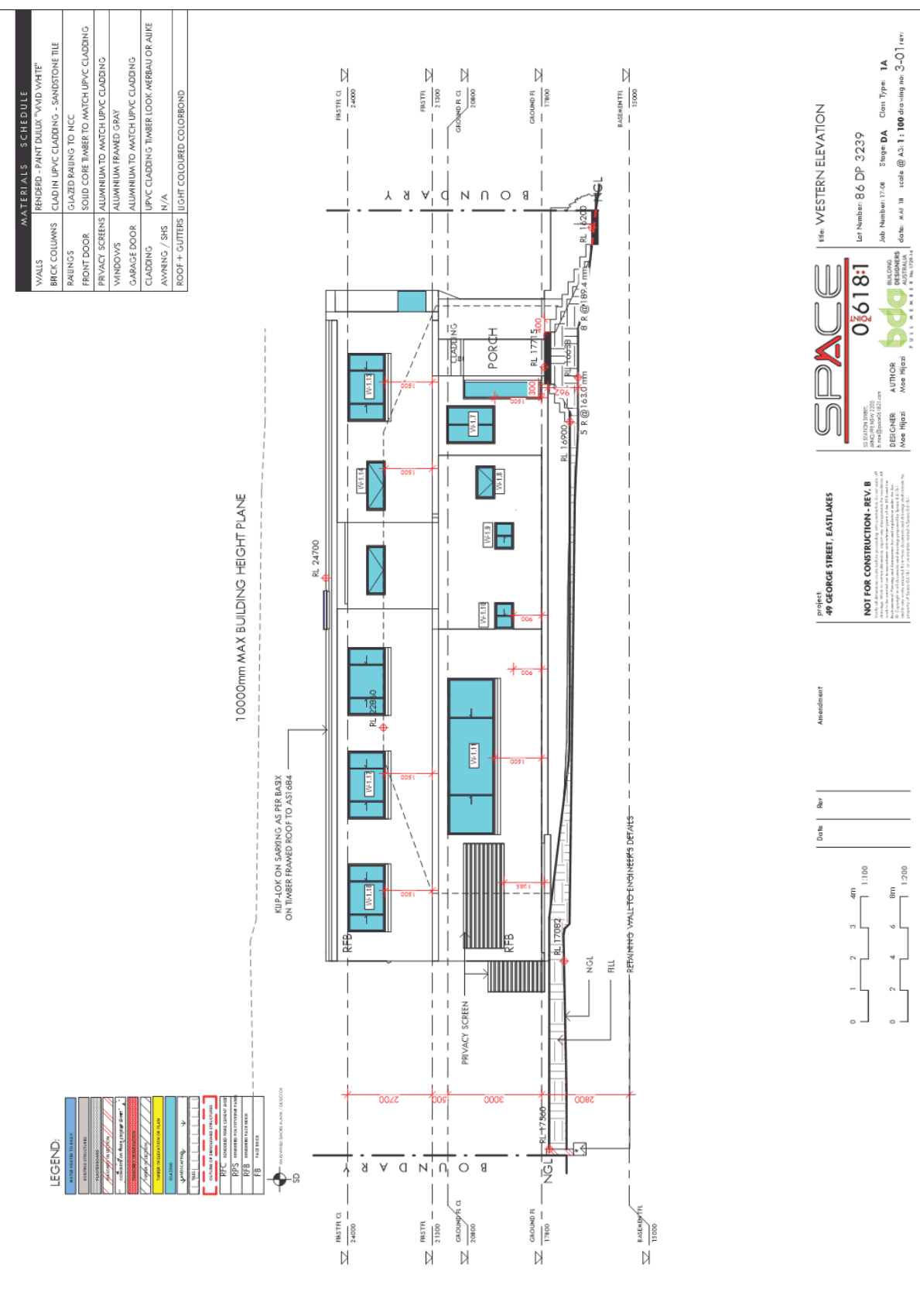


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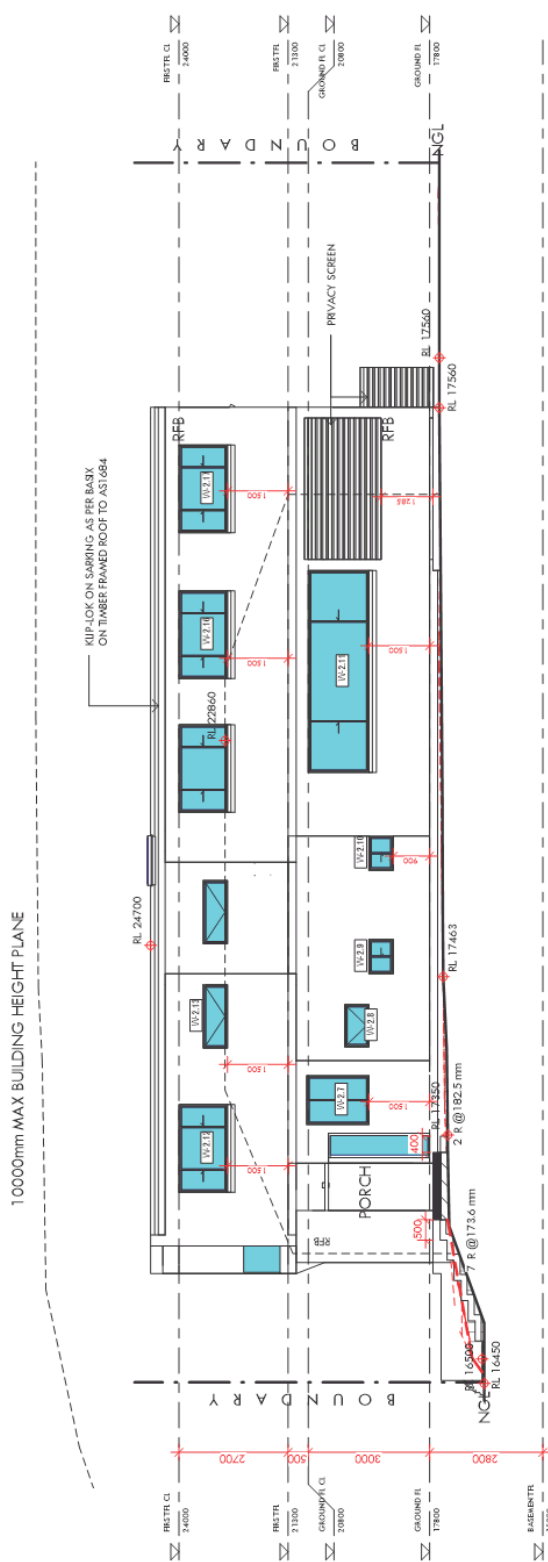
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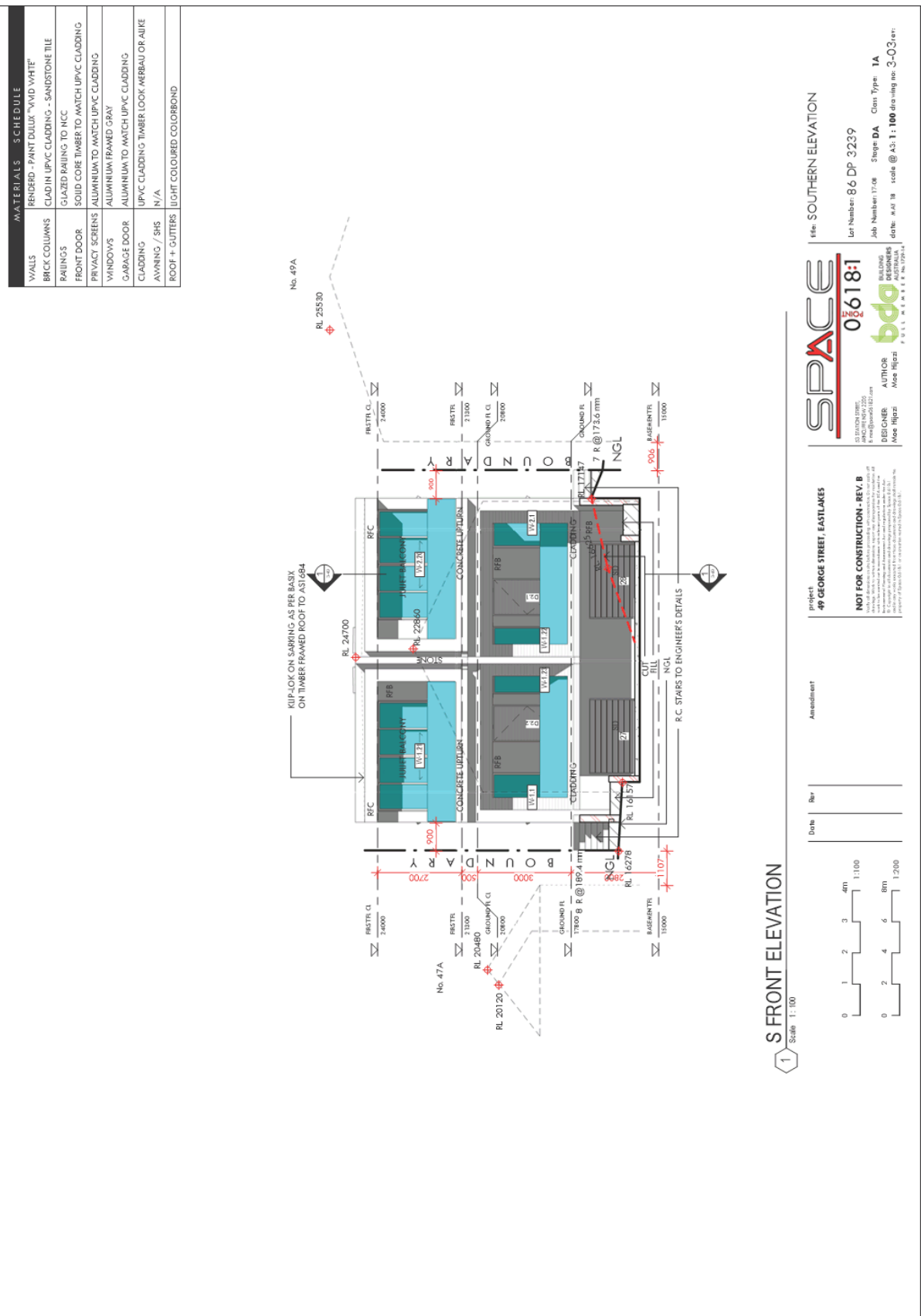
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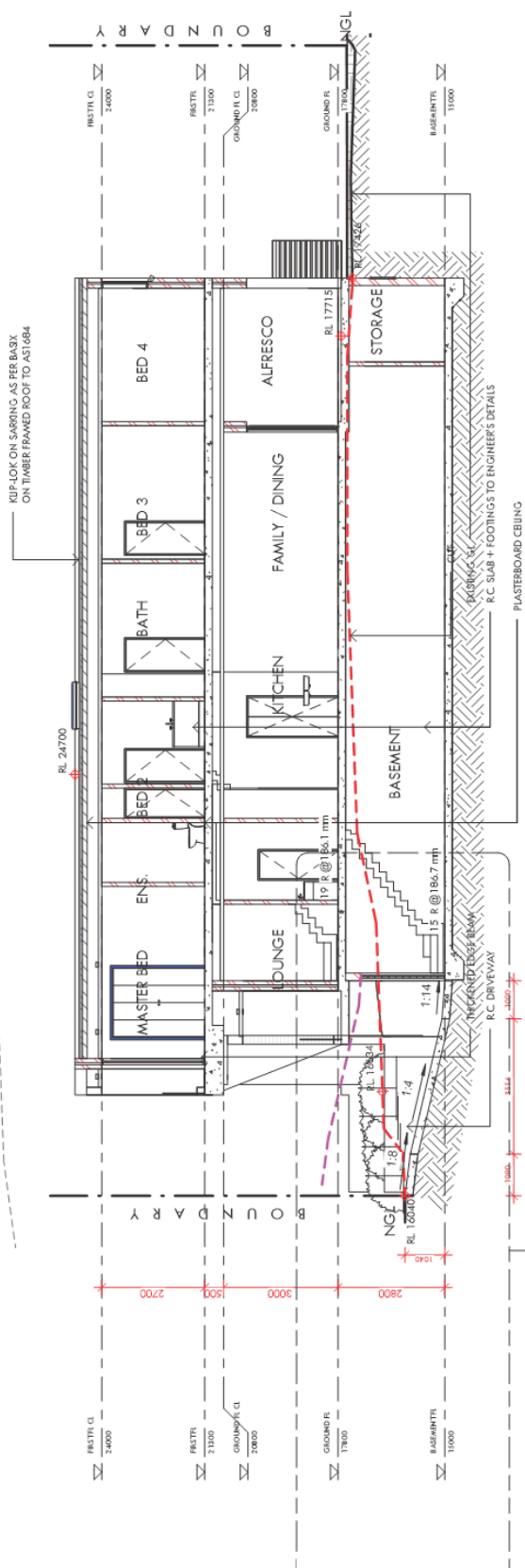


MATERIALS		SCHEDULE
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RAILINGS	GLAZED RAILING TO HCC	
FRONT DOOR	SOLID CORE TIMBER TO MATCH UPVC CLADDING	
PRIVACY SCREENS	ALUMINIUM TO MATCH UPVC CLADDING	
WINDOWS	ALUMINIUM FRAMED GRAY	
GARAGE DOOR	ALUMINIUM TO MATCH UPVC CLADDING	
CLADDING	UPVC CLADDING TIMBER LOOK KERNBAU OR ALICE	
AWNING / SHIS	N/A	
ROOF + GUTTERS	LIGHT COLOURED COLORBOND	





10000mm MAX BUILDING HEIGHT PLANE



1
5-01

project
49 GEORGE STREET, EASTLAKES

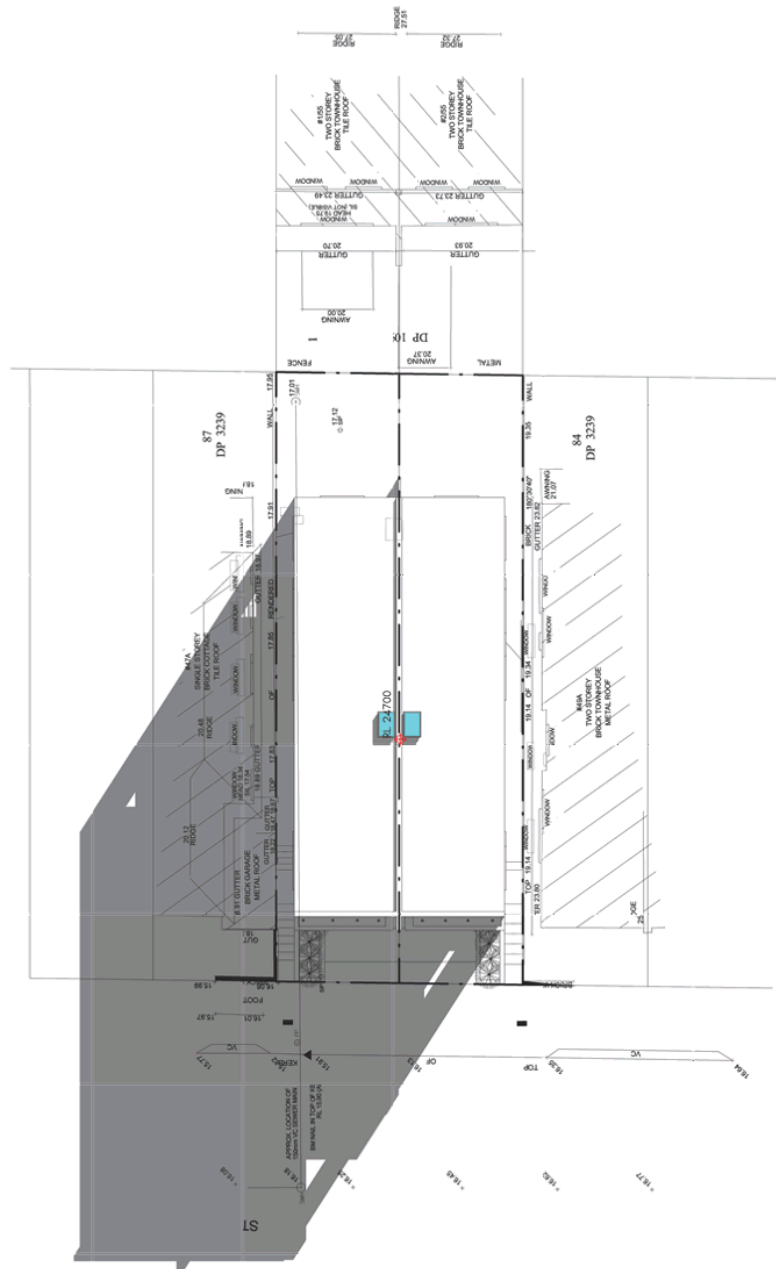
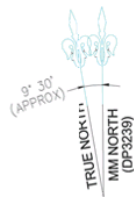
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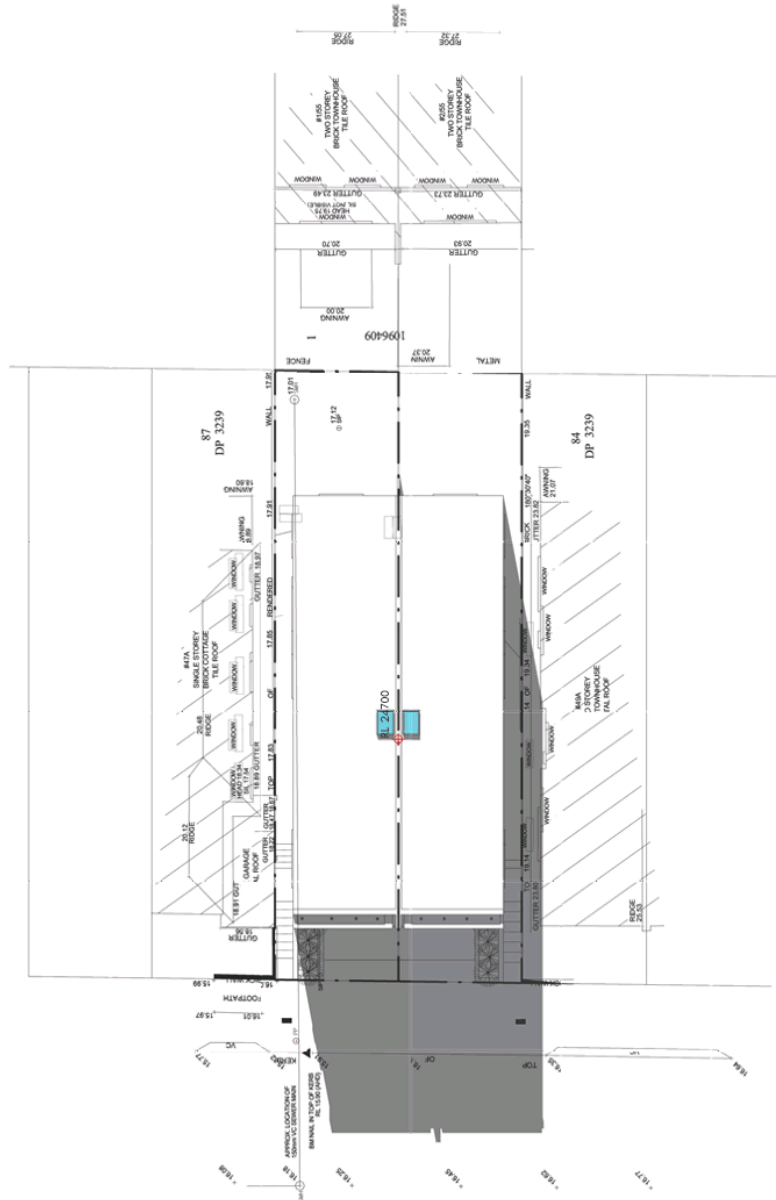
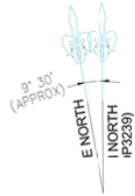
Date

Rev

Scale
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0 2 4 6 8m

SPACE
06181
DESIGNER: Moe Higgs
AUTHOR: Moe Higgs
DATE: 11/09/2018
JOB NUMBER: 3239
SHEET: DA
CLASS TYPE: 1A
SCALE: 1:100 (drawing no 3-49)





12PM WINTER SHADOW

Lot Number: 84 DP 3239

Job Number: 17-08

Shape: DA

Class: Type 1A

date: 11/09/2018

scale: 1:200

drawing no: 4-01

SPACE

06181

DISCHER

AUTHOR

MOE HIGZ

DATE: 11/09/2018

SCALE: 1:200

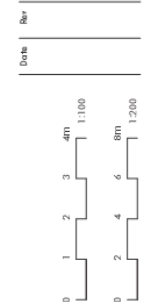
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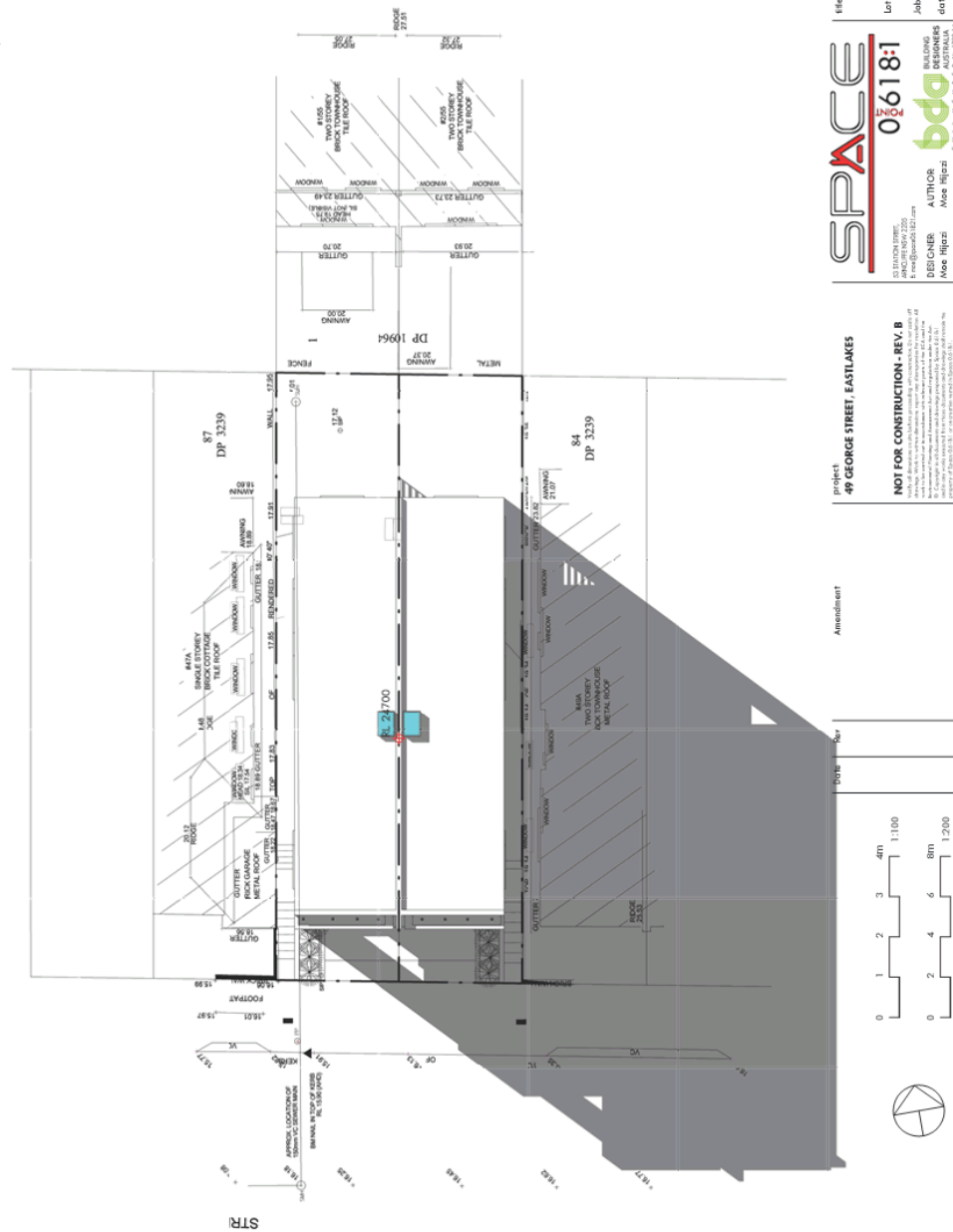
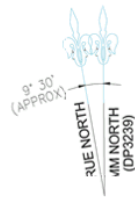
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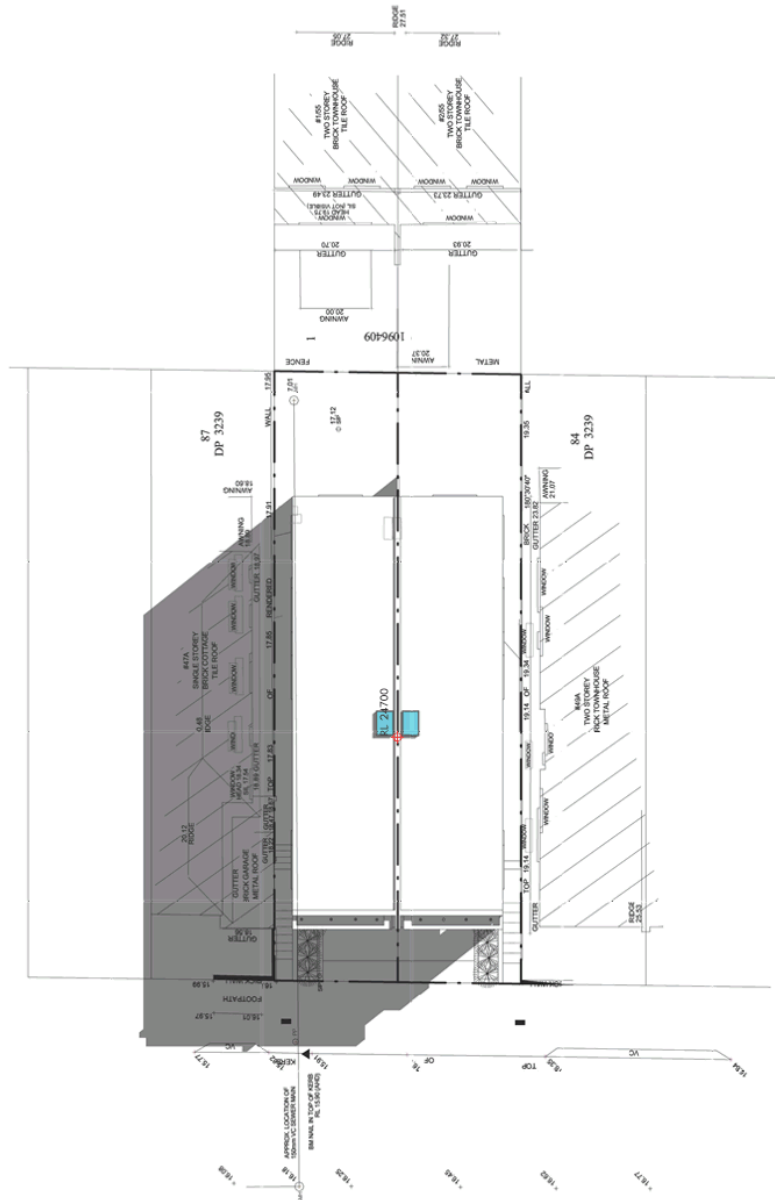
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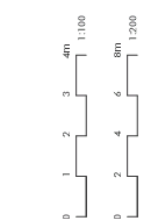
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 Date: MAY 18
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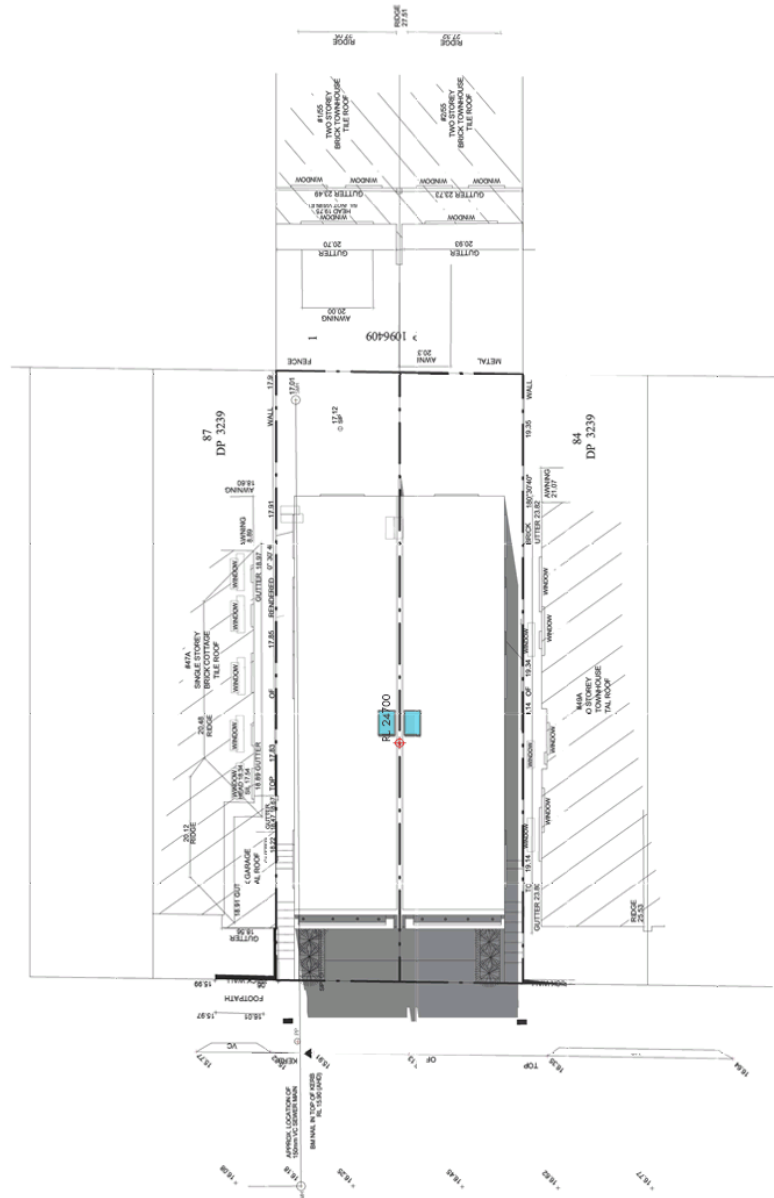
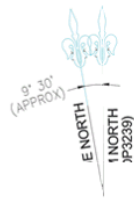
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 AUTHOR: bda
 DATE: MAY 18
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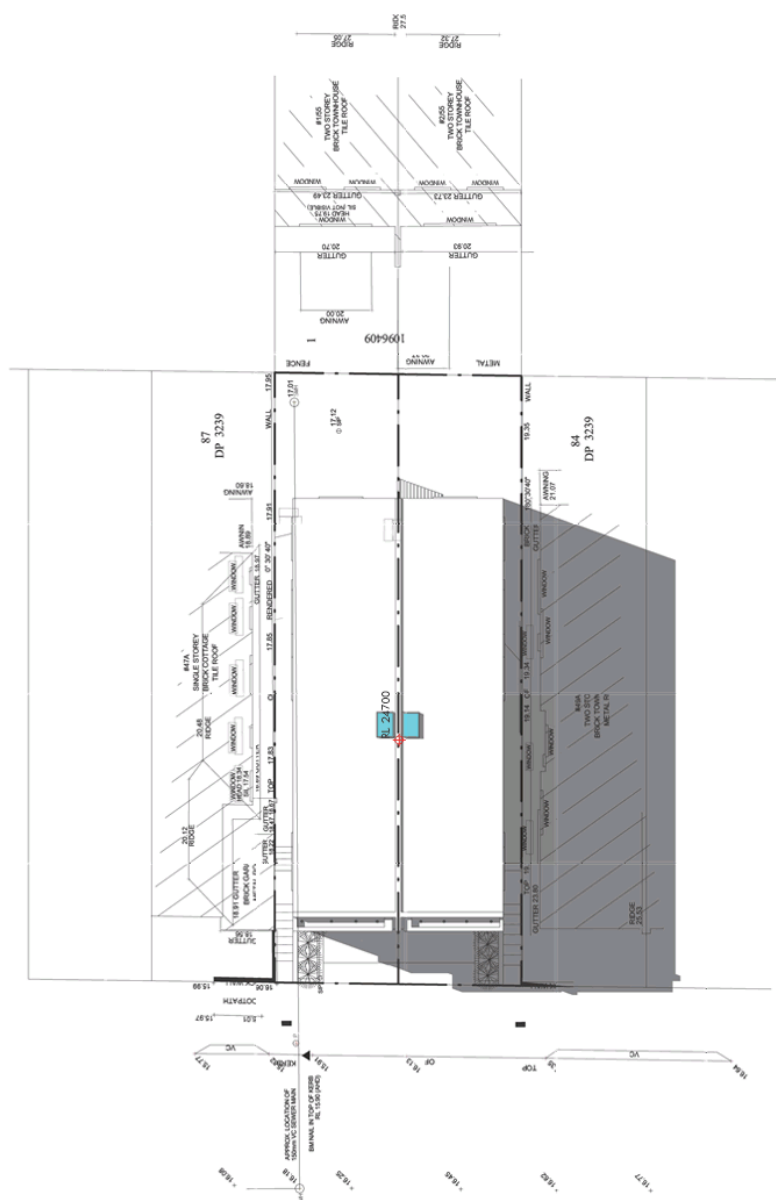
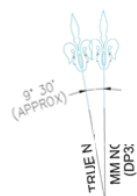
Project: 4P GEORGE STREET, EASTLAKES
 Amendment:
 NOT FOR CONSTRUCTION - REV. B
 This drawing is for informational purposes only and should not be used for construction. It is the responsibility of the user to ensure that the drawing is up-to-date and accurate. The user should consult the relevant legislation and regulations for more information.

Amendment:
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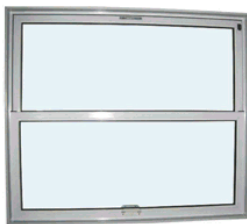








KLIP-LOK



ALUMINIUM FRAMED WINDOWS



SOLID CORE TIMBER FRONT DOOR



UPVC CLADDING



GLAZED RAILINGS



SANDSTONE TILE



DULUX VIVID WHITE



project
4P GEORGE STREET, EASTLAKES

Amendment

Date

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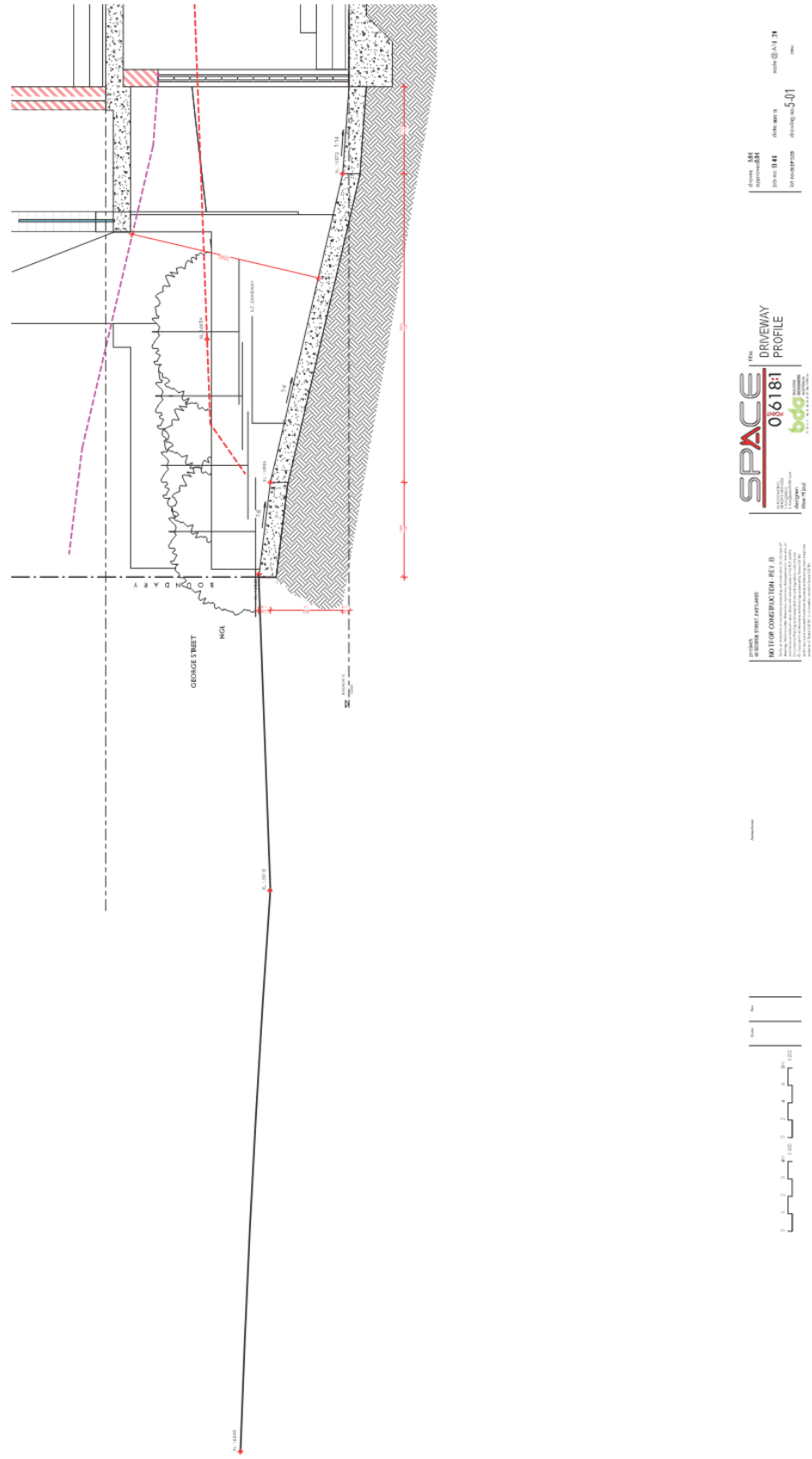
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AUTHOR
Moore Hill
DESIGNER
Moore Hill
Lar Number: 86 DP 3239
Job Number: 17/08
Sheet: DA
Class Type: 1A
drawing no: 5-001

NOT FOR CONSTRUCTION - REV. B
This drawing is for information only and is not to be used for construction purposes. It is the responsibility of the client to ensure that the design is suitable for the intended use and that all necessary approvals are obtained before construction commences. The design is subject to change without notice and the client agrees to indemnify the designer for any loss or damage arising from the use of this drawing for any purpose other than that for which it was intended.



Bayside Local Planning Panel

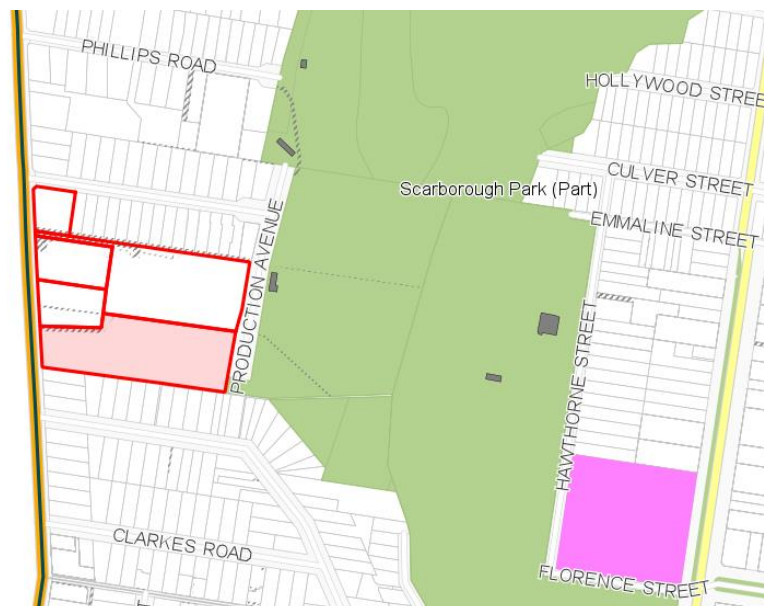
11/09/2018

Item No	6.5
Application Type	Modification Application
Application No	DA-2017/224/B
Lodgement Date	13/03/2018
Property	DA-2017/224/B - 206 Rocky Point, Kogarah; 152-200 Rocky Point Road, Kogarah
Ward	Rockdale
Owner	JQZ Nine Pty Ltd
Applicant	Rocky Point Road Development Pty Ltd
Proposal	Modification of Condition 19(a)(ii) to permit conversion of six (6) x three (3) bedroom units to two (2) bedroom units instead of one (1) bedroom units as required by the condition.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That Modification Application No. DA-2017/224/B, being a Section 4.55(1A) application to amend Development Consent No. DA-2017/224, for modification of Condition 19(a)(ii) to permit conversion of six (6) x three (3) bedroom units to two (2) bedroom units instead of one (1) bedroom units at 152-200 & 206 Rocky Point Road, Rockdale, be APPROVED pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications of conditions of consent attached to this report.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/224/B
Date of Receipt:	13 March 2018
Property:	206 Rocky Point Road, KOGARAH (Lot 1 DP 666138) 152 - 200 Rocky Point Road, KOGARAH (Lot 2 DP 405531), (Lot 1 DP 599502), (Lot 22 DP 620329), (Lot 2 DP 838198), (Lot 1 DP 1144981)
Owner:	JQZ Nine Pty Ltd
Applicant:	Rocky Point Road Development Pty Ltd
Proposal:	152-200 & 206 Rocky Point Road, KOGARAH NSW 2217 - Modification of Condition 19(a)(ii) to permit conversion of six (6) x three (3) bedroom units to two (2) bedroom units instead of one (1) bedroom units as required by the condition
Recommendation:	Approved
No. of submissions:	Nil - notification not required.
Author:	Helen Lai
Date of Report:	14 August 2018

Key Issues

This application includes the modification of unit sizes and layouts of eight (8) units within Building D as a result of the additional building setback required by Condition 19(a). The applicant has demonstrated that the units as amended comply with the size requirements and objectives of the Apartment Design Guide (ADG) and the proposal is recommended for approval.

Recommendation

That Development Application No. DA-2017/224/B, being a Section 4.55(1A) application to amend Development Consent No. DA-2017/224, for modification of Condition 19(a)(ii) to permit conversion of three (3) bedroom units to two (2) bedroom units instead of one (1) bedroom units as required by the condition at 152-200 & 206 Rocky Point Road, Rockdale, be **APPROVED** pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications of conditions of consent attached to this report.

Background

History

The site associated with DA-2017/224 was previously zoned for industrial purposes and was occupied by Darrell Lea Chocolates. The site was the subject of a Planning Proposal in 2014 and was rezoned to both B6 Enterprise Corridor and R4 High Density Residential under Rockdale Local Environmental Plan (RLEP 2011). This application relates to the approved residential development on that part of the site zoned R4 High Density Residential.

Demolition and excavation works associated with DA-2017/224 have substantially commenced.

The following applications are of relevance to the subject site:

- DA-2017/224 - Approved by the Sydney Eastern City Planning Panel (SECPP) on 28 November 2017 - Staged Development - Stage 1 included construction of four (4) residential flat buildings comprising 513 units and twenty (20) townhouses (total of 533 dwellings); basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks at 152-200 and 206 Rocky Point Road, Kogarah.
- DA-2017/224/A - This Section 4.55(1) Application is to correct minor errors with plan references, Section 94 Contributions and tree removal requirements. This application was approved on 20 April 2018.
- DA-2017/224/B - The subject of this report. This Section 4.55(1A) Application is for modification of condition 19(a)(ii) to convert 3 bedroom units to 2 bedroom units on the lower three levels in Building D rather than convert them to 1 bedroom units as currently required by the condition.
- DA-2017/224/C - Section 4.55(1A) Application to modify Condition 35 (b) to reduce the clearance height for the basement access ramp. This application is under assessment.
- DA-2017/224/D - Section 4.55(1A) Application including provision of an additional townhouse to result in a total of twenty one (21) townhouses located along the southern side of the new road. This application is under assessment.
- DA-2017/224/E - Section 4.55(1A) Application to permit subdivision of the land in two (2) stages. This application is under assessment.

Proposal

Council is in receipt of Section 4.55(1A) Application No. 2017/224/B at 152-200 and 206 Rocky Point Road, Kogarah, which seeks to modify Condition 19(a)(ii) of the approved development to permit conversion of six (6) x three bedroom units in Building D to two bedroom units rather than one bedroom units as required by the condition.

Condition 19(a) requires that the six units be reduced in size to accommodate an additional 3m building setback that was required to ensure that an adequate landscape setback would be provided between the building and the sites northern boundary for the amenity of future occupants of these units.

Condition 19(a) reads as follows:

Condition 19

"The following matters must be complied with in the plans submitted with the Construction Certificate, and must be satisfied prior to issue of the Occupation Certificate and during ongoing use of the site where relevant:

- (a) *Setback of Building D to be increased:*
 - (i) *The northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) must be amended to have a minimum 9m setback from the sites northern boundary to ensure that a 6m deep soil setback is provided to the north of Building D. This condition is required to ensure that adequate amenity is afforded to future occupants. The condition is imposed due to the loss of 3m of deep soil planting due to the 3m wide 'Licenced Area' defined in the Deed of licence between JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Keven Manson Pty Limited.*
 - (ii) *The affected units shall be converted to **two (2) bedroom units**.*

Specifically, the proposal consists of the following:

Ground Floor

- (i) Changes to the layout and room sizes of D0004 as a result of proposed modifications to affected units. Reduce size of D0004 from 98.8sq.m to 78sq.m.
- (ii) Convert DA0002 and DA0003 to 2 bedroom units, including open living and dining area, laundry, bathroom, courtyard and ensuite. Proposed size of DA0002 = 77sq.m. Proposed size of DA0003 = 76.9sq.m.

Level 1

- (i) Changes to the layout and room sizes of D0104 as a result of proposed modifications to affected units. Reduced size of D0104 from 95.4sq.m to 75.4sq.m.
- (ii) Convert D0102 and D0103 to 2 bedroom units, including open living and dining area, laundry, bathroom, courtyard and ensuite. Proposed size of D0102 = 76.6sq.m. Proposed size of D0103 = 76.8sq.m.

Level 2

- (i) Changes to the layout and room sizes of D0204 as a result of proposed modifications to affected units. Reduce size of D0204 from 95.6sq.m to 75.4sq.m.
- (ii) Convert D0202 and D0203 to 2 bedroom units, including open living and dining area, laundry, bathroom, courtyard and ensuite. Proposed size of D0202 = 77sq.m. Proposed size of D0203 = 75.4sq.m.

The layout and rooms of DA0002 and DA0003 (Ground Floor), D0102 and D0103 (Level 1) and D0202 and D0203 (Level 2) are consistent with each other.

Changes to the configuration and layout of D0004 (Ground Floor), D0104 (Level 1) and D0202 (Level

2) are also consistent with each other.

Site location and context

The subject site is known as 152-200 and 206 Rocky Point Road, Kogarah. The site is generally rectangular in shape. The total site area is approximately 33,525m² comprising of six (6) allotments (refer to Table 1 and Figure 1 below). The site frontage to Rocky Point Road (a Classified Road) is approximately 204m. The eastern frontage is approximately 142m to Production Avenue (Lane), the northern side boundary is 232.4m to the rear of the properties with frontage to Production Avenue (located within the IN1 zone), and the southern boundary length is 197.4m primarily to the rear of properties fronting Margate Street.

TABLE 1 - Legal description and land area comprising the site

Address	Lot	Deposited Plan	Land Area
152 Rocky Point Road	2	405531	1,929.7m ²
160 Rocky Point Road	2	838198	11,704.7m ²
168 Rocky Point Road	1	1144981	3,750.5m ²
200 Rocky Point Road	22	620329	12,376m ²
	11	599502	3,124.5m ²
206 Rocky Point Road	1	666138	639.6m ²
Total Land Area			33,525m²

The proposed modification relates to units within Building D which is located on 152-200 Rocky Point Road, Kogarah. No physical works, including tree removal, are proposed as part of this modification application.

The relevant site for this Section 4.55(1A) application is zoned R4 - High Density Residential (refer to Figure 2), and for the purposes of calculating the Floor Space Ratio (FSR) associated with the residential component, the site area is 22,374m². The remaining land is zoned B6 - Enterprise Corridor.

TABLE 2 - Area of land associated with each of the R4 & B6 zones

Land Use Zone	Land Area
B6 - Enterprise Corridor (including 152 and 206 Rocky Point Road)	11,151m ² (including the area to be dedicated for intersection and road widening purposes)
R4 - High Density Residential	22,374m ²



FIGURE 1 - Site Area



Legend
 Site Boundary
 Relevant Site Area

FIGURE 2 - 'Site Boundary' refers to areas subject to physical works under this application DA-2017/224 (as modified). 'Relevant Site Area' refers to those parts of the site subject to the construction of residential dwellings and the child care centre under DA-2017/224 (as modified) (i.e. the 22, 374m² part of the site zoned R4 High Density Residential).

The Land Area for the B6 Enterprise Corridor zone includes the area that is subject to future road widening for the proposed new intersection at Rocky Point Road.

Works at the site have commenced, including basement excavation and bulk earth works which have modified the surface levels across the site to match the approved finished surface levels.

Generally, the sites slope down from Rocky Point Road to the rear Production Lane. The difference in levels between Rocky Point Road and Production Lane varies between 6m and 10m, with a maximum difference in levels between the sites highest point (152 Rocky point Road RL12.5) and its lowest point at the northeastern corner of the site at Production Lane (RL 2.5). The site also contains a cross fall generally from southwest down to northeast. The rear southeastern portion of the site is relatively level and elevated approximately 2m - 2.5m above the sites northern rear side. There is also a difference in levels between the Margate Street properties and the subject site. Toward the rear southern boundary of the site, primarily at the rear southeastern corner where the proposed child care centre is located, the subject site is approximately 2 metres lower than the Margate Street properties.

A Deed has been entered into between the owner of the subject site and the adjoining owner of No. 2028 Production Avenue. This 'Deed' provides that owner with the right to use a 3m strip of land located immediately to the south of their property for fire egress and building maintenance purposes.

The site was identified as potentially contaminated, is affected by Acid Sulfate Soils Class 3 and 5, and a very small part of the sites northeastern fringe is affected by flooding.

Surrounding Context

The surrounding site context includes:

- North – the rear of an array of light industrial uses within the IN2 Light Industrial zone. These properties have frontage to Production Avenue and include car repair station, warehouses and a range of other light industrial uses.
- South - the rear yard of detached dwellings within the R2 Low Density Residential zone. These properties have frontage to Margate Street and Rocky Point Road. Ramsgate town centre located approximately 300m further the south contains a range of small scale commercial and retail business, and some more recent four and five storey mixed use developments.
- East - Production Lane, Leo Smith Reserve / Scarborough Park which include a selection of sport fields used for baseball, soccer, rugby and cricket among other areas of the park for alternate active recreational uses. The park interconnects with broader Scarborough Park to the North and Rotary Park and Tornbridge Street Reserve to its south, forming a local grid of functional open spaces for residents and the community within the wider area. Part of the park is zoned SThe reserve takes a more natural vegetated parkland form to its south west. The part of Production Lane that immediately adjoins the site includes public car parking that is primarily utilised by the sporting fields. Access to Production Lane is via an existing oneway system from Rocky Point Road with access using Production Avenue and egress using Philips Road to gain access to Rocky Point Road (a oneway road located to the north of Production Avenue).
- West - a new Aged Care Facility, low density detached dwellings and a series of four (4) storey apartment buildings are located on the opposite side of Rocky Point Road within the Georges River Council area.

The Kogarah Town Centre is located approximately 1.4km further north. Kogarah Town Centre contains a mix of local businesses and retail shops, St George Hospital and other health and medical related facilities.

The site is also located within approximately 1.8 kilometres south east from Kogarah Railway Station

and 1.5 kilometres east of Carlton Railway Station. These stations are serviced by the T4 Eastern Suburbs and Illawarra Rail line, which connects Bondi Junction to Wolli Creek, Kogarah, Sutherland and Cronulla via Central Sydney stops.

Local bus networks (Route 476 and Route 477) provide regular services in front of the site and connect the site to Kogarah and Carlton Station as well as service the local and surrounding suburbs of Rockdale, San Souci, Dolls Point, and Ramsgate.



FIGURE 3 - Local Context (Source: PTW Architects).



FIGURE 4 - Aerial view of site in broader context (Source: PTW Architects).



FIGURE 5 - Extract of RLEP 2011 Zoning Map.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.55 (1A) - Modification

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

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

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

Comment: The application seeks consent for minor modifications to the approved development and conditions of consent. The proposal is not considered to have significant or major environmental impacts, therefore, the proposal is considered satisfactory.

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

Comment: The application is for minor modifications to the development consent. The proposal remains as previously approved, namely a residential flat building. The proposed modifications will not change the land use or substantially alter the nature of the development. As such, it is considered substantially the same development.

c) it has notified the application in accordance with:

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

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

Comment: The application was not required to be notified as per Rockdale DCP 2011.

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

Comment: Not applicable given the application was not notified.

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

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

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

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

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

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

Consideration has been given to the relevant matters contained in SEPP 65. In this case, the proposal complies with the building setback requirements contained in Condition 19(a), however the applicant has requested amendments to the unit layouts. The proposal is not required to be considered by the Design Review Panel, and the application is satisfactory with regards to the nine (9) design quality principles contained in Schedule 1 of SEPP 65.

The table below includes an assessment of relevant matters from the Apartment Design Guide (ADG). It demonstrates that the proposal complies with the key objectives and design criteria of the ADG.

Clause	Objective	Design Criteria	Comments	Complies										
Part 4 - Designing the Building														
4A – Solar Access	4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	Living rooms and POS of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	The outdoor terraces, bedrooms and main living rooms of affected units are all north facing. In this regard, they will receive in excess of 2 hours direct sunlight throughout the day between 9am and 3pm in mid-winter.	Yes.										
4C – Ceiling heights	4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.	Habitable rooms = 2.7m	No proposed changes to ceiling height.	Yes.										
4D – Apartment size and layout	4D-1 The layout of rooms within an apartments is functional, well organised and provides a high standard of amenity.	<div>Minimum internal areas:</div> <table><tr><th>Apartment type</th><th>Minimum Internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <div>Internal areas include only one bathroom. Additional bathrooms increase area by 5m² each.</div> <div>A fourth bedroom and additional bedrooms increase the minimum internal area by 12m² each.</div>	Apartment type	Minimum Internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<div>Proposed size of 2 bedroom + 2 bathroom units comply with the minimum requirements.</div> <div>- D0002 = 77m² - D0003 = 76.9m² - D0102 = 76.6m² - D0103 = 76.8m² - D0202 = 77m² - D0203 = 76.6m²</div> <div>Units D0004, D0104 and D0204 have been reduced in size, however continue to comply with the minimum size for 2 bedroom units: - D0004 = 78m² - D0104 = 75.4m² - D0204 = 75.4m²</div>	Yes.
Apartment type	Minimum Internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													

		<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>Proposed size of master bedrooms comply with the minimum requirement:</p> <ul style="list-style-type: none"> • D0002, D0102, D0202 = 14.5m² • D0003, D0103, D0203 = 17.8m² <p>Bedroom 2 for the affected units comply with the minimum requirement:</p> <ul style="list-style-type: none"> • D0002, D0102, D0202 = 12.3m² • D0003, D0103, D0203 = 11m² <p>The room sizes of D0004, D0104 and D0204 has reduced as a result of the proposed modifications. Notwithstanding, the room sizes for these units continue to comply:</p> <ul style="list-style-type: none"> • Master bedroom (D0004, D0104, D0204) = 18m² • Additional bedrooms: <ul style="list-style-type: none"> - D0004 = 9.5m² - D0104, D0204 = 9.44m² 	Yes.
		<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Proposed width of bedrooms = 3m.</p>	Yes.

		Living rooms or combined living/dining rooms have a minimum width of: - 4m for 2 and 3 bedroom apartments	Proposed width of combined living/dining rooms have a minimum width of 4m for the units.	Yes.															
4D –Private open space and balconies	4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum Internal area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type	Minimum Internal area	Minimum depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Proposed size of courtyards for affected units comply with the minimum requirement.</p> <p>Minimum Internal area is calculated as follows:</p> <ul style="list-style-type: none">• D0002, D0202 = 10.24m²• D0102 = 10.18m²• D0003, D0103, D0203 = 10.2m²• D0004, D0104, D0204 = 11.7m² <p>Depth of courtyards = min 2m.</p> <p>Primary open space and balconies are located adjacent to the living room, dining room and kitchen.</p>	Yes.
Dwelling type	Minimum Internal area	Minimum depth																	
Studio	4m ²	-																	
1 bedroom	8m ²	2m																	
2 bedroom	10m ²	2m																	
3+ bedroom	12m ²	2.4m																	
4G – Storage	4G-1 Adequate, well designed storage is provided in each apartment.	<p>In addition to storage in kitchens, bathrooms and bedrooms. the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage s</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedroom</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is located within apartment.</p>	Dwelling type	Storage s	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedroom	10m ³	Adequate storage areas are provided within the affected units and no changes are proposed to storage areas in the basement level for units.	Yes.					
Dwelling type	Storage s																		
Studio	4m ³																		
1 bedroom	6m ³																		
2 bedroom	8m ³																		
3+ bedroom	10m ³																		

4W – Waste management	4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.	The proposed modification will continue to permit waste collection to be undertaken from within the basement of the development and will not change the proposals compliance with Part 4W Management of the Apartment Design Guide (ADG).	Yes.
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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
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

The part of the site subject to this application is zoned R4 High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed development within the R4 zone is defined as 'residential flat buildings', 'multi dwelling house', 'child care centre' and 'road'. The proposed modifications to conditions of consent does not affect the definitions of the approved development, nor affect the proposal compliance with the objectives of the zone, being:

- 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 Rocky Point Road frontage of the site is zoned B6 Enterprise Corridor, however, the works associated with this Section 4.55 Application are not located within, nor have any impacts on this part of the site.

4.4 Floor space ratio - Residential zones

A maximum FSR of 2:1 applies to the R4 High Density Residential zone portion of this site. The gross floor area for the development is reduced by providing a larger setback for levels 1-3 of Building D in accordance with Condition 19(a). The proposal as amended complies with the setback required by Condition 19(a) and will ensure that adequate amenity is afforded to the future occupants of the development.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.2 Streetscape and Site Context - General	Yes	Yes
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion

4.5.1 Social Equity - Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use developments are flexible, maximise housing choice and provide equality of access. The proposal is considered to satisfy the relevant objectives and requirements. Compliance with the key controls are discussed below:

Dwelling type	RDCP2011 requirement	Approved Dwelling Mix	Proposed Dwelling Mix
1 bedroom and/or studio	10%-30%	123 (23.1%)	123 (23.1%)
2 bedroom	50%-75%	352 (66%)	358 (67%)
3 bedroom and/or more	10%-20%	58 (10.9%)	52 (10%)

- Provision of 10%-30% 1 bedroom units, 50-75% 2 bedroom units, and 10-20% 3 bedroom units.

The proposed unit mix complies with the requirements of RDCP 2011. In this case, the proposal following modifications to Condition 19(a)(ii) to convert the affected units to two-bedroom units will include, 123 x one-bedroom units (23.1%), 358 x two-bedroom units (67%) and 52 x three-bedroom units (10%).

4.6 Parking Rates Residential Flat Buildings

The proposed modifications will result in minor changes to the approved dwelling mix, however, does not involve changes to the approved number of car parking spaces or the approved basement car parking layout. The assessment of traffic and parking impacts undertaken as part of the approved development was based on the affected units being three-bedroom units, thus requiring two (2) parking spaces per apartment. The affected units are proposed to be converted to two-bedroom units, as such, require less parking spaces under the Rockdale DCP. In this regard, sufficient parking will be provided

for the development as modified.

Accordingly, the proposed modifications to Condition 19(a)(ii) does not require additional on-site parking to be provided.

5.2 RFB - Side Setbacks

The northern setback for the affected units is 9m as a result of Condition 19(a)(i) which requires the northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) to have a minimum 9m setback from the northern boundary to ensure that a 6m deep soil zone is provided to the north of Building D. The proposal complies with this condition and side setback requirements of RDCP2011.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application.

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

The relevant matters pertaining to the likely impacts of the development have been assessed under the original proposal. There are no further matters raised in this application that would alter the conclusions reached in the original assessment.

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. The proposed modifications are minor in nature and do not affect the conclusions reached in the assessment of the original proposal. 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 proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

The proposal as proposed to be modified has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. The proposed modification is minor and does not affect the conclusions reached in the assessment of the original proposal, being that the development of the site in accordance with its environmental capacity and will 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

The application results in a change in the unit mix, including a reduction in the number of three (3) bedroom units and a resulting reduction in the Section 7.11 Contributions of \$12,761.32. Accordingly, Condition 51 is proposed to be amended to reflect the amended contributions.

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.	Issue No.	Dated	Received
ARCHITECTURAL PLANS—prepared by PTW			
DA-002 SITE ANALYSIS	6	14/07/2017	17/11/2017
DA-099 BASEMENT B3	2	13/11/2017	17/11/2017
DA-100 BASEMENT B2	7	13/11/2017	17/11/2017
DA-101 BASEMENT B1	7	13/11/2017	17/11/2017
DA-110 LEVEL GROUND	11	16/07/2018	28/08/2018
DA-111 LEVEL 1	11	16/07/2018	28/08/2018
DA-112 LEVEL 2	11	16/07/2018	28/08/2018
DA-112 LEVEL 2-3	7	13/11/2017	17/11/2017
DA-114 LEVEL 4-5	7	13/11/2017	17/11/2017
DA-116 LEVEL 6	7	13/11/2017	17/11/2017
DA-117 LEVEL 7	7	13/11/2017	17/11/2017
DA-118 LEVEL 8	7	13/11/2017	17/11/2017
DA-119 LEVEL 9	7	13/11/2017	17/11/2017
DA-120 LEVEL 10	7	13/11/2017	17/11/2017
DA-121 LEVEL 11-12	7	13/11/2017	17/11/2017
DA-123 ROOF PLAN	7	13/11/2017	17/11/2017
DA-200 STREET ELEVATIONS	5	14/07/2017	17/11/2017
DA-210 ELEVATIONS – BUILDING B	5	14/07/2017	17/11/2017

DA-211 ELEVATIONS – BUILDING C	5	14/07/2017	17/11/2017
DA-212 ELEVATIONS – BUILDING D	5	14/07/2017	17/11/2017
DA-213 ELEVATIONS – BUILDING E	6	13/11/2017	17/11/2017
DA-214 ELEVATIONS – BUILDING F&G	5	14/07/2017	17/11/2017
DA-300 SECTIONS – BUILDING B & C	5	14/07/2017	17/11/2017
DA-301 SECTIONS – BUILDING D & E	5	14/07/2017	17/11/2017
DA-302 SECTION PARK	5	14/07/2017	17/11/2017
DA-303 SECTIONS - ROCKY POINT ROAD TO PRODUCTION LANE	1	14/07/2017	17/11/2017
DA-304 SECTIONS – WESTERN & SOUTHERN BOUNDARY	1	14/07/2017	17/11/2017
DA-310 DRIVEWAY PROFILE RAMP 1 – MAIN ENTRY	6	13/11/2017	17/11/2017
DA-311 DRIVEWAY PROFILE RAMP 3	6	14/07/2017	17/11/2017
DA-312 DRIVEWAY PROFILE RAMP 4 – TOWNHOUSE ENTRY	6	13/11/2017	17/11/2017
DA-400 DA ADAPTABLE APARTMENT – TYPE PLAN	6	14/07/2017	17/11/2017
DA-401 DA LIVABLE SILVER TYPE PLAN	6	14/07/2017	17/11/2017
DA-511 LEVEL 1 STORAGE	2	13/11/2017	17/11/2017
DA-612 DA DEEP SOIL DIAGRAM	7	13/11/2017	17/11/2017
DA-710 FAÇADE ELEVATIONS (BUILDING B)	5	14/07/2017	17/11/2017
DA-711 FAÇADE ELEVATIONS (BUILDING C&D)	5	14/07/2017	17/11/2017
DA-712 FAÇADE ELEVATIONS BUILDING E)	5	14/07/2017	17/11/2017
DA-713 FAÇADE ELEVATIONS (LINK BUILDING & BUILDING F&G)	5	14/07/2017	17/11/2017
PROJECT SCHEDULE	6	14/11/2017	17/11/2017
MATERIALS & FINISHES			

DA-700 DA COLOUR SAMPLE BOARD	5	14/11/2017	17/11/2017
SUBDIVISION PLAN			
Sheets 1 & 2 Surveyor's Reference 118031505_12	N/A	No date	16/11/2017
LANDSCAPE PLANS – prepared by Arcadia Landscape Architecture			
Pages 1 – 34 200_Masterplan, 400_Plant Schedule, Softscape Plans No.'s 401 – 406 Landscape Details (2 pages)	Issue S	November 2017	16 Nov 2017
CIVIL & STORMWATER PLANS – Prepared by AT&L with Project No. 16-380			
SKC25_ACCESS ROAD LAYOUT OPTION 2	B	13-11-17	13/11/2017
SKC26_ACCESS ROAD CROSS SECTION OPTION 2	B	14-11-17	13/11/2017
SKC27_TOWNHOUSES RAMP	B	14-11-17	13/11/2017
SKC28_ACCESS ROAD AND PRODUCTION INTERSECTION	B	14-11-17	13/11/2017
DAC011 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 1	C	14-07-17	28/07/2017
DAC012 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 2	D	14-07-17	28/07/2017
DAC013 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 3	D	14-07-17	28/072017
DAC015 - STORMWATER DETAILS SHEET 1	B	19-12-16	28/07/2017
DAC016 - STORMWATER DETAILS SHEET 2	A	14-07-17	28/07/2017
DAC050 – STORMWATER DRAINAGE CATCHMENT PLAN	E	14-07-17	28/07/2017
DAC051 - OSD TANK 1 DETAILS	C	14-07-17	28/07/2017
DAC052 - OSD TANK 2 DETAILS	C	14-07-17	28/07/2017

DAC053 - OSD TANK 3 DETAILS	D	14-07-17	28/07/2017
DAC080 – EROSION AND SEDIMENTATION CONTROL PLAN	D	14-07-17	28/07/2017
DAC081 – EROSION AND SEDIMENTATION CONTROL DETAILS	B	19-12-16	28/07/2017

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.

[Amendment A - S4.55(1A) amended on 20 April 2018]

[Amendment B - S4.55(1A) amended on ***]**

3. Voluntary Planning Agreement

A voluntary planning agreement (VPA) was entered into between Council, the Developer (Land and Portfolio Pty Ltd) and the Lot Owner (D.L.N. Pty Limited) on 9 May 2016 in connection with the making of the amendment to the Rockdale LEP to permit the carrying out of the development which is the subject of this consent.

The VPA was novated to the Developer (Land & Portfolio Pty Ltd) and Purchaser (JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust) on 15 December 2016.

The VPA requires that Development Contributions with Item No. A, B, C, D, E, F, G and H referred to in Column 1 of the Table provided in clause 1.1 of Schedule 3 of the VPA be made at a time referred to in Column 4 of the Table provided in clause 1.1 of Schedule 3 (Timing).

No occupation certificate or construction certificate as referred to in Column 4 of the table provided in clause 1.1. of Schedule 3 (Timing) can be issued until the corresponding Development Contributions referred to in Schedule 3 have been made.

For the purposes of the VPA, the approved Floor Space Ratio of the Development is 2:1 or higher (for Land within the 'R4 - High Density Residential' zone) and the maximum building height is in accordance with the building height plane defined by clause 4.3(3) of Rockdale LEP 2011.

4. Staged DA

This development consent relates to Stage 1 of the development only. A separate development application shall be submitted to Council for Stage 2 of the development - i.e. the Child Care Centre.

The Child Care centre shall be of two (2) storey construction and with a GFA and external play areas that will enable the centre to accommodate 65 children, generally in accordance with the plans submitted with pre-DA application No. PDA-2017/25. The centre must also accommodate all car parking within the site as required by the Bayside Traffic Development Advisory Committee and RDCP 2011.

5. All new building work must be carried out in accordance with the provisions of the

Building Code of Australia (BCA).

6. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
7. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (766743M_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>.

8. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes modifications to the extent of the basement car parking areas (other than required by other conditions of consent), the fitting of any form of doors and/or walls, location of fire booster valves and proposed substations, etc.
9. A separate development application shall be submitted for the strata subdivision of the development. The entire residential development must be within a single Strata Plan unless separate approval is provided that will ensure access can be provided for all residents to and within all relevant parts of the site.
10. The pergolas and balconies shall not be enclosed at any future time without prior development consent.
11. 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.
12. 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.
13. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.

Development specific conditions

The following conditions are specific to the Development Application proposal.

14. Roads and Maritime Services

The following conditions imposed by Roads and Maritime Services (RMS) in their letter dated 12 September 2017 must be complied with:

- (i) The proposed Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street and the "site access road" shall be designed to meet Roads and Maritime requirements. The TCS plan shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on www.rms.nsw.gov.au). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

- (ii) Roads and Maritime is prepared to extinguish the existing easement upon completion of the development and provision of the replacement drainage system as per the attached draft "Plan of Easement Affecting Lot 1 in DP 599502 and Lot 22 in DP 620329" referred to Roads and Maritime on 28 July 2017. The new system is to be protected by a new easement in favour of Roads and Maritime providing overland flow and not solely subsurface drainage.

Roads and Maritime will require a suitable notation on title, acceptable to Roads and Maritime, in relation to Roads and Maritime ongoing right to discharge stormwater into the development drainage system. All works and fees associated with the relocation of the easement and infrastructure are to be at no cost to Roads and Maritime. Furthermore, detailed design plans and hydraulic calculations of the proposed changes to Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be submitted to Suppiah Thillai: 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 these requirements please contact the Roads and Maritime Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (iii) The developer will be responsible for undertaking any community consultation required in relation to the impacts of proposed road works, including the impacts any loss of on street parking required to facilitate the works.
- (iv) Any realignment boundary/dedication of land to facilitate the works must be dedicated as road at no cost to Roads and Maritime.
- (v) 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.
- (vi) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to

Council for approval, which shows that the proposed development complies with this requirement.

- (vii) 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

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.

- (viii) All demolition and construction vehicles are to be wholly within the site as construction zone will not be permitted on Rocky Point Road.
- (ix) Road Occupancy Licence must be obtained from Transport Management Centre for any works that may impact on traffic flows on Rocky Point Road during construction activities.
- (x) All works and signposting associated with the subject development, including any public utility adjustment/relocation works, shall be at no cost to Roads and Maritime.

15. Ausgrid

The following conditions imposed by Ausgrid by letter dated 31 January 2017 must be complied with:

- (a) **Method of Electricity**
The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 - 'Premise Connection Requirements'.
- (b) **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 about how to connect to Ausgrid's network.
- (c) **Conduit Installation**
The need for additional electricity in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to

prepare the connection project design.

(d) Proximity to Existing Network Assets

(i) Overhead powerlines

There are existing overhead electricity network assets in Rocky Point Road, Production Avenue, and Production Lane. Safework NSW Document - Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/pols to structures within the development throughout the construction. Special consideration should be given the locating and operations of cranes and the location of any scaffolding. The 'as constructed' minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au. Based on the design of the development provided, it is expected that the 'as constructed' minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected to be entering and leaving the site.

(ii) Underground Cables

There are existing underground electricity network assets in Rocky Point Road, and also within an existing easement on the subject property.

Special care should 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.

(iii) Substation

There are existing electricity substation assets in the subject property. There have been preliminary investigations with Ausgrid to decommission the existing substations and install new substations onsite to suit load requirements. The proposed building structures are not to encroach on the existing substations easements until the substation decommissioning works have been completed and arrangement have been made for the easement to be relinquished.

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.

The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields) 0 Hz - 3 kHz (ARPANSA, 2006)

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113. 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.

Further details refer to Ausgrid's Network Standard 143.

(e) For Activities within or near to the Electricity Easement:

(i) Purpose of Easement

This easement was acquired for the 11,000 volt distribution assets currently owned and operated by Ausgrid. The purpose of the easement is to protect the distribution assets and to provide adequate working space along the route of the cables for construction and maintenance work. The easement also assists Ausgrid in controlling works or other activities under or near the distribution cables which could either by accident or otherwise create an unsafe situation for workers on the public, or reduce the security and reliability of Ausgrid's network.

(ii) The Following Conditions Apply for any Activities Within the Electricity Easement:

1. Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.
2. Ausgrid is not responsible for the reinstatement of any finished surface within the easement site.
3. Ausgrid requires 24 hour access along the easement for plant and personnel. For the purpose of exercising its rights under the easement, Ausgrid may cut fences and/or wall and install gates in them. Where the easements on a site do not provide practical access to all of Ausgrid's infrastructure, a suitable right of access at least 5m wide must be provided to each asset.

4. Driveways and other vehicle access must be capable of supporting the heaviest vehicle likely to traverse the driveway without damaging Ausgrid's assets.
5. No buildings/structures or parts thereof constructed may encroach the easement.
6. No machine excavation is permitted within the easement without Ausgrid's express permission.
7. During building construction, adequate controls must be put in place to prevent vehicles and machinery from damaging the Ausgrid assets.
8. Bulk solids (eg. sand and gravels) are not to be stored within the easement area.
9. Any change to ground levels must be submitted to Ausgrid for approval.
10. Trees, shrubs, or plants which have root systems likely to grow greater than 250mm below ground level are not permitted within the easement or close to the cable infrastructure. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.
11. Ausgrid is to be indemnified from all actions, suits, claims and demands of whatsoever nature, which Ausgrid may incur as a result of the encroachment/s.
12. Ausgrid reserves the right, by written notice, to require the owner of the property, at the owner's expense, to implement further safety measures, removal or modification of any encroachments not specifically approved by Ausgrid should this be necessary in the future for the safe and continued operation or upgrade of the network asset.

16. NSW Water

The following Integrated Development Conditions issued by NSW Water by letter dated 6 February 2017 must be complied with:

(A) 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.
- (B) Prior to excavation
- (a) 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.]
 - (b) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and

- property, and be documented together with all calculations and information to support the basis of these in the initial report.
- (c) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
 - (d) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
 - (e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
 - (f) A copy of a valid consent for the development shall be provided in the initial report.
 - (g) 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.
 - (h) 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.
- (C) During excavation
- (a) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
 - (b) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

- (c) Measurement and monitoring arrangements to the satisfaction of 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.
 - (d) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
 - (e) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
 - (f) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
 - (g) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.
- (D) Following excavation
- (a) 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.
 - (b) 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.

17. Telstra Requirements

Prior to issue of the Construction Certificate and before commencement of any works, the Applicant must contact Telstra's Network Integrity Unit on 1800 810 443 regarding the development. Written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

18. Compliance with Building Height Plane

Prior to issue of the relevant Construction Certificate a Registered Surveyor must certify that the height of the building shown in the plans submitted with the Construction Certificate do not exceed the height permitted by the 'building height plane' as defined in Clause 4.3A(4) of Rockdale Local Environmental Plan 2011, which reads as follows:

"building height plane means a continuous plane commencing at a height of 1.5 metres above ground level (existing) and at a distance of 13.6 metres south of the southern boundary of Lot 22, DP 620329 (Point A), projecting to a position at a height of 11.7 metres above ground level (existing) and at a distance of 31.6 metres north of Point A, and continuing at that projection over the land to which this clause applies".

19. Plans to include the following matters prior to issue of the Construction Certificate

The following matters must be complied with in the plans submitted with the Construction Certificate, and must be satisfied prior to issue of the Occupation Certificate and during ongoing use of the site where relevant:

- (a) Setback of Building D to be increased:
 - (i) The northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) must be amended to have a minimum 9m setback from the sites northern boundary to ensure that a 6m deep soil setback is provided to the north of Building D. This condition is required to ensure that adequate amenity is afforded to future occupants. The condition is imposed due to the loss of 3m of deep soil planting due to the 3m wide 'Licenced Area' defined in the Deed of licence between JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Keven Manson Pty Limited.
 - (ii) The affected units shall be converted to ~~one (1)~~ **two (2)** bedroom units.
- (b) Northern landscape setback to be 'Common Property'
 - (i) the northern landscape setback shall be shown as 'common property' on all relevant plans for the following areas:
 - (1) 6m landscape deep soil zone located to to the north of Building B, Building C, Building D & Units L0001 - L0005.
 - (2) 3m landscape deep soil zone to the north of Dwellings L0006, L0007, L0008, L0009, L0010, L0011 and L0012.
 - (ii) Maintenance access must be provided to this space. This landscape area must be identified as 'Common Property' on any future Strata Subdivision of the site.
- (c) Western landscape Easement within B6 zone - A 6m wide deep soil landscape strip shall be provided within the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the internal access road and the northern site boundary. The 6m wide deep soil landscape strip must continue up to the proposed internal access road and must be shown on all plans submitted with the Construction Certificate. This must be reflected in any future Strata Subdivision of the site, and shall be covered by a Section 88B Instrument that must be signed by Council prior to issue of the Occupation Certificate. Council must be the only authority empowered to release, vary or modify the proposed easement.

- (d) Provision of a green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth as detailed in the amended landscape plans.
- (e) The proposed fence to the southern boundary of the "central park" must be deleted to allow unimpeded access to this principal area of communal open space. If access gates and fencing are proposed for Buildings B, C, D & E, they may be provided no further south than the southern edge of Buildings C and D (away from the access street).
- (f) Building G (Terraces) shall be amended as follows:
 - (i) Proposed screening to the southern end of the roof top level for all 20 townhouses shall be relocated 2m further north. The screening shall be 1.8m in height for the full width of the roof terrace, shall be constructed of high quality materials, and shall be horizontal louvres facing in an upward or downward direction that will prevent any overlooking toward the rear yards of Margate Street residences.
 - (ii) A maximum size pergola structure of 24m² shall be provided to the roof terraces. Solid walls / elements shall not be permitted to the side elevations.
 - (iii) The first floor rear balconies shall be deleted from all 20 townhouses.
- (g) Wind Report - Compliance with the recommendations in the Pedestrian Wind Environment Study report prepared by Windtech (dated 16 December 2016), including:
 - (i) Strategically placed densely foliating evergreen tree planting capable of growing to a height of 5m with a 5m wide canopy throughout the Central Park area, along Production Lane and along the western side of the residential component of the development.
 - (ii) 2m high densely foliating shrub planting in the planter beds currently proposed for the Level 7 and Level 8 communal terraces located on Buildings E and B respectively.
 - (iii) 1.5m to 2m high impermeable screening or hedge planting around the ground level southern corner private terraces of Buildings B, C, D and E.
 - (iv) Densely foliating planting for the Level 9 and 11 southern private terraces located on Buildings E and B respectively, similar to the proposed planting on the Building B and E communal terraces.
 - (v) Impermeable balustrades for all private balconies and terraces located at the corners of the various buildings of the development, and also the townhouse roof terraces.
- (h) Shading and Glare Control to Western Facades - Sliding and operable vertical louvre screens shall be provided to the western facades of all units within Building B and Building E to provide shading from summer sun to living areas of units but that will permit winter sun to penetrate living areas in accordance with the Apartment Design Guide Part 4A.
- (i) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (j) Ceiling Heights

- (i) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights as measured vertically from finished floor level to the underside of the ceiling.
 - (ii) 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.
- (k) Natural light to be provided to the basement car parking levels as shown in the approved landscape plans.
- (l) Elevator size and requirements -
 - (i) All passenger lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
 - (ii) Elevators in the building must be of a quality and speed that will be able to handle a peak 5-minute traffic volume of 20% of the population and provide an Interval of 80 seconds or less. The population of the building must be established using CIBSE (Chartered Institute of Building Services) population data.
- (m) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system are proposed within the roof top level landscape area and must be appropriately designed and screened by landscape planting.
- (n) Mechanical ventilation for commercial / retail tenancies - all ground floor level commercial tenancies shall be provided with mechanical ventilation which complies with the relevant Australian Standards to permit future uses for food and drink premises. The systems must vent above the roof top level.
- (o) Basement & Lift Access - Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the residential lobby and to the basement levels. The residential townhouses (Building G) must be provided with buzzer access to the main basement to allow visitors to access these spaces. Visitors must be provided with lift access from the basement to Ground Floor Level.
- (p) The air-conditioning units required under SEPP BASIX shall not be fixed to the external walls of the balcony or building and must be located in a position that is not easily visible from the public domain.
- (q) The proposal shall include the use of rainwater harvesting for all landscape planting at roof top level, podium level and for the green gateway planting in accordance with the requirements of Part 7.5 of RDCP 2011.
- (r) All plumbing, shall be concealed within the brickwork / facade of the building.
- (s) Garbage Rooms - Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
- (t) The stormwater detention tank(s), basement parking, and all other structures associated with the residential development must be located outside of the boundary of the New Road and any public domain areas.
- (u) (The following modifications must be made to mitigate acoustic impacts resulting from the entrances to the southern lobbies to Buildings B & E:
 - (i) The bedrooms with windows facing the building entry foyers in each of the

Units B0012, B0013, E0004, E0005, E0010 and E0011 shall be deleted. These units must be reconfigured into one (1) bedroom units with no windows facing in toward the building entrance area.

(ii) A roof shall be provided in front of the Entrance lobby for Building Block B2 and for both entrance lobbies for Building E2 to minimise acoustic impacts to upper level bedroom windows which face in toward the entrance areas. The roofs shall extend a minimum of 2.5m from the entrance lobby for the full width of the entrance area.

- (v) Provide more direct access between the loading bay and the lift lobbies for Building B & C to ensure ease of access between the loading bay and the lifts for furniture removal.

[Amendment B - S4.55(1A) amended on ***]**

20. Parking Provision & Allocation - Residential Units

A total of 704 residential car parking spaces, a minimum of 48 motorcycle parking spaces, a minimum of 53 bicycle parking spaces and 3 dedicated car wash bays, must be provided within the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

Dwelling Size (Proposed No. of units)	Required
Studio / 1 / 2 bed dwellings (475units)	1 space / dwelling = 475 spaces
3 bedroom dwellings (58 units)	2 spaces / dwelling = 116 spaces
Total Car Parking Spaces for Residential Units	591 spaces (min.) (including 54 accessible spaces)
Visitor	1 space / 5 dwellings = 107 spaces (including 3 accessible space)
Bicycle (Res. + Com.)	1/10 units = 53 spaces (Min.)
Motorcycle (Res + Com.)	Motorcycle (Res + Com.) 1/15 units = 48 spaces (Min.)

Notes:

- *All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*
- *Tandem parking spaces must only be allocated to a single residential unit. The car-wash bays must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.*
- *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.*

21. Protection of Council Land & Retaining Wall along Southern Boundary

Proposed works shall not result in any adverse impacts to the existing retaining wall(s) located within / adjacent to the small parcel of land with Lot 72 in DP 6120 which adjoins part of the sites southern boundary. This lot is owned by Council. The existing retaining walls be secured / under-pinned prior to excavation and removal of the adjoining concrete slab, and that the structure be certified by a qualified civil engineer prior to issue of the Occupation Certificate.

22. **Minimise Impacts to Public Parking for the Sporting Fields**
 - Prior to commencing any Public Domain Works, a Staging and Management Plan of the proposed public domain works must be submitted to, and approved by, Council to ensure the impacts to the Community are minimised specifically with regard to public parking for the sports fields along Production Lane and the Commercial Businesses along Production Avenue and Phillips Road.
 - No works zones will be permitted within Production Lane.
 - Truck parking, parking of machines and/or employees vehicles may not be parked within that section of Production Lane. Vehicles, machinery and equipment must be parked within the development site.
23. **Construction Environment Management Plan**

Prior to issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) must be submitted to, and approved by, Council's Director of City Futures. The CEMP shall include an Unexpected Finds Procedure to identify any localised area of contamination, or suspected contamination, as recommended in the "Targeted Phase 2 Contamination Assessment" report prepared by Coffey, dated 2 June 2015 and submitted with this application.
24. **Safer by Design**
 - a) 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:
 - b)
 - (i) 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.
 - (ii) A lighting maintenance policy shall be established for the development, including the basement car park. 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.
 - (iii) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - (iv) Graffiti resistant materials shall be used to ground level external surfaces.
 - (v) 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.
 - (vi) Basement ceilings shall be painted white.

- (vii) Visitors parking spaces shall be separated from residential parking spaces. Access to residential spaces must be restricted to residents only.
- (viii) Storage areas within the basement must be of caged metal construction and be provided within lock and key.

25. Use of Communal Terraces

- (i) Design and use of the upper level communal terraces must comply with the following:
 - (a) Use of the outdoor terraces is restricted to between the hours of 6am and 11pm Mondays to Sundays.
 - (b) The use of amplified music, speakers, etc. is not permitted on the roof top terraces of the residential flat buildings.
 - (c) Balustrades for the communal terraces must be a minimum of 1.2m in height and be of solid construction, obscure glazing or other treatment to minimise overlooking toward adjoining properties.
- (ii) Prior to issue of the relevant Occupation Certificate, legible signs located in a prominent position at the main entrance and within the communal areas must be erected that clearly communicate the above restrictions;

26. Street Numbering & Letterbox Provision

- (a) The buildings / units shall be provided with the following street numbers:
 - (a) Building B
 - (i) Main (northern) Residential Lobby - No. 15 'New Road'
 - (ii) Secondary (southern) Residential Lobby - No. 17 'New Road'
 - (iii) Ground Level Units - B0001 (G02/15), B0002 (G01/15), B0003 (G10/15), B0004 (G09/15), B0005 (G08/15), B0006 (G07/15), B0007 (G06/15), B0008 (G05/15), B0009 (G04/17), B0010 (G03/17), B0011 (G2/17), B0012 (G01/17), B0013 (G04/15), B0014 (G03/15).
 - (iv) Upper level units - to reflect numbering of relevant unit on ground level.
 - (b) Building C
 - (i) Residential Lobby - No. 11 'New Road'
 - (ii) Ground Level Units - Ground Level Units - C0001 (G09/11), C0002 (G10/11), C0003 (G01/11), C0004 (G02/11), C0005 (G03/11), C0006 (G04/11), C0007 (G05/11), C0008 (G06/11), C0009 (G07/11), C0010 (G08/11).
 - (iii) Upper level units - to reflect numbering of relevant unit on ground level.
 - (c) Building D
 - (i) Residential Lobby - No. 7 'New Road'
 - (ii) Ground Level Units - D0001 (G02/7), D0002 (G01/7), D0003 (G10/7), D0004 (G09/7), D0005 (G08/7), D0006 (G07/7), D0007 (G06/7), D0008 (G05/7), D0009 (G04/7), D0010 (G03/7).
 - (d) Building E

- (i) Main (northern) Residential Lobby - No. 3 'New Road'
 - (ii) Secondary (southern) Residential Lobby - No. 1 'New Road'
 - (iii) Ground Level Units
 - (A) E0001 - E0007: Street Numbering to 'Production Lane' (Note Production Lane to be renamed):
E0001 (No.14), E0002 (No.12), E0003 (No.10), E0004 (No.8), E0005 (No.6), E0006 (No.4), E0007 (No.2)
 - (B) E0008 - E0013: Street numbering to 'New Road' lobbies:
E0008 (G03/1), E0009 (G02/1), E00010 (G01/1), E00011 (G03/3), E00012 (G02/3), E00013 (G01/3)
 - (iv) Upper level units - to reflect numbering of relevant unit on ground level.
 - (e) Building G (Townhouses fronting New Road) - No. 4 - 42 'New Road'.
 - (f) L Units (located between RFB's)
 - (i) L0001 - L0004: No. 13A - 13D.
 - (ii) L0005 - L0008: No's 9A - 9D.
 - (iii) L0009 - L0012: No's 5A - 5D.
 - (g) Child Care Centre - No. 2 'New Road'.
- (b) Mail boxes must be installed in the position shown in the approved plans. The letterboxes must be lockable.
- (c) 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.
27. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- (i) permit stormwater to be temporarily detained by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
28. 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.
29. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
30. The overland flow path shall not be obstructed, restricted or altered without the approval of Bayside Council.
31. 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.
32. Proposed Drainage Pipe (along the New Road and the Production Lane, Kogarah)
A full Hydrologic+Hydraulic (H+H) assessment is required to be undertaken prior to issue of the Construction Certificate for the relevant stage to determine the required pipe size for the proposed pipe extension along the section of the New Road and Production Lane.
- Assumptions
H+H analysis is to be carried out for all combinations of the following design components:
 1. Design Events (AEP): 10% and 20%
 2. Catchment Development: Existing and Ultimate (contributing catchment fully developed up to the level allowed by current zoning)
 3. Downstream Boundary Conditions: Downstream pipe is flowing full at a nominated pipe friction slope.
- Following factors are to be taken into account as well:
- location of any services along and on the proposed/realignment route,
 - upstream and downstream pipe sizes,
 - location of existing ("to remain") entry pits and junctions,
 - cover to ground,
 - overland flow path,
 - final route selection.

Pipes size is to be determined on the basis that the pipe full velocity is approximately:

- 2.5 m/s.

Lower pipe velocity is to be avoided to prevent sedimentation in the pipes. Higher pipe velocity is to be avoided to prevent large energy losses (at pits and/or junctions).

- Construction of twin/several smaller pipes rather than single large pipe is allowed subject to site/construction/services constraints.
- New pits and junctions are to be designed to minimise head loss and allow for maximum entry/inlet capacity.
- A pipe slope of greater than 0.5% is required to prevent siltation. If/where physical restraints prevented this requirement being met slope under 0.5% is acceptable.
- The existing pipe/pits ("to remove") are to be decommissioned/removed at a developer's expense.

33. Noise Impacts & Acoustic Attenuation

The plans and documentation prior to issue of the Construction Certificate and/or Occupation Certificate for the relevant stage of works compliance with the following requirements must be demonstrated:

- (i) Noise from Mechanical Plant / Ventilation
An Acoustic Report, prepared by a suitably qualified and experienced Acoustic Consultant, shall be submitted to the Accredited Certifier (AC), detailing any necessary modifications to any proposed mechanical plant/s (or any other noise producing equipment) to reduce the intrusion of noise and/ or vibration into occupied rooms within the subject site and within the surrounding residential properties (including Margate Street properties) to meet the relevant standards and guidelines identified in the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017).
- (ii) Acoustic treatment of Units - The construction plans must demonstrate compliance with the following:
 - (a) The recommendations contained within Section 3 of the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017). This includes sealing of windows (air tight) when closed with good acoustic seals around the top and bottom sliders (Mohair seals are not considered to be acoustic seals).
 - (b) An updated acoustic report that confirms that appropriate measures including glazing, wall construction, window seals and other measures, are included within the development to ensure that the internal noise environment of units comply with:
 - (i) the Project Specific Limit identified in Table 8 of the DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017); and,
 - (ii) the LAeq levels in SEPP (Infrastructure) 2007, being:
 - (A) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
 - (B) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

- (iii) Noise Impacts between units:
An acoustic report shall be prepared by a suitably qualified Acoustic Consultant prior to issue of the relevant Construction Certificate. The report must demonstrate that the plans submitted with the Construction Certificate will ensure compliance with the inter-tenancy flooring & wall construction requirements contained in RDCP 2011 which are as follows:
 - (a) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:
 - (i) 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
 - (ii) 4 Star for timber flooring in any area.
 - (iii) 5 Star for carpet in any area.
 - (b) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
 - (c) 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 (c) 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.

34. Noise Impacts from Use / Occupation

The use of the any plant, equipment and/or residential occupation of the site shall comply with the following:

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Residential air conditioners must be designed so as not to operate:
 - (i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.
 - (iii) Note - peak time means:
 - A. the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
 - B. the time between 7:00 am and 10:00 pm on any other day.

35. Parking, Loading & Vehicular Access

The design, construction and operation of the off-street car, motorcycle, bicycle and loading facilities (including waste collection) shall comply with the following requirements:

- (a) Three (3) loading bays shall be provided at Basement B1 to accommodate Council Garbage collection vehicle –**RCV** and removalist trucks as shown in the approved plans. The **RCV Council Garbage collection vehicle** space shall be in accordance with Council DCP, Rockdale Technical specification – **Traffic, Parking and Access Waste Minimisation and Management** and AS 2890.2 and the swept path analysis for the **RCV Council Garbage collection vehicle** entering the loading bay shall be provided using a recognised computer software package such as Autoturn, complying with Section B3 of AS/NZS2890.1:2004.
- (b) Any vehicular path of travel to or from loading bay for RCV shall have a minimum headroom clearance of **4.5 3.9m, clear from any services - ducts, vent, pipe or sprinkler systems etc.**
- (c) One (1) van loading bay in close proximity to the lifts for Building B, and one (1) van loading bay in close proximity to the lifts for Building E shall be provided at Basement levels to accommodate Furniture removal vans. These space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2. The plans submitted with the relevant Construction Certificate shall comply with this requirement.
- (d) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- (e) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- (f) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- (g) Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- (h) All waste collection and deliveries to/from the site (including removalist trucks) must take place from within the approved loading bay.
- (i) A buzzer providing access to the basement car park must be provided to Council's Waste Education & Contract Supervisor prior to issue of the Occupation Certificate.
- (j) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.\
- (k) The car parking spaces shall not be enclosed at any time.
- (l) For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- (m) Allocate all off-street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

Note: As a minimum requirement for garbage collection vehicle access, Council will require indemnity against any claims for loss or damage to the pavement or other driving surface. Council may also require indemnity against liabilities,

losses, damages and any other demands arising from any on-site collection service. In all cases, a hazard assessment will need to be conducted prior to Council agreeing to undertake the service.

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

[Amendment C - S4.55(1A) amended on 6 July 2018]

36. 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.
37. Design Quality
 - (a) 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 the Council prior to release of the Construction Certificate.
 - (b) The design architect of the project is not to be changed without prior notice and approval of the Council.
38. All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996), and must be certified prior to initial use.
39. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
40. Waste Management - On-going Use

On-going waste and recycling from the residential dwellings shall be managed in accordance with the submitted Waste Management Plan. Waste and recycling shall be collected from within the basement level for the Residential Flat Buildings. Council's Waste Management Officer / Team shall be provided with a buzzer to access the basement for waste collection purposes prior to issue of the Occupation Certificate for the first residential unit.
41. Storage
 - (a) The plans submitted with the Construction Certificate shall demonstrate that accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):
 - (i) The minimum storage area to be provided for each dwelling shall be:
 - Studio / 1 bed unit = 6m³
 - 2 bed unit = 8m³
 - 3 bed unit = 10m³

(ii) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.

(iii) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and must be provided with lock and key.

(b) The storage areas required by (a) above must be provided in accordance with the above requirements prior to issue of the relevant Occupation Certificate.

42. External Cladding

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
- b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

43. Plan of Management for Pedestrian & Bicycle access within the development

Pedestrian and bicycle access within the development must be legible and separated from vehicular access wherever possible.

A Plan of Management is required to address the following:

- 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.
- 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 in the form of individual bicycle lockers or within a caged or gated secure areas;
- Design of bicycle parking is to cater to the various users of the development and their differing modes of bicycle parking required, such as:

44. Permeable Paving

The plans submitted with the Construction Certificate for the relevant stage of works shall show that all public car parking spaces and pedestrian pathways within the New Road and within Production Lane carriageway utilise permeable paving. The permeable paving for pedestrian pathways shall have a minimum thickness of 50mm and the permeable paving for the public car parking spaces shall have a minimum thickness of 80mm to satisfy WSUD measures. Paving shall comply with the following:

- Permeable Paving in accordance with AS 4456.9:2003
- Unsealed slip resistance compliant with AS/NZS 4586: App.A
- Breaking Load compliant with AS/NZS 4456.5: 2003
- Height of 50mm for Pedestrian pathways

- Height of 80mm for Car Park/bay areas
- Finish: Natural
- SubBase: 25mm washed river sand over 150mm DGB20 over consolidated sub base material
- Supplier: approved equivalent by Council
- Location: As identified on Landscape Plans

45. **Landscape Plans / Planting**

The following must be complied with:

- (a) Prior to issue of any Construction Certificate for above ground works, amended Landscape Plans must be submitted to, and approved by, Council's Director of City Futures. The amended plans must comply with the following:
 - (i) The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent.
Key amendments include:
 - (A) Deletion of all planting within the 3m wide area located along the rear southern wall of the existing building erected on Lots 20-26 in DP 29275 that is affected by the Signed Deed of Licence between parties JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Kevin Manson Pty Limited.
 - (B) Modifications to comply with the amended 20.1m road width for all Plans and Sections (except adjacent to the child care centre where the road width is 18.2m);
 - (C) Modifications to the width of the bicycle path and planting within Production Lane. (Note: the plans must show existing and proposed planting within Production Lane. No trees are to be removed from within the planter bed located on the eastern side of Production Lane opposite Building E).
 - (D) Deletion of the palisade fencing to the southern perimeter of the main communal open space area. Fencing and access gates may be located in positions recommended by the Design Review Panel.
 - (ii) Plant selection to comply with the following:
 - (A) The plant selection to be adjusted on updated landscape plan, with Raphiolepis (to be changed to Leionema 'Green Screen' and Westringia's changed on west side to be a screen planting which is staggered to form a thicker hedge, using Syzigium 'Cascade' or equivalent.
 - (B) The Western boundary plantings should be a staggering planting of Syzigium paniculatum and Acmena smithii.
 - (C) The planting density needs to be increased to produce an effective buffer from future development.
 - (D) The Northern Boundary requires further tree planting, which should be at approximately 10m centres. The use of Lophostemon confertus should be replaced with Eucalyptus botryoides interplanted with Eucalyptus scoparia.
 - (E) Northern and Western boundaries can accommodate greater plant densities and especially medium and large trees to achieve a buffer with the adjoining industrial & commercial

zones. *Leptospermum petersonii* can tolerate the strong heat, which should be supplemented with *Elaeocarpus reticulatus* plantings.

- (F) Planting should be provided within the B6 zone to accommodate an additional buffer with screen tree species to provide a wind break.
- (G) *Russelia equisetiformis*, *Trachelospermum jasminoides* and especially *Syngonium podophyllum* should be replaced with native groundcovers such as; *Grevillea* 'Royal mantle', *Banksia* 'Roller Coaster', *Bauera rubioides*, *Brachycome multifida* and *Zieria* 'Carpet Star'. There is a large planting of *Strelitzia nicolai*, which should be minimized and interspersed amongst other tropical plants including *Helmholtzia glaberrima*, *Cordyline petiolaris*, *Thelionema grande* and *Dietes robinsoniana*.
- (H) *Syzigium cascades* to the north, west and south boundary are suitable broken up with larger trees such as *Celtis paniculata*, but the west boundary cannot be broken up with smaller plantings such as *Philodendron* 'Xanadu' it will be better to maintain a 3m height to provide the necessary privacy to the townhouses considering their position to the road. Ideally a double planting would work better, especially staggered plantings to help reduce noise. *Doryanthes palmeri* will be better used on the north boundary and *Strelitzia Nicolai* can look untidy and requires a lot of maintenance and should be reconsidered.
- (I) *Magnolia* 'Little Gem' can also be interplanted with small trees such as *Glochidion ferdinandi*, *Melaleuca quinquenervia*, *Casuarina glauca*, *Acronychia imperforata* or *Xanthostemon crisanthus* 'Fairhill Gold'. There should be a larger variety and amount of trees on site and updated on Plant Schedule.
- (J) Ferns and cycads should be increased in selection to include *Doodia aspera*, *Livistona australis* and *macrozamia communis*, fern areas should be underplanted with *zieria* 'Carpet Star' and *Lobelia alata*.
- (K) *Alpinia zerumbet* can be replaced with *Dicksonia Antarctica* or *Alocasia brisbanensis*, *Strelitzia nicolai* with *Doryanthes excelsa*.
- (L) *Pandanus tectorius* may not work well on this site and should be replaced with *Livistona australis*.
- (M) *Lomandra hystrix* should not be used and should be replaced with *Hardenbergia violacea*, *Lomandra* 'Little Con', 'Lime Tuff', 'Savanna Blue', *Dianella caerulea* and varieties.
- (N) Other grasses/reeds should also be used to break up *Pennisetum alopecuroides*, including *Balioskion tetraphyllum*, *Juncus kraussii*, *Baumea juncea* and *Phragmites australis*.
- (O) The central courtyard turf area requires further development with additional plantings of native shrubs and groundcovers. Taller tree species should also be included to provide privacy, including *Banksia* 'Giant Candles', and *Sterculia quadrifida*.
- (P) 7982 of 10735 plants (74%) are native which complies with the

Council guidelines (DCP), however it is recommended that proposed Syzigium 'Winter Lights' and Callistemon 'Great Balls of Fire' be interplanted with other native species (e.g. Lomandra 'Lime Tuff').

- (Q) More centre plantings within other mounds and varying seating with planters near building B and E.

(iii) Kickabout development

- (A) This consolidated area has been provided in the on grade communal zone (referred to as the central park), along the northern boundary and along the site access road (providing opportunity for significant avenue planting). However the design is not cohesive and does not provide the opportunity to produce an optimal landscape with amenity.
- (B) It is recommended that Deep soil area with mature trees should be accompanied by further range of trees, shrub and groundcover underplantings.
- (C) All raised/mounded areas to have steel edging to eliminate potential of mulch washing on pedestrian walkways.
- (D) Increase plantings should be included along play areas in the 'kickabout' central park, where at least a further 400 small trees and shrubs, along with a further 1000 groundcovers should be included, especially in the deep soil zone. The BBQ area should be provided with vegetable beds. Raised terraces should also be landscaped further. Ideally better amenities including sporting fitness zone areas and review of both mounded zones and BBQ area i.e. bubblers and seating and shade options should be incorporated into the design.
- (E) Turfing under trees is not recommended for long term tree health and vigour. Planting areas can extend to or additional planting near both landscape mound next to playground and seating sections.
- (F) Within the mounded areas there may be enough room to provide a basketball shooting rink with three point line, and free throw lane markings to provide further amenity for the residents.
- (G) Remove/amend the sandstone wall so that it allows access points to the 'kickabout space'.

(iv) Townhouse area

The Deep Soil zone in front of the proposed Town Houses should accommodate as many native species to maximise this zone. Proposed planting must be amended to reflect the widened 20.1m road reserve and WSUD measures required within the road reserve.

(v) Fence, Irrigation and Lighting Details

All fence heights and materials should be provided on the plan, along with irrigation and Lighting details, especially to the 'kickabout space'.

(vi) Landscape planting to Production Lane frontage

- (A) The Production Lane setback must be deep soil for a minimum width of 3m as measured perpendicular from the sites eastern side boundary as shown in the plans. The planting, fence

locations and built form within these front setback areas must be reviewed and must include a greater density and height of plantings. Preference should be given to locally indigenous and Australian native plant species whenever possible (TS Landscape). Proposed front fences for Building E may need to be setback further than proposed in the approved plans to ensure adequate scale landscape / tree and screen planting can be provided to this eastern boundary.

- (B) There is a significant potential for avenue planting within the site or within the streetscape verge should be amended with further range and increased density of trees, shrubs and groundcovers that is developing the avenue planting, with plantings both in front and behind the sandstone wall.
- (C) Townhouse treatment it is recommended to remove some car spots and incorporate the cyclepath access to the townhouse development. A Pedestrian crossing should be provided in at least two positions to integrate the townhouses with the public park areas.

(vii) Garden beds edges

Install steel edging material that stops mulch movement onto paved walkways (from garden beds only and not on Council strips) edging range should be considered, especially on mounded areas and beds on slopes.

(viii) Other Matters to be included in amended Landscape Plans

- (A) All setbacks, and other areas of the property shall be landscaped to a greater level with a larger variety of plants and species noted in 'Planting plan to be reviewed prior to determination'. Amended road design & public parking to be updated on Landscape Plan. Landscaping shall be installed in accordance with the approved landscape plan only stamped by Council's Landscape Architect and dated, prior to the issue of an Occupation Certificate. (This amended plan supercedes the original landscape plan issue Q). Amendments include The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.
- (B) The private domain landscape areas shown on the plan by Arcadia (Issue Q, dated July 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the Bayside Council Landscape Architect prior to issue of the onstruction certificate for above ground works. The landscape documentation is to be prepared by Arcadia Landscape Architects and shall include, but not be limited to:
- (C) Canopy trees are to be used extensively within the North, South and West boundaries. 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 4 Part 4.4.

- (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. Planting within the communal areas is to have a minimum depth 1500mm of soil, particularly where tree planting is proposed. Construction detailing is required.
- (E) 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.
- (F) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab. This also applies to proposed green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth which must be amended prior to determination.
- (G) A minimum soil depth of 300mm is required for turfed areas on podiums or roof-tops or any other concrete slab, including the soil above stormwater drainage tanks.
- (H) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
- (I) 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.
- (J) Indicate the location of all basement structures relative to the landscape areas.
- (K) A planting plan at 1:100
- (L) Barbeque facilities to be incorporated within the Roof Terraces and pergola details to be provided along with turf selection, sky lights and pavement details.
- (M) Roof terraces to provide further deciduous trees such as Brachychiton discolour and planters around seating areas.
- (N) Within the New Road, 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.
- (O) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.
- (P) Public Domain Landscape Works - A detailed public domain landscape plan shall be submitted to and approved by the Bayside Council Landscape Architect prior to the issue of any the Construction Certificate for above ground works. 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 Bayside Council Landscape Architect. The landscape documentation is to be prepared by Arcadia Landscape

Architects and shall include, but not be limited to:

- a. The clear delineation of all public domain areas as follows:
- b. New Road footpath areas and streetscape design for Production Lane of the eastern side of the site.
- c. 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.
- d. Street trees are required along New Road, and Production Lane to Council standards.
- e. All street trees are to be in tree pits that are at grade with the footpath, finished mulch levels should be a minimum of 50mm below edge.
- f. All deep soil areas are to include evergreen canopy trees noted in Planting plan to be reviewed prior to determination 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.
- g. Canopy trees are to be used extensively within the north of the North and South boundaries. 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 4 Part 4.4).
- h. 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 100 litres and street trees 200 litre.
- i. 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.
- j. New pavement treatment to connect townhouse area to 'Kickabout space'. Full detailing is required.
- k. 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 'kickabout space.' Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- l. Details of all fencing, privacy screening, arborists and the like – elevations and materials, impacting or visible to public domain areas.
- m. 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, signage suite. Locations to be clearly identified on plan. Provide

- sectional construction details and elevations.
 - n. Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
 - o. A detailed irrigation and materials/finish schedule.
 - p. Bicycle parking -
 - q. Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 4 Part 4.4) and capable of supporting medium and large canopy trees.
 - r. 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.
 - s. Indicate the location of all basement structures relative to the landscape areas.
 - t. Existing retained trees shall be shown on all plans.
- (b) **Conditions which must be satisfied prior to the issue of the relevant Occupation Certificate**
- (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with (a) above and as approved by Council's Landscape Architect. 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.
 - (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
 - (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

46. **Tree Protection, Installation & Maintenance**

- (A) Prior to issue of any Construction Certificate, the following must be satisfied to ensure that trees on site and adjoining properties proposed to be retained are protected:
 - (i) The existing trees located within properties adjoining the southern

boundary of the site shall not be removed or damaged.

- (ii) Prior to issue of any Construction Certificate, the construction plans must be submitted to, and approved by, Council's Director of City Futures, showing the following:
 - (1) All trees identified in the submitted Arborists Report to be retained shall be clearly shown and marked on the plans being retained. The Vegetation Management Plan prepared by Arcadia must also be updated in order to ensure that the trees to be retained within the site boundaries are retained and protected during excavation, and construction, and that their health and structural stability is ensured.

Note: The following 22 trees are high quality trees that must not be impacted by construction works:

 - (a) Syzigium paniculatum (Brush Cherry) noted on Arborist report but on the adjoining property to the south boundary 22A Margate Street
 - (b) Araucaria columnaris (Cook's Pine) (30) south boundary 2 Margate
 - (c) Fraxinus griffithii (Evergreen Ash) (31)
 - (d) 8 x Livistona australis (palms) on Rocky Point Road to remain (T3 – T10)
 - (e) T63- T65 - Melaleuca quinquenervia, T50 - Eucalyptus scoparia,
 - (f) T32 - Fraxinus griffithii, T72 –T75 Fraxinus griffithii, T76 - Acmena smithii (Lilly Pilly), T77 – T-79 Waterhousea floribunda, T27 - Glochidion ferdinandi
 - (g) All trees within No. 206 Rocky Point Rd (north of Margate Street). No trees have been approved to be removed within No. 206 Rocky Point Road.
 - (2) Trees to be removed and retained within Production Lane;
- (iii) 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.
- (iv) All tree works and tree management shall be undertaken in accordance with the Arborist report by Landscape Matrix (dated 16th July 2017). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
- (v) 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.
- (vi) 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.

- (vii) 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).
- (viii) 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.
- (ix) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (x) 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.
- (xi) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (xii) 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.
- (xiii) 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.
- (xiv) 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.
- (xv) 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.
- (xvi) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. 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.
- (xvii) 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.

- (xviii) 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.
 - (xix) Tree numbers T62 to T69 have been retained within the site and the trees T3 – T19 within 206 Rocky Point Road have been retained. Trees 30 and 31 are to be retained near Margate Street.
 - (xx) Arborist Report letter dated 16 July 2017 from Landscape Matrix noted 15 trees located in the adjoining properties to the south of the site (within the rear gardens of properties in Margate Street) to be protected during construction.
 - (xxi) The applicant is to submit payment of a Street Tree Maintenance Bond of \$44,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 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.
 - (xxii) Playground Indicated on the master plan by Arcadia Landscape Architects, requires detail design including material and finish specifications along with spot levels and manufacturing specifications.
- (B) **Certificate of Compliance - Tree Protection**
 Prior to issue of the final Occupation Certificate, the Applicant is required to obtain a Certificate of Compliance from the Arborist to certify that the trees proposed to be retained as detailed in the approved Arborists Report prepared by Matrix Landscape have been retained. The report must confirm that all trees within adjoining properties have been retained and are in good health.

Prior to issue of the construction certificate

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

47. Voluntary Planning Agreement matters

- (i) Contribution towards Masterplanning for Shared Footpaths and Cycleways – Item D in the Voluntary Planning Agreement
 Prior to issue of any Construction Certificate on the Land a monetary contribution of \$70,000.00* must be provided to Council for Masterplanning with the purposes of resolving the location, concept design and scope of infrastructure for shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA.

 * The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
- (ii) Contribution towards a Local Area Traffic Management Study – Item A of the Voluntary Planning Agreement
 Prior to issue of any Construction Certificate in relation to the first residential

accommodation on the Development Site, a monetary contribution of \$100,000.00* must be provided to Council for the purposes of Local Area Traffic Management study on local roads in accordance with Item A of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

48. 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 \$150,000.00. 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.
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 Frontage Works shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All public domain, boundary works, egress paths, driveways and fences shall comply with the requirements. A fee is payable to Council in accordance with Council's adopted fees and charges.
51. A Section 94 contribution of **\$4,669,882.35** 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 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	\$3,832,273.11
Community Services & Facilities	\$275,709.20
Town Centre & Streetscape Improvements	\$125,838.91
Pollution Control	\$408,878.42
Plan Administration & Management	\$27,182.71

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

[Amendment A - S4.55(1A) amended on 20 April 2018]

[Amendment B - S4.55(1A) amended on ***]**

52. Engineering Modifications - New Road
Prior to the issue of the relevant Construction Certificate, engineering plans must be submitted to, and approved by, Council's Director City Futures, that comply with the following:
 - (a) Provide a 20.1m road reserve width, in accordance with Council's 'Road Widths' Policy, for the internal access road except for that portion of the road to the immediate north of the approved Child Care Centre lot, which is required to have a road reserve width of 18.2 metres, consistent with the approved engineering sketch titled SKC25 listed in Condition 2.
 - (b) All parking spaces along the New Road must be constructed of porous paving.
 - (c) The design of the relocated stormwater pipe within the New Road must include a gutter flow analysis in both Rocky Point Road and the New Road to ensure that the flows are fully contained within the gutter and that there will be no overflows into the development site.
 - (d) Include Street lighting in accordance with Council's standards (Note: all footings to be provided within the future road reserve – i.e. within proposed Lot 3 in the approved subdivision plan);
 - (e) All landscaping along the New Road to incorporate WSUD treatment of stormwater from the road and parking area pavements.
 - (f) With the design of the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway / footpath must be a minimum of 3m wide.
 - (g) Underground power supply and servicing.
53. Basement Certification
An engineering design certificate is required to be submitted for the design of the Basement system including shoring wall.
54. Adaptable Unit Provision
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 54 residential unit, and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be those identified in the *DA Access Review Report prepared by Morris Goding Accessibility Consulting (dated 12 December 2016)*.

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.

This condition must be satisfied in the plans submitted with the relevant construction certificate.

55. Consultation / Approval from Utility Providers

- (a) Prior to the issue of the construction certificate approval from all relevant utility providers is required to be obtained for the works with the road reserve fronting your property boundary. You are required to consult with and/or obtain approval from your utility providers (i.e. Ausgrid, Telstra etc) in order to fully understand their requirements before commencement of any work.
- (b) Telstra
Prior to issue of the relevant Construction Certificate, Telstra has advised that the developer must contact their Network Integrity on 1800 810 443 regarding the development.
- (c) Sydney Water
 - (a) Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM 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 inTM online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
 - (b) Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.

56. Prior to issue of the Construction Certificate for any works above the ground floor level, details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the works detailed in the Roads Act section of this consent.

57. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

58. Any sub-surface structure within the highest known groundwater table / rock + 0.5m shall be designed with a waterproof retention system (ie Structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate for the relevant stage of works.
A design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chartered

Professional Engineer competent in Structural engineering.

The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

Note:

- a. All structures that are fully or significantly below ground shall be fully tanked to finished ground level.*
- b. After construction is completed no seepage water is to discharge to the kerb. Permanent dewatering will not be permitted.*
- c. Continuous monitoring of ground water levels may be required.*

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

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

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

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

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

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

Copies of the CMP and TMP shall be submitted to Council.

60. Adjoining buildings founded on loose foundation materials

As the basement floors including shoring walls are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

- (a) Implement all recommendations contained in the report prepared by Coffey Service Australia Pty Ltd. Ref: STDGE203337-AC_Rev1, dated 17 May 2017.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective, and

(c) Confirm the proposed construction methodology

A Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

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

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

61. Vibration monitoring

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

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

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

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional

engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

62. Traffic Signs / Boom Gate - On-site Carparking

- (a) The design of parking areas shall be in accordance with DCP Part 4 Sec 4.6 and Rockdale Technical Specification – Traffic, Parking and Access. Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.
- (b) A traffic signs and boom gates are to be designed and installed to manage vehicular movement in all basement car parks that provides safe vehicle access to the basements. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
- (c) Prior to issue of the relevant Construction Certificate, a suitably qualified and experienced engineer shall design traffic management facilities within the site to the requirements of AS2890.1:2004 and relevant Austroads Guidelines. The facilities designed by the engineer shall include signs (including vehicular guide signs, regulatory signs and warning signs), line marking and pavement markers, and other controls such as passing bays, traffic islands, median or separator and convex mirror to ensure safe movement of vehicles within the site at all times

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

64. 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.

65. 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.
66. Car Wash Bays
A minimum of three (3) dedicated car wash bays are required. They must be shown in the Construction Plans and may not be shared with visitors spaces. A tap and power point shall be provided adjacent to the spaces. 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.
67. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the relevant construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.
68. Prior to the issue of the relevant Construction Certificate, excavation shall be undertaken to confirm the location of the Council pipeline that traverses the property.
69. Stormwater Drainage Plans

Prior to the issue of the Construction Certificate for the relevant stage of works, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.

The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent (including this condition).

Key amendments required include:

- a. DCP requires the provision of onsite detention. Detailed drainage design plans, supporting calculations and design certification will be required to be submitted in accordance with the design, documentation and certification requirements of DCP and Rockdale Technical Specification – Stormwater Management
- b. The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6 m3 per 100 m2 of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.
- c. The proposed basement ramps to have a crest level to prevent inundation from 1% Annual Exceedance Probability flood level.
- d. The openings (grated covers) to the proposed OSD tank shall be kept away from overland flow paths to prevent inundation from flooding.

e. The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4

f. The detailed plans are required to show the basement levels as tanked system. The design shall take into consideration of geotechnical recommendations. To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls.

The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent.

Subsoil drainage shall be provided and designed to allow the free movement of groundwater around any proposed structure, but is not to be connected to the internal drainage system.

The design shall identify, and discuss generally WSUD measures put in place to reuse water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site.

Prior to commencement of works

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

70. 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 \$20 million.
71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

72. A 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.
73. 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.
74. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
75. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
76. 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.
77. (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.

78. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

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

79. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
80. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
81. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
82. 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.

83. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
84. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
85. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at

the following stage/s of construction:

- i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
 - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
 - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
 - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
86. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

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

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

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

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

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

87. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
 - ii. adequate provision shall be made for drainage.
88. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.

89. Work Activities on Council Sites - Application Requirements

All contractors shall obtain permits for, and comply with permit conditions during all stages of demolition and construction. Refer to Council "Work Activities on Council Sites Application Form" to obtain permits for the following activities listed below. Contractors must have a valid permit prior to undertaking any work or activity within the public domain. Fines apply if an activity commences without a valid permit being issued.

- (a) Road, Footpath and Road Related Area Closure (EP05)
This permit will allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- (b) Stand and Operate Registered Vehicle or Plant (EP03)
This permit is used when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- (c) Occupy Road with Unregistered Item (EP02)
This permit will allow the applicant to place unregistered items within the roadway including waste containers and skip bins.
- (d) Works Zone (EP01)
This permit is used when a statutory work zone is required to conduct construction activities adjacent to the work site. These applications are assessed by Council officers and are referred to the Traffic Committee for approval.
- (e) Scaffolding, Hoarding and Fencing (EP04)
This permit applies to all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
- (f) Temporary Shoring/Support (EP09)
This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
- (g) Tower Crane (EP06)
This permit is used when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
- (h) Public Land Access (EP08)
This permit is used by applicants to access or occupy Council land including access over plus access over and occupy any part of Council land.
- (i) Temporary Dewatering (EP07)
This permit is used when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.

90. 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.

91. 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, unless otherwise agreed to in writing by Council. 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.
92. 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.

93. Protection of Existing Trees
Existing site and/or street trees proposed to be retained as detailed in the submitted Arborists Reports, and all trees within adjoining sites, shall be adequately protected from damage during demolition, excavation and construction operations.
94. Acid Sulfate Soils Management Plan
All works shall be carried out in accordance with the Acid Sulfate Soils Management Plan prepared by Coffey (dated 26 May 2015) and submitted with the application.

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.

95. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of any of the buildings.
96. Voluntary Planning Agreement matters
 - (i) Contribution towards Sporting Facilities – Item B in the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00* must be provided to Council to be used towards improvement or enhancement of sporting facilities for the Arncliffe Scots Baseball Club in accordance with Item B of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
 - (ii) Contribution towards Sporting Facilities – Item C in the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00* must be provided to Council to be used towards the improvement or enhancement of sporting facilities for the Brighton Seagulls Junior Rugby League Football Club in accordance with Item C of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
 - (iii) Contribution towards Playground Construction – Item E of the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the 150th residential dwelling on the Development Site a monetary contribution of \$415,000.00* must be provided to Council for construction of a new playground in the northwest section of Tonbridge Reserve, or as otherwise agreed between the parties, in accordance with Item E of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- (iv) Shared footpaths and cycleway Construction – Item D of the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the 300th residential dwelling on the Development Site a monetary contribution of \$1,595,000.00* must be provided to Council to be used for carrying out works to create shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- (v) Child Care Centre – Item G of the Voluntary Planning Agreement
- (a) Construction of the child care centre required under Item G of the VPA (Note: Item G is the subject of a future Stage 2 DA) must be commenced prior to issue of an Occupation Certificate for the 250th residential dwelling on the site.
 - (b) Construction of the child care centre and dedication to Council of the 1,000m² parcel of land for child care centre purposes in accordance with the approved plans and Item G and Item H in the Table in clause 1.1, Schedule 3 of the VPA.
 - (c) Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office, prior to the issue of any Occupation Certificate in relation to the 350th dwelling of the Development (as defined in the VPA).
- (vi) Production Lane Embellishment / Upgrade Works – Item F of the Voluntary Planning Agreement (VPA)
Prior to issue of the last Occupation Certificate for residential accommodation on the Development Site, but no earlier than issue of the Occupation Certificate for the 300th residential dwelling on the Development Site (unless otherwise agreed in writing to an earlier date in accordance with the VPA), the Development must construct road embellishment and remodelling works to upgrade Production Lane in accordance with Item F of the Table in clause 1.1, Schedule 3 of the VPA.

Alternatively, in accordance with the VPA, Council may direct the Developer in writing to provide a monetary contribution equivalent to the Contribution Value. Any Production Lane Direction must be issued within 30 days of the issue of an Occupation Certificate for the 300th residential unit on the Development Site (as per the VPA).

This contribution is to be subject to annual indexation at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

97. Prior to issue of the relevant Occupation Certificate:
- 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.

- 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.

98. 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.
99. 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.

100. Landscape Completion / Certification

- (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with Condition 46 above and as approved by Council's Landscape Architect. 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.
- (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not

include trimming or pruning of the trees under any circumstances.

101. 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 prior to issue of the Occupation Certificate issued for the 350th dwelling and/or prior to issue of the Final Occupation Certificate (whichever is the relevant Occupation Certificate).
102. 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.
103. 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".
104. 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.
105. Landscape Easement - B6 Zone
Prior to issue of any Occupation Certificate for Building B,
 - (a) A landscape easement shall be created on the title of the land. The landscape easement shall have a minimum width of 6m, shall be deep soil and shall extend into the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the New Road and the sites northern boundary (refer to Figure 2 in the Applicant's Response to Council's RFI Letter prepared by JBA, dated 21 July 2017).
 - (b) The landscape easement required by (a) is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.
 - (c) Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land & Property Information.
106. Dedication to Council / RMS for Road Widening / New Road Access
Prior to issue of the Occupation Certificate for the 350th dwelling and dedication of the child care centre to Council, the following shall be dedicated to Council or the RMS for road widening and/or public road access purposes to ensure that access is available to the child care centre:
 - (a) The dedication to RMS of the proposed intersection at Rocky Point Road and the New Road identified as Lot 3 in the approved Subdivision Plan listed in Condition 2.
 - (b) The dedication to Council of the proposed new access road identified as Lot 2 on the approved Subdivision Plan listed in Condition 2.Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office.
107. Suitable vehicular bollards shall be provided within all adaptable shared areas prior to issue of the relevant Occupation Certificate.
108. Car Parking & Loading Provision

- (a) Prior to issue of the final Occupation Certificate, the following parking spaces and loading bays shall be provided:
 - (i) Residential Parking
 - (i) 704 residential off-street parking spaces (including 664 parking spaces within the main basement and 40 spaces within the basement for the townhouse development, and 54 accessible residential spaces), in accordance with the approved plans listed in Condition 2 except where modified by Condition 20.
 - (ii) A minimum of 48 motorcycle parking spaces;
 - (iii) A minimum of 53 bicycle parking spaces;
 - (ii) Residential Loading Bays
 - (i) 3 loading bays for RCV trucks and 2 loading bays for vans in proximity to the lifts for Building B & E within the main basement in accordance with Development Specific Condition 35.
 - (iii) On-street parking
 - (i) 22 on-street parking spaces within the new access road, including one (1) accessible parking space that complies with the relevant Australian Standards / BCA, in accordance with the approved plans listed in Condition 2.
 - (ii) A minimum of 40 on-street parking spaces within that part of Production Lane between the access driveway to the main basement and the southern termination of Production Lane (note: Production Lane is that section of road to the eastern side of the development site), including one (1) accessible parking space (refer to Roads Act conditions).
 - (b) All parking spaces shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with the relevant Australian Standard AS3727 – Guide to Residential Pavements and/or other relevant conditions of this consent (i.e. the on-street parking spaces shall be constructed of porous paving in accordance with previous conditions).
109. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
110. 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.

111. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
112. Noise Requirements - Compliance
- (a) Prior to issue of the Occupation Certificate, a Certificate of Compliance prepared by a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority (PCA) validating that:
- (i) Noise emissions from all mechanical services plant including fans, compressors, condensers, air conditioners etc. to the nearest residential receiver do not exceed the noise emission criteria provided within the DA Acoustic Assessment reports submitted with the application, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (ii) The internal noise environment within all units complies with all relevant legislation and all other requirements contained in Conditions 34 of this consent, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (iii) The noise reduction measures specified in the noise report prepared by Acouras Consultancy dated 19 December 2016 Ref No. SYD2016-1079-R001F (and all addendum reports accompanying this including the report dated 7 July 2017), and any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33, 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 the relevant Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- (b) If Council is not the PCA, a copy of the Certificate of Compliance required by (a) above must be submitted to Council prior to issue of the Occupation Certificate.
113. Prior to use of any mechanical ventilation and / or air-conditioning systems, and prior to issue of any relevant Occupation Certificate, a qualified mechanical engineer shall certify that the mechanical ventilation and air conditioning systems comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
114. 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.
115. 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.

116. The following flood related requirements shall be satisfied prior to issue of the Occupation Certificate:
- a. The underground garage shall be floodproofed to a minimum of 300mm above the 1% Annual Exceedance Probability flood level and up to PMF level to Townhouses and Main basement entry respectively. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
 - b. The minimum distance between the outside finished surface level and the underside of the adjacent floor shall be 300mm in all cases where overland flow produced by the 1% AEP rainfall exceeds a depth of 100mm.
 - c. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Flood Planning Considerations and Development Controls listed in the Overland Flows and Flooding assessment prepared by AT & L Consultant, report no: 16-380-01, Rev:02 dated 14 July 2017.
117. Prior to issue of the relevant Occupation Certificate, positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
- (a) The stormwater OSD facility and WSUD measures to provide for the maintenance of the system;
 - (b) Visitors parking arrangement for Townhouses; and
 - (c) The boom gates and traffic signs.
118. 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.
119. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

Water quality chambers with filter cartridges similar to SW360 in onsite private drainage and a Gross Pollutant Trap similar to CDS Unit in the main drainage pipeline shall be provided in accordance with Rockdale Technical Specification Stormwater Management.

120. Access Road Inspection
Prior to issue of the final Occupation Certificate, the access road must be inspected by Council's Director of City Futures and all defects must be rectified by the developer at the developer's cost.

The defects liability period will commence from the date of completion of the defects repair work, and not from the date when the Access Road was dedicated to Council.

121. Signage / Way Finding Plans
A signage / way finding plan must be prepared and implemented prior to issue of

each Occupation Certificate for the residential dwellings. The plan must include consideration of all parts of the development, including the basement car park, communal open space areas, building numbers / street addresses, directions to residential lobbies. The signage provided must be clear and of suitable size and number.

122. Road Naming

Prior to issue of the Construction Certificate for any works above the ground floor level, an application to name all roads within the development as well as the rear lane (commonly referred to as Production Lane) must be submitted to Council in accordance with Section 5.3 of the NSW Address Policy and requirements of the NSW Geographical Names Board of NSW. The naming of the road must be completed prior to Occupation Certificate for the 350th residential dwelling or prior to dedication to Council of the New Road (whichever occurs first).

123. Prior to issue of the relevant Occupation Certificate, all relevant conditions of this consent must be complied with. This includes the requirements of Conditions 19 and 42 amongst other matters.

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.

124. Dedication to Council for Road Widening –Rocky Point to RMS & New access road to Council as follows:

- (a) The dedication to RMS for road widening purposes that parcel of land identified as Lot 3 in the approved subdivision plan; and
- (b) The dedication to Council for new public road that parcel of land identified as Lot 2 in the approved subdivision plan.

These provisions are to be put into effect prior to release of the Subdivision Certificate.

125. The subdivision is to occur in accordance with all relevant conditions of this consent.
126. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
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 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.

128. Visitor Parking - Townhouse Access

A positive covenant shall be created over the visitor parking spaces within the main basement to ensure that visitors to the Townhouses are provided with vehicular and pedestrian access to/from the visitors parking spaces within the main basement at all times.

A suggested wording for the covenant is indicated below:

"The Registered Proprietors covenant as follows with Council in respect to the area of common property identified as 'Visitor Parking' spaces on the Strata Plan (herein called 'The Burdened Land').

The Registered Proprietor will:

- i) permit the registered proprietors and/or invitees of the registered proprietors of the Townhouse lots # inclusive to enter upon The Burdened Land with a vehicle or vehicles whether motorized or not and to park, leave or place such a vehicle upon The Burdened Land at all times that the registered proprietor or invitee enters upon The Burdened Land.*
- ii) not obstruct or inhibit in any manner whatsoever access to or exclusive use of The Burdened Land in accordance with the prior cause.*
- iii) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. "*

Roads Act

129. The following works will be required to be undertaken in the road reserve at the applicant's expense:

- (i) All parking spaces along Production Lane to be linemarked including a center line, directional arrows and signage as approved by Council's Traffic Committee.
- (ii) All parking spaces along the New Road and Production Lane to be constructed of porous paving.
- (iii) Production Lane to be designed to maintain a minimum 6m wide 2 way traffic lanes between the Northern Driveway of the Development and the southern termination end of Production Lane. To facilitate this requirement introduce rear to kerb parking bays with overhangs into the landscape areas.
- (iv) The main northern driveway into the development off Production Lane to be merged into the existing driveway of 24 – 26 Production Avenue to form a combined driveway to facilitate trucks turning left towards Production Avenue.
- (v) The design of the public on-street parking layout along the section of Production Lane as shown in Plan No. SKC25 (issue B), Project No. 16-380, Titled "Access Road Layout Option 2" to maintain a minimum of 40 parking spaces as shown in that plan. The proposal must not result in the loss of more than the first three (3) perpendicular on-street parking spaces located immediately to the north of the driveway entrance. The remaining perpendicular parking spaces within Production Lane to the north of the driveway entrance for the main basement car park must not be retained.

- Linemarking of these spaces should be carried out in accordance with the VPA.
- (vi) The design of the relocated stormwater drainage system from Rocky Point Road along the New Road to Production Lane must include a gutter flow analysis in Rocky Point Road and the New Road that will ensure that the flows are fully contained within the gutter and that there are no overflows into the development site.
 - (vii) The New Access Road to Council's required specifications and in accordance with Condition 53;
 - (viii) With the design of the public domain and the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway/footpath is to be a minimum 3m wide.
 - (ix) With the new traffic signals on Rocky Point Road include a Bike Lantern on the northern side pedestrian crossing to facilitate a proposed east / west cycleway into the Georges River Council Area.
 - (x) Removal of the redundant hardstand / paved surfaces. This includes areas that were previously fenced and utilised by the former Darrell Lea operations. The key area referred to is located within the public domain (including RE1 zoned land) immediately to the east of the proposed Child Care Centre allotment.
 - (xi) Stormwater drainage including a Gross Pollutant Trap (GPT) similar to CDS Unit on the main drainage pipeline.
 - (xii) Street lighting;
 - (xiii) Line marking and signs in accordance with Bayside Traffic Committee requirements;
 - (xiv) Removal of existing speed hump and replacement with a new raised threshold in Production Lane;
 - (xv) Construction of new fully constructed concrete vehicular entrance/s;
 - (xvi) Construction of the reinforced concrete turning area at the southern termination of Production Lane shared with the access to the sporting fields. This area must be suitably line-marked to prevent use of the area for on-street parking.
 - (xvii) Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - (xviii) Reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
 - (xix) Construction of paving between the boundary and the kerb, where required; and,
 - (xx) Construction of kerb and gutter.
130. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
131. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.

132. 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).
133. All works associated with the proposed development shall be at no cost to the Council or RMS.

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 or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

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

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

- d. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
 - i) all of the above conditions of consent must be complied with;
 - ii) a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into the relevant number of lots;
 - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
 - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains

easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

- f. 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.
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

ETHOS URBAN

13 February 2018

16272

Meredith Wallace
General Manager
Bayside Council
444-446 Princes Highway
Rockdale NSW 2216

Attention: Pascal van de Walle, Coordinator Development Assessment

Dear Pascal,

**SECTION 96(1A) MODIFICATION APPLICATION TO DA-2017/224
152-200 AND 206 ROCKY POINT ROAD, KOGARAH (FORMER DARRELL LEA FACTORY SITE)**

This application has been prepared by Ethos Urban on behalf of Rocky Point Road Development Pty Ltd to modify Development Consent DA-2017/224 pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This application identifies the consent, describes the proposed modification and provides an assessment of the relevant matters contained in Section 96(1A) of the EP&A Act.

The consent proposed to be modified was granted by the Sydney Eastern City Planning Panel (SECPP) on 28 November 2017 for an Integrated Development and Staged Development at the former Darrell Lea Factory site (152-200 and 206 Rocky Point Road, Kogarah). Approval was granted for Stage 1, being the construction of four (4) residential flat buildings comprising 513 units and 20 townhouses; basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks.

Condition 19 of Development Consent DA-2017/224, which is a design modification condition, requires that a number of matters be complied with in the plans submitted with the Construction Certificate (CC), and must be satisfied prior to the issue of the Occupation Certificate (OC). Of relevance to this application, Condition 19(a) requires that:

- the northern setback of Building D be increased by 3m at the lower levels [19(a)(i)]; and
- to accommodate this increased setback, six of the northernmost 3-bedroom units on the lower three levels of Building D (D0002, D0003, D0102, D0103, D0202 and D0203) be converted to 1-bedroom units (**the affected units**) [19(a)(ii)].

This modification application seeks to modify the wording of Condition 19(a)(ii), permitting the proponent to convert the affected units into 2-bedroom units, as these units can achieve the minimum size and amenity requirements to satisfy the objectives of the Apartment Design Guide (ADG), as demonstrated in this report.

This Section 96(1A) Application is the second application seeking to modify DA-2017/224. At the time of writing a Section 96(1) Application is under assessment by Bayside Council (DA-2017/224/A) relating to other minor condition amendments.

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1.0 Proposed modification to the consent

During the assessment of DA-2017/224, it was identified that the Darrell Lea Factory site was burdened by a Deed of Licence entered into with the registered proprietor of No. 20-26 Production Avenue. This deed provides the adjoining owner of 20-26 Production Avenue with the right to utilise a 3m wide area of land along the northern boundary of the former Darrell Lea Factory site for fire egress and building maintenance purposes.

As a result of the loss of landscaping associated with this 3m area, Condition 19(a) was imposed to DA-2017/224 requiring the setback of Building D to the northern boundary be increased by 3m, to a total of 9m, with a 6m landscape deep soil zone to be provided to the north of Building D. **Figure 1** illustrates the location of the licensed deed area relative to Building D and the northern boundary.

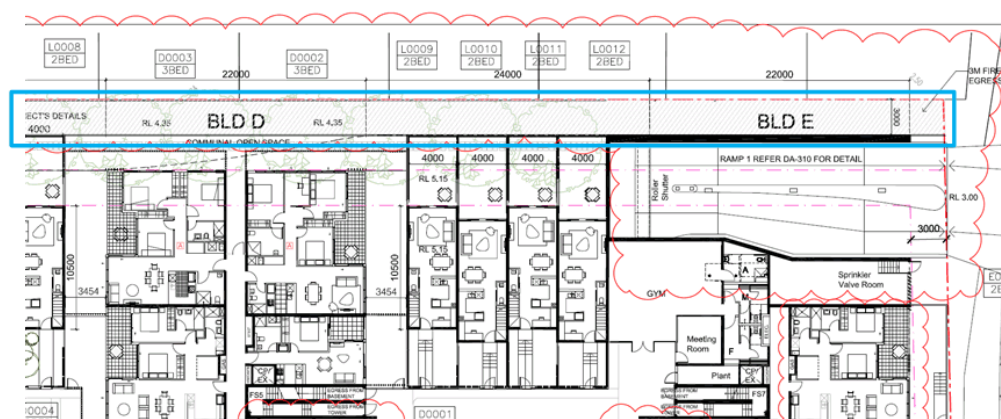


Figure 1 Ground Floor Plan illustrating licensed deed area (outlined blue) and northern portion of Building D

Source: PTW Architects

To facilitate the increased northern setback to Building D, the deletion of part of the lower three levels of Building D is required by Condition 19(a), being the northern portion of the Ground Floor, Level 1 and Level 2. In order to reconcile the impact of the increased setback on the layouts of the affected units (all 3-bedroom units), Condition 19(a)(ii) requires the conversion of these 3-bedroom units to 1-bedroom units.

Condition 19(a) was imposed to ensure that adequate amenity would be afforded to future occupants through the provision of an increased landscaped setback area, and is a design modification condition, permitting the layout of the affected units to be resolved prior to the issue of a CC. However, during design development, it has been identified that the affected units would remain of sufficient size to be converted to 2-bedroom units. This Section 96(1A) application therefore seeks to modify the wording of Condition 19(a)(ii) to permit the conversion of the affected units into 2-bedroom units.

The increased northern setback required to the approved three lower levels of Building D (refer to **Figure 2** and **Figure 3**) would result in floor plates similar to those approved for Level 4 and above (refer to **Figure 4**). It therefore follows that the layouts of the corresponding 2-bedroom units on Levels 4 and above could be replicated with the affected units on the lower levels, without requiring changes to the building envelope or the general arrangement of the floor plate. The areas of these units comply with the minimum requirement of the Apartment Design Guide, achieving a minimum of 75m².

Accordingly, it is proposed to retain Condition 19(a) as a design modification condition, but to modify its wording, with the unit layouts for the affected units to be finalised prior to the issue of the CC.

152-200 and 206 Rocky Point Road, Kogarah | Section 96(1A) - Condition 19(a)(ii) | 13 February 2018

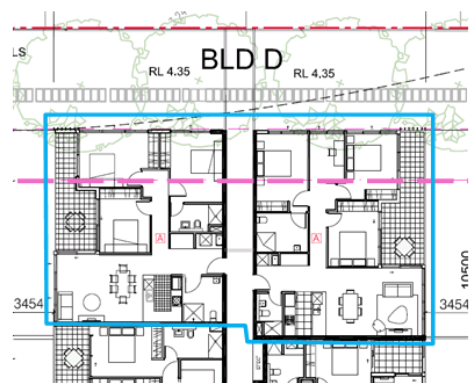


Figure 2 Approved floor plan layouts of the affected units on Ground Level in Building D (setback required to pink line)

Source: PTW Architects



Figure 3 Approved floor plan layout of the affected units on Levels 1 and 2 in Building D (setback required to pink line)

Source: PTW Architects

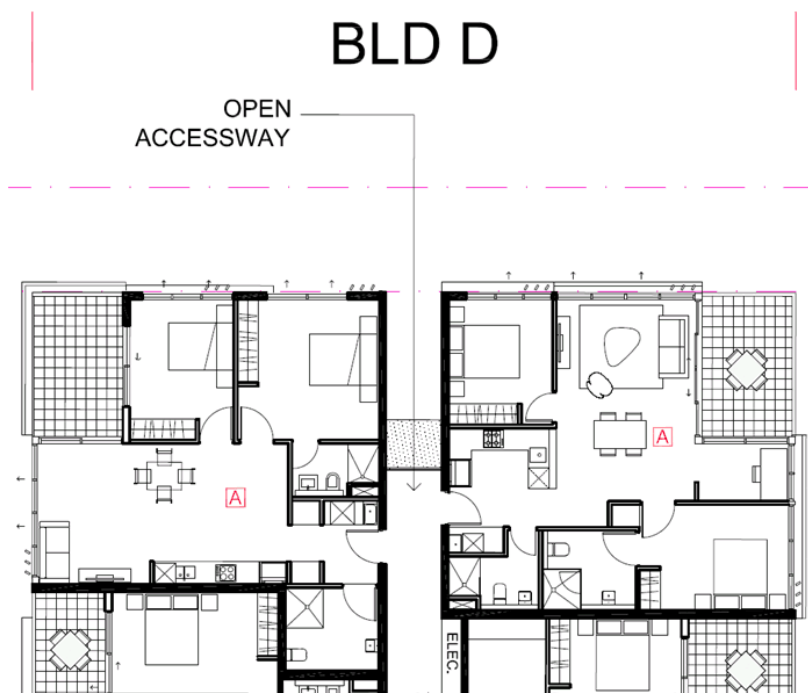


Figure 4 Future indicative floor plan of the affected units based on the layouts of the corresponding units on Level 4 and above

Source: PTW Architects

1.1 Modifications to Condition 19(a)(ii)

The proposed modification to the wording of Condition 19(a)(ii) is described below. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**.

19. Plans to include the following matters prior to issue of the Construction Certificate

The following matters must be complied with in the plans submitted with the Construction Certificate, and must be satisfied prior to issue of the Occupation Certificate and during ongoing use of the site where relevant:

(a) Setback of Building D to be increased:

- (i) The northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) must be amended to have a minimum 9m setback from the sites northern boundary to ensure that a condition is required to ensure that adequate amenity is afforded to future occupants. The condition is imposed due to the loss of 3m of deep soil planting due to the 3m wide 'Licensed Area' defined in the Deed of licence between LQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Keven Manson Pty Limited.
- (ii) The affected units shall be converted to **one (1) two (2)** bedroom units.

...

2.0 Substantially the same development

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if "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)".

The development as proposed to be modified is substantially the same development as that originally approved in that:

- The modification constitutes a minor wording change to one condition, permitting the affected units (6 in total) to be converted to 2-bedroom units instead of 1-bedroom units;
- The modification to the wording of Condition 19(a)(ii) (and therefore the future conversion of the affected units to 2-bedroom units) will not materially alter the aesthetics and appearance of the development as approved, when viewed from the public domain and from within the site itself;
- The proposed modification to Condition 19(a)(ii) will not impact upon the amenity of any of the approved dwellings within the scheme, as no changes are required to the approved building envelope to accommodate the change; and
- The modification does not result in an increase in the amount of approved floor space.

3.0 Environmental assessment

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if "it is satisfied that the proposed modification is of minimal environmental impact". Under Section 96(4) the Consent Authority must also take into consideration the matters referred to in Section 79C(1) of the EP&A Act as they are relevant to the application.

The following assessment considers the relevant matters under Section 79C(1) and demonstrates that the proposed modification is of minimal environmental impact.

3.1 Residential Amenity, Built Form and Urban Design

The proposed modification to the wording of Condition 19(a)(ii) would enable the affected units, which are shown on the approved drawings as 3-bedroom units, to be converted to 2-bedroom units. These units, as modified by the extended northern setback required by Condition 19(a)(i), would exceed the minimum 70m² internal area requirement for 2-bedroom units as required by the Apartment Design Guide (ADG).

The increased northern setback required to the approved three (3) lower levels of Building D (refer to **Figure 2** and **Figure 3**) would result in floor plates similar to the approved floor plates for Level 4 and above (refer to **Figure 4**). It therefore follows that the layouts of the corresponding 2-bedroom units on Levels 4 and above could be replicated with the affected units on the lower levels, without requiring changes to the building envelope or the general arrangement of the floor plate. The layouts of the corresponding units on Level 4 and above, approved with DA-2017/224, were considered to satisfy the requirements of SEPP 65 and the ADG and achieve good levels of amenity.

The proposed modification to Condition 19(a)(ii) will not result in any perceived or material difference to the built form and design of the overall scheme and will not result in any changed amenity outcomes for approved units within the overall scheme. Accordingly, the environmental impact of the proposed modification having regard to residential amenity, built form and urban design is considered minimal.

3.2 Dwelling Mix

Section 4.5.1 of the *Rockdale Development Control Plan 2011* requires residential apartment buildings to comply with the dwelling mix provided in **Table 1**. The proposed modification to the wording of Condition 19(a)(ii), which will permit the conversion of the affected 3-bedroom units to 2-bedroom units, would result in a compliant dwelling mix for the overall development (refer to **Table 1** below).

Table 1 Proposed modified dwelling mix

Dwelling Type	RDCP 2011 dwelling mix requirement	Approved dwelling mix (DA-2017/224)*	Proposed modified dwelling mix
1 bedroom/and or studio	10-30%	123 (23.1%)	117 (22%)
2 bedroom	50-75%	352 (66%)	358 (67.1%)
3 bedroom and/or more	10-20%	58 (10.9%)	58 (10.9%)

*This takes into account the effect of Condition 19(a)(ii) as currently drafted, requiring the reduced 3-bedroom units in Building D to be converted to 1-bedroom units

3.3 Car Parking and Traffic

Whilst the modification application will result in a minor change to the approved dwelling mix, the application does not seek to modify the approved number of car parking spaces or the approved basement car parking layout. The assessment of traffic and parking impacts undertaken as part of the approved development was based on the affected units being 3-bedroom units and requiring two parking spaces per apartment. As the affected units will be converted to 2-bedroom units, which require less allocated parking under the Rockdale DCP, sufficient parking will be provided for the development as modified.

Accordingly, the proposed modification to the wording of Condition 19(a)(ii) will not increase the requirements for on-site car parking and will not increase the overall traffic and trip generation beyond the approved.

3.4 Conclusion: Minimal Environmental Impact

In summary, as discussed in the preceding sections, Council can be satisfied that the proposed modification is of minimal environmental impact, particularly having regard to the potential impacts regarding residential amenity, built form, urban design, dwelling mix, car parking and traffic.

4.0 Conclusion

The proposed modification to the wording of Condition 19(a)(ii) will enable the proponent to convert six of the northernmost 3-bedroom units on the lower three levels of Building D to 2-bedrooms units, as opposed to 1-bedroom units, as currently mandated by the condition. As identified in this report, and in accordance with Section 96(1A) of the EP&A Act, Council may modify the consent as the proposed modification is of minimal environmental impact, and the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

In light of the above, we recommend that Council approve the proposed modification to Condition 19(a)(ii) as described above. We trust this information is sufficient to able a prompt assessment of the proposed modification. Should you have any queries about this matter, please do not hesitate to the undersigned.

Yours sincerely,



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Bayside Local Planning Panel

11/09/2018

Item No	6.6
Application Type	Modification Application
Application No	DA-2016/296/C
Lodgement Date	13/07/2018
Property	DA-2016/296/C - 7-13 Willis Street Wolli Creek
Ward	Mascot
Owner	Mr Tony Jreige
Applicant	Mr Mark Beauman – Urban Link Pty Ltd
Proposal	Modification to amend Condition 30(b) to amend height clearance to basement access.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That Modification Application No. DA-2016/296/C, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/296 at 7-13 Willis Street, Wolli Creek, be APPROVED and the consent be amended in the following manner:

That conditions 2, 14, 30, 99, 111 be amended as follows:

- 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
DA1000 (Issue D) – Areas / Compliance	Urban Link Architecture	26/09/16	26/09/16
DA2000 (Issue D) - Site Plan	Urban Link Architecture	26/09/16	26/09/16
DA2001 (Issue D) – Site Analysis Plan	Urban Link Architecture	24/02/16	26/02/16
DA2100 (Issue D) – Basement 02	Urban Link Architecture	26/09/16	26/09/16
DA2101 (Issue D) – Basement 01	Urban Link Architecture	26/09/16	26/09/16
DA2102 (Issue G) – Ground Floor	Urban Link Architecture	13/08/2018	13/08/2018
DA2103 (Issue F) – Level 01	Urban Link Architecture	23/5/17	10/7/17

DA2104 (Issue F) – Level 02	Urban Link Architecture	23/5/17	10/7/17
DA2105 (Issue F) – Level 03	Urban Link Architecture	23/5/17	10/7/17
DA2106 (Issue F) – Level 04	Urban Link Architecture	23/5/17	10/7/17
DA2107 (Issue F) – Level 05	Urban Link Architecture	23/5/17	10/7/17
DA2108 (Issue F) – Level 06	Urban Link Architecture	23/5/17	10/7/17
DA2109 (Issue F) – Level 07	Urban Link Architecture	23/5/17	10/7/17
DA2110 (Issue F) – Level 08	Urban Link Architecture	23/5/17	10/7/17
DA2111 (Issue D) – Roof Plan	Urban Link Architecture	26/09/16	26/09/16
DA3000 (Issue F) – North Elevation	Urban Link Architecture	23/5/17	10/7/17
DA3001 (Issue D) – North Internal Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3002 (Issue D) – East Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3003 (Issue F) – South Elevation	Urban Link Architecture	23/5/17	10/7/17
DA3004 (Issue D) – South Internal Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3005 (Issue D) – West Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3006 (Issue D) – Streetscapes	Urban Link Architecture	26/09/16	26/09/16
DA3100 (Issue F) – Sections North-South	Urban Link Architecture	23/5/17	10/7/17
DA3101 (Issue D) – Sections North-South	Urban Link Architecture	26/09/16	26/09/16
DA3102 (Issue D) – Sections East-West	Urban Link Architecture	26/09/16	26/09/16
DA3103 (Issue D) – Ramp Detail Section	Urban Link Architecture	26/09/16	26/09/16
DA3104 (Issue D) – Driveway Detail Section	Urban Link Architecture	26/09/16	26/09/16
DA5000 (Issue F) - Materials	Urban Link Architecture	23/5/17	10/7/17

[Amendment A - S96(1A) amended on 08/12/2017]

[Amendment C - 4.55(1A) amended on 11/09/2018]

14. Loading & Unloading (e.g. Removalist Vans / Trucks):

Loading and unloading shall be restricted as follows:

- (a) Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of Low Clearance Truck, maximum

3.1m height. Commercial vehicles greater in size and mass than the Low Clearance Truck SRV are not permitted to enter the site.

- (b) All loading, unloading and transfer of goods to and from the loading bay and premises, including removalist vans, shall take place wholly within the property.
- (c) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

[Amendment C - 4.55(1A) amended on 11/09/2018]

30. Internal Height Clearance - Parking & Access

- (a) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- (b) An amended Driveway Detail Section must be submitted to, and approved by, the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate demonstrating that an internal height clearance of 3.1m has been achieved within the ground floor ramp and manoeuvring areas for the Low Clearance Truck.

[Amendment C - 4.55(1A) amended on 11/09/2018]

99. Seventy-four (74) off-street car spaces, one (1) loading bay for a Low Clearance Truck, maximum 3.1m height and one (1) VAN service bay shared within a visitor parking shall be provided in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction prior to issue of the Occupation Certificate. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

[Amendment C - 4.55(1A) amended on 11/09/2018]

111. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater/rainwater tank facility to provide for the maintenance of the detention and treatment facility and waste removal by a private waste contractor for ongoing compliance.

[Amendment C - 4.55(1A) amended on 11/09/2018]

The following additional condition 10A shall be inserted:

10A. Waste & Recycling Collection / Removalist Drop-off's & Pick-ups - Operational Requirements

- a) Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.
- b) Waste & recycling collection, deliveries, removalists and/or any other servicing must not, at any time, be undertaken from the Willis Street and Guess Avenue or elsewhere within the site.
- c) Waste and recycling shall be collected by a private waste contractor. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate. The company engaged must ensure that all recycling is collected separately from waste.

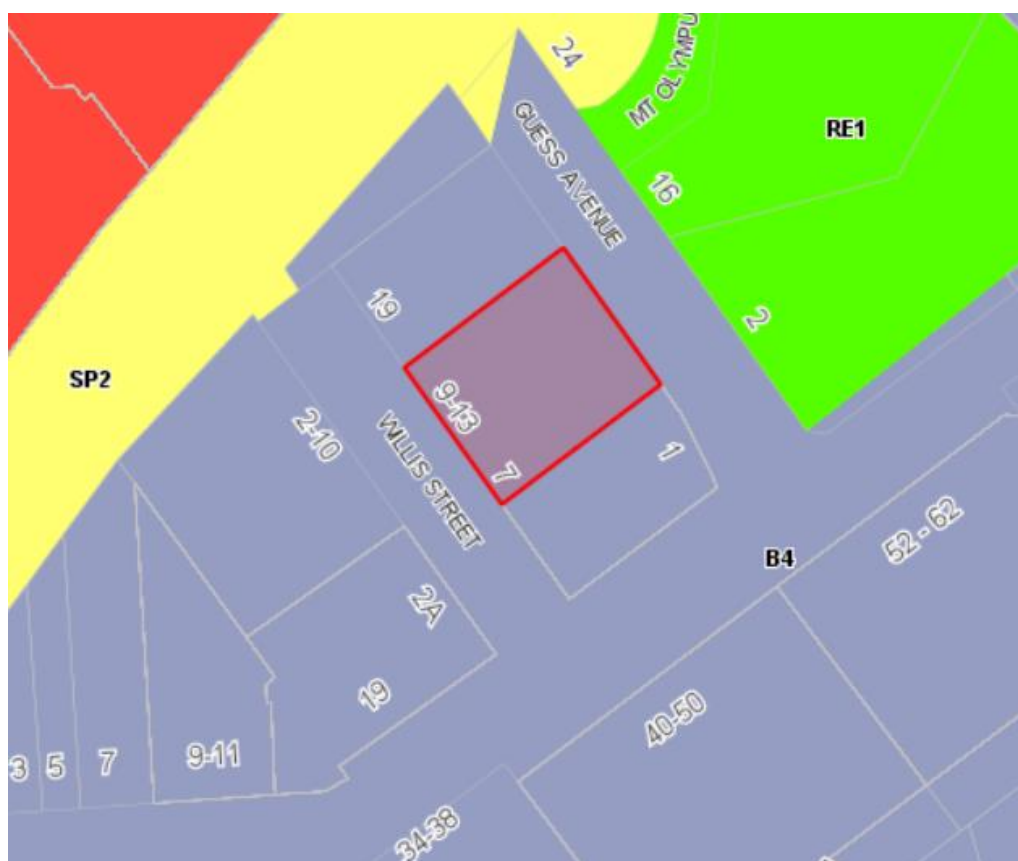
- d) *Waste & recycling collection must be undertaken during off-peak times.*
- e) *The maximum size truck permitted to access the site is a Low Clearance Truck, maximum 3.1m height.*
- f) *The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.*

[Amendment C - 4.55(1A) amended on 11/09/2018]

Reason for additional condition 10A is:

- *To ensure appropriate on going waste management by a private contractor on site.*

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Cover Letter Traffic Engineer [↓](#)
- 3 Private Waste Collection Details [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/296/C
Date of Receipt:	13 July 2018
Property:	7 Willis Street, WOLLI CREEK 9 - 13 Willis Street, WOLLI CREEK
Owner:	Urban (Wolli) Pty Ltd
Applicant:	Urban Link Pty Ltd
Proposal:	7 & 9-13 Willis Street, WOLLI CREEK NSW 2205 - Modification to amend Condition 30(b) to amend height clearance to basement access
Recommendation:	Approved
No. of submissions:	N/A
Author:	Fiona Prodromou
Date of Report:	14 August 2018

Key Issues

The proposal as modified results in a reduction to the clearance height of the car parking areas on site.

Suitable areas are retained for future furniture removal, including a dedicated loading / unloading bay and a visitor space which doubles as a van space.

The proposal as modified has been conditioned to require waste collection to occur via private contractor, which ensures suitably sized vehicles can enter and exit the site to manage waste removal.

Recommendation

1. That Development Application No. 2016/296/C, being a Section 4.55(1A) application to amend Development Consent Number DA-2016/296, for modifications to amend Condition 30(b) to amend height clearance to basement access at 7-13 Willis Street, Wolli Creek, be APPROVED and the consent amended in the following manner:

By amending conditions 2, 14, 30, 99, 111 as follows:

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

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DA5000 (Issue F) - Materials	Urban Link Architecture	23/5/17	10/7/17

[Amendment A - S96(1A) amended on 08/12/2017]

[Amendment C - 4.55(1A) amended on 11/09/2018]

14. Loading & Unloading (e.g. Removalist Vans / Trucks):

Loading and unloading shall be restricted as follows:

(a) Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of Low Clearance Truck, maximum 3.1m height. Commercial vehicles greater in size and mass than the Low Clearance Truck SRV are not permitted to enter the site.

(b) All loading, unloading and transfer of goods to and from the loading bay and premises, including removalist vans, shall take place wholly within the property.

(c) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

[Amendment C - 4.55(1A) amended on 11/09/2018]

30. Internal Height Clearance - Parking & Access

(a) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.

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[Amendment C - 4.55(1A) amended on 11/09/2018]

99. Seventy-four (74) off-street car spaces, one (1) loading bay for a Low Clearance Truck, maximum 3.1m height and one (1) VAN service bay shared within a visitor parking shall be provided in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction prior to issue of the Occupation Certificate. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential

Pavements.

[Amendment C - 4.55(1A) amended on 11/09/2018]

111. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater/rainwater tank facility to provide for the maintenance of the detention and treatment facility and waste removal by a private waste contractor for ongoing compliance.

[Amendment C - 4.55(1A) amended on 11/09/2018]

The following additional condition 10A shall be inserted;

10A. Waste & Recycling Collection / Removalist Drop-off's & Pick-ups - Operational Requirements

- a) Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.*
- b) Waste & recycling collection, deliveries, removalists and/or any other servicing must not, at any time, be undertaken from the Willis Street and Guess Avenue or elsewhere within the site.*
- c) Waste and recycling shall be collected by a private waste contractor. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate. The company engaged must ensure that all recycling is collected separately from waste.*
- d) Waste & recycling collection must be undertaken during off-peak times.*
- e) The maximum size truck permitted to access the site is a Low Clearance Truck, maximum 3.1m height.*
- f) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.*

[Amendment C - 4.55(1A) amended on 11/09/2018]

Reason for additional condition 10A is:

To ensure appropriate on going waste management by a private contractor on site.

Background

History

DA-2016/296 Approved 12 October 2016

Integrated Development - Construction of two x 9 storey residential flat buildings with roof top terraces containing 68 units with parking at basement levels and demolition of existing structures.

Proposal

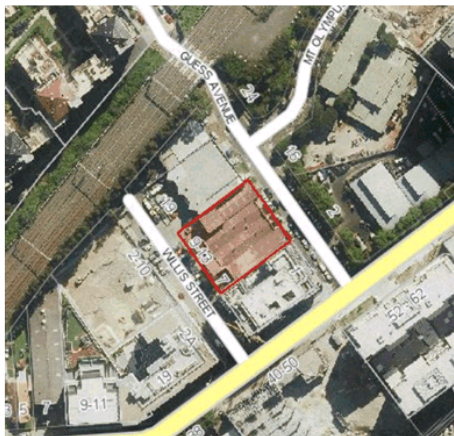
The proposal seeks to modify condition 30, which requires a 3.5m clearance height to the carpark and

access driveway on site, and provide a 3.2m clearance to these areas. The proposal seeks to install signage at the entry, to advise users of the aforementioned.

Site location and context

The subject site is a rectangular shaped site with a 36.655m frontage to both Guess Avenue and Willis Street, a western side boundary length of 43.574 and an eastern side boundary length of 43.58m. The site has an area of 1,596.7sq/m and is currently occupied by a recently approved development comprising 2 x 9 storey buildings with basement car parking.

The site is located within Wolli Creek and is surrounded by a number of residential flat buildings and mixed use developments of equal to similar height and similar density.



The properties located directly opposite the site to the north in Guess Avenue are zoned special uses 'open space' under RLEP 2011, and the site is located within an easy (300m) walking distance from Wolli Creek Railway Station.

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:

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

The proposal as modified remains consistent and compliant with the provisions and objectives of SEPP 65 and the Apartment Design Guide.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	No - see discussion

2.3 Zone B4 Mixed Use

The proposed development as amended remains defined as a Residential Flat Building which constitutes a permissible development only with development consent. The proposed amendment to the development does not affect the proposals compliance with the objectives of the zone.

4.3 Height of buildings

A maximum height limit of 28m applies to the subject site. The development as approved has a maximum height of 29.9m to its highest point. The proposal as modified does not alter the aforementioned. The proposal as modified therefore remains satisfactory.

4.4 Floor space ratio

A maximum FSR of 2.85:1 applies to the subject site. This equates to a maximum gross floor area (GFA) of 4,550.6m². The development as approved has a GFA of 5,447m² and a corresponding FSR of 3.42:1. The proposal as modified does not alter the aforementioned, the proposal therefore remains satisfactory.

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

No relevant proposed instruments are applicable to the proposal as modified.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion

4.6 Parking Rates Residential Flat Buildings

The proposal as modified maintains compliance with relevant parking provisions and provides appropriate facilities on site for waste collection, loading and unloading in the form of a dedicated loading / unloading bay and visitor car space which doubles as a van space.

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

All relevant provisions of the Regulations have been taken into account in the assessment of the proposal as modified.

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

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The proposed amendments will not create any further impacts than considered above or anticipated in the original assessment.

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 original proposal and during assessment of this proposed modification. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the development as modified.

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

The proposal as modified did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

The proposal as modified is satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. As such it is considered that the proposal as modified is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA1000 (Issue D) – Areas / Compliance	Urban Link Architecture	26/09/16	26/09/16
DA2000 (Issue D) – Site Plan	Urban Link Architecture	26/09/16	26/09/16

DA2001 (Issue D) – Site Analysis Plan	Urban Link Architecture	24/02/16	26/02/16
DA2100 (Issue D) – Basement 02	Urban Link Architecture	26/09/16	26/09/16
DA2101 (Issue D) – Basement 01	Urban Link Architecture	26/09/16	26/09/16
DA2102 (Issue G) – Ground Floor	Urban Link Architecture	13/08/2018	13/08/2018
DA2103 (Issue F) – Level 01	Urban Link Architecture	23/5/17	10/7/17
DA2104 (Issue F) – Level 02	Urban Link Architecture	23/5/17	10/7/17
DA2105 (Issue F) – Level 03	Urban Link Architecture	23/5/17	10/7/17
DA2106 (Issue F) – Level 04	Urban Link Architecture	23/5/17	10/7/17
DA2107 (Issue F) – Level 05	Urban Link Architecture	23/5/17	10/7/17
DA2108 (Issue F) – Level 06	Urban Link Architecture	23/5/17	10/7/17
DA2109 (Issue F) – Level 07	Urban Link Architecture	23/5/17	10/7/17
DA2110 (Issue F) – Level 08	Urban Link Architecture	23/5/17	10/7/17
DA2111 (Issue D) – Roof Plan	Urban Link Architecture	26/09/16	26/09/16
DA3000 (Issue F) – North Elevation	Urban Link Architecture	23/5/17	10/7/17
DA3001 (Issue D) – North Internal Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3002 (Issue D) – East Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3003 (Issue F) – South Elevation	Urban Link Architecture	23/5/17	10/7/17
DA3004 (Issue D) – South Internal Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3005 (Issue D) – West Elevation	Urban Link Architecture	26/09/16	26/09/16
DA3006 (Issue D) – Streetscapes	Urban Link Architecture	26/09/16	26/09/16
DA3100 (Issue F) – Sections North-South	Urban Link Architecture	23/5/17	10/7/17
DA3101 (Issue D) – Sections North-South	Urban Link Architecture	26/09/16	26/09/16
DA3102 (Issue D) – Sections East-West	Urban Link Architecture	26/09/16	26/09/16

DA3103 (Issue D) – Ramp Detail Section	Urban Link Architecture	26/09/16	26/09/16
DA3104 (Issue D) – Driveway Detail Section	Urban Link Architecture	26/09/16	26/09/16
DA5000 (Issue F) - Materials	Urban Link Architecture	23/5/17	10/7/17

[Amendment A - S96(1A) amended on 08/12/2017]

[Amendment C - 4.55(1A) amended on 11/09/2018]

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 608747M_03 other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. The pergola / roofed areas of the communal open space areas at roof top level 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, finishes and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.

Development specific conditions

The following conditions are specific to the Development Application proposal.

10. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 32 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 (including construction cranes, etc.) is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

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

10A. Waste & Recycling Collection / Removalist Drop-off's & Pick-ups - Operational Requirements

a) *Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.*

b) *Waste & recycling collection, deliveries, removalists and/or any other servicing must not, at any time, be undertaken from the Willis Street and Guess Avenue or elsewhere within the site.*

c) *Waste and recycling shall be collected by a private waste contractor. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate. The company engaged must ensure that all recycling is collected separately from waste.*

d) *Waste & recycling collection must be undertaken during off-peak times.*

e) *The maximum size truck permitted to access the site is a Low Clearance Truck, maximum 3.1m height.*

f) *The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.*

[Amendment C - 4.55(1A) amended on 11/09/2018]

Reason for additional condition 10A is:

•To ensure appropriate on going waste management by a private contractor on site.

11. **NSW Water**

The following conditions imposed as General Terms of Agreement by NSW Water, Department of Primary Industries, must be complied with:

A. General

A1. 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.

A2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate

adequate provision for unforeseen high water table elevations to prevent potential future inundation.

A3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

A4. 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.

A5. DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. 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 to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

B. Prior to excavation

B6. The following shall be included in the initial report:

- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
- (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

B7. 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.

B8. 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.

B9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

B10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

B11. A copy of a valid consent for the development shall be provided in the initial report.

B12. 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.

B13. 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.

C. During excavation

C14. 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.

C15. 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.

C16. Measurement and monitoring arrangements to the satisfaction of DPI Water

are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

C17. 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.

C18. 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.

C19. 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.

C20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

C21. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

C22. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

12. Ausgrid Conditions

(a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements.

(b) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006), for development in proximity to overhead power lines.

13. Car, motorcycle and bicycle parking spaces shall be provided and allocated in accordance with the Apartment Design Guide (ADG) and relevant Rockdale

Development Control Plan (RDCP) 2011 requirements, and this shall be reflected in any subsequent strata subdivision of the development. The allocation shall occur at the following minimum rates:

Dwelling Size	Required
Studio / 1 bed dwellings = 21	0.6 spaces / dwelling
2 bedroom dwellings = 39	0.9 spaces / dwelling
3 bedroom dwellings = 8	1.4 spaces / dwelling
Total Residential Car Parking Spaces	59 (min.) (including 7 accessible spaces)
Visitor	1 space / 5 dwellings = 14 (including 1 accessible space)
Bicycle (Res. + Com.)	1/10 units = 7 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 5 spaces (Min.)
Carwash Bay	16 or more dwellings = 1 space

Notes:

- *Visitor's parking spaces are to be restricted to Ground Floor Level and Basement Floor Level 01 only.*
- *All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*
- *Stacked parking spaces must only be allocated to a single residential unit.*
- *Car-wash bay must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.*
- *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.*

14. Loading & Unloading (e.g. Removalist Vans / Trucks):

Loading and unloading shall be restricted as follows:

(a) Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of Low Clearance Truck, maximum 3.1m height. Commercial vehicles greater in size and mass than the Low Clearance Truck SRV are not permitted to enter the site.

(b) All loading, unloading and transfer of goods to and from the loading bay and premises, including removalist vans, shall take place wholly within the property.

(c) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

[Amendment C - 4.55(1A) amended on 11/09/2018]

15. Storage

Prior to issue of the Occupation Certificate:

- (a) Accessible storage shall be provided for all apartments.
 - (b) The minimum storage area to be provided for each dwelling shall be in accordance with the requirements in the Apartment Design Guide (ADG), as follows:
 - Studio / 1 bed unit = 6m³
 - 2 bed unit = 8m³
 - 3 bed unit = 10m³
 - (c) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.
 - (d) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and be provided with lock and key prior to issue of the Occupation Certificate.
16. Street Numbering & Letterbox Provision
- (a) The buildings shall be provided with the following street numbers:
 - 15 Guess Avenue, Wolli Creek; and
 - 11 Willis Street, Wolli Creek.
 - (b) Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines and Controls 15, 16 and 17 of Part 4.7 of Rockdale DCP 2011 which requires the following:
 - (i) to be integrated with building design and are preferably to be located in a covered area attached to or within the building;
 - (ii) to be close to the major street entry and lockable; and
 - (iii) to be visible from some of the dwellings (where possible), and located where residents can meet and talk, preferably with seating and pleasant ambience..
 - (c) 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.
17. 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).
18. Design Quality
- (a) 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 the Department prior to release of the Construction Certificate.
 - (b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
19. Safer by Design
- To maximise security in and around the development the following shall be incorporated into the development, with details to be approved by the Principal

Certifying Authority prior to the issue of the Construction Certificate:

- (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 into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

20. Public Domain Works

Prior to the commencement of construction above the ground floor, the applicant shall provide to Council a bank guarantee to the total value of \$100,000 to be used for the sole purpose of design and construction of public domain improvement works along the Willis Street frontage of the development site in accordance with the Rockdale Public Domain Technical Manual and Rockdale DCP 2011. This work is to include but not be limited to paving, street lighting and planting across the frontage of the site to Willis Street. These works are to be commenced by Council within 12 months of the issue of a Final Occupation Certificate. If works do not commence within this specified period, the bank guarantee shall be relinquished.

21. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.

22. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the Rain Tank system. The registered proprietor will:

- (i) permit stormwater to be temporarily detained by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

23. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
24. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
25. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
26. Noise from mechanical ventilation & Air Conditioning
- (a) 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.
 - (b) 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.
 - (c) Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
27. 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.
28. The proposal shall include bicycle parking facilities located at ground floor or basement parking levels which shall be capable of accommodating at least ten (10) bicycles. The facility shall:
- be designed in accordance with AS2890.3:1993.

- be in the form of individual bicycle lockers or within a caged or gated secure area in accordance with RDCP 2011 - i.e. fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles.

Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.

29. Off-Street Car Parking Design

(a) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.

(b) Swept Path Analysis - Prior to issue of the Construction Certificate plans are required to be submitted to, and approved by, the Principal Certifying Authority (PCA) detailing the traffic, access and parking arrangements including swept path analysis. The swept path analysis for residential/commercial vehicles must use a recognised computer software package such as Autoturn and must demonstrate compliance with Section B3 of AS/NZS2890.1:2004. The swept path analysis shall be prepared for all areas where vehicles are accessing the basement ramp, and demonstrate that opposing two car movements comply with the Standards for B85 size design & B99 checking size vehicles.

(c) The driveway entry and ramp down to Level B0 must have a clear width of 6.1 metres on the plans that form part of the Construction Certificate (i.e. being 5.5m wide + 300mm clearance on either side).

30. Internal Height Clearance - Parking & Access

(a) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.

(b) An amended Driveway Detail Section must be submitted to, and approved by, the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate demonstrating that an internal height clearance of 3.1m has been achieved within the ground floor ramp and manoeuvring areas for the Low Clearance Truck.

[Amendment C - 4.55(1A) amended on 11/09/2018]

31. 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.

32. Waste & Recycling

(a) A garbage chute and 1 x 240L recycling bin shall be provided at all residential levels within the development.

(b) The premises shall be capable of accommodating 3 x 1,100 Litre garbage bins for the Guess Avenue Building and 2 x 1,100L garbage bins for the Willis Street building, 10 x 240L recycling bins for the Guess Avenue Building and 8 x 240L recycling bins for the Willis Street Building (unless otherwise agreed in writing by Council's Waste Management Officer).

- (c) Bulky Garbage Storage – the 'Bulky Waste Store' area shown in the approved Plan DA2102 must be clearly marked and sign posted prior to issue of the Occupation Certificate, and must be retained for the lifetime of the development for the storage of bulky garbage items (e.g. furniture, mattresses, etc.). The space must have a minimum area of 10m².
- (d) Hot and cold water hose cocks shall be installed in each of the garbage rooms prior to issue of the Occupation Certificate.
33. (a) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (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.
- (b) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
- (c) 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 BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.
- (d) 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 (c) 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.
34. Services to be concealed
Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
- (a) All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building.
- (b) If a electrical kiosk / substation is required, it must be located within the building as shown in the approved plans unless otherwise approved by a Section 96 Application. Landscape planting shall be provided in front of the substation so as not to detract from the overall appearance of the development and amenity of the streetscape.
- (c) Fire booster valves must be located as shown in the approved plans unless otherwise approved by a Section 96 Application.
35. Public Place Activities - Design and Construction of Works in Public Places
The implementation of this Consent generates a need for works to be completed in a public place owned by Council.

A. Design

The scope of works is to be identified by Bayside Council. For identified works the preparation of the design and specification shall be undertaken in accordance with the design brief issued by Bayside Council, and the Engineering Drawing Guide: For Works In Association With Developments And Subdivisions and Engineering Specification Guide: For Works In Association With Developments And Subdivisions, or approved replacement documents. For identified works the preparation of the design and specification shall be undertaken by a professional engineer, or other professional person, meeting the requirements of the design brief issued by Bayside City Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed application must be submitted together with the required fee, under the Roads Act 1993 and/or the Local Government Act 1993 for the scope of works to be determined and alignment levels issued.

Note: The works required will be determined using the following criteria:

- i) To ensure that infrastructure construction and reconstruction required to facilitate both pedestrian and vehicular access into and around the site is provided.
- ii) To ensure that there is adequate construction and reconstruction of stormwater infrastructure to facilitate drainage of the site and minimise impacts to the site and adjoining properties as a result of the development.
- iii) To ensure that infrastructure relevant to the proposed development meets current standards and specifications.
- iv) To mitigate any impacts the development may have on traffic and pedestrian safety.
- v) To satisfy the requirements of any Development Control Plan, Public Domain Plan, Streetscape Manual or any other relevant Council Plan, including the Section 94 Contributions Plan.
- vi) To ensure there are adequate transitions between newly constructed infrastructure and existing infrastructure.

B. Before Construction of public domain works

A detailed design and specification for works to be carried out on public land (including a road or footpath) shall be completed and approved by Bayside Council pursuant to the Roads Act and/or Local Government Act prior to construction. All fees for inspection by Bayside Council shall be paid and the works approval for works in a public place activated.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval from Bayside Council may result in fines or prosecution.

C. Before Occupation

All works required in the public place as detailed by the approved design and specification must be completed before occupation of the development. All works-as-executed records for works establishing infrastructure assets to be handed over to Council for ongoing maintenance shall be provided to Bayside Council, and a handover certificate issued by Bayside Council.

36. Public Place Works - Pre-commencement Inspection

The implementation of this Consent generates a need for the adequate regulation of the works and activities in a public place.

A. Before Public Place Works

A Pre-commencement Inspection/meeting is to be convened by the holder of the

Consent for the works approval for works in a public place. The meeting shall be held on-site a minimum 5 days prior to any demolition and/or construction activity and be held between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of the Principal Certifying Authority, the builder/site manager of the building/civil construction company and supervising engineer, in addition to a representative of Bayside Council. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Bayside Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the consents, approved design plans and approved specifications are retained on site.

Note: The consent for the works approval for works in a public place must be activated and all inspection fees must be paid to Bayside Council prior to the meeting. Please refer to Bayside Council Councils Adopted Schedule of Fees and Charges

37. Public Place Activities - Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Bayside Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval from Bayside Council may result in fines or prosecution.

38. Public Place Activities - Site Management Plan

The implementation of this Consent generates a need for works on the development site and in a public place to be appropriately managed to ensure the protection of the environment and safety of the other public place users.

A. Before Commencement of Works including Demolition

A Site Management Plan must accompany the completed application form. If any demolition of infrastructure in a public place is to commence prior to the issue of a works approval for works in a public place the applicant must submit to Bayside Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Bayside Council Development Control Plan 2011 relating to site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways

vi) erosion and sediment control measures

B. During Works

The site management plan measures must remain in place and be maintained throughout the period of works and until the site has been stabilised and/or restored in accordance with the works approval for works in a public place.

39. Any soil disposed of off-site shall be classified in accordance with the procedures in the NSW Environment Protection Authority's Environmental Guidelines: Waste Classification Guidelines (2009).
40. Acoustic Report
The plans submitted with the Construction Certificate shall demonstrate that all of the recommendations contained in the acoustic report prepared by Acoustic Noise & Vibration Solutions P/L – Reference No. 2015-064, "Part 1 Acoustic insulation between floors & walls; Star Ratings; & Mechanical Ventilation System & Part 2 Acoustic Noise and Vibration near Railway Lines" dated the 15 February 2016, are adopted and will be implemented in the development.

Prior to issue of the construction certificate

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$29,970.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
44. A Section 94 contribution of \$1,246,837.41 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current

Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate 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	\$695,840.31
Community Services & Facilities	\$33,640.03
Town Centre & Streetscape Improvements	\$74,564.59
Wolli Creek Redevelopment Area Infrastructure	\$422,272.06
Plan Administration & Management	\$20,520.42

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

45. Landscape Plan - To be Amended

Prior to issue of the Construction Certificate, an amended Landscape Plans shall be submitted to, and approved by, Bayside Council's Landscape Architect (Fional MacColl - 9562 1666). The amended plan(s) shall be substantially in accordance with the landscape plans submitted with the application (Drawing No. LS00 (Issue B)), shall be updated to reflect the amended architectural plans, and shall ensure that at minimum the following additional items are addressed:

- (a) Podium Level Communal Open Space
 - BBQ & roofed seating area to be provided;
 - Adequate tree planting to be provided / retained as recommended by the Design Review Panel (refer to Minutes of Meeting dated 16 March 2016).
 - Children's play area to be provided.
 - Fencing details at the boundary with No. 19-21 Willis Street (including proposed treatment to the internal and external face of the wall).
- (b) Willis Street roof top communal open space - the following to be provided:
 - roofed BBQ, sink & seating, roofed,
 - cupboard for storing cleaning and gardening equipment.
- (c) Guess Avenue roof top communal open space - The following to be provided:
 - seating, BBQ & surface treatment to be provided generally as per Plan DA-2110 (Issue C).
 - solid roofing to be provided over the BBQ & seating area,
 - sink & cupboard for storing cleaning & gardening equipment.
- (d) a minimum 800mm soil depth is provided at podium level and for any planter boxes,
- (e) a fully automated drip irrigation system, approved by Sydney Water, shall be installed and maintained to ensure adequate water is provided to the podium and roof landscaping,
- (f) podium landscaping and paved areas shall be drained into the stormwater drainage system.

46. The plans submitted with the Construction Certificate shall demonstrate compliance

with the following requirements:

- (a) The architectural plans submitted with the Construction Certificate must correspond with the amended / approved landscape plans (which are required to be submitted to, and approved by, Council prior to issue of the Construction Certificate).
- (b) An intercom system to be provided within all units to permit visitors to access the building and car parking area.
- (c) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (d) Ceiling Heights
 - (i) 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.
 - (ii) Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
- (e) Acoustic Measures - The noise reduction measures specified in the noise report prepared by Acoustic Noise & Vibration Solutions P/L – Reference No. 2015-064, "Part 1 Acoustic insulation between floors & walls; Star Ratings; & Mechanical Ventilation System & Part 2 Acoustic Noise and Vibration near Railway Lines" dated the 15 February 2016, must be shown in the Construction Plans. This includes all commitments, including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:
 - (i) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am; and
 - (ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.
- (f) The ground level deep soil landscape zones located along both street frontages and the sites eastern boundary adjacent to No. 1-3 Willis Street must be naturally draining.
- (g) Lift Size – All lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
- (h) The windows to the breezeway / access corridors for both buildings must include operable windows to ensure natural ventilation of these spaces.
- (i) Awnings shall be provided above the north facing kitchen, corridor and bedroom windows for Units 11, 14, 20, 23, 29, 32, 38, 41, 47, 50, 56, 59, 65 and 67 to minimise sun from entering these windows during the warmer summer months.
- (j) Wind Report - Compliance with the submitted Pedestrian Wind Environment Report prepared by Windtech Consultants (No. WC394-02F02(REV0), dated 12 February 2016), including (but not limited to) the required boundary walls located

along the north-western and south-eastern boundaries of the Level 1 (podium) communal open space areas must be included in the plans submitted with the Construction Certificate to ensure that wind impacts to this area are minimised in accordance with the submitted wind report.

(k) Inclusion of the following sustainability measures as agreed by the applicant :

- LED lighting to all communal areas;
- Rainwater harvesting for re-use in landscape planting.

(l) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. If vents for this system are proposed within the podium level landscape area they must be appropriately designed and screened by landscape planting.

(m) Ventilation to be provided to Units 43,45,48,49,52,54,57,61,63,66 and 67 from the courtyard to the unit to ensure that natural cross ventilation can be provided for these units as shown in the approved plans.

(n) Roofing shall be provided for the full depth of the balconies for units located on Level 7 to provide sun and weather protection.

(o) The aluminium louvre screens to the Willis Street and Guess Avenue facades (Item 9 on the Finishes Schedule provided in the elevation plans) shall be sliding louvres. They may not be fixed.

(p) The louvres provided to the Willis Street & Guess Avenue facades shall be constructed of powder-coated aluminium.

(q) Fire Booster Enclosure - The access doors are required to be treated with a textured finish and/or have a degree of transparency utilising either laser cut metal or batten style screens. The surround of the enclosure should match the colour of the building.

[Amendment A - S96(1A) amended on 08/12/2017]

47. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
48. Prior to issue of the Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood event.
49. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
50. 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 seven (7) residential units, and between this units and their allocated

carparking space. The allocated parking space will be located in close proximity to the access points of the building / lift of the building. A mix of one (1) and two (2) bedroom units are to be provided as adaptable unit(s), with a minimum of three (3) x 2 bedroom units. 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.

51. Compliance with Council's Development Control Plan (DCP) 2011 - Requirements for Access. Compliance with this condition requires a minimum of eight (8) adaptable car parking spaces 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 in accordance with AS 2890.6 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.
52. All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid's requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
53. Sydney Water
The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

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>

54. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code and the crest level shall also be constructed to protect the low level driveway from flooding. In this case, the driveway crest level must be 500mm above the 1 in 100 year flood level (refer to Council's flood advice letter). The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
55. 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.

56. Construction Management Plan & Traffic Management Plan

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.

57. Safety - Driveway entry / exit

Plans submitted with the Construction Certificate shall ensure that the front fences or ramp walls greater than 1200 mm high are setback 2.5m at the location of the driveway access point. The front fence or ramp wall shall then return at a splay to 2.0m to maintain adequate sight distance to pedestrians and vehicles.

58. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

59. Geotechnical - Adjoining buildings founded on loose foundation materials

As the basement floors are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

(a) Implement all recommendations contained in the report prepared by Geotechnique Pty Ltd- Ref: 12836/4-AA, dated 11 February 2016

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm that the proposed construction methodology
To prepare a Construction Methodology report demonstrating that the proposed

construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

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

The report must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:

- Location & level of nearby foundations/footings (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Potential settlements affecting footings/foundations
- Ground-water levels (if any)
- Batter slopes
- Potential vibration caused by method of excavation
- De-watering including seepage and off site disposal rate (if any)

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

60. Vibration Monitoring

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

61. **Car Wash Bay**

A dedicated car wash bay is required with a minimum width of 3.5m. A tap and power connection shall be provided for users of the car wash bay, and a sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.

62. 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 Councils Technical Specification – Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Technical Specification – Stormwater Management sets out the minimum documentation requirements for detailed design plans.

The amended design shall address the following issues:

(a) In accordance with section 7.1.9 of Councils DCP 2011 where within the Wolli Creek area a development is required to capture the first 1020mm of stormwater runoff and detained for reuse purposes, a rainwater tank is required. The measures put in place to reuse water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site.

(b) The post development stormwater discharge from the site into the Guess Street and Willis Street frontages must be less than 50 l/s for the 50 year ARI event each at

multiple outlets.

(c) The design shall identify, and discuss in detail, the measures put in place to reuse water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site.

(d) The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6m³ per 100 m² of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.

(e) To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls for a tanked basement structure.

Note: The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.

[Amendment A - S96(1A) amended on 08/12/2017]

63. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Certifying Authority, and approved, prior to the issue of the construction certificate for the relevant stage of construction.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

Prior to commencement of works

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

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. 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.

66. 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.
67. 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.
68. 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.
69. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
 - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
 - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -
 - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
 - (ii) have a clear height above the footpath of not less than 2.1m;
 - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
 - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPaThe 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection

grids.

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

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

70. 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.

71. 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.
72. 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.
73. 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.
74. 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.

75. 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.
76. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
77. 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.

78. 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.

79. 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.
80. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
81. 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.

82. Adopt and implement all recommendations contained in the Acid Sulphate Soil Management Plan prepared by Benviron Group - Job No. E787/2 dated the 19 February 2016

83. 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.
- 84. 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.
 - 85. All existing trees located within the site may be removed subject to replacement planting in accordance with the approved landscape plan.

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.

- 86. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 87. 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.

88. Strata By-Laws

A by-law shall be registered and maintained for the life of the development, which requires that :

- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
- (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
- (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
- (d) Chair lifts provided at the entrance lobbies to both buildings are to be maintained in good working condition at all times to ensure access is provided for people with a disability.
- (e) Planter boxes located within the private courtyards of Units 1, 2, 3, 4 and 5 must be maintained as soft landscape area for the lifetime of the development. These areas may not be paved at any time.

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

89. Prior to issue of the Occupation Certificate, 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.

90. Flood Management Report

Prior to issue of the Occupation Certificate:

- (a) The approved recommendations from the Flood Management Report (Issue 2) prepared by SGC dated 19 February 2016 shall be implemented.
- (b) A summary page of the Flood Management Plan shall be displayed within each apartment.

Note: The Wolli Creek Precinct has a minimum floor level based on the 0.5% AEP Flood.

91. Lot Consolidation

All existing allotments are to be consolidated into one (1) allotment. A copy of the plan of consolidation must be provided to the Principal Certifying Authority prior to release of the Occupation Certificate.

92. 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.

93. Underground placement of cables

The underground placement of all low voltage street mains in that section of Willis Street and Guess Avenue 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.

94. Substation Requirements

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 internally within the building in the room labelled "Substation" on the approved Ground Floor Plan (Plan No. DA2102) unless otherwise amended by a Section 96 Application. 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.

95. Vehicular Entry & Exit in Forward Direction

Vehicles shall enter and exit the site in a forward direction at all times. Prior to issue of the Occupation Certificate:

(a) 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".

(a) The vehicular entry in Willis Street must be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.

96. 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.

97. The width of the double driveway at the boundary shall be a maximum of 6 metres.

98. Access to Basement Car Park

Prior to issue of the Occupation Certificate, the following shall be complied with:

(a) The gate for the basement shall be located in order to permit the queuing of one (1) vehicle when waiting to enter the basement garage.

(b) An intercom system shall be provided at the entrance to the car parking area. The system must be connected to all units to allow residents to provide access to the basement car park for visitors.

99. *Seventy-four (74) off-street car spaces, one (1) loading bay for a Low Clearance Truck, maximum 3.1m height and one (1) VAN service bay shared within a visitor parking shall be provided in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction prior to issue of the Occupation Certificate. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

[Amendment C - 4.55(1A) amended on 11/09/2018]

100. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

101. 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.
102. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments. A report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.
103. Acoustic Report - Certification
 - (a) The noise reduction measures specified in the noise report prepared by Acoustic Noise & Vibration Solutions P/L – Reference No. 2015-064, “Part 1 & Part 2 Acoustic Noise and Vibration near Railway Lines” dated the 15 February 2016, shall be implemented into the development prior to issue of the Occupation Certificate.
 - (b) The development shall be constructed to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:
 - (i) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am; and
 - (ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40dB(A) at any time.
 - (c) The noise reduction measures specified in the report listed in (a) and the noise levels required by (b) above must 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.
104. Landscape Certification

Prior to issue of the Occupation Certificate 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 certificate shall, amongst other matters, confirm compliance with the following:

- A minimum soil depth of 800mm is provided for planter beds on the podium and roof top terrace levels;
- A fully automated irrigation system has been installed to the podium landscaping;
- Podium landscaping and paved areas are drained into the stormwater drainage system.

The approved landscaping is to be maintained to the approved standard at all times.

105. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
106. Prior to issue of the Occupation Certificate, 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.
107. Prior to issue of the Occupation Certificate, a certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial floor level is constructed a minimum of 500mm above the 0.5% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
108. 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.
109. The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
110. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 8 October 2014 (Ref: F08/691P04, 14/132032).
111. *Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater/rainwater tank facility to provide for the maintenance of the detention and treatment facility and waste removal by a private waste contractor for ongoing compliance.*

[Amendment C - 4.55(1A) amended on 11/09/2018]

112. 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.
113. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

114. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
115. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

Roads Act

116. 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.

117. 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.

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

(a) That the development shall comply with signage and road marking for following controls:

- (i) Parallel parking along the frontage of the property.

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 and approved by the Traffic Committee.

119. 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.
120. 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.
121. 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.
122. 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.
123. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

Development consent advice

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

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au 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. 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.
- d. 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.

- e. 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.
- f. 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.

- g. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- h. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- i. 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.



12 July 2018
Our Ref: 17SYT0022
Your Ref:

Attention: Rami Shakour

Urban Link Pty Ltd
PO Box 2223
Burwood North NSW 2134

Dear Rami,
RE: 7-13 Willis Street, Wolli Creek - Compliance

This letter of advice supplements previous advice in relation to the development at 7-13 Willis Street, Wolli Creek.

Condition 30 Internal Height Clearance - Parking & Access specifies that:

Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.

3.5 metre clearances have been provided as per the plans in the original consent. However, services reduce the available clearance to 3.2 metres. This is not uncommon. We recommend that a sign is located on entry advising of the 3.2 metre clearance.

Section 4.3.4 of AS2890.1 provides the opportunity to install warning signs when situations such as this occur. Recommended signs are shown below.

LOW CLEARANCE 2.2m

**LOW CLEARANCE
2.2 m**

R6-16 (Aust only)

R6-11 (Aust only)

(black on white)

TTM Consulting Pty Ltd
ABN 65 010 868 621

P 02 9418 3033
E ttmns@ttmgroup.com.au

PO Box 5238
Greenwich, NSW 2065

ttmgroup.com.au



The height shown would be the measured minimum clearance rounded down to the nearest 0.1 m. In this case it is 3.2 metres.

The sign will be required at the entrance to the parking area.

A small waste vehicle will be required to access the site. Typical clearances for such vehicles are around 2.6 metres. An example of a typical small waste vehicle defined by Lane Cove Council is attached.

It is likely that a private contractor will service the waste. Three contractors with experience with low clearance waste vehicles are:

- <https://www.jjrichards.com.au/>
- <https://www.sydneywaste.com/index.php/services>
- <http://urmgroupp.com.au/>

The height restriction is unlikely to affect deliveries or medium sized removal vans which are designed for such situations.

It is our advice that the presence of the services is a common component of developments that are not fully taken into consideration at the development application stage. The 3.2 metre height restriction will not have a significant effect on operations.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C. Hutcheson'.

Calum Hutcheson

Senior Associate Director

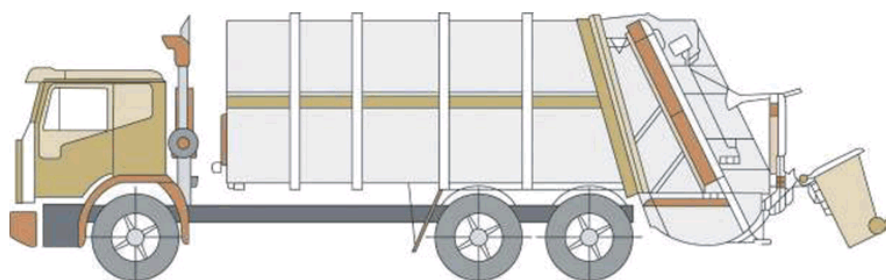
TTM Consulting Pty Ltd

Encl.

PART Q – WASTE MANAGEMENT & MINIMISATION

• The Smallest Council Garbage Truck used for Domestic Waste Collection – Rear Load

• Length overall	• 6.64 metres
• Width overall	• 2.37 metres
• Operational height	• 2.40 metres
• Travel height	• 2.60 metres
• Weight (vehicle and load)	• 7.50 tonnes
• Weight (vehicle only)	• 5.48 tonnes
• Turning Circle	• 10.70 metres



rearloader garbage truck

DocuSign Envelope ID: 935D619E-E4B0-47E6-B979-7A0708E1DFF4

**SERVICE AGREEMENT****Contract No: SF-1076943**

Agreement Type: Permanent	Commencement Date: 7/08/2018	"The Supplier" Cleanaway Pty Ltd ABN 79 000 164 938
Agreement Term: 24 Months (60 months applies, subject to clause 7 & 18 overleaf)		Branch Name: Solid Waste NSW- Erskine Park Branch Phone No: 02 9834 0400
Comment:		

THE CUSTOMER (THE LEGAL ENTITY) (YOU, YOUR): The Trustee for Urban (Wolli) Unit Trust TRADING NAME (IF DIFFERENT TO ABOVE): The Trustee for Urban (Wolli) Unit Trust	ABN: 40 599 054 475
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INVOICE ADDRESS (ADDRESS TO WHICH INVOICE IS TO BE SENT) The Trustee for Urban (Wolli) Unit Trust Level 10, 11-15 Deane Street BURWOOD NSW 2134 Telephone No: 0297443333 Contact Name: Tony Jreige Position: Email Address: tony@urbanlink.com.au	SITE ADDRESS (ADDRESS FOR LOCATION OF EQUIPMENT (THE PREMISES)) The Trustee for Urban (Wolli) Unit Trust 7-13 Willis Street WOLLI CREEK NSW 2205 Australia Telephone No: 0297443333 Contact Name: Tony Jreige Position: Email Address: tony@urbanlink.com.au
Fax No: Mobile No: 0448880312 E Invoicing: <input checked="" type="checkbox"/>	Fax No: Mobile No: 0448880312 E Invoicing: <input checked="" type="checkbox"/>

SERVICE DETAILS

EQUIPMENT			FEES (exclusive of GST & subject to adjustment per clause 4 overleaf)					WASTE / RECYCLABLES			FREQUENCY	
System	Size	Qty	Rent Per Week	Unit	Service Rate Per Unit	Disposal Charges	Environmental Fee	Allowed Weight/ Volume (Per m3)	Waste Type (refer to clause 1 overleaf)	Code	Day	Cycle
Rear Lift	1100L	3	AUD 0.00	Serv	AUD 58.30	AUD 0.0	Y	100kg	General Waste		Tu	Weekly
Rear Lift	240L	18	AUD 0.00	Serv	AUD 6.20	AUD 0.0	Y	25kg	Co-mingle Waste		Tu	Weekly
MR <input type="checkbox"/> DCC <input type="checkbox"/> PLUG <input type="checkbox"/> STOCK <input type="checkbox"/> LINER <input type="checkbox"/> LIDS <input checked="" type="checkbox"/> WHEEL <input checked="" type="checkbox"/> LOCKS <input type="checkbox"/>									ACCESS TIMES: residential access after 7am		INCL HOLDS: Yes	ALLOWED SERVICES:
ADDITIONAL LEVIES/STATUTORY CHARGES (subject to adjustment per Clause 4)								INSTALL DATE / DATE OF FIRST SERVICE: 24/09/2018				
Levy/Statutory Charge					Amount			INVOICE CYCLE: Monthly				
								BIN SAFETY BROCHURES SUPPLIED: No				
								NEW TO RECYCLING: No				
SPECIAL REQUIREMENTS / OTHER DETAILS												
3.1m clearance into car park. REL Supervisor adv must go on run 507 to complete using Low clearance trucks.												
3 x 1100H GW RL 100kg \$58.30 18 x 240L CoMingle RL 25kg \$6.20 Weekly service - no rental												


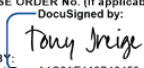
Please refer to the below and the terms and conditions regarding additional fees that may apply to you

Fee you may be charged	How we calculate the fee (all figures exclusive of GST)																														
Environmental fee – solid waste services	For each invoice with value less than \$75, a flat fee of \$5. For each invoice with value \$75 or greater, 4.45% (or 5.45% in SA or NT) within a minimum fee of \$10 and a maximum fee of \$150.																														
Environmental fee – liquid waste and industrial services	4.45% of the value of each invoice, with a minimum fee of \$10.																														
Missed service	If we are unable to provide a service and the cause was not within our control (eg your bin was not placed out for collection), then we may require you to pay our ordinary fees in relation to that service.																														
Paper invoice fee	\$3 for each paper invoice that is sent to you.																														
On-call flexibility fee	\$14.50 each time that a collection is made at your request. This fee does not apply to services that are provided at regular intervals agreed in advance.																														
Waste Plus	<div>A charge (per 25kg) that relates to our additional costs if your bin is filled over its allowed weight.</div> <table><tr><td>ACT</td><td>up to \$4.70</td><td>Qld metro</td><td>up to \$3.10</td><td>Vic regional</td><td>up to \$7.30</td></tr><tr><td>NSW metro</td><td>up to \$9.60</td><td>Qld regional</td><td>up to \$4.20</td><td>Tas</td><td>up to \$15.00</td></tr><tr><td>NSW regional</td><td>up to \$6.70</td><td>SA metro</td><td>up to \$4.40</td><td>WA metro</td><td>up to \$4.90</td></tr><tr><td>NT metro</td><td>up to \$2.50</td><td>SA regional</td><td>up to \$4.10</td><td>WA regional</td><td>up to \$3.00</td></tr><tr><td>NT regional</td><td>up to \$3.10</td><td>Vic metro</td><td>up to \$4.30</td><td></td><td></td></tr></table> <div>These fees may change from time to time. You can find the latest fees on Cleanaway's website at: https://www.cleanaway.com.au/our-services/fees-charges/ You can contact us to increase your weight allowance and avoid these fees.</div>	ACT	up to \$4.70	Qld metro	up to \$3.10	Vic regional	up to \$7.30	NSW metro	up to \$9.60	Qld regional	up to \$4.20	Tas	up to \$15.00	NSW regional	up to \$6.70	SA metro	up to \$4.40	WA metro	up to \$4.90	NT metro	up to \$2.50	SA regional	up to \$4.10	WA regional	up to \$3.00	NT regional	up to \$3.10	Vic metro	up to \$4.30		
ACT	up to \$4.70	Qld metro	up to \$3.10	Vic regional	up to \$7.30																										
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NSW regional	up to \$6.70	SA metro	up to \$4.40	WA metro	up to \$4.90																										
NT metro	up to \$2.50	SA regional	up to \$4.10	WA regional	up to \$3.00																										
NT regional	up to \$3.10	Vic metro	up to \$4.30																												

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OFFICE USE ONLY (NAT-SC05, 07/05)			VRP SC A/C #:	
Customer #:			Father/Son A/C #:	
Billing Cycle: MEO	Customer Type: D	Area Code:	Group Code: GEN	System Code: YY
Order #:			Review Date: 7/02/2019	ANZSIC: L771
Agreement Type: SN	Sales Rep #: 1345	Rating: D	Category: GEN	Lead Source: N
Gain/Loss Reason: NA	Competitor Code: NC *	Site Evaluation Form Completed: <input checked="" type="checkbox"/>	Waste Tracking Required: <input type="checkbox"/>	T&C Varied: No
SLX Entered: <input type="checkbox"/>	Credit Approved: <input checked="" type="checkbox"/>	CS Approved: <input type="checkbox"/>	SM Approved: <input type="checkbox"/>	BM Approved: <input type="checkbox"/>

PAYMENT METHOD (TERM 14 DAYS NET) All payments by credit card or debit card will incur a surcharge at a rate of 0.8%.	CREDIT REFERENCES / PAYMENT DETAILS / BANK ACCOUNT DETAILS (BSB & ACCOUNT No.)
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CONTRACT ACCEPTANCE I hereby declare the above information to be true and correct. I have understood the Terms and Conditions overleaf and accept that failure by the Customer to meet these terms and conditions may result in breach of this Agreement which is a legally binding document.	
<p>DocuSigned by:</p>  <p>SIGNED BY: E1C1EF14E7C9421...</p> <p>POSITION: Inside Sales Specialist</p> <p>PRINT NAME: Adam Moseley For and on behalf of Supplier of Services and/or Equipment (WE, US, OUR)</p> <p>Date: 10-08-2018</p>	<p>PURCHASE ORDER No. (If applicable):</p> <p>DocuSigned by:</p>  <p>SIGNED BY: 10605413B10458...</p> <p>POSITION:</p> <p>PRINT NAME: Tony Jreige For and on behalf of Customer (YOU, YOUR)</p> <p>Date: 09-08-2018</p>

DocuSign Envelope ID: 935D619E-E4B0-47E6-B979-7A0708E1DFF4

Terms & Conditions

1. Interpretation

In this Agreement:

Agreement means these terms and conditions and the provisions in this quotation/proposal which will be read and construed together. Should there be any inconsistency between these terms and conditions and the provisions in the quotation/proposal, these terms and conditions will prevail.

Average Monthly Value means (a) the average monthly Fees (excluding any applicable rebates) plus (b) if oil was collected under the Agreement, then the average monthly volume of oil collected (measured in litres) multiplied by the Oil Price Benchmark on the day of termination (or if the Oil Price Benchmark is not published on the day of termination, then the Oil Price Benchmark most recently published prior to that date). Average monthly Fees and average monthly volumes are calculated over the term of the Agreement until termination.

Change in Law means the introduction of, a change in, or a change in the interpretation or administration of, a Law.

Consumer Price Index means the Consumer Price Index (All Groups - Transport) published by the Australian Bureau of Statistics, or if the index is replaced, the replacement, and if the index is discontinued, a reasonable equivalent selected by us acting reasonably.

Equipment means the tank/container specified in this quotation/proposal or such other container or equipment (including any additional or replacement equipment) supplied by us.

Fees means the Service and/or Equipment rental fees and charges including any rebates payable under this Agreement and as adjusted in accordance with clause 4.

Law means any law of Australia, including a statutory instrument of any kind, and any judgment, order, policy, or official directive or request of any government, government agency, or person charged with the administration of a law.

Liquidated Damages Formula means $0.30 \times (\text{insert number of months remaining to the end of current Agreement term}) \times (\text{Average Monthly Value})$.

Oil Price Benchmark means the mid-point FO 180CST 3.5% price published by Platts Singapore (or if the index is replaced, the replacement, and if the index is discontinued, a reasonable equivalent selected by us acting reasonably), converted from tonnes to litres (i.e. divided by 0.89), and converted from USD to AUD at the exchange rate published by the Reserve Bank of Australia.

Premises means the premises to be serviced by us as noted in this quotation/proposal or any new premise(s) to which you have relocated.

Services means the services described in the quotation/proposal.

Waste Type means:

(a) Recyclable Waste – waste we say may be beneficially reused or recycled.

(b) General Waste – solid wastes which do not undergo environmentally significant physical, chemical or biological transformations once landfilled and which do not include the following waste types (c) to (g).

(c) Putrescible Waste – degradable wastes including food wastes, garden wastes and household wastes and which do not include the following waste types (d) to (g).

(d) Medical/Sanitary Waste – waste (excluding radioactive waste) produced by a hospital, clinic, medical, or related practice or waste collected from designated sanitary hygiene units.

(e) Hazardous Waste – solid, liquid or gaseous wastes other than waste described in paragraph (d) which (through toxicity, carcinogenicity, mutagenicity, teratogenicity, flammability, explosivity, chemical reactivity, corrosivity, infectiousness or other biologically damages properties) may present danger to the life or health of living organisms when released into the environment, and which do not include the following waste types (f) and (g).

(f) Prescribed or Other Waste – any waste which does not fit within paragraphs (a) to (e) or which requires special treatment or handling, the type and manner of treatment being prescribed in the Agreement.

(g) Liquid Waste – liquid or semi-liquid wastes which do not include waste types described in paragraphs (a) to (f).

We, us, our means Cleanaway Pty Ltd or such other entity (or entities) selected with an "X" beside its name overleaf which is (or are) the supplier of the Service and/or Equipment indicated overleaf.

Written Down Value means the value of the Equipment after accounting for depreciation or amortisation (as determined by us acting reasonably) as at the date of termination of this Agreement.

You, your means the person, firm or corporation named in this quotation/proposal for whom we perform or are to perform the Services for. If there are two or more persons or entities referred to in this quotation/proposal, then such persons or entities will be bound by the provisions of this Agreement jointly and severally. You or your also includes your employees, contractors, agents, representatives, workers and any permitted assigns.

2. Supply of Services

We will perform the Services for you or such further or other service as may be agreed to from time to time between the parties in consideration for payment of the Fees.

3. Service days and times

The services will be performed by us on the days as indicated in this quotation/proposal but during such hours as we determine. Subject to providing you reasonable notice, we may vary the days upon which the Services are performed.

4. Fees and variations

(a) We may adjust the Fees at any time to pass on increases to disposal costs, fuel costs or in the event that a Change in Law results in an increased cost to us in providing the Services.

(b) The Fees are based on the attached quotation/proposal. Therefore we may change the Fees or charge additional Fees if you exceed the allowed weights or volumes, or if you request a variation to the time of service or frequency of service.

(c) We may adjust the Fees twice in any twelve month period if the adjustment is consistent with a fluctuation in the Consumer Price Index.

(d) If we determine that exceptional circumstances exist, then we may adjust your fees otherwise than as described in clauses 4(a), 4(b) and 4(c) above, but only if we give written notice to you headed 'Out-of-Cycle price adjustment'. In the written notice we will explain the exceptional circumstances to you. If we send you a notice of a price adjustment that is headed 'Out-of-Cycle price adjustment' (but in no other case), then within 30 days of the date of the notice you may terminate this Agreement by giving written notice to us.

(e) In all cases we will give you at least 30 days' notice of price adjustments.

5. Payment

You must pay us the Fees (including GST) as specified in an invoice issued by us within 14 days of the date of that invoice or on such other terms as may be specified on the invoice. If you do not pay the invoice within the payment terms, we may charge you a late payment fee of \$30 on each unpaid invoice. If we have provided you with at least one written payment reminder, then we may suspend providing the Services while your account remains in arrears. For the first 60 days of any suspension you will continue to be liable for any Equipment hire charges. After that period you will not be liable for Equipment hire charges unless you do not permit us to collect the Equipment. We may charge you a reasonable administration fee if you ask us provide you with an additional copy of an invoice or other document that has previously been provided to you.

6. GST

If goods and services tax or similar value added tax (GST) is or becomes payable on any supply under this Agreement, you must pay us the GST amount imposed at the same time as payment of the Fees. The Fees are expressed exclusive of GST.

7. Exclusivity, term and termination

(a) You grant us the exclusive right to provide you the Services at the Premises during the term of this Agreement.

(b) The initial term is 5 years from the date of this Agreement, or such different period as may be set in the quotation/proposal (the Initial Term).

(c) Either party may give written notice of termination to the other party at any time during the Initial Term, provided that the termination will not take effect before the end of the Initial Term. Unless so terminated, this Agreement continues after the Initial Term until terminated by either party giving 60 days' written notice of termination to the other party.

(d) If, during the Initial Term:

(i) we terminate this Agreement for your default pursuant to clause 18; or

(ii) you wrongfully terminate or repudiate this Agreement and we accept such repudiation and elect to terminate this Agreement, you agree that we will be entitled to receive from you, as liquidated damages, the amount calculated by using the Liquidated Damages Formula.

(e) The liquidated damages under this clause 7 will be invoiced to you in accordance with clause 5.

(f) You acknowledge and agree that the amount calculated in accordance with clause 7 and payable by you is a genuine pre-estimate of the damages that we are likely to sustain if:

(i) we terminate this Agreement for your default pursuant to clause 18; or

(ii) you wrongfully terminate or repudiate this Agreement and we accept such repudiation and elect to terminate this Agreement as a result.

(g) If it is determined by a court of competent jurisdiction that your liability for liquidated damages under this clause 7 is deemed to be or becomes void, voidable or unenforceable in any way so as to disentitle us from claiming liquidated damages under this clause 7, then:

(i) we are entitled to claim against you, damages at law as an alternative to the liquidated damages payable under this clause 7; and

(ii) the amount of damages we are entitled to claim is not restricted to, or limited by, the amount calculated using the Liquidated Damages Formula.

(h) In the event:


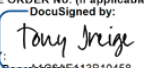
(i) this Agreement is terminated pursuant to clause 7(d)(i) or 7(d)(ii) above; and

(ii) we have procured designed, manufactured and/or implemented the Equipment specifically to perform the Services pursuant to this Agreement (or any other arrangement with you), we will be entitled to recover from you, as a debt due and payable, the Written Down Value of the Equipment.

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8. **Premises and access**
You must provide us with complete and uninterrupted access to the Premises to enable the Services to be performed by us and/or for us to attend to the Equipment. If we are unable to access the Premises or complete the Services, we are entitled to charge you the relevant Fees. You warrant to us that the ground surfaces traversed by our vehicles in order to perform the Services or attend to the Equipment are of suitable construction to prevent damage thereto.
9. **Equipment and disposal of waste and recyclables**
(a) We will deliver Equipment to the Premises and collect it if required by this Agreement. If delivery or collection fees apply, these will be disclosed to you in advance.
(b) At all times throughout the term of this Agreement you will use your best endeavours to ensure the waste and recyclable materials are disposed in the proper Equipment as directed by us from time to time.
(c) Title to the Equipment at all times remains with us.
(d) You must not use any mechanical means to compact material in the Equipment or alter or amend the Equipment without our consent in writing.
(e) You must not allow any person to be inside the Equipment at any time.
10. **Affixing and removal of Equipment**
You shall pay all costs of affixing any of the Equipment to the Premises where required for the proper operation of such Equipment and you must pay all costs of the removal of the Equipment from the Premises. You must provide us complete and uninterrupted access to the Premises upon termination of this Agreement to facilitate such removal.
11. **Maintenance of Equipment**
You will maintain the Equipment in a clean and sanitary condition in compliance with all laws; not use the Equipment for any purpose other than the designated purpose; must at all times ensure that the Equipment is not removed from the Premises or damaged in any way or the materials contained therein set on fire; and immediately report to us any Equipment damage or malfunction. The Equipment will at all times be at your risk once we have delivered it to you. If, as a result of your act or omission the Equipment is damaged, lost, destroyed, not maintained in a clean and sanitary manner or sustains other faults or defects, we may repair and/or replace the Equipment, and/or any faults and/or defects in the Equipment in order to restore the Equipment to its original condition. Except in relation to fair wear and tear, you will pay us and indemnify us in respect of any costs associated with such repair and/or replacement of the Equipment.
12. **Limits**
You must not fill the Equipment beyond the maximum height, weight or volume as advised by us from time to time.
13. **Waste**
If required by law, we are your agent with respect to collecting, transporting and disposing of the waste. You warrant to us that the waste materials to be collected and/or disposed of by us: corresponds to the Waste Type and/or description indicated overleaf; is waste generated by you; is what you tell us it is; it excludes radioactive waste; and unless we have expressly agreed otherwise in writing, it excludes highly flammable, explosive, biochemical, asbestos or other substances which we have specified or may hereafter specify to you. Title to all waste material in your possession and control which is collected and/or disposed of, other than the excluded waste referred to in this clause, will vest with us when loaded into our vehicles. Title to and liability for waste materials excluded from or not compliant with this Agreement will remain with you and you agree to indemnify, defend and hold us harmless against all liabilities, loss, damage and claims arising out of the breach of this clause. Any waste that does not comply with this clause 13 may incur additional Fees and we may refuse to handle or remove the material at our discretion.
14. **Force Majeure**
In the event that any circumstances beyond our reasonable control (including without limitation climatic conditions, a strike, lockout, industrial dispute or shortage of materials) prevent us from being able to perform an obligation under this Agreement, this Agreement may be suspended by us. In such circumstances you are precluded from making a claim against us.
15. **Indemnity**
You indemnify us from and in respect of all loss, damage, liabilities or claims caused directly or indirectly by you or your employees, subcontractors or agents to any person or property by, through or in connection with the Services or the Equipment. This indemnity is reduced to the extent that we have caused or contributed to such loss, damage, liability or claim.
16. **No Representations**
You acknowledge we have not made any representations to you with respect to the Services or the supply thereof unless those representations are expressly stated in this Agreement. For the avoidance of doubt, nothing in this clause is intended to exclude liability for fraud or fraudulent misrepresentation or any other representations which cannot be excluded by law.
17. **Limitation of liability**
(a) All statutory or implied guarantees, conditions and warranties are excluded to the extent permitted by law.
(b) We do not limit or exclude the application of any provision of any statute (including the Competition and Consumer Act 2010 (Cth) if you are a 'consumer' as that term is defined in such Act, or any similar law) where to do so would contravene that statute or cause any part of this clause to be void.
(c) Our liability to you under this Agreement is limited, at our option, to:
(i) supplying the Services again; or
(ii) paying the cost of having the Services supplied again.
(d) Except as provided in clause 15, neither party shall be liable to the other for any special, exemplary, punitive or consequential loss or damage (including without limitation, any loss of profit, loss of opportunity and loss of goodwill) incurred directly or indirectly in connection with the Services.
18. **Default and Termination**
If a party (the **Defaulting Party**) has breached a material term of this Agreement then the other party (the **Non-Defaulting Party**) may give a written notice to the Defaulting Party describing the breach. If the breach is not remedied by the Defaulting Party within 14 days after the notice was given, then the Non-Defaulting Party may terminate this Agreement by written notice. A party may terminate this Agreement immediately if the other party dies, becomes insolvent or bankrupt, or any court action is threatened or commenced (or resolution proposed or passed) to place that party under any form of bankruptcy, insolvency, administration, receivership or liquidation.
19. **Relocating Premises**
If you relocate to a new premise(s) during the term of this Agreement, unless we decide otherwise, the Services under this Agreement will continue to apply at the new premise(s).
20. **Subcontracting and Assignment**
You agree for us to sub-contract, assign, novate or transfer all or part of the Services or this Agreement (as the case may be) at any time and if so, we are not required to give you written notice and you must do all the things required to give effect to same. Any subcontractors will have the same rights as us in this Agreement. You cannot assign, novate or transfer this Agreement without our written consent (which we will not unreasonably withhold).
21. **PPSA**
If we determine that this Agreement (or any transaction in connection with it) contains a Security Interest for the purposes of the PPSA, you acknowledge that we will be entitled to Perfect such Security Interest by registration on the Register. You waive any entitlements under the PPSA regarding notices. You agree, at our request, to do all acts, matters and things necessary to ensure we hold a valid and Perfected Security Interest. Non-compliance by you with this clause will constitute a breach of this Agreement. Any cost associated with the enforcement of our rights under the PPSA will be payable by you. In this clause PPSA means the Personal Property and Securities Act 2009 (Cth), and **Security Interest, Perfected and Register** have the meanings given to those terms in the PPSA.
22. **Authority**
You warrant that the person signing this Agreement on your behalf is authorised to sign this Agreement and bind you to the terms of this Agreement. You indemnify us from and in respect of all loss, damage, liabilities or claims arising from breach of this warranty.
23. **Confidentiality**
Unless otherwise required by law, you must not disclose any information in respect of this Agreement to third parties without our prior written consent which can be withheld at our absolute discretion.
24. **Governing Law**
This Agreement shall be governed by and construed in accordance with the laws of the state or territory in which the Services are primarily performed or the Equipment is delivered to. Any court proceedings shall be filed and heard in that state or territory. If the Services or Equipment are delivered or performed in one or more state and/or territory in accordance with this Agreement, the laws of the state of Victoria shall prevail and any court proceedings shall be held in the state of Victoria.

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CONTRACT ACCEPTANCE I hereby declare the above information to be true and correct. I have understood the Terms and Conditions overleaf and accept that failure by the Customer to meet these terms and conditions may result in breach of this Agreement which is a legally binding document.	
DocuSigned by:  SIGNED BY: E1C1EF14E7C9421...	PURCHASE ORDER No. (If applicable): DocuSigned by:  SIGNED BY: (Authorised Representative) E1C1EF14E7C9421...
POSITION: Inside Sales Specialist	POSITION:
PRINT NAME: Adam Moseley For and on behalf of Supplier of Services and/or Equipment (WE, US, OUR)	PRINT NAME: Tony Jreige For and on behalf of Customer (YOU, YOUR)
Date: 10-08-2018	Date: 09-08-2018

Bayside Local Planning Panel

11/09/2018

Item No	6.7
Application Type	Modification Application
Application No	SF18/1668
Lodgement Date	10/02/2018
Property	DA-2013/197/4 - 40-54 Baxter Road, Mascot
Ward	Mascot
Owner	Well Smart Group
Applicant	Jai Ruize
Proposal	Amendments to the approved hotel development, relating to modifications of the façade, increase in the height, internal modifications and relocation of the drop-off zone on Baxter Road
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Section 4.55(1A) application for amendments to the approved hotel development, relating to modifications of the façade, increase in the height, internal modifications and relocation of the pick-up / drop-off zone on Baxter Road at 40-54 Baxter Road, Mascot be APPROVED subject to the following:

- (a) Modify Condition 1 relating to approved plans.
 - (b) Modify Condition 7 relating to signage.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Architectural Plans [↓](#)
- 3 Landscape Plan [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2013/197/04
Date of Receipt:	13 February 2018
Property:	40-54 Baxter Road, Mascot
Lot & DP/SP No:	Lot 41 in DP 1097376 and part Lot 51 in DP 1097377
Owner:	Well Smart Group
Applicant:	Jia Ruize
Proposal:	Amendments to the approved hotel development, relating to modifications of the façade, increase in the height, internal modifications and relocation of the shared drop off zone on Baxter Road.
Property Location:	On the southern side of Baxter Road, on the corner of O'Riordan Street and north of the Botany Goods Line
Value:	Nil
Zoning:	B5 Business Development under Botany Bay Local Environmental Plan 2013
Author:	Andrew Ison, Senior Development Assessment Planner
No. of submissions:	Nil
Date of Report:	11 September 2018

Key Issues

The application is referred to the Bayside Planning Panel as the approved development is considered to be a sensitive development as it includes a small bar on the ground floor, and hence will be a future new licenced premises that will require a liquor licence.

The application was placed on public exhibition from 28 February to 13 March 2018. No submissions were received.

Key issues with this application relate to the following:

- Substantial changes to the approved façade;
- Increase in height; and
- Re-location of the shared drop off zone on Baxter Road

The modification 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.

Site Description

The subject site is situated towards the western end along the southern side of Baxter Street between Botany Road to the east and O'Riordan Street (State classified road) to the west within the B5 Business

Development Zone in Mascot. It is legally described as Lot 41 and has a total site area of 5,068m². As shown on the Deposited Plan, the Railway Goods Line bisects the subject site from east to west which divided the subject site into three portions:

- Northern portion: 1,947m²
- Middle / Railway corridor: 2,872m²
- Southern portion: 249.4m²

The proposal is located to the northern side of the existing Railway Goods Line. It is irregular and elongated in shape which provides a frontage of 112.77m to Baxter Road and 17.86m to O'Riordan Street.

The site at the time of the writing of this report is cleared, with the two storey building that formerly occupying the site being demolished.

Car parking for the approved hotel is to be located on the neighbouring site to the east, known as Lot 51 in DP 1097377. This was approved under a separate development consent (DA-2014/2) on the same date as the modification to the subject development consent under DA-13/197/02.

The northern side of Baxter Street comprise commercial and industrial activities to the immediate north of the subject site and residential development to the north-east.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

Description of approved development and proposed modifications

Approved Development DA-2013/197

Development Consent No.2013/197 was approved by resolution of the former City of Botany Bay Council on 9 December 2014 for the following:

- Demolition of the existing two storey structure on site;
- Site preparation and site remediation works;
- Construction of a new eight storey hotel building comprising of 251 rooms, meeting rooms, gymnasium, bar and restaurant
- New driveway crossings;
- Landscaping works and new signage; and
- Use of the adjoining site under the same ownership as car parking for 98 cars.

This was approved as a Deferred Commencement, subject to the preparation of a final geotechnical assessment and structural report, construction methodology and final cross section drawings. A period of 12 months was provided to address these requirements, and were addressed to Council's satisfaction on 19 August 2015.

Approved Modification DA-2013/197/02

On 21 June 2016, the former City of Botany Bay Council approved a modification under Section 96 provisions (now Section 4.55) under delegated authority to modify the development consent to facilitate the future provision of car parking within the multi storey Park and Fly facility approved under a separate development consent (DA-12/154).

Approved Modification DA-2013/197/03

On 24 January 2017, Bayside Council approved a modification under Section 96 provisions (now Section 4.55) under delegated authority to conditions relating to the neighbouring site and car parking.

Proposed Modifications DA-2013/197/04

The applicant seeks the following:

- Changes to the materiality and form of the façade;
- An increase in building height from 30.3m to 33.05m;
- Reduction in the total number of hotel rooms from 251 to 235;
- Reconfiguration of the ground floor layout including meeting rooms, storage areas, lobby, lift lobby and rubbish areas;
- Removal of outdoor dining area on ground floor;
- Reconfiguration of loading area;
- Reconfiguration of the layout of hotel room levels, including 2 new accessible rooms on level 7;
- Reconfiguration of gym on level 1;
- Reconfiguration of lift shaft and storage rooms;
- Increase of floor to floor heights from 3m to 3.5m;
- Reconfiguration and reduction of plant area on the roof top;
- Provision of bicycle spaces;
- Amendments to the landscape design;
- Removal of the approved signage (to be subject to a separate application); and
- Relocation of the shared drop off zone further to the east, away from O'Riordan Street.

The modification 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 modified 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(2) – Other modifications

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 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)*

The modifications result in a 3 metre increase to the approved height, however, there is no change in the number of storeys, with the additional height coming from a minor increase in the floor to ceiling height for each level. Furthermore, the large architectural feature on the roof, which accommodated flush wall signage on the northern and southern elevations have been removed and replaced with a smaller structure to shield the roof top plant. Additionally, the additional height results in a height that is still under the 41 metre Height of Building development standard as prescribed in the Botany Bay LEP 2013.

There is no increase in the approved footprint of the building and the number of storeys, and hence there is no increase in the gross floor area and therefore no changes to the approved Floor Space Ratio. The internal modifications are accordingly contained within the same footprint, and there is a decrease in the number of approved rooms from 251 to 235.

The shared drop off zone does not change in its size and is relocated further east closer to the ground floor lobby area.

With all of the above considered, it can be concluded that the consent authority is satisfied that the proposed modifications will result in substantially the same development.

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

No concurrence was required.

- (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*

The application was placed on public exhibition from 28 February to 13 March 2018.

- (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 and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B5 Business Development zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development will be modifying the approved use of the site as a 'hotel' development, which is permissible with consent in the B5 zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objectives of the B5 Business Development zone, namely to continue enabling a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of centres.
What is the height of the building?	Yes	The maximum building height allowed on the subject site is 44m. The DA approved height was at 30.03m. The proposed modifications increase the height to 33.05m.
Does the height of the building exceed the maximum building height?	No	N/A
What is the proposed FSR?		A maximum FSR of 3:1 applies.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Does the FSR of the building comply the maximum FSR?		<p>In accordance with the Title Search, the subject site is Lot 41 DP1097376 and the site area is 5,068.4m² which includes the work site, the railway corridor and the strip of land located to the southern side of the railway corridor.</p> <p>The DA approved GFA was 6,932m² for the hotel (FSR of 1.38:1). The proposed modifications result in no increase of the FSR.</p>
The following provisions in Part 6 of BBLEP 2013 apply:		
6.3 – Stormwater management	Yes	The modified plans have been assessed by Council's Development Engineer, with modified / additional conditions.
6.8 – Airspace operations	Yes	The subject site lies within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50ft (15.24m) above existing ground height without prior approval of the Civil Aviation Safety Authority. The modified plans have therefore been referred to Sydney Airports Corporation Limited (SACL) for consideration. SACL raised no objections to the proposed maximum height of R.L.36.6m above AHD, subject to conditions to be imposed on any consent.
6.9 – Development in areas subject to aircraft noise		<p>The subject site is affected by the 25-30 ANEF contour. An acoustic assessment was considered as part of the DA, with recommendations imposed as conditions of consent.</p> <p>Given that there is a reduction in the number of approved rooms, it is considered that the use is not as intense as that approved, and hence the recommendations as approved as part of the development application can be applied to this modification.</p>

The objectives and provisions of the Botany Bay LEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Botany Bay LEP 2013.

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

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

Part 3A – Parking and Access

There is a reduction in the number of rooms from 251 to 235 rooms. Using the calculations made in the original DA assessment, the hotel will require a total of 94 spaces are required for the proposed rooms. Condition 2B was imposed as part of DA-3013/197/02 imposed a condition relating to the neighbouring property to the east (Lot 51 in DP 1097377) for the purposes of parking 98 vehicles for hotel guests and staff.

The taxi and coach pick up and set down zone along Baxter Road has been relocated further to the east to be closer to the main entrance. This has been reviewed by Council's Coordinator of Traffic and Road Safety and is considered acceptable.

A total of 10 bicycle spaces are provided to the east of the building, which exceeds the 10% equivalent of required car parking spaces to be provided for the development.

Part 3C – Access and Mobility

An amended Access Report was lodged in support of this application. It has been reviewed by Council and was considered acceptable.

Part 3G – Stormwater Management

This has been reviewed by Council's Development Engineer. It was considered that there were no changes required to the conditions imposed as part of the DA consent, nor was there a requirement to impose additional conditions.

Part 3J – Aircraft Noise and OLS

The subject site is affected by the 25-30 ANEF contour. An acoustic report was prepared and lodged with the development application. It concluded that the proposal will comply with AS2020-2000 provided the measures recommended are implemented.

The Acoustic Report prepared by Renzo Tonin Associates Pty Ltd concluded that the proposal will comply with AS2020-2000 provided the measures recommended are implemented. Condition 33 of the development consent prescribed the recommendations to be undertaken.

Given that there is a reduction in the number of approved rooms, it is considered that the use is not as intense as that approved, and hence the recommendations as approved as part of the development application can be applied to this modification.

With respect to the OLS, it was referred to the Sydney Airport Corporation Limited, and stated no objections to the changes.

Part 3L – Landscaping

Amended landscape plans were lodged as part of this application. This has been reviewed by Council's Landscape Architect and has recommended that condition 43 is amended to incorporate the amendments to the landscaping.

Part 6 – Employment Zones

Control	Proposed	Complies
6 Mascot Business Development Precinct		
C6 Development within 25m of either side of the Airport Line Tunnel is to be referred to RailCorp.	There is no change to the size of the building footprint. Accordingly, it was considered that no referral to RailCorp was required.	N/A
6.3.3. Floor Space Ratio		
C1 Max. 3:1 FSR as identified in the BBLEP 2013.	The DA was approved with a FSR of 3.58:1. There is no increase to the FSR as part of the proposed amendments.	Yes
6.3.4. Building Design and Appearance		
C1 Max. 44m from NGL as identified in the BBLEP 2013.	The proposed height is to increase to 33.05m, however, it is still well under the prescribed development standard.	Yes
6.3.5. Setbacks		
C1 Setbacks are to be in accordance with the following: Landscape Setback: <ul style="list-style-type: none"> • Front (non-classified road) – min. 3m • Front (classified road) – min. 4m • Side (adjoining to non-residential use) – 2m • Rear – 0-3m Building Setback: <ul style="list-style-type: none"> • Front – min. 9m • Side (adjoining to non-residential use) – 2m • Rear – 0-3m 	The footprint of the building has not changed from that was approved as part of the DA.	Yes
Part 7F – Hotel and Motel Accommodation		
C4 Minimum 5.5m ² room size per person staying within the room.	All room sizes are greater than 5.5m ² .	Yes

C7 Allow a small kitchenette with adequate cupboards and shelves.	All rooms provide a small kitchenette.	Yes
C9 Bathrooms must be provided in accordance with the BCA.	A separate bathroom is provided within each hotel room in accordance with the BCA.	Yes
C10 The design and operation of hotel and motel accommodation must take into account possible noise impacts on adjacent properties and the surrounding area.	Given that the site proposes a less intensive use than that approved with relation to the number of rooms, it was considered that no revised acoustic report was required. Accordingly, any recommendations made in the report prepared for the DA will remain in place, inclusive of any conditions imposed.	Yes
C11 A Plan of Management (POM) which describes how the ongoing operation of hotel and motel accommodation will be managed to reduce its impact upon the amenity of surrounding properties is required to be submitted. A condition of consent may require that a POM be regularly revised and submitted to Council.	A Plan of Management will be provided prior to the operation of the hotel. The DA consent approval has appropriately been conditioned.	Yes

Part 7G – Licenced and Late Night Trading Premises

The approved development was identified to be Category 2 premises with potential high impact to the neighbourhood at the time of the DA assessment. This status has not changed with the proposed modifications subject to this application.

The subject site is surrounded by and commercial premises and is located within the business area in Mascot precinct. The approved hotel will operate similar to other hotels in the area and is unlikely impose major noise and safety impact to the adjoining properties and the surrounding areas.

Part 7J – Uses Involving the Preparation and Storage of Food

A restaurant and bar was approved on the ground floor. The proposed modifications do not include any reconfiguration of the restaurant and bar area. Accordingly, the conditions imposed on the DA consent remain unchanged.

Part 8.7 – Mascot Character Precincts

Part 8.7.2 Desired Future Character of the Mascot Precinct has been considered in the assessment of the application. This section provides a rationale for determining the strategic direction for development in Mascot.

The site is surrounded by B5 Business Development zone and is located within walking distance to the B2 Local Centre zone of Mascot along Botany Road located to the east of the site.

O'Riordan Street is nominated as a gateway area of the Sydney Kingsford Airport and the subject site is located at the entrance of this gateway. Minimum seven (7) hotels are construction or approved within close proximity to the site and along O'Riordan Street. These include the existing Stamford Plaza Hotel, Quests Service Apartment, Ibis Sydney Airport Hotel and the Holiday Inn.

The proposal is compatible with the desired future character of the business precinct in Mascot given its proximity to the airport. The subject development application also maintains a reasonable amount of permeable landscaped area on site and the site coverage does not result in an over development of the site.

Accordingly, the proposal is suitable for the subject site and is deemed to be compatible with the desired future character as described in the BBDCP 2013 for Mascot Precinct.

S.4.15(1)(a)(iv) - Provisions of regulations

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

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

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

Comments from CASA

Sydney Airport Corporation Limited requested an amended Wind Shear report, which they then referred to the Civil Aviation Safety Authority (CASA). It advised that the report was acceptable. It recommended no further assessment and no additional mitigations are required regarding the risk to aviation safety from the building induced wind effects.

Design of hotel building

Whilst there have been no changes to the building footprint, the subject application presents significant changes to the façade design when compared to the approved development application plans. The modifications incorporate glass cladding on the upper floors, the use of aluminium in the façade panel and wall in dark granite cladding on the ground floor. The colour palette has also been modified, with contrasting light and dark shades used throughout the building.

It is considered that these modifications are acceptable and will complement the existing Baxter Road and O'Riordan Street streetscapes.

Signage

The approved development application plans indicated a full schedule of signage, including a number of business identification signs. However, the amended plans indicate no signage. The applicant has confirmed that for the purposes of this application that all signage has been removed, with any future signage to either comply with the relevant exempt provisions under the Advertising and Signage Exempt Development Code or as a future development application.

Disabled access

An amended Access Report was lodged with the application. This has been reviewed by our Certification team and it was determined to be acceptable.

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

The proposal does not alter the conclusions that were resolved and approved within the development consent and subsequent modifications. It does not impact on the zone of influence with the railway and Sydney Airport.

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 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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

Modification Application No. 2013/197/04 for amendments to the approved hotel development, relating to modifications of the façade, increase in the height, internal modifications and relocation of the shared drop off zone on Baxter Road at 40-54 Baxter 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 conditions of consent.

Attachment**Schedule 1 – Conditions of Consent****Premises: 40-54 Baxter Road, Mascot****DA No: 2013/197/04****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

Drawing No.	Plan Description	Issue	Author	Dated Received by Council
DA-001 SP01 Rev C	Existing Plan & Site Analysis Site Plan (DA-2013/197/04)	-	Nettleton Tribe Partnership Pty Ltd FDAT Architects LLP (DA-2013/197/04)	Dated 24 July 2014 and received by Council on 25 July 2014
DA-002 FP01 Rev C	Site Plan Ground Level Plan (DA-2013/197/04)	-		
DA-011 FP02 Rev C	Ground Level Plan Typical Level Plan – 1st Level (DA-2013/197/04)	-		
DA-012 FP03 Rev C	Level 1 Floors Plan Typical Level Plan – 2nd, 4th, 5th and 7th Level (DA-2013/197/04)	-		
DA-013 FP04 Rev C	Level 2-6 Plan Typical Level Plan – 3rd and 4th Level (DA-2013/197/04)	-		
DA-014 SE01 Rev C	Level 7 Plan North Elevation (DA-2013/197/04)	-		
DA-015	Plant Level Plan South Elevation	-		

Drawing No.	Plan Description	Issue	Author	Dated Received by Council
SE02 Rev C	(DA-2013/197/04)			
DA-017	Area Calculations			
SE03 Rev C	East Elevation (DA-2013/197/04)	-		
DA-021	North Elevation			
SE04 Rev C	West Elevation (DA-2013/197/04)	-		
DA-022	West Elevation	-		
DA-023	South Elevation	-		
DA-024	East Elevation	-		
DA-031	External Finishes	-		
DA-026	Signage Details	-		
DA-031	East-West Section	-		
DA-032	North-South Section	-		
DA-040	Shadow Diagram	-		
DA-051	Perspective View 1	-		
DA-052	Perspective View 2	-		
DA-053	Perspective View 3	-		
-	Design Statement	-		
-	Landscape Plan (DA-2013/197/04)	E	Taylor Brammer Landscape Architects Pty Ltd	Dated 18 September 2013 and received by Council on 25 July 2014
SW1	Stormwater Drainage Project Information	1	Donnelley Simpson Cleary Consulting Engineers	Dated 17 September 2013 and received by Council on 25 September 2013
SW2	Stormwater Drainage Site Plan	1		
ES1	Erosion & Sediment Control Plan Project Information	1		
ES2	Erosion & Sediment Control Plan Site Plan	1		

Document(s)	Author	Date received by Council
Statement of Environmental Effects	JBA Urban Planning Consultants Pty Ltd	Dated July 2014 and received by Council on 25 July 2014
Energy Efficiency Report	Donnelley Simpson Cleary Consulting Engineers	Dated 16 September 2013 and received by Council on 25 September 2013
Transport Assessment	Henson Consulting	Dated July 2014 and received by Council on 25 July 2014
Initial Geotechnical Site Assessment	Coffey Geotechnics Pty Ltd	Dated 30 August 2013 and received by Council on 25 September 2013
Stage 1 Preliminary Contamination Assessment		
Acoustic Report	Renzo Tonin Associates (NSW) Pty Ltd	Dated 20 September 2013 and received by Council on 25 September 2013
Access Report	Accessible Building Solutions (DA-2013/197/04)	Dated 19 September 2013 and received by Council on 25 September 2013 14 February 2018
BCA Assessment Report	Blackett Maguire + Goldsmith	Dated 18 September 2013 and received by Council on 25 September 2013
Waste Management Plan	Construction Assignments Pty Ltd	Dated September 2013 and received by Council on 25 September 2013
Construction Management Plan		Dated 10 September 2013 and received by Council on 25 September 2013
Draft Head of Agreement (DA13/197/02)	N/A	Received by Council on 7 May 2014

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2A This consent for the use of the premises is limited to a period of 40 years *or any longer term granted under the lease by the registered proprietors of Part Lot 51 DP 1097377 to the hotel located on Lot 402 DP1215182 for car parking* from the date of issue of any occupation certificate. A new development application or Section 96 application is to be submitted 12 months before the lapse of the ~~40-year timeframe lease term demonstrating permanent retention seeking ongoing use~~ of the required parking on the Car Park Lots, or a suitable alternate and comparable location. The approved use may continue until the final

determination of the new development application/modification application. (DA13/197/02) (DA13/197/03)

~~Prior to the issue of the Construction Certificate, a Section 96(1A) Modification shall be submitted and approved by Council to DA12/154 excising 98 car spaces from the Park 'n' Fly development for the use of the hotel and to create a R.O.W. over Lot 51 DP1097377 for car parking in favour of Part Lot 41 DP1097376. Alternatively, the site Part Lot 41 should be consolidated with Lot 51 DP1097377.~~

- 2B Prior to issue of the Construction Certificate, the applicant shall provide evidence to the Council of the registration of an Easement for Car Parking in favour of the subject land, burdening the Car Park Part Lot (Lot 51 in DP 1097377 *(as marked in yellow on PLANX10231-98LS – Location Plan)* and ~~Part Lot 53 in DP 1097375~~), permitting parking of 98 standard passenger vehicles of hotel guests and/or hotel staff of the subject land. Any existing easements for access connecting Lot 51 in DP 1097377 through adjoining land or otherwise to a public road must be maintained. (DA13/197/02) (DA13/197/03)
3. The applicant must prior to the release of the stamped plans, pay the following fees:
 - a) Development Control \$1,350.00
 4. This Consent relates to land in part of Lot 41 DP1097376 and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent.
 5. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
 6. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
 7. No **additional** signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Council's

guidelines and State Environmental Planning Policy No. 64 Advertising and Signage. **(DA-2013/197/04)**

8. All internal access driveways, parking areas and pedestrian walkways shall be constructed in segmental pavers. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.
9. Any electrical kiosk, fire booster assembly or similar utilities must be housed within the external face of the building structure. If this cannot be achieved, and the applicant must demonstrate the reasons, they must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within landscaped areas. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development, streetscape or public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
10. Any sub-surface OSD tank or infiltration trench is required to be wholly located underneath paved areas to maximize the area available for deep soil tree planting and landscaping on the property.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

11. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
 - a) The property development at 40-54 Baxter Road, Mascot lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50ft (15.24m) above existing ground height (AEGH) without prior approval of this Corporation.
 - b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 36.6m above Australian Height Datum (AHD).
 - c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - d) Should you wish to exceed the above height, a new application must be submitted. 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. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
 - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;

- iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- e) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- f) For further information on Height Restrictions please contact Mr Peter Bleasdale on 02 9667 9246.
- g) 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 point.
- h) The height of the prescribed airspace at the site is 51m above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) regulations Statutory Rules 1996 No 293, "a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, protrude into PANS OPS airspace for the Airport, cannot be approved.

Bird and obstacle Hazard Management

- i) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport. To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscape design.
- j) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- k) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

Planning for Aircraft Noise and Public Safety Zones

- l) Current planning provisions (s.117 Direction 3.5 *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 the land planning tool for Sydney Airport was endorsed by Airservices on 13 March 2009 (Sydney Airport 2029 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.

12. The following conditions are imposed by the Ausgrid:

- a) Ausgrid has transmission cables that pass through part of this site. The cables are not to be built on or have the ground altered without permission from Ausgrid Transmission branch. It is advisable that DA applicant contact us with their proposal for this part of the site as soon as possible on (02) 4951 9200.
- b) Provision should be made for accommodation of an electricity substation within the premises a condition of any development consent.

13. The following conditions are imposed by Sydney Water:

Water

- a) The 100mm drinking water main fronting the proposed development in Baxter Road does not comply with the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012) requirement for minimum sized mains for the scope of development;
- b) The drinking water main needs to be upsized to a 150mm main; and
- c) The proposed drinking water infrastructure for this development will be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).

Wastewater

- d) A wastewater extension is required to service the proposed development;
- e) The proponent is to design and construct a wastewater main (connecting to the 225mm main constructed under WO 41468), which will provide a point of connection at least 1 metre inside all the property boundaries; and
- f) 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).

14. The following conditions are imposed by NSW Roads and Maritime Service (RMS):

- a) 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 AS2890.1-2004;
- b) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement;
- c) The proposed development will generate additional pedestrian movements in the area. Consideration should be given to ensuring pedestrian safety;
- d) The developer is to submit detailed drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The development is to meet the full cost of the assessment by RMS;

This report would need to address the following key issues:

- i) The impact of excavation/rock anchors on the stability of General Holmes Drive and detailing how the carriageway would be monitored for settlement; and
- ii) The impact of the excavation on the structural stability of General Holmes Drive;

The report and any enquires should be forwarded to:

Project Engineer, External Works
The Sydney Asset Management
Roads and Maritime Services
PO Box 973
Parramatta CBD NSW 2124

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 work.

- e) 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;
- f) Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre-development discharge; and
- g) All works regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

15. The following conditions are imposed by the NSW Police Service:

Surveillance

- a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS4806-2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- b) The system needs to consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
 - i) Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
 - ii) One or more cameras should be positioned at the entry and exit points to monitor these areas (car park, foyer entrance);
- c) 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. This equipment need to be checked and maintained on a regular basis;
- d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site;
- e) A monitor intruder alarm system which complies with the Australian Standard AS2001-1998 Systems installed within Clients Premises, should be installed within the premises to enhance the physical security and assist in the detection of unauthorised entry to the premises. This standard specifies the minimum requirements for intruder alarm equipment and installed system. It shall apply to intruder alarms systems in private premises, commercial premises and special installations. The system should be checked and tested on a regular (at least monthly) basis to ensure that it is operating effectively. Staff should be trained in the correct use of the system;
- f) The light emitting diodes (LED red light) within the detectors should be deactivated, to avoid offenders being able to test the range of the system;

- g) Consideration should also be given to incorporating duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as robbery NB Duress devices should only be used when it is safe to do so;
- h) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced;
- i) 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;
- j) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces;
- k) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are used or sporadically used after hours and unsupervised should not be accessible to the public;
- l) Uneven building alignments, inset doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences;
- m) 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; and
- n) Where views from the counter are restricted, the installation of convex mirrors to improve visibility from the counter. Ensure the location of advertising does not impede the view from the counter operator or surveillance cameras. Consideration should be given to the width, height and location of the counter areas. The counter should be designed to reduce the opportunity for assaults upon staff and unauthorised public access behind counters. It is advised that the minimum counter width should be 900mm and height minimum 1000mm.

Lighting

- o) 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 AS1158;
- p) 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);
- q) 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;
- r) 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; and
- s) The floors should be finished with a suitable non slip glossy texture which will provide maximum light reflection.

Territorial Reinforcement

- t) 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 *Local Government Act 1993*. Offences committed under Section 628 of the *Local Government Act 1993*

attract a maximum penalty of 50 penalty units (currently \$5,500.00) for an individual and 100 penalty units (currently \$11,000.00) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm;

- u) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime. These signs included:
 - i) Warning, trespasser will be prosecuted;
 - ii) Warning, these premises are under electronic surveillance;
 - iii) Don't leave valuables in the car;
 - iv) Warning, these premises are under electronic surveillance;
- v) Directional signage should be posted at decision making points (e.g. 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;
- w) 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;
- x) Signage needs to be provided at fire exits to assist customers to identify exits in emergency situations;
- y) Signage needs to be provided to assist staff and customers to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.;
- z) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours;
- aa) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development;
- bb) The exterior walls of the car park and commercial building must be constructed of materials that do not encourage graffiti. Solid concrete walls are an easy target as a canvass for graffiti offenders. Consider other materials and designs or even the use of vegetation to restrict the opportunities for graffiti. (Vegetation that covers solid plain walls).

Space/Activity Management

- cc) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace AS3745-2002 should be prepared and maintained by the 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>; and
- dd) Maintenance policies need to be developed and implemented for the proposed development to deal with rubbish collection and disposal, damage and repairs to property, e.g. Lighting and structures as quickly as possible.

Access Control

- ee) The door and door frames to these premises should be of solid construction;
- ff) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, Australian Standard AS4145-1993, 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 (e.g. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units;
- gg) 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. 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;
- hh) 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 AS4145 Mechanical Locksets for windows in buildings <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);
- ii) As your business may deal in cash a robbery prevention program needs to be established to ensure that management and staff are aware of their responsibilities in the event of such an event taking place. Establish clear cash-handling procedures within your business to reduce opportunities for crime. Staff should be trained in cash handling procedures to reduce opportunities for crime. Limit the amount of money carried in the cash drawer at any time (\$200.00 float). Lock cash drawers when not in use and clear money from the cash drawer on a regular basis, e.g. to a safe. Avoid counting cash in view of public. Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money. Avoid wearing uniform or identification when transferring money. Don't use conspicuous bank-bags when transferring money, as this can be a clear indication to the thief;
- jj) Entrance doors to commercial premises should include an electronically operated lock, which can be locked after hours to control access to the development. Staff could release this lock electronically from the safety of the counter area once the customer has been identified. This locking mechanism should be activated during the hours of darkness;

- kk) Any cash safe should be secured to the floor and placed away from view of the public. Staff should be trained in safe cash handling practices to minimise the loss of monies in the event of a robbery;
- ll) There needs to be a limit to how many exit and entry points are available to the car park;
- mm) Vertical fencing/barriers are required around the car park to restrict access and reduce the opportunity for offenders to climb the exterior; and
- nn) Pedestrian access over Joyce Drive to the airport.

16. The following conditions are imposed by the Australian Rail Track Corporation Ltd (ARTC):

- a) Though the development is not for residential use, the hotel may be noise and vibration sensitive. Therefore the consent authority must be satisfied that appropriate measures will be taken to ensure that the following L_{Aeq} levels are not exceeded:
 - i) in any bedroom in the building : 35dB(A) at any time 10prn-lam
 - ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time.
- b) If any cranes, concrete pumping or other equipment needs to enter rail corridor or its airspace, the process will need to be strictly managed and must not occur without written approval from ARTC.
- c) As the southern wall of the development is close to the rail corridor boundary fence i.e. 1 - 1.2 m, the building design needs to take into consideration that future maintenance will be undertaken safely including cleaning, painting and building repairs and whether rail corridor access will be required. Any rail corridor access will be subject to an agreement with ARTC.
- d) Discharge of stormwater during and after construction can potentially impact on rail operations. The drainage system needs to be designed so it directs water way from the rail corridor.
- e) The proposed development is within 20m of the nearest rail and needs to comply with the relevant sections of BCA and AS-5100 including AS5100.1.11. A risk assessment will need to be undertaken to determine the level of protection required.
- f) During construction, provision needs to be made to prevent damage to the rail corridor fencing.
- g) Minimal construction methodology including likely excavation was detailed in the supplied documentation but the ARTC also notes the preliminary geotechnical assessment was silent on possible excavation impacts on the rail corridor. Therefore as the subject site is within 25 m of the rail corridor and is likely to involve excavation greater than 2m, ARTC needs to review and comment on a future geotechnical assessment undertaken by a suitably qualified geotechnical engineer.

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

- 17. The City of Botany Bay being satisfied that the proposed development will increase demand for services and facilities within the area. Therefore, the Section 94 Contributions are required to be paid in accordance with Council's *Section 94 Contribution Plans 2005-2010* a sum of

\$126,633.49 listed below towards the provision of services is to be paid to Council prior to the issuing of a Construction Certificate.

a) Community Facilities	\$12,650.00
b) Administration	\$2,100.00
c) Shopping Centre Improvements	\$9,400.00
d) Open Space & Recreation	\$87,250.00
e) Transport Management	\$14,933.49

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

18. Prior to the issue of a Construction Certificate and subject to the approval of the Civil Aviation Safety Authority (CASA), the applicant is to provide roof-mounted solar collector panels below a height of RL 36.6m AHD to the rooftop area of the building. The collectors shall collect sufficient electricity to supply at least 20% of the building's energy requirements. Details of the panel system are to be provided with the Construction Certificate, including the approval of CASA.

19. Prior to the issue of a Construction Certificate the illuminated signage must be designed in conjunction with CASA's document "lighting in the vicinity of Aerodromes". Details of the compliance and approval of CASA must be provided to the Principal Certifying Authority.

20. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 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.

21. A Construction Management Plan (CMP) shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
 - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed;
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase;
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;

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

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

22. A detailed Traffic Management Plan (TMP) 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 O'Riordan St is required, the applicant is to submit documentary evidence to the Principle 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.

23. Prior to the issue of the Construction Certificate, the followings must be complied with:
- a) A concept plan of the cul-de-sac shall be submitted to Council together with a Traffic Management Plan prepared in accordance with RMS and Council's Guidelines;
 - b) A detailed construction plan of the cul-de-sac, incorporating Local Traffic Committee's recommendations, should be submitted to Council for approval.

24. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- 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 Council's Stormwater Management Technical Guidelines (STMG);
 - 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.
 - f) A bicycle way shall be incorporated into the design to shuttle bus set-down/pick-up area along Baxter Road.
25. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
26. 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.
27. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system; and
 - ii) The relocation and/or adjustment of the services affected by the construction.
 - c) As part of this development, the Ausgrid power and lighting poles along Baxter Road and O'Riordan Street, will need to be decommissioned and new underground and above ground infrastructure shall be provided as specified by Ausgrid and any other affected service provider. The location of the new electrical pillars and new lighting poles shall be confirmed with Council prior to the issue of the Construction Certificate.
- Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

28. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Stormwater Management Technical Guidelines (SMTG), AS/NSZ 3500 – Plumbing and Drainage Code and the Building Code of Australia. 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 Infiltration system in accordance with but not limited to Part 5 of the SMTG. A part infiltration, part OSD system may be considered in exceptional circumstances when it can be demonstrated to Council that all other options to regulate the discharge from the site have been exhausted;
 - b) Infiltration rates shall be determined by a suitably qualified geotechnical engineer and shall be part of the geotechnical report submitted to Council or alternatively the rate of 0.25L/m²/s shall be used;
 - c) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of the SMTG;
 - d) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of the SMTG;
 - e) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
 - f) Any proposed discharge to Council and/or RMS Kerb and Gutter shall be limited to 10L/s. If a higher rate is proposed, a connection shall be made to RMS/Council's underground stormwater drainage system. Any connection to a Sydney Water or RMS stormwater system will require specific approval from the relevant organisation; and
 - g) The submission of detailed calculations including computer modelling where required to support the proposal.
29. 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.
30. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the issue of the Construction Certificate.
- This plan shall incorporate and reference the construction environmental management plan and address site limitations.
31. The applicant shall submit to Council details of the construction and fit out of the food premises. Such details must demonstrate compliance with the following requirements:
- a) the *Food Act 2003*,
 - b) *Food Regulations 2004*;

- c) the Food Standards Code as published by Food Standards Australia and New Zealand; and
- d) the Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

Details to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

32. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

33. The measures required in the acoustical assessment report prepared by Renzo Tonnin, dated 20 September 2013, shall be undertaken in accordance with the provisions of Australian Standard AS2021-2000: *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 as per Table 6 of the report to all stated windows and doors. Acoustic seals should be provided to all windows. Greater glazing thicknesses may be required for structural and wind loading.
 - b) External walls shall have a sound isolation rating of at 15dB higher acoustic performance than that of the acoustic glazing specified in Table 6 above.
 - c) Roof/ceiling constructions shall have a sound isolation rating R_w of at least 10dB higher than that of the acoustic glazing on the façade walls.
 - d) Acoustically treated mechanical ventilation – the ductwork connecting the plant room and western façade be encased in 13mm plasterboard to prevent noise penetration into the office area via the external louvre.

34. A public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape Development Control Plan and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. The plan shall include the following improvements:
 - a) after formwork installation and to prior pouring the concrete blinding slab;
 - b) at the commencement of paving works; and
 - c) at final completion.

35. Prior to the issue of the Construction Certificate, the landscape plan prepared by Taylor Brammer, LA01, Issue E, dated July 2014 shall be amended to show the *Corymbia Maculata* instead of the *Eucalyptus Robusta*.

36. A swept path diagram which shows the longest vehicle entering and existing the subject site as well as manoeuvrability through the site from O'Riordan Street in accordance with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) shall be submitted for Council's approval prior to the release of the Construction Certificate. It is noted that all vehicles must be able to enter and leave the subject site in a forward direction.

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

37. The development is to be constructed to meet the requirements detailed in the approved acoustic report (Renzo Tonin Associates Pty Ltd dated 20 September 2013), the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997* as detail as below:
- a) Construction period of 4 weeks and under:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).
 - b) Construction period greater than 4 weeks and not exceeding 26 weeks:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00 am to 06:00 pm
 - ii) Saturday 07:00 am to 04:00 pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) All possible steps should be taken to silence construction site equipment.
38. All management measures recommended and contained within the approved Soil and Water Management Plan prepared by Donnelley Simpson Cleary Consulting Engineers 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 and made available to council officers on request.
39. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural 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.

- 40.
- a) The applicant shall arrange with NSW Road and Maritime Services (RMS) for any required Road Occupancy Licence prior to commencement of any road works; and
 - b) The applicant shall submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the *Roads Act 1993* has been issued by the Roads and Maritime Service (RMS).
41. 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.
42. Shaker pads 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.
43. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993* as appropriate:
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit for roads and footways occupancy (long term/ short term);
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever;
 - f) Permit to place skip/waste bin on footpath and/or nature strip;
 - g) Permit to use any part of Council's road reserve or other Council lands;
44. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

- c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
45. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
46. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
 - b) Prior to placement of concrete (kerb and gutter and footpath);
 - c) Prior to construction and placement of road pavement materials; and
 - d) Final inspection.
- Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.
47. The approved Waste Management Plan (WMP) for the site prepared by Construction Assignments Pty Ltd shall be complied with at all times during demolition works and construction works.
48. 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 free copy of the sign is available from Council's Customer Service Counter.

DURING WORKS

49. 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.

50. 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.
51. 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*.
52. During demolition, excavation, construction and any associated deliveries 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.
53. The following shall be complied with at all times:
- a) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department;
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations, which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer; and
 - e) Shaker pads shall 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.
54. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

55. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures;
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - ii) Adequate provision must be made for drainage.
56. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved TMP and CMP at all times.
57. 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.
58. The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles;
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas;
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions;
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources;
 - e) All loads entering or leaving the site are to be covered;
 - f) The use of water sprays to maintain dust suppression;
 - g) Keeping excavated surfaces moist.
- 59.
- a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed

development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material;

- b) Any soil disposed of off-site shall be classified in accordance with the procedures in the *Department of Environment and Climate Change Waste Classification Guidelines 2008*, prior to being disposed of to a NSW approved landfill or to a recipient site;
- c) Any material containing asbestos found on site during excavation shall be removed and disposed of in accordance with:
 - i) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - ii) *Protection of the Environment Operations Act 1997*;
 - iii) *Protection of the Environment Operations (Waste) Regulation*; and
 - iv) *DECC Waste Classification Guidelines 2008*.

60. 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.

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

61. 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.
62. 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.
63. Prior to the issue of the Occupation Certificate:
- a) Replace all the existing above ground electricity and telecommunication cables to underground cables that adjoin the site and road reserve area fronting Baxter Road in accordance with the guidelines and requirements of the relevant utility authorities and Ausgrid. The applicant shall bear all the cost of the construction and installation of the below ground cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate; and
 - b) Provide appropriate and suitable street lighting to a high decorative standard to both street frontages of the site together with those internally publicly accessible paths, spaces and corridors, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.

64. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
65. Prior to the issue of the Occupation Certificate the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.
66. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustical assessment report prepared by Renzo Tonin Associates Pty Ltd, received by Council 25 September 2013 have been carried out and certify that the construction meets Australian Standards AS2021-2000 and AS3671-1989 and specified indoor sound levels. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
67. Prior to the issue of the Occupation Certificate, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading dock, pick-up/drop-off zone, car parking areas (including queuing area, turning area and disabled parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with Australian Standards AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.
68. Prior to the issue of the Occupation Certificate, minimum of **two (2)** accessible off-street car parking bays and **one (1)** medium rigid vehicle (MRV) loading and unloading bay shall be provided within the property boundary in accordance with the approved architectural plans.
69. 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.
70. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
 - a) On Baxter Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications;
 - b) On Baxter Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications;
 - c) On Baxter Road, adjacent to development, reconstruct full width of road asphalt, in accordance with Council's Infrastructure Specifications; and
 - d) On O'Riordan St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.

71. Prior to the issue of the Occupation Certificate a sign shall be erected within or adjacent to the garbage room encouraging residents to recycle and not place recyclables into waste bins. The sign shall be a minimum of A3. Details of an acceptable wording for the sign are available from Council's Internet site at <http://www.botanybay.nsw.gov.au>.
72. The public domain improvements works shall be completed prior issue of Occupation Certificate and in accordance with the public domain improvements plans which was approval in Condition No. 34 of the consent.
- 73.
- a) Landscaping shall be installed in accordance with the amended landscape plan submitted and approved by Council in accordance with Condition No. 35 of the consent.
The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times.
 - i) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 26 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.
 - ii) 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 an Occupation Certificate.
 - b) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, 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.
 - c) Concrete wheel stops shall be installed in all car spaces adjoining garden beds in accordance with Council specifications and Australian Standard AS/NZS 2890.1:2004 prior to the issue of an Occupation Certificate to prevent overhang and damage to garden beds.
 - d) 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 **\$10,000.00** 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 **\$550.00** (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.

- e) The applicant is to submit payment for a Street Tree Maintenance Bond of **\$10,000.00**. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If a 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.
 - f) The Applicant is to submit payment for a Public Works Defects Liability Bond of **\$25,000.00**. 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 new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
74. Prior to the issue of the Occupation Certificate the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.
75. Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the *Conveyancing Act 1919* shall be created for the following items:
- a) Register the constructed rainwater re-use and OSD/absorption system will be adequately maintained, in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council.
 - b) ~~Register a minimum of ninety-eight (98) off-street car parking bays shall be provided within the adjoining lot known as Lot 51 in accordance with the draft Head of Agreement submitted to Council on 7 May 2014 in favour of Lot 41 DP1097376 as the benefiting authority and burdening Lot 51 DP1097377 for the car park. (DA13/197/02)~~
- The relative location of the OSD/absorption system and car park in relation to the building footprint shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
- 75A Prior to the issue of any Occupation Certificate, the applicant shall provide evidence to the Council of the execution by the owner of the subject land and the owner of Part Lot 51 DP1097377 (as marked in yellow on PLANX10231-98LS – Location Plan) (Car Park Lots) of

an Agreement for Lease for a term (inclusive of any options for renewal) of not less than 40 years, allowing the owner/occupier of the subject land to park 98 standard passenger vehicles of hotel guests and/or hotel staff on the Car Park Lots. The Lease attached to the Agreement for Lease, need not locate the required car parking in positions adjacent to or adjoining one another. (DA13/197/02) (DA13/197/03)

76. Prior to the issue of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
77. Prior to the issue of the Occupation Certificate 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.
78. At the completion of landscaping on the site and public domain areas, 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 an Occupation Certificate and to address the following:
 - a) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, 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.
 - b) Any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be 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.
 - c) New street trees shall be maintained by the Owner for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
 - d) Upgrade the public domain by the reconstruction of the road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the street frontage Baxter Road and O'Riordan Street of the site, at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections, the approved civil works construction plans and landscape plans of this Consent.
79. All construction works for the cul-de-sac must be undertaken and completed in accordance with the approved Engineers design as identified in Condition No. 23 and if necessary,

compliance with any matters that may arise following the consideration by the Local Traffic Committee of the Baxter Road cul-de-sac requirement.

80.

- a) 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*;
- b) Condition Numbers 61 to 79 (inclusive) of this consent are pre-conditions to the issue of the Occupation Certificate.

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

- 81. All vehicles entering and exiting the subject site shall be in accordance with the swept path diagram approved in Condition No. 36 of the consent.
- 82. A shuttle bus required to service the Hotel must be provided to transport occupants to and from the development site to the Sydney Airport and to the Sydney City. Should the shuttle bus no longer be provided, for whatever reason a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the use.
- 83. The bus zone and pick-up/drop-off zone shown on the approved architectural plans shall be set aside for bus and pick-up/drop-off purpose only and shall not be used for other purposes. No vehicles shall be permitted to park in these areas.
- 84. The Food Business must appoint at least one trained Food Safety Supervisor. The person nominated must obtain a Food Safety Supervisor Certificate that is current (by completing Food Safety Supervisor training with a registered training organisation (RTO) approved by the NSW Food Authority or by submitting an FSS certificate request form). The certificate must be kept on the premises at all times.

In the event that the person appointed as Food Safety Supervisor leaves the business another person within the organisation must be appointed as a Food Safety Supervisor and must undertake all required training to gain certification.
- 85. The operations of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 86. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997* and shall be controlled in accordance with the requirements of this Act.

87. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA₉₀ level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

88. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:

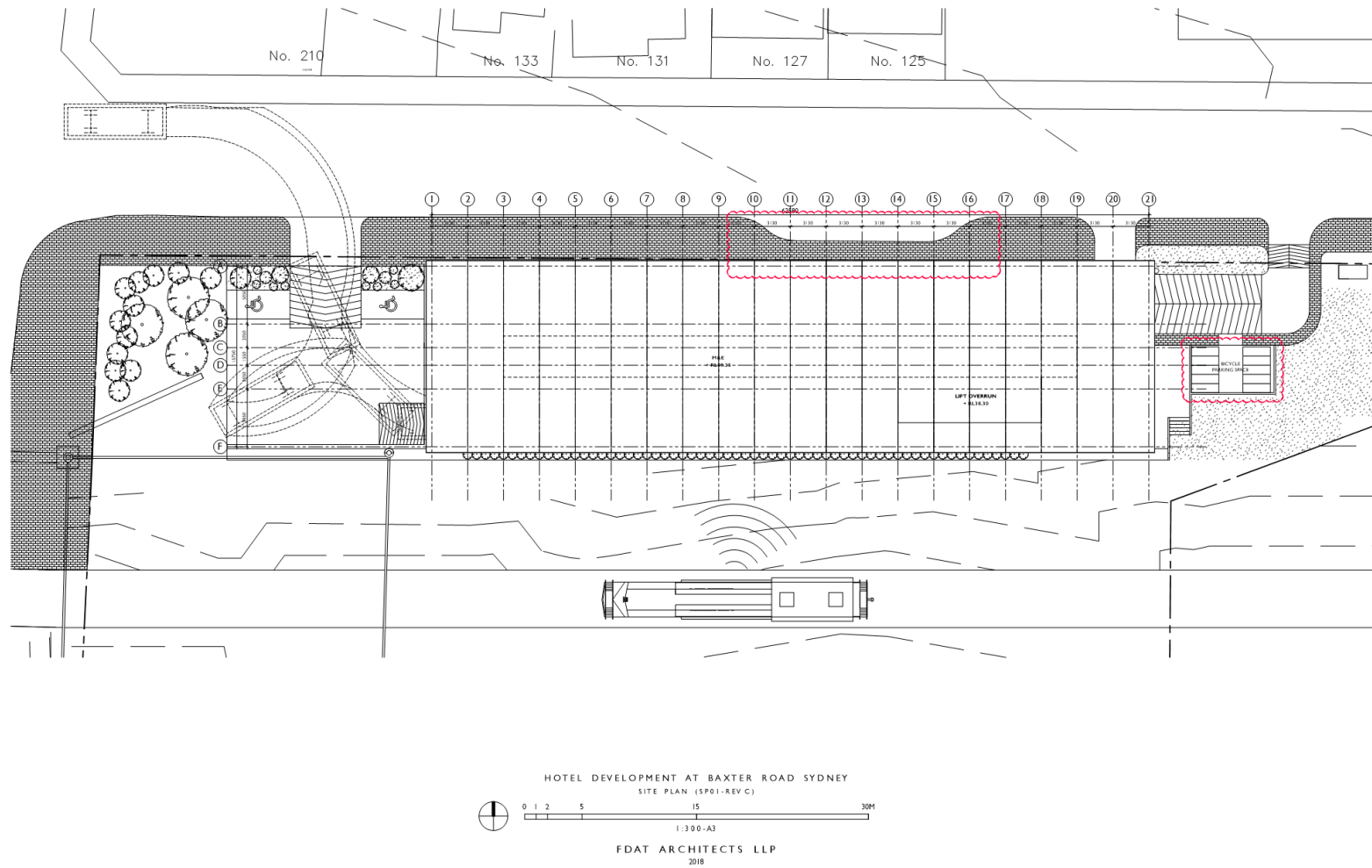
- a) Where waste and recycling containers need to be moved to the street;
- b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
- c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
- d) Refuse containers are not to be left on the street for longer than 24 hours;
- e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
- f) Providing and maintaining signage and information to uses to encourage recycling.

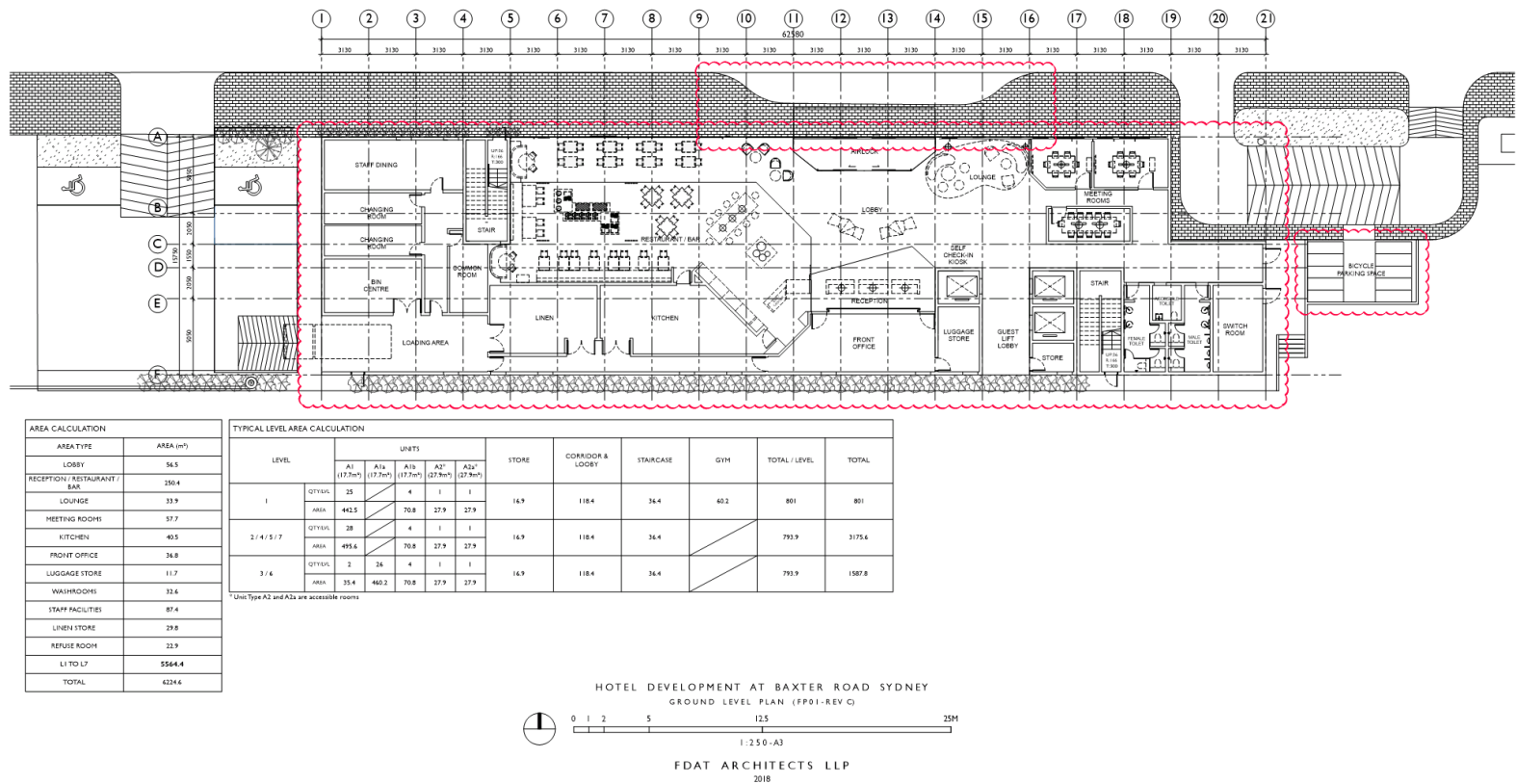
89. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system 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.

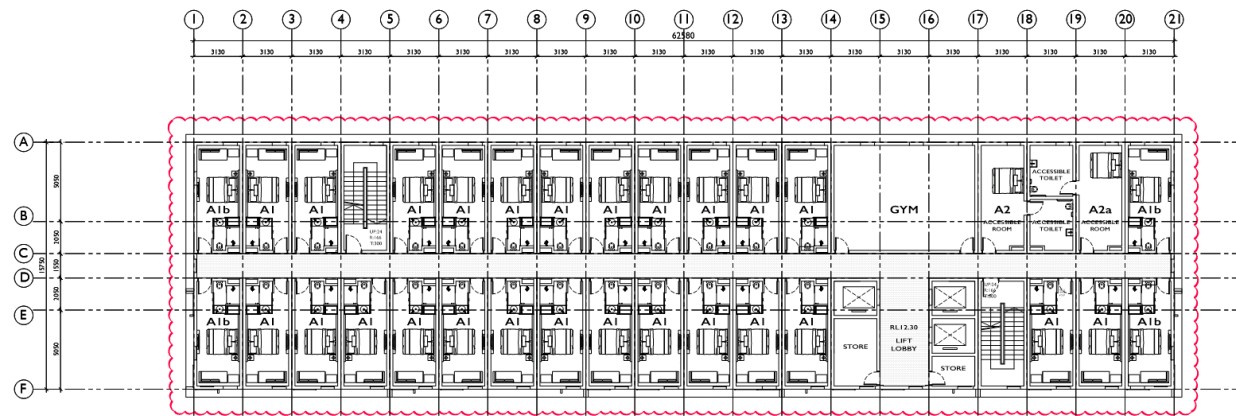
90.

- a) The approved WMP for the site prepared by Construction Assignment Pty Ltd dated September 2014 shall be complied with at all times during demolition works, construction works, and use of the premises; and
- b) The building owner shall be provided with at least one copy of the waste management plan. The approved WMP shall be complied with at all times.

91. The operation of the development and movements of vehicles shall comply with the following requirements:
- a) The largest size of vehicle accessing the development shall be restricted to MRV;
 - b) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the loading dock;
 - c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses to the loading dock;
 - d) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (e.g. footpath, nature strip, road shoulder, road reserve etc.);
 - e) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
 - f) Maximum number of delivery vehicles on-site shall be limited to one (1).
- 92.
- a) The operations of the site must at all times fully comply with the requirements of the approved Plan of Management for the site; and
 - b) At all times the approved Workplace Travel Plan shall be fully complied with.
93. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
94. New street trees shall be maintained by the Applicant/Owner/Operator for 12 months after planting. Maintenance includes twice weekly watering to sustain adequate growth and fertilising but does not include trimming or pruning the trees under any circumstances.
95. 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. 13/197 dated as 25 September 2013 and amended by subsequent Section 96 applications and ~~on 25 July 2014 and as amended by Section 96(1A) application (DA13/197/02)~~ a request for modification pursuant to Section 80A(1)(b) and Section 80A(5) of the Environmental Planning & Assessment Act 1979 received by Council on ~~28 October 2015~~ 22 December 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council. (DA13/197/03)

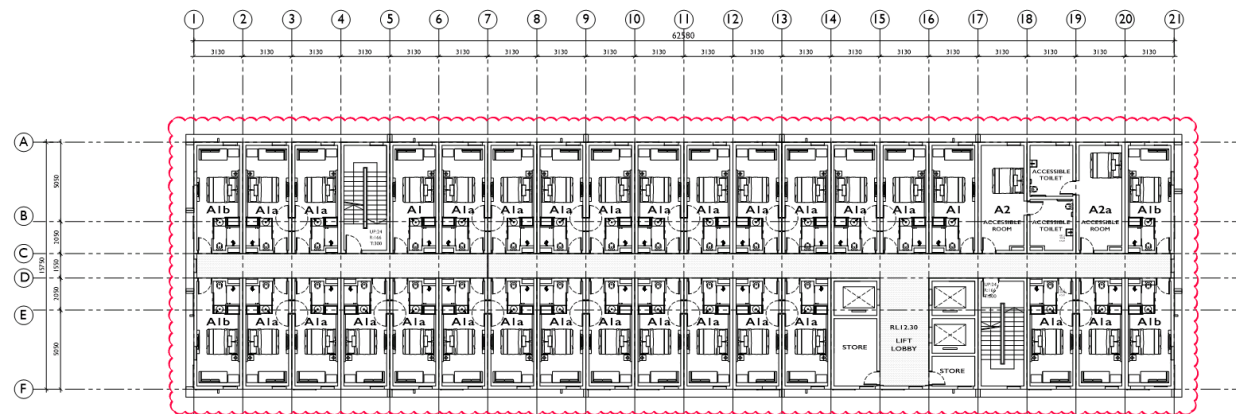




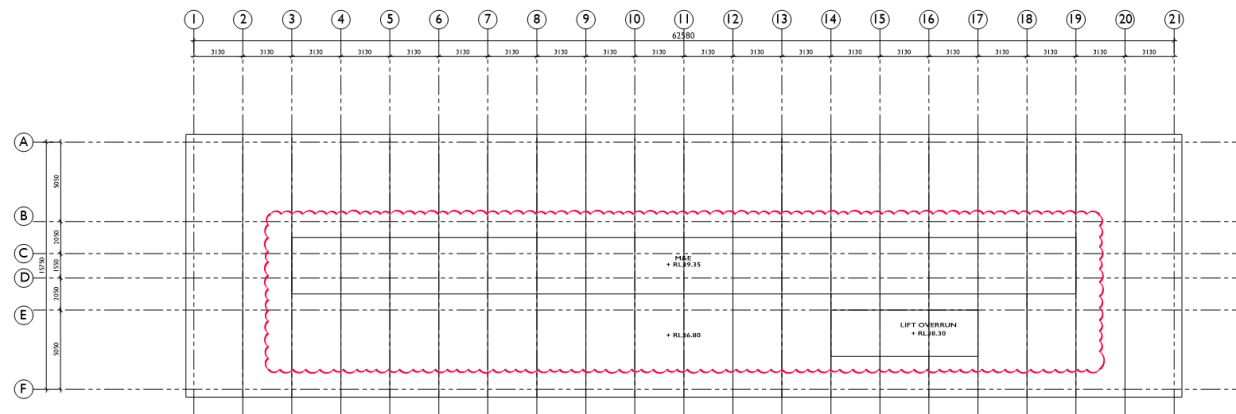


HOTEL DEVELOPMENT AT BAXTER ROAD SYDNEY
TYPICAL LEVEL PLAN - 1ST LEVEL (FP02-REV C)
0 1 2 5 125 25M
1:250-A3
FDAT ARCHITECTS LLP
2018



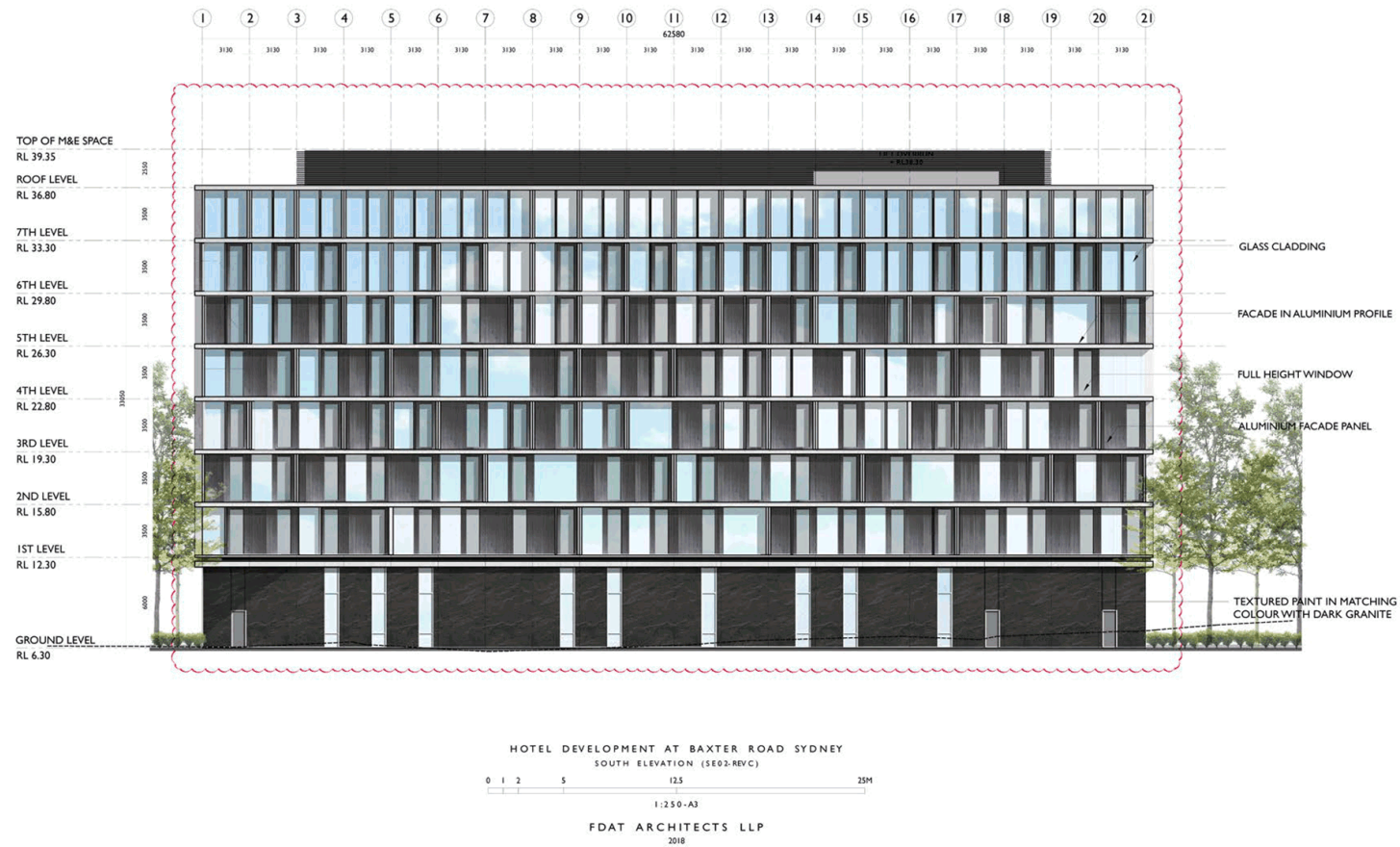


HOTEL DEVELOPMENT AT BAXTER ROAD SYDNEY
TYPICAL LEVEL PLAN - 3RD & 6TH LEVEL (FP04-REV C)
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1:250-A3
FDAT ARCHITECTS LLP
2018



HOTEL DEVELOPMENT AT BAXTER ROAD SYDNEY
ROOF LEVEL PLAN (FP03-REV B)
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1:250-A3
FDAT ARCHITECTS LLP
2018







HOTEL DEVELOPMENT AT BAXTER ROAD SYDNEY
EAST ELEVATION (SE03-REV C)
0 1 2 5 12.5 25M
1:250-A3
FDATE ARCHITECTS LLP
2018





Bayside Local Planning Panel

11/09/2018

Item No	6.8
Application Type	Development Application
Application No	SF18/1844
Lodgement Date	18/10/2017
Property	DA-2017/1185 - 256 Coward Street, Mascot
Ward	Mascot
Owner	JKN Coward Pty Ltd
Applicant	Krikis Tayler Architects
Proposal	Reconfiguration of the approved Building A to provide 17 additional units
No. of Submissions	Nil
Cost of Development	\$4,829,698
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel support the variation to clause 4.4 relating to Floor Space Ratio in the Botany Bay Local Environmental Plan 2013 in accordance with the request under clause 4.6 submitted by the applicant.
 2. That Development Application No. DA-2017/1185 for the reconfiguration of the approved Building A to provide 17 additional units be APPROVED subject to recommended conditions of consent.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Amended Clause 4.6 Variation [↓](#)
- 3 Elevations [↓](#)
- 4 Sections [↓](#)

Application Details

Application Number:	DA-2017/1185
Date of Receipt:	18 October 2017
Property:	256-280 Coward Street, Mascot
Lot & DP/SP No:	Lot 3 in DP 1221649
Owner:	JKN Coward Pty Ltd
Applicant:	Krikis Tayler Architects
Proposal:	Reconfiguration of the approved building to provide 17 additional units
Recommendation:	Approve the development, subject to conditions
Value:	\$4,829,698
No. of submissions:	Nil
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	11 September 2018

Key Issues

Bayside Council received Development Application No. 2017/1185 on 18 October 2017 seeking consent for reconfiguration of the approved building to provide 17 additional units at 256-280 Coward Street, Mascot.

The application is referred to the Bayside Local Planning Panel as the proposed works will involve a further increase to the Floor Space Ratio that is beyond what was approved by the former Sydney East Joint Regional Planning Panel under DA-2014/146.

The application was placed on public exhibition from 15 November 2017 to 29 November 2018. No submissions were received.

Key issues with this application relate to the further additional gross floor area across the subject site.

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

Recommendation

That the Development Application No. 2017/1185 for the reconfiguration of the approved building to provide 17 additional units is **APPROVED** subject to conditions.

Background

History

On 12 June 2015, DA-2014/146 was approved by the now former Sydney East Joint Regional Planning Panel for the following:

- Demolition of the existing commercial building, removal of trees and construction of two 14 storey mixed use buildings containing 1440m² of retail and 499 residential units;
- Three basement levels and one ground level of parking below Building A, linking with the basement for the adjoining building at 39 Kent Road;
- One basement level and three above ground parking levels for Building B;
- A total of 792 car parking spaces plus a public pay car park for approximately 93 car parking spaces;
- A Voluntary Planning Agreement for works which include the dedication and embellishment of a through site link to provide public pedestrian access from Coward Street to John Street, and the provision of a public pay car park accommodating approximately 93 car parking spaces.

On 1 July 2016, an application to modify the consent under the former Section 96(1A) provisions (now known as Section 4.55(1A)) was lodged with the City of Botany Bay (DA-2014/146/01) to amend condition 43 regarding the timing of the Section 94 contribution. This was approved under delegated authority on 1 November 2016.

On 19 April 2017, an application to modify the consent under the former Section 96(2) provisions (now known as Section 4.55(2)) was lodged with Bayside Council (DA-2014/146/02) to modify the unit layouts within Building B. This was approved under by the SECPP on 5 October 2017.

On 18 October 2017, the current application was lodged with Council for the following:

- Additional 17 units for Building A; and
- Additional 17 units for Building B.

On 20 June 2018 the current application was revised to delete the additional units off Building B, and retain the additional 17 units on Building A, as well as minor amendments to five approved units.

On 29 March 2018, a 2 lot Stratum subdivision was approved under delegation, with Proposed Stratum Lot 100 to contain Building A and proposed Stratum Lot 101 to contain Building B. This was registered on 22 May 2018 (DP 1241951).

Proposal

This development application seeks consent for the four additional storeys at the western end of Building A (levels 9 through to 12), and 17 additional units and also the reconfiguration of five approved units. This is detailed further below:

New units

Unit	Bedrooms	Size	Other comments
A916	1	67m ²	Two storey unit with main entry on Level 9 and upper level on Level 10
A917	2	88m ²	Two storey unit with main entry on Level 9 and upper level on Level 10
A918	2	81m ²	Two storey unit with main entry on Level 9 and upper level on Level 10
A919	1	67m ²	Two storey unit with main entry on Level 9 and upper level on Level 10
A920	1	74m ²	Two storey unit with main entry on Level 9 and upper level on Level 10
A921	2	75m ²	Single storey unit
A922	1	57m ²	Single storey unit
A923	2	75m ²	Single storey unit
A1016	2	67m ²	Two storey unit with main entry on Level 10 and lower level on Level 9
A1116	2	87m ²	Single storey unit
A1117	2	75m ²	Single storey unit
A1118	1	57m ²	Single storey unit
A1119	2	75m ²	Single storey unit
A1216	2	87m ²	Single storey unit
A1217	2	75m ²	Single storey unit
A1218	1	57m ²	Single storey unit
A1219	2	75m ²	Single storey unit

Re-configured units

Unit	Approved size	Bedrooms	Proposed size	Bedrooms
A906	84m ²	1	78m ²	1
A1006	81m ²	1	78m ²	1
A1106	81m ²	1	78m ²	1
A1206	81m ²	1	78m ²	1
A1301	135m ²	3	135m ²	3

However, the additional units will further increase the approved Floor Space Ratio from 4.41:1 to 4.44:1, as there will be an increase of the floor area from 46,556m² as approved to 47,867m² (an additional 1,311m²). The additional 17 units will result in a total of 207 units for Building A (7 x studios, 106 x 1 bedroom, 74 x 2 bedrooms and 3 x 3 bedrooms).

There are no other changes proposed to Building A.

The amendments, as reproduced below are indicated by red clouding.

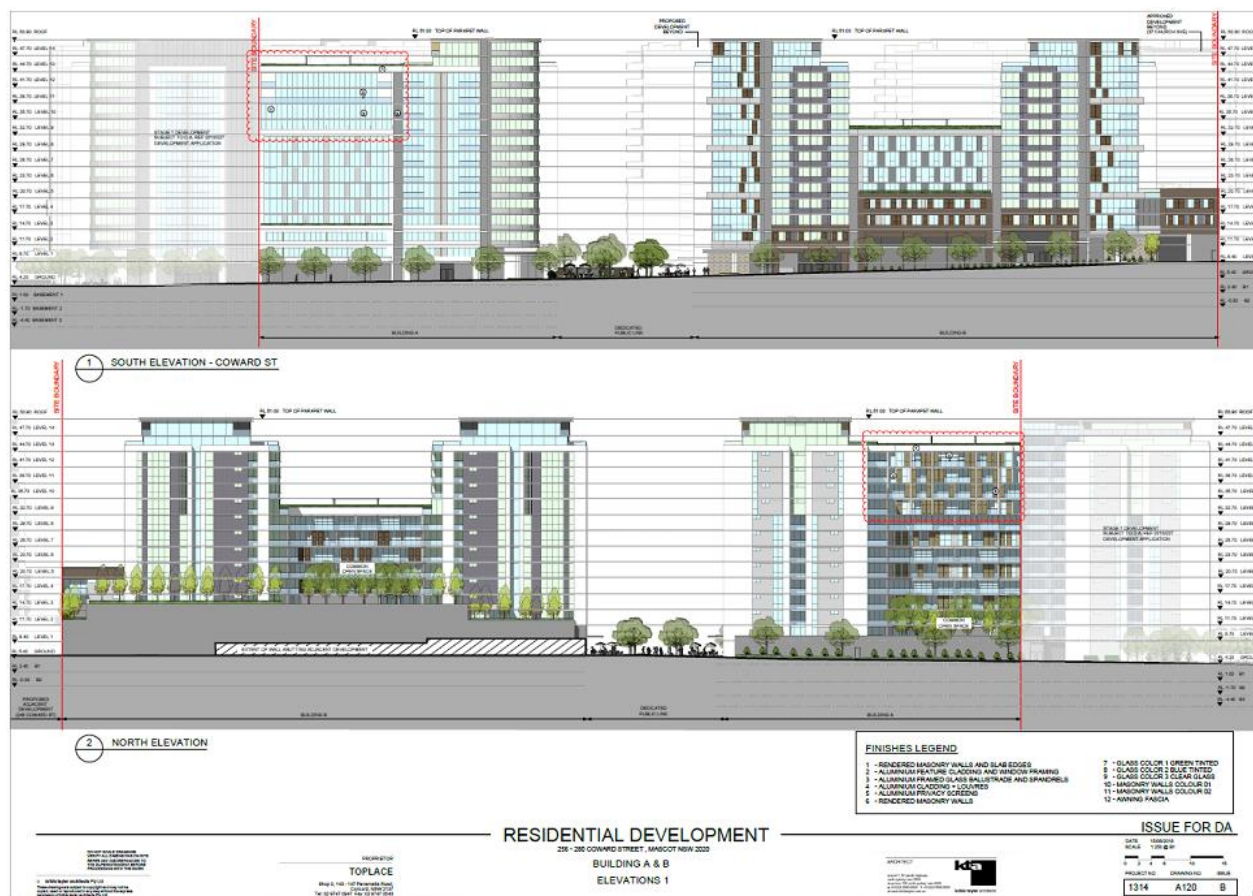


Figure 1: Elevations

Site Description

The subject site is commonly known as 256-280 Coward Street, Mascot (Pts 100 and 101 in DP 1241951). It is located on the northern side between Kent Road to the west and Bourke Road to the east. The site is rectangular in shape, an area of 10,780m², and at the time of the writing of this report is a cleared site, with construction of the DA approved building having commenced. The surrounding area is characterised primarily by various forms of residential accommodation, generally shop top housing developments, as well as a large number of industrial related uses, particularly to the south and to the west of Kent Road. The subject site is located to the west of the Mascot town centre, to the north of Sydney Airport and to the south of Gardeners Road.

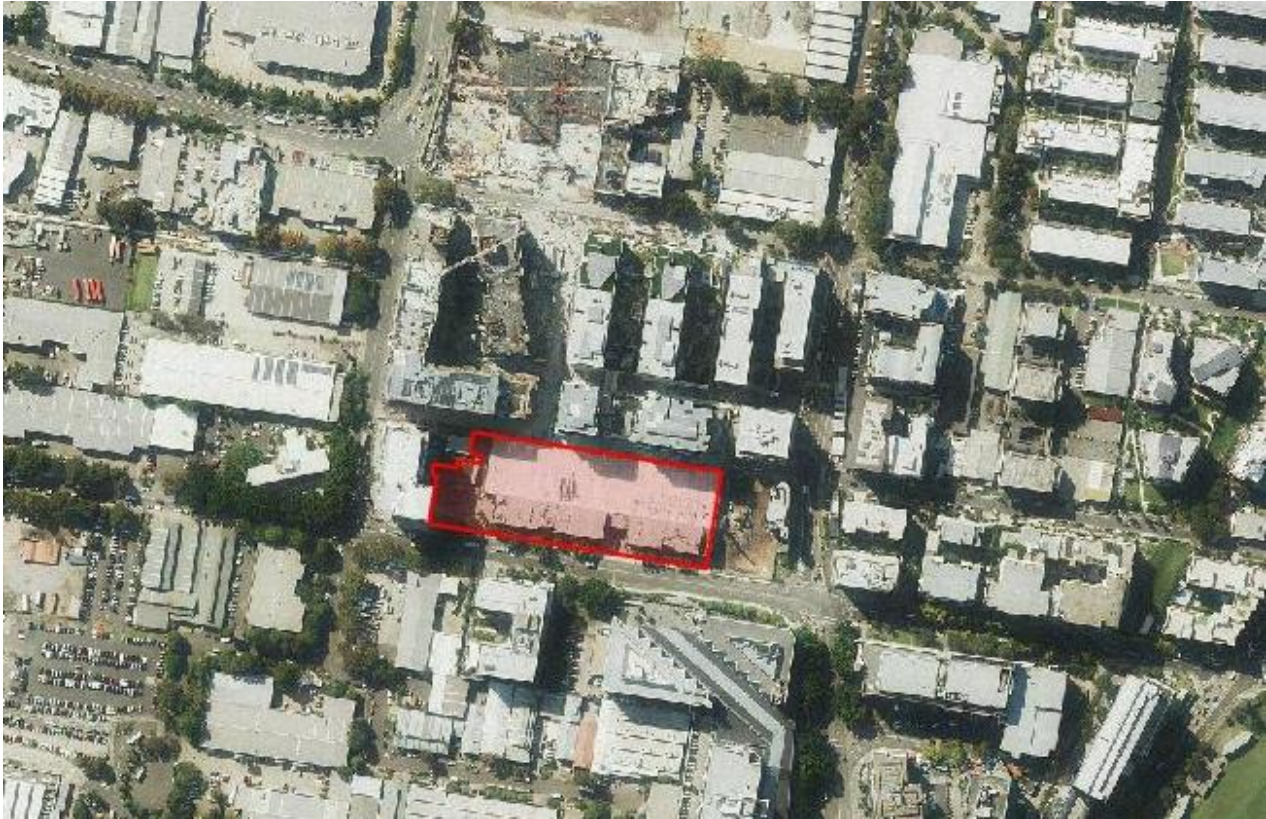


Figure 2: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)



Figure 3: Photo of subject site, looking east from the Kent Road intersection with Building A under construction in the background (taken 28 August 2018)



Figure 4: Photo of subject site, looking north with Building A on the left (taken 28 August 2018)

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*.

Section 4.15(1) – Matters for Consideration – General

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by a BASIX Certificate committing to environmental sustainable measures. The Certificate is in accordance with the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 – Traffic Generating Development

The proposed development falls within the provisions of Schedule 3 of the SEPP – Traffic Generating Development that is required to be referred to the NSW RMS. The application was accompanied by an "Assessment of internal traffic and parking impacts" prepared by TSA and dated 31 August 2017.

Plans and documentation were referred to the NSW RMS for consideration and comment. In a letter dated 17 September 2014, the RMS has advised that it has no objection to the proposed development and has provided conditions.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 were considered and satisfied as part of DA-2014/146.

As there are no works at ground level as part of this DA, no further consideration of this SEPP is required.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

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)

This DA was not referred to the Design Review Panel, however was referred to Council's Urban Designer for review and comment.

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 Neighbourhood Character

The locality is located within the Mascot Station Town Centre Precinct and is zoned B2 Local Centre as prescribed under the Botany Bay LEP 2013. The existing streetscape of Coward Street by a mixture of mixed use commercial and residential uses on the northern side, and commercial and industrial uses on the southern side. It is on the southern edge of the Mascot Station Town Centre Precinct and the subject site will provide an "infill" development to complement recently completed developments to both the east and west.

The zone objectives for the B2 Local Centre zone is to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area, to encourage employment opportunities in accessible locations and to maximise public transport patronage and encourage walking and cycling. Accordingly, this is an area that has gradually been undergoing transition, with a number of mixed use and shop top housing developments recently constructed within this Precinct. Furthermore, the proposal is consistent with the desired future character, with respect to generally meeting the relevant development standards in the Botany Bay LEP 2011 (with the exception of the Height of Building, which will be further discussed later in this report) and most of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Botany Bay DCP 2013.

Principle 2: Built Form and Scale

The additions to the approved development's built form will actively contribute towards the evolving nature of the streetscape and character for the northern side of Coward Street, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the location of the centralised communal open space on the roof top.

Principle 3: Density

The approved development exceeded the Floor Space Ratio (FSR) of 3:1 as prescribed under the Botany Bay LEP, and the additional floor area will further increase the FSR by another 3%. However, this is

considered acceptable by Council and will be discussed further later in this report. Whilst the proposed additions results in an additional four storeys (9 through to 12), the approved development was for 14 storeys (on the eastern edge of Building A), and hence there is no increase in the approved height.

Furthermore, there is sufficient communal open space as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is in within the Mascot Station Town Centre Precinct, which has regular train and bus services, and is within walking distance of a number of public parks and reserves, as well as schools.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. It also complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in midwinter.

Principle 5: Landscape

There are no changes to the approved landscaping, with the rooftop communal open space being shifted four storeys upwards to coincide with the additional proposed storeys.

Principle 6: Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, appropriately sized balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

Principle 7: Safety

The proposed amendments do not involve any physical changes to the ground floor of the approved development. Accordingly, the relationship between public and private open space remains as is, including clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide additional one and two bedroom units and thus catering for different budgets and housing needs. This will aide in addressing housing affordability.

Principle 9: Aesthetics

The proposed additions will contain the same materials and design elements that are consistent with that of the approved development.

Apartment Design Guide

Further to the design quality principles discussed above, the proposed additional units have been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2)(c) of SEPP 65.

An assessment of the proposed additional 17 units against the 'Design Criteria' controls of the ADG is demonstrated in the table below. It is noted that the approved DA was lodged before the implementation of the ADG in June 2015, and hence was not considered as part of the assessment of the approved development under DA-2014/146. Accordingly, a number of non-compliances have been identified against the base building, but will be discussed further below, where applicable.

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Visual Privacy	For developments 9 storeys and above: <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 12m between habitable/balconies and non-habitable • 12m between nonhabitable rooms 	A distance greater than 24 metres is proposed between the northerly aspect and that of the neighbouring development at 8 Jackson Drive (corner of Kent Road). The neighbouring site to the south is zoned B5 Business Development and residential development is not permissible.	Yes
Car Parking	On sites that are within 800m of a railway station, the minimum car parking requirement is set out in the Guide to Traffic Generating Development, or the car parking requirement as prescribed by Council, whichever is the less.	A total of 304 parking spaces were approved under DA-2014/146 for Building A, with at-grade and three levels of basement. The additional 17 units will result in a total of 207 units. Using the rates as prescribed under Section 5.4.3 of the Guide to Traffic Generating Development, it will generate a demand for 170 spaces. Even factoring the demand generated by the ground floor retail (a total of 725m ²), there will be a large surplus of parking spaces.	Yes
Part 4 Designing the Building			
Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	The living rooms and private open space areas for 15 out of the 17 apartments (88%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	2 of the 17 units (12%) will receive no direct sunlight in mid-winter.	Yes

Section	Design Criteria	Proposed	Complies
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	Only 4 of the 17 units have been identified as having a dual aspect. However, it is noted that 64% of the 190 units approved under DA-2014/146 were considered to receive natural ventilation. The proposed additional 17 units decreases the percentage to 61% across 207 units, however it still achieves compliance.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No apartment is greater than 15m in depth.	Yes
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - 2.7m for habitable rooms - 2.4m for non-habitable rooms	The ceiling heights of all residential floors are measured at 3m from floor to ceiling.	Yes
Apartment Size and Layout	Apartment are required to have the following minimum internal areas: - Studio: 35m ² - 1 bedroom: 50m ² - 2 bedrooms: 70m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.	The minimum area for the 1 bedroom units are 57m ² . The minimum area for the 2 bedroom units are 75m ² .	Yes
	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.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths do not exceed a depth of 7.5m.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of the master bedrooms for all the units are 12m ² , whilst the secondary bedrooms are 12m ² .	Yes

Section	Design Criteria	Proposed	Complies
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	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	The width of the studio and 1 bedroom units is 3.8m, and the width of the 2 bedroom units are 4m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 4m.	Yes
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: - Minimum area of 8m ² and minimum depth of 2m for 1 bedroom units - Minimum area of 10m ² and minimum depth of 2m for 2 bedroom units The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for of the balconies for the 1 bedroom units are 9m ² , and the minimum area for the 2 bedroom units are 10m ² . All balconies have minimum depth of 2m.	Yes
Common Circulation and Spaces	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	The proposed additional units are replicating a typical floor layout from the ground floor to level 8 as approved under DA-2014/146. There is no lift in this section of the building, with the lifts located further to the east. However, there is still vertical circulation by way of stairs along the western boundary. Whilst it appears that the design does not comply with this provision, it would be unreasonable to request the provision of a lift in this section of the building in order to comply with the ADG.	Variation considered acceptable

Section	Design Criteria	Proposed	Complies
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> - 4m³ for studios - 6m³ for 1 bedroom units - 8m³ for 2 bedroom units <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>There are areas identified within each of the proposed units that could be nominated storage areas. The Botany Bay DCP does not prescribe numerical requirements for the size and location of storage areas. Given that the proposed units are replicating a typical floor layout, it is considered acceptable in this instance and it is unreasonable to provide storage cages within the basement area to satisfy this requirement.</p>	Variation considered acceptable

Botany Bay Local Environmental Plan 2013 (LEP)

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B2 Local Centre zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development is permissible in the zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the relevant objectives.
<p>What is the height of the building?</p> <p>Does the height of the building exceed the maximum building height?</p>	<p>---</p> <p>Yes</p>	The maximum building height allowed on the subject site is 44m. The proposal has an overall height of 46.8m. However, the variation was approved as part of the previous DA and the additional proposed units are located within the central podium, with the additional storeys in this area still within the approved height.
<p>What is the proposed FSR?</p> <p>Does the FSR of the building exceed the maximum FSR?</p>	No	The site has a maximum FSR of 3.2:1 as per Clause 4.4 of the LEP. The proposed FSR is 4.44:1 which exceeds this provision. A Clause 4.6 variation has been lodged as part of this application, and is discussed further later in this report.
Is the site within land marked "Area 3" on the FSR Map?	No	N/A

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.3 – Stormwater management	Yes	The subject application involves no physical changes at ground level. Accordingly, the approved stormwater management systems require no further amendments to accommodate the additional units.
6.9 – Development in areas subject to aircraft noise	Yes	The subject site is located primarily within the 20 ANEF and partly within the 25 ANEF area. Condition 61 of the development consent issued under DA-2014/146 prescribed the implementation of measures as recommended under the acoustic report prepared for that DA, particularly relating to achieving indoor design sound levels. These measures are to apply to the additional units, where applicable.

The objectives and provisions of the Botany Bay LEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Botany Bay LEP 2013.

Clause 4.6 Exceptions to development standards

The “base building” approved under DA-2014/146 was approved with a Floor Space Ratio (FSR) 4.41:1, which is well above the 3.2:1 development standard.

The proposed additions subject to this application result in a further exceedance of the Floor Space Ratio development standard to 4.44:1, a further variation by 3%. This has been calculated against the site as approved under DA-2014/146 and does not consider the recent stratum subdivision that has split the site in two.

As such, the applicant has lodged a statement under Clause 4.6 of the LEP.

Under sub-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) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has applied the principles established by the Land and Environment Court in *Wehbe v Pittwater Council* [2007], which set out five ways of establishing that compliance with the standard is unreasonable or unnecessary. These were further tested in *Four2Five v Ashfield Council* where meeting the objectives of the standard was not sufficient to demonstrate that compliance was unreasonable or unnecessary.

Each of the five principles have been addressed by the applicant:

- (1) *The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard.*

Applicant's Clause 4.6 statement

The proposal meets the objectives of Clause 4.4 of the Botany Bay LEP 2013.

Comment

- The intensity and density of the development is of a form that would be reasonably contemplated for the site. Whilst the proposed FSR is non-compliant, there are other sites within the Mascot Station Precinct that have been approved at a similar or higher FSR. The FSR generates a bulk and scale that is in keeping with the desired future character of the area.
- The proposed building is considered to be compatible with the bulk and scale of the neighbouring site to the west (39 Kent Road).
- The proposal has maintained an appropriate visual character in that the bulk and scale of the proposal will integrate with the adjoining approved development at 39 Kent Road. This provides a uniform streetscape presentation, providing an appropriate visual interface between new development and adjoining approved development.
- The proposal is not considered to generate adverse impacts to the use of adjoining properties and the public domain.
- The site is a large site that is capable of accommodating an increase in density without generating adverse impact. The density is considered to be similar to that of adjoining approved development in the precinct.
- The proposal shall contribute to the economic growth of the locality via the provision of new housing and employment opportunities within proximity to public transport services and within the Mascot Station Precinct.

Accordingly, the development is considered to be compliant with the objectives of the FSR standard.

(2) *The underlying objective or purpose is not relevant to the development*

Applicant's Clause 4.6 statement

The underlying objectives for floor space ratio are still relevant

Comment

The underlying objective and purpose of the floor space ratio control has been achieved as stated above, therefore the numerical standard, whilst being relevant, can be varied and strict compliance with the numerical requirement of 3.2:1 is considered unnecessary in this instance.

(3) *The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard*

Applicant's Clause 4.6 statement

The underlying objective or purpose of the FSR control would be thwarted if compliance was required. The floor space ratio control within the Botany Bay LEP 2013 has been varied consistently by Council in recognition of a need to meet the demands for housing and commercial development in the Mascot Station Precinct.

The underlying objectives of providing increased density in this precinct would be thwarted if compliance was required.

Comment

The underlying objectives and purposes of the FSR control remain relevant to the proposed development. However, the proposed development is consistent with the objectives of the FSR control in the LEP as detailed above.

- (4) *The development standard has virtually been abandoned or destroyed by Council's own actions*

Applicant's Clause 4.6 statement

The FSR standard has been varied on numerous occasions within the Mascot Station Precinct, each on a merit assessment and a number of these were determined by the Land & Environment Court and the regional panel.

Comment

It is noted that a number of developments within the Mascot Station Precinct have been approved with a FSR of over 4:1, those being:

Address	Approved FSR	Approval date
39 Kent Road	4.2:1	July 2014
214 Coward Street	4.5:1	16 December 2010
230 Coward Street	4:1	23 August 2006
13A Church Avenue	4.24:1	4 June 2014
7 Bourke Street and 30-32 John Street	4.16:1	13 January 2011
8 Bourke Road and 37 Church Avenue	4.24:1	13 May 2009
208-210 Coward Street	4.6:1	5 December 2011
2-4 Haran Street	4:1	August 2013

It is noted that the application intends to link the proposed basement car park to the approved development at 39 Kent Road, and the Building A of the subject application will connect with the approved 14 storey tower at 39 Kent Road. The DA at 39 Kent Road was approved by the JRPP in July 2014. The FSR approved is 4.2:1, but it is now noted that in the calculation of GFA the applicant did not include corridors in the building, contrary to the definition in the LEP. The approved GFA is therefore more likely to be in the order of FSR 4.5:1.

Therefore, the proposed FSR is considered to be generally consistent with the approved FSR's within the precinct.

- (5) *The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary*

Applicant's Clause 4.6 statement

The zoning of the land B2 Local Centre is appropriate.

Comment

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is considered to unnecessary. Furthermore, the additional floor space does not result in adverse impacts to adjoining properties in terms of bulk and scale, streetscape impact and visual impact.

Accordingly, since the proposal does satisfy the objectives of the FSR development standard pursuant to Clause 4.4 of the LEP, the proposed development is considered to be appropriate and strict adherence to the development standard in this instance is unnecessary.

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

Applicant's Clause 4.6 statement

There are sufficient environmental planning grounds to justify the variation as follows. The flexible application of the control will achieve a better outcome on this site for the following reasons:

- The building form and scale is consistent and compatible with the desired future character of the precinct that is guided by the planning controls and will be realised by the construction of approved developments in the precinct. This report and the 3D images provided clearly shows a consistent scaling of building forms along Coward Street;
- The height of the approved development exceeded the maximum permitted under the Botany Bay LEP 2013, this amending DA does not exceed the height controls. The form maintains a strong building edge definition along Coward Street and the proposed through-site link;
- The mid section of both buildings A & B express a 4 storey podium massing with greater horizontal solidity and emphasis up to levels 3 and 4 respectively. Both building façades then set back approximately 8m above these levels up to level 9. The additional levels are setback a further two to three metres to ensure the massing is reduced and the depth of the setbacks are evident along Coward Street;
- Communal landscaped roof facilities are provided at level 13 on both buildings with covered BBQ and seating area accessed from the lift lobby of each building; and
- The density of the overall development on the site is less than what would be achieved if the entire development provided unit areas as permitted by SEPP 65.

Comment

It is considered that there are sufficient environmental planning grounds arising from the proposal to support this variation to the FSR development standard, given:

- The development will not adversely impact the surrounding streetscape and desired future character of the area;
- The FSR results in a minor height non-compliance under the BB LEP 2013, which is supported for the reasons outlined in this report.
- The FSR does not set an undesirable precedent for future development within the precinct.

Therefore, it is considered that there are sufficient planning grounds for a variation to the FSR and the variation is in the public interest.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

- (a)(i) the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3)**

Comment: The applicant's written statement adequately covers matters required by sub-clause 3.

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

In terms of public benefit, it is noted that the proposal will provide a public car park and dedicated land for a through site link. Whilst the public benefit arising from the development alone is not sufficient to justify a non-compliant FSR, this clause 4.6 assessment concludes that the proposal attains compliance with the objectives of the standard, and therefore, is in the public interest.

Preston CJ noted that there is a public benefit in maintaining planning controls and a SEPP 1 objection should not be used in an attempt to effect general planning changes throughout the area. It is considered that in the current case, the planning control can be varied as it will not affect the general planning controls in the area, particularly as it generates built form that is generally consistent with other approved development and construction in the area.

On the basis of this assessment, it is concluded that the variation is in the public interest and can be supported.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development.

Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

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

Section	Design Criteria	Proposed	Complies
3C.2 – Access and Mobility	C3 - All residential development must comply with AS4299 - 1995 Adaptable Housing for those developments required to provide adaptable housing.	A condition will be imposed on any consent to be issued that 1 of the 17 units is to be made adaptable.	Yes

Section	Design Criteria	Proposed	Complies
3G.2 – Stormwater Management	C1 - Development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.	The subject application involves no physical changes at ground level. Accordingly, the approved stormwater management systems require no further amendments to accommodate the additional units.	
3J.2 Aircraft Noise Exposure Forecast	C2 Where building site is classified as "conditional", development may take place, subject to Council consent and compliance with AS2021-2000.	The subject site is located primarily within the 20 ANEF and partly within the 25 ANEF area. Condition 61 of the development consent issued under DA-2014/146 prescribed the implementation of measures as recommended under the acoustic report prepared for that DA, particularly relating to achieving indoor design sound levels. These measures are to apply to the additional units, where applicable.	Yes
9A.4.4.7 Dwelling Size and Mix	C2 The combined total number of studio units and one-bedroom apartments/dwellings must not exceed 35% of the total number of apartments/ dwellings within any single site area.	The combined total of studios and 1 bedroom units approved under DA-2014/146 was 57%, and this rate will remain the same with an additional 6 x bedroom units as part of this application. However, it was considered acceptable at the time of determination and is not considered to have a negative impact on the locality.	Variation considered acceptable

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

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

S4.15(1)(b) - Likely Impacts of Development

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

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

The proposal does not alter the conclusions that were resolved and approved within DA-2014/146 and subsequent modifications. It does not impact on the zone of influence with the railway and Sydney Airport.

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 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 development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 7.11 Contributions

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The provisions contained in Council's Section 7.11 Contributions Plan 2016 (Amendment 1) apply to development involving the construction of additional residential developments that creates further demand to improve or upgrade existing facilities, amenities or services.

The proposal involves alterations to five (5) approved apartments, however does not result in additional bedrooms within those apartments, therefore no contributions are applied to those apartments, as contributions for those apartments are already covered by DA14/146 and the applicant has paid those contributions.

The additional 17 apartments results in the following contributions:

6 x 1 bedroom apartments @ \$24,861.64 = \$149,169.84

11 x 2 bedroom apartments @ \$43,650.21 = \$480,152.20

Total Contribution = \$629,322.01

However, in accordance with the Ministerial Direction, the contributions are capped at \$20,000 per dwelling, therefore the total contribution is \$340,000.

Total Contribution = \$340,000.00.

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Conclusion

Development Application No. 2017/1185 for the reconfiguration of the approved building to provide 17 additional units at 256-280 Coward Street, 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 conditions of consent.

Attachment**Schedule 1 – Conditions of Consent****Premises: 256-280 Coward Street, Mascot****DA No: 2017/1185****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

1. The conditions as imposed under DA-2014/146 (as modified) are to be complied with, unless otherwise specified in the following conditions.
2. The following plans supersede the corresponding approved plan under Condition 1 of DA-2014/146 (as modified):

1. Drawing / Document	2. Author	3. Received by Council
4. A111 C / Level 9	5. Krikis Tayler	6. 20/6/18
7. A112 C / Level 10	8. Krikis Tayler	9. 20/6/18
10. A113 C / Level 11	11. Krikis Tayler	12. 20/6/18
13. A114 C / Level 12	14. Krikis Tayler	15. 20/6/18
16. A111 C / Level 13	17. Krikis Tayler	18. 20/6/18
19. A120 B / Elevations 1	20. Krikis Tayler	21. 20/6/18
22. A124 B / Section	23. Krikis Tayler	24. 20/6/18

3. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (A298383) for the development are fulfilled.

25. Note:

- a) Relevant BASIX Certificate means:

- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.

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

27.

4. A separate Construction Certificate is required for the new approved works.
5. Prior to the issue of the Construction Certificate for the additional units, 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.

6. Prior to the issue of the Construction Certificate for the additional units, the applicant must pay the following fees:
- | | |
|------------------------------|--------------|
| a) Footpath Crossing Deposit | \$157,900.00 |
| b) Development Control | \$875.00 |
7. Prior to the issue of the Construction Certificate for the additional units, the applicant shall lodge a Footpath Crossing Deposit of \$157,900.00 (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.
8. Prior to the issue of the Construction Certificate for the additional units, the following Section 7.11 contributions are required to be paid:

Botany Section 94 Development Contributions Plan 2016

Community Facilities (City Wide) = \$52,360.00
Community Facilities (Mascot Precinct) = \$5,440.00
Recreation Facilities (City Wide) = \$227,120.00
Transport Management (City Wide) = \$21,420.00
Transport Management (Mascot) = 29,920.00
Administration = \$3,740.00

Total Contribution \$340,000.00

9. In accordance with Part 3C of the Botany Bay Development Control Plan, a minimum of 4 units is to be made adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.

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

10. 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.



CLAUSE 4.6 VARIATION REPORT

256 – 280 Coward Street,
MASCOT

29 August 2017

Amended 3 September 2018

1.0 INTRODUCTION

- 1.1 This amended Clause 4.6 variation report accompanies an amending DA submitted pursuant to Section 4.17(1)(b) (formally Section 80A(1)(b)) of the act to modify an existing DA. The amending DA seeks to provide an additional 17 units on the subject site and make minor modifications to approved units to facilitate the additional units.
- 1.2 The subject site is zoned B2 Local Centre under the Botany Bay LEP 2013.
- 1.3 Clause 4.4 of the LEP requires a maximum FSR of 3.2:1. The approved development as amended has a FSR of 4.41:1. (the original DA had an approved FSR of 4.42:1)
- 1.4 As amended, the proposed development has a maximum FSR of 4.44:1.
- 1.5 This report supports the proposed variation to the FSR development.
- 1.6 The report is structured to address the requirements of Clause 4.6 using the following headings:
 - What is the variation to the standard?
 - Is the development consistent with Objectives of the zone.
 - Is the development consistent with the objectives of the standard?
 - Is compliance with the development standard unreasonable and unnecessary in the circumstances of the site? 4.6(3)(a) and 4(a)(i)
 - Are there sufficient environmental planning grounds to justify the contravention of the development standard?

Is the development consistent with the objectives of the zone ?

- 2.1 Yes. The zoning of the land is B2 Local Centre under Botany Bay LEP 2013.
- 2.2 The proposed development maintains compliance with the objectives of the B2 Local Centre zone.
- 2.3 The objectives of the B2 Local Centre Zone under the Botany Bay LEP 2013 are as follows:
 - *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
 - *To encourage employment opportunities in accessible locations.*
 - *To maximise public transport patronage and encourage walking and cycling.*
- 2.4 The proposed development satisfies the objectives of the B2 Local Centre zone as follows:
 - The approved development provides non-residential uses at ground level. This contributes towards serving the needs of people who will live, work and visit the area.



- The development as amended by this DA provides 8 x studio units, 259 x 1 bedroom units, 235 x 2 bedroom units and 15 x 3 bedroom units which will provide a variety of housing types within a local centre close to public transport and work opportunities.
- The unit mix satisfies the demand for the locale.
- Additional residential uses on this site are appropriate and complimentary to the transitional nature of the area and will further support the locality. The site is a highly desirable location given the proximity to major arterial roads, airport, Mascot railway station, bus services, Sydney CBD and employment opportunities.
- The development as amended maintains an appropriate transition of zones between non-residential uses to the south which are unlikely to be redeveloped to residential uses due to the current zoning and the transitioning Mascot Station Precinct Area. The site can accommodate increased residential uses due to location and proximity to public transport.
- The subject site is located within a 5 minute walk to Mascot railway station. This will encourage public transport uses due to the sites excellent public transport accessibility.
- The location and the design of the additional units within Building A only maintains the intent of the approval providing a visual break in the façade due to their setback from the street frontage

2.5 The site is located within an area that has and is currently transitioning to provide a mixture of uses including greater residential development. The proposed development as amended is consistent with the desired future character of the area and zoning under the Botany Bay LEP 2013 and Botany Bay DCP 2013.

2.6 It is therefore considered that the development is capable of achieving B2 Local Centre Zone objectives.

Is the development consistent with the objectives of the standard?

2.7 The proposed development will achieve compliance with the objectives of the development standard under Clause 4.4 of the LEP. A detailed assessment against each objective, relating to FSR is provided below:

a) to establish standards for the maximum development density and intensity of land use,

2.8 The increased residential density will assist in meeting the increased housing targets within Botany Bay LGA and as set out in A Plan for Growing Sydney. The Council has already varied the FSR control allowing increased density in the precinct and on this site. It is appropriate that the flexible application of the control be continued. The additional floor space sought under this DA is contained within a complaint building envelope. The increased floor space that is proposed represents a modest increase of approximately 3% beyond the approved FSR.

2.9 When the main DA on the site was approved the units were designed to meet the former Botany Bay Council's excessive unit areas. As a result, the development density in relation to number of units and population is significantly less than what would be if all units were compliant with the mandated sizes under the Apartment Design Guide. An increase in the intensity of the land use on this site can be sustained with minimal environmental impact.



- 2.10 Notwithstanding the variation to the standard, the density of development on this site is appropriate and has no unreasonable adverse impact on surrounding properties or the area.

b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

- 2.11 The bulk and scale of the building is compatible with the desired future character as demonstrated in the following table:

Desired Future Character – Urban Block 1	
<p>Land Uses</p> <ul style="list-style-type: none"> A mixed use area with retail ground floor uses on Bourke, Coward and Kent Road. 	<p>The development already provides for retail uses along Coward Street and also flanking the approved through site link which compensated for the reduction in retail / commercial space along John Street that the DCP envisaged for the Meriton site.</p>
<p>Street Character:</p> <ul style="list-style-type: none"> Bourke St to be Main Street in precinct. Church Ave to be predominately residential. New local streets to provide vehicular, pedestrian and cycle access to high rise residential. Building facades to align with new streets and interface between private and public open space to be visually open. New public domain to provide access to buildings and public open space for recreation. Extension of John St will provide access to vehicles and pedestrians. Kent Rd and Coward St Buildings to have continuous commercial ground floor with residential or commercial above. 	<p>The development created improved pedestrian links with the provision of a north-south through-site link between John Street and Coward Streets.</p> <p>The buildings as approved and proposed under this amending DA create a positive interface with the existing streets and public domain.</p> <p>Non-residential uses are maintained at ground level which suitably integrate with the public domain providing visual surveillance of the proposed through site link and Coward Street.</p> <p>The approved development provided a public car park accessed off John Street which will assist in reducing parking congestion in the area. No additional parking is required or proposed to accommodate the additional units under this DA.</p>
<p>Built Form:</p> <ul style="list-style-type: none"> Street frontages at the lower levels to be generally continuous, enhancing pedestrian interest and amenity. Residential floors above to be designed using environmental design strategies. Upper levels to facilitate daylight to street and avoid street canyons by being setback from building alignment. 	<p>The building form is appropriate along Coward Street, as amended the building is modulated and presents varied heights of buildings along Coward St. The increased height which is compliant with the LEP maximum permitted height is concentrated towards the western end (Building A) and transition in height with the central step maintained to the eastern end (Building B).</p> <p>The development as amended achieves active and continuous street frontages with upper levels setback to ensure the building form does not create a canyon effect.</p>
Public Domain:	

<ul style="list-style-type: none"> Urban Block 1 will undergo major transformation with new publicly dedicated streets and parks on existing lots. Density and requirements for car parking will reduce potential of deep soil planting but new parks to make up the shortfall. New local parks to provide recreation needs. Public domain improvements. 	<p>The design of the buildings as amended responds to the future character of the area and will not unreasonably affect adjoining properties. The application does not seek to increase the building height beyond the planning controls. The change as amended relate solely to Building A with Building B retained as the approved form.</p> <p>This amending DA does not affect the basement excavation and therefore does not affect deep soil landscaping.</p> <p>The overall development of this site provides substantial public domain improvements which will benefit the wider community.</p>
<p>Road widening:</p> <ul style="list-style-type: none"> New streets shown in Figure 7. Does not affect site but shows the extension of John Street to the west and the western closure of the street adjacent to Kent St. Road widening required along Kent Rd as well as corner of Kent Rd and Coward St within 39 Kent Rd site. Obtain further information from Council. 	<p>Not applicable. Notwithstanding, Kent Road and Coward Street are widened under the Stage 1 DA 2013/227.</p>

- 2.12 As demonstrated above, the bulk and scale as amended is consistent with the desired future character of the precinct. In addition, the development is compatible with the approved bulk and scale of the development adjacent at 39 Kent Street. This development represents a continuation of the approved development as shown below:



- 2.13 The bulk and scale of the precinct is broken up by the substantial through site link that is provided although not contemplated by the planning controls. The creation of this large vista



across the site as opposed to a continual podium provides visual relief and effectively assists in minimising the visual impact of the additional floor space.

c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,

- 2.14 This development integrates with the development at 39 Kent Road and has been designed to further accentuate the corner of Kent Road and Coward Street to create a gateway building consistent with the desired future character of the Mascot Station Precinct.
- 2.15 The building in its integrated form creates a strong definable street edge that will continue east along Coward Street.
- 2.16 The site is located on the western edge of the Mascot Station Precinct and southern edge of the B2 zone and the form and design of the development as amended will not unreasonably affect sites to the south which are outside the precinct and are zoned: Business Park, General Industrial or Business Development. All the zones opposite currently do not generally permit residential accommodation with the exception of dwelling houses in the Business Park zone on the western side of Kent Road. Sufficient separation is achieved due to the width of adjoining roads.
- 2.17 Furthermore, the approved DA for 39 Kent Road provided a large exposed wall with no visual interest or articulation adjoin the subject site. This was not considered with the original DA's for either property, however as construction has completed for 39 Kent Rd the large visible wall is evident. This application will partially screen the exposed wall and it is recommended that to provide an additional public benefit, Council require the installation of decorative cladding to the remaining exposed sections. This will provide an improved architectural treatment that will result in a better visual and public domain outcome.

d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,

- 2.18 As discussed above, Building A as amended by this DA will not adversely affect the streetscape along Coward Street. The through site link between buildings A & B and the stepping of height to Building B further breaks down the massing and minimises the bulk and scale presented to the street by providing a break in building form along Coward Street. The vista that is created through the site towards the future public park on the Meriton site to the north provides a substantial visual link that will improve the permeability and views across the precinct.
- 2.19 The application includes the provision of 4 partial levels of units with communal open space above to Building A only. The levels are located between the approved development at 39 Kent Road and the eastern wing of Building A.
- 2.20 The approved levels are setback 8 metres to level 9 with the additional levels providing an increased setback of 10 to 11 metres for the levels above. The design of the link levels maintains the break in the building form compared with the original DA.



e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

- 2.21 The increased floor space beyond the controls does not result in any additional adverse impact on the adjoining properties or the public domain as follows:

Traffic generation & Parking

- 2.22 Adequate car parking is provided to cater for the increased number of units within the development.
- 2.23 Overall, the site is located in close proximity to Mascot Station Precinct achieving excellent levels of public transport.

Visual & Acoustic Privacy

- 2.24 The additional levels will maintain appropriate separation distances between within the site and with adjacent sites to maintain acoustic and visual privacy
- 2.25 The separation distances approved under DA146/2014 were determined to be adequate to ensure privacy and these setbacks will be maintained for the additional levels within the development.
- 2.26 As such, the proposal will not result in unreasonable privacy or acoustic impacts.

Overshadowing

- 2.27 The height of the development sought under this application will not affect any lower density residential sites.
- 2.28 The land to the south is zoned B5 Business Development which does not permit residential development. There will be no increased shadow across public open space and the public domain.
- 2.29 The new levels will be a continuation of the lower levels with an additional setback from Coward Street so will maintain appropriate levels of solar access to units within the development.

Bulk and scale

- 2.30 The form of the buildings is considered appropriate in this area which is undergoing transition from industrial/commercial land uses to mixed use development.
- 2.31 The bulk and scale is considered acceptable for the following reasons:
- The buildings have been architecturally designed to respond to the transitional environment of the Mascot Station Precinct and Council's desired future character for the area.
 - The height of the approved development exceeded the maximum permitted under the Botany Bay LEP 2013, this amending DA does not exceed the height controls. The form maintains a strong building edge definition along Coward Street and the proposed through-site link.





- The mid section of building A express a 4 storey podium massing with greater horizontal solidity and emphasis up to levels 3 and 4 respectively. The building façade is then set back approximately 8m above these levels up to level 9. The additional levels are setback a further two to three metres to ensure the massing is reduced and the depth of the setbacks are evident along Coward St.
- Communal landscaped roof facilities are provided at level 13 on building A with covered BBQ and seating area accessed from the lift lobby.

2.32 It is therefore considered that the proposed development is appropriate and will not have an adverse impact on the locality.

f) to facilitate development that contributes to the economic growth of Botany Bay.

2.33 The further redevelopment of the site will contribute positively to the economic growth of Botany Bay LGA by providing increased residential accommodation that will support the surrounding commercial uses and capitalise on the excellent proximity to Mascot Station.

2.34 On the basis of the above assessment, notwithstanding the variation to the FSR control, the development meets the objectives of the standard.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

2.35 The proposed variation to the FSR control is assessed with consideration to the principles established by the Land and Environment Court in *Whebe V Pittwater Council [2007] NSW LEC 82*. His Honour Preston CJ set out 5 ways of establishing that compliance with the standard is unreasonable or unnecessary. The 5 parameters were further tested in *Four2Five Pty Ltd v Ashfield Council NSWLEC 90* where Justice Pain found that meeting the objectives of the standard was not sufficient to demonstrate that compliance was unreasonable or unnecessary.

2.36 Each of the 5 ways will be addressed in detail below:

(a) The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one must determine the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?

2.37 Yes the proposal meets the objectives of the standard as demonstrated above.

(b) The underlying objective or purpose is not relevant to the development;

2.38 The underlying objectives for height are still relevant.

(c) The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;



2.39 The underlying objective or purpose of the FSR control would be thwarted if compliance was required. The floor space ratio control within the Botany Bay LEP 2013 has been varied consistently by Council in recognition of a need to meet the demands for housing and commercial development in the Mascot Station Precinct.

2.40 The underlying objectives of providing increased density in this precinct would be thwarted if compliance was required.

(d) The development standard has been virtually abandoned or destroyed by Council's own actions.

2.41 Council has virtually abandoned the FSR control in the Mascot Station Precinct.

(e) The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary.

2.42 The zoning of the land B2 Local Centre is appropriate.

Are there sufficient environmental planning grounds to justify contravening the development standard?

2.43 There are sufficient environmental planning grounds to justify the variation as follows: The flexible application of the control will achieve a better outcome on this site for the following reasons:

- The building form and scale is consistent and compatible with the desired future character of the precinct that is guided by the planning controls and will be realised by the construction of approved developments in the precinct. This report and the 3D images provided clearly shows a consistent scaling of building forms along Coward Street.
- The height of the approved development exceeded the maximum permitted under the Botany Bay LEP 2013, this amending DA does not exceed the height controls. The form maintains a strong building edge definition along Coward Street and the proposed through-site link.
- The mid section of building A expresses a 4 storey podium massing with greater horizontal solidity and emphasis up to levels 3 and 4 respectively. The building façade is then set back approximately 8m above these levels up to level 9. The additional levels are setback a further two to three metres to ensure the massing is reduced and the depth of the setbacks are evident along Coward St. No change is proposed to Building B which maintains stepping in the building form as you moved further west.
- Communal landscaped roof facilities as amended are provided at level 13 to building A with covered BBQ and seating area accessed from the lift lobby.
- The density of the overall development on the site is less than what would be achieved if the entire development provided unit areas as permitted by SEPP 65.

2.44 Based on the above, there are sufficient planning grounds to justify the variation.



