

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 27 November 2018 at 6:00 pm.**

ON-SITE INSPECTIONS

On-site inspections 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 - 13 November
20183

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

- 6.1 DA-2017/107 - DA-2017/107 - 1-3 Oriental Street, Bexley16
- 6.2 DA-2018/89 - DA-2017/50 - 43 Crawford Road, Brighton Le Sands
(Brighton Memorial Playing Field)139
- 6.3 DA-2018/209 - DA-2018/209 - 4 Prospect Street, Carlton188
- 6.4 SF18/2190 - DA-2012/226/03 - 1084-1088 Botany Road, Botany305
- 6.5 DA-2018/92 - 17/21-25 Bryant Street, Rockdale331
- 6.6 DA-2018/111 - 18/21-25 Bryant Street Rockdale347
- 6.7 DA-2017/168/A - DA-2017/168/A - 356-368 Forest Road, Bexley364

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

27/11/2018

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 13 November 2018
Report by	Bruce Cooke, Coordinator Governance
File	SC17/820

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 13 November 2018 be confirmed as a true record of proceedings.

Present

Jan Murrell, Chairperson
Anthony Reed, Independent Expert Member
Stephen Moore, Independent Expert Member
Christopher Middlemiss, Community Representative

Also Present

Luis Melim, Manager Development Services
Bruce Cooke, Acting Manager Governance & Risk
Marta Gonzalez-Valdes, Coordinator Development Assessment
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Patrick Nash, Senior Development Assessment Planner
Adam Iskander, Senior Development Assessment Planner
Lauren Thomas, Governance Officer
Bill Niklovski, IT Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:05 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 23 October 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 23 October 2018 be confirmed as a true record of proceedings.

5 Reports – Planning Proposals

There were no Planning Proposals.

6 Reports – Development Applications

6.1 SF18/2178 - DA-16/150/06- 42 Church Avenue, Mascot

The following person spoke:

- Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

The Panel notes that the applicant amended the application to delete the relocation of the mailboxes from this modification application.

Panel Determination

That the Bayside Local Planning Panel **APPROVES** the Section 4.55(1A) Application to modify Development Consent No. 16/150 to increase the size of the terrace to Unit G37 and modifications to conditions at 42 Church Avenue, Mascot, as follows:

- 1 Condition No. 1 is to be modified to reflect the proposed plans that are subject to this application.
- 2 Condition No. 83(n) is to be modified to reflect the timing of providing the public art proposal prior to the issue of any Occupation Certificate.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel is satisfied that the above modification will not have any adverse social or environmental impacts.

6.2A DA-2017/1238/02 - 42 Church Avenue, Mascot

- Mr Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

That the Bayside Local Planning Panel has determined that the Section 4.55(1A) Application lodged on 27 August 2018 to modify Development Consent No. 2017/1238/02 for the re-allocation of 18 car-parking spaces from the retail component to the residential units at 42 Church Avenue, Mascot and the application is **REFUSED**.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is not satisfied that the re-allocation of 18 of the 42 retail car-parking spaces to residential units has been justified by the applicant. The reasons for the modification, given by the applicant, include that the current leases for the retail space would not utilize all the spaces approved and the lack of separation from the residential parking would present a security risk. The Panel is of the view that the retail uses may change over time with a greater demand for retail parking spaces. The permanent allocation of retail spaces to residential units would not allow for this. The argument that the station is in close proximity can also be made for the residential units. Providing units without car parking would also meet a sector of the residential market where the entry price is lower in an inner urban area and the access to public transport is excellent. Furthermore, the security issue is one that could be addressed by internal design changes as to the location of secure entry points in the carpark.

- By way of comment, the panel notes that the originally-approved development was changed by the applicant with a new DA that deleted the childcare centre and replaced it with 29 units (27 approved making the total number of units in the development 367 - December 2017). In May 2018, a DA was approved to increase the retail component from 512 sq m to 1,0375 sq m. The current modification application is for a reduction from 42 to 24 for the retail component, however, it is noted that the plan only provides 22 spaces.

6.2B DA-2017/1238/03 - 42 Church Avenue, Mascot

- Mr Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

That the Bayside Local Planning Panel **APPROVES** the Section 4.55(1A) Application lodged 8 May 2018 to modify Development Consent No. 2017/1238/03 to amend Conditions for the development nearing completion at 42 Church Avenue, Mascot, as follows:

- Condition No. 36 is approved to be deleted relating to excavation and fill on the site.
- Condition No. 37 is approved to be deleted relating to contaminated soil being used on site.
- Condition No. 41 is approved to be deleted relating to vibration during construction.
- Condition No. 47 is approved to be deleted relating to services within the road reserve to be relocated or adjusted to match the levels of the development.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is satisfied the modification to conditions are because they have no work to do or no adverse impacts are created.

6.3 DA-2017/190 - DA-2017/190 - 117 Forest Road, Arncliffe

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

The following people spoke:

- Mr Ted Esdaile-Watts, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Aleksander Bauk, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Paul Degney, affected neighbour, spoke for the officer's recommendation of refusal.
- Ms Patricia Raquel, affected neighbour, spoke for the officer's recommendation of refusal.
- Ms Genevieve Slattery, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.
- Mr John Kavanagh, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.
- Mrs Kery Saba, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.

Panel Determination

- 1 That the determination of the Development Application No. 2017/190 for alterations and additions to the existing building at 117 Forest Road, Arncliffe be **DEFERRED** to allow the applicant the opportunity to submit an amended plan to Council that holistically considers the amenity of each of the flats.
- 2 That the amended plans shall be submitted to Council within four weeks to allow the Council time to assess the plans and for the matter to be re-submitted to the Panel in a timely manner.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- After a site inspection and hearing submissions, the panel is of the view that there is scope for further development of the site, however, the amenity provided for all

the flats must be addressed ,in particular the private and communal open space areas.

6.4 DA-2018/138 - DA-2018/138 - 104 Caroline Street, Kingsgrove

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

The following people spoke:

- Mrs Yvonne Thompson, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Chuan Jian He, applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Ms Lin Hou, interpreted for Mr Chuan Jian He.

Panel Determination

- 1 That the Development Application No.2018/138 for demolition of the existing structures and construction of a child care centre with capacity for 133 children operating Monday to Friday 7:00am to 6:00pm with basement car parking is **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons set out in the Officer's report:
 - a. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient and conflicting information has been provided by the applicant to enable a proper and thorough assessment of the proposed development.
 - b. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, is of a design, form and bulk and scale that is unsatisfactory with respect to the low density residential streetscape and site context of which the property is located within. Consequently, the proposal is inconsistent with the objectives of the R2 Low Density Residential zone within Rockdale LEP 2011, the objectives of Part 4.2 Streetscape and Site Context of Rockdale DCP 2011 and Part 3.3 Building Orientation, Envelope and Design within the Child Care Planning Guideline.
 - c. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with the provisions of the Education and Care Services National Regulations specifically in relation to the design of the outdoor play areas, supervision, natural light and ventilation and the provision of an emergency and evacuation plan.
 - d. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with the nondiscretionary minimum outdoor play space development standards within Clause 25(b) of State Environmental

Planning Policy (Educational Establishments and Child Care Facilities) 2017.

- e. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with respect to Part 3 of the Child Care Planning Guideline as it relates to local character and streetscape, building orientation, envelope and design, visual and acoustic privacy and traffic, parking and pedestrian circulation.
- f. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not comply with the Floor Space Ratio development standard within Clause 4.4 of the Rockdale Local Environmental Plan 2011. The consent authority is not in a position to grant consent to the development because no request pursuant to Clause 4.6 of the Rockdale Local Environmental Plan 2011 to vary the floor space ratio development standard in Clause 4.4 of the Rockdale Local Environmental Plan 2011 has been submitted.
- g. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of the Rockdale Development Control Plan 2011 including: Part 4.2 Streetscape and Site Context, Part 4.4.6 Noise impact non-residential, Part 4.5.2 Social equity equitable access, Part 4.6 Parking Rates Child care centres, Part 4.6 Car park location and design and Part 6.1 Child Care Centres in respect of building design, visual and acoustic impact, indoor and outdoor space and parking and pedestrian access.
- h. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale and proposed capacity and would adversely impact upon the amenity of the locality.
- i. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land in accordance with Section 6 of Rockdale Technical Specification Stormwater management.
- j. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in view of the proposed intensity of development and the likely adverse impacts upon the streetscape and the amenity of surrounding properties.
- k. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable impacts on adjoining /nearby properties.
- l. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts

and submissions made, the proposed development is not considered to be in the public interest.

- 2 That the objector's be advised of the Bayside Local Planning Panel's determination.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- Fundamentally, the subject site is not suitable for a large child care centre of this size because of conflicts in the basement of cars with small children and the adverse amenity impacts of the raised first level play area.

6.5 SF18/1800 - DA-2012/71 - 25-33 Wilson Street, Botany

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

The following people spoke:

- Jamal Salameh, Design Team, spoke for the officer's recommendation and responded to the Panel's questions.
- Alek Salameh, Design Team, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

- That the Bayside Local Planning Panel **APPROVES IN PART ONLY** the Section 4.55(1a) Application to modify Development Consent No. 12/71 for the approved construction of two (2) residential flat buildings (buildings E and F) to allow for modifications to relocate existing balcony balustrades along the southern and eastern elevation to create a larger balcony space to Unit 605 (Lot 97) within building 'E' at 25-33 Wilson Street, Botany.
- That this approval is subject to an amended plan being submitted to Council for the approval of the General Manager, or her nominee that has a minimum setback of 2 metres from the southern edge of the building and a continuation in line with the current setback of the balustrade on the eastern elevation. The remainder of the roof is to remain non-trafficable and the landscaping is to be deleted from the non-trafficable area.

- 3 That an amended plan must be approved by council and subject to the following conditions.
 - a Amend condition No. 1 to reference the amended plans and documents and to require a new construction certificate for the proposed modification.
 - b Amend condition No. 68(a) to allow for a new occupation certificate for the proposed modification.
 - c Include new condition 3 (e) for the submission of a methodology report for new works relating to the construction of the proposed modifications.
 - d Include condition 3(f) to ensure proposed planting does not form part of the approval.
 - e Include condition 68(c) to ensure owner receives Owners Corporation approval for the occupation of the common area attached to Unit 605.
- 2 That any objectors be notified of the determination made by the Planning Panel.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel considers a reduced balcony would be more consistent with the architectural presentation of the building and its context. Furthermore, potential adverse impacts would be ameliorated without the need for privacy screens and additional visual bulk.

6.6 SF18/1791 - DA-2018/1144 - 27 Hambly Street, Botany

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

The following person spoke:

- Mr Paolo Festa, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

- That the Bayside Planning Panel support the variation to the FSR standard, as contained in Clause 4.4 – FSR of Botany Bay LEP 2013, in accordance with the request under clause 4.6 of BBLEP 2013 submitted by the applicant.

2. That the development application DA-2018/1044 for the demolition of existing structures, subdivision of the existing lot into two Torrens title lots and construction of two semi-detached dwellings, one with a detached garage at 27 Hambly Street, Botany, be APPROVED pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The proposed development is generally consistent with Council's guidelines and the emerging character of the area.

6.7 DA-2007/23/2/E - DA-2007/23/2/E - 30-32 Guess Avenue & 4 Lusty Street Wolli Creek

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

The following people spoke:

- Mr O'Donovan, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Stephen Kerr, planner for the applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

That Development Application No. DA-2007/23/2/E, being a Section 4.55(1A) application to amend Development Consent Number DA-2007/23, for modifications to the materials and finishes of external facades at 30 - 32 Guess Avenue & 4 Lusty Street, WOLLI CREEK be **APPROVED** and the consent amended in the following manner:

A. By amending conditions 2 & 3 to read as follows:

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

Plan / Dwg No.	Drawn by	Dated	Received by Council
Site / Roof Plan DA1.01	Jones Sonter	July 2008	6 February 2009
Basement Plan DA2.101	Jones Sonter	March 2008	6 February 2009
Ground Floor Plan DA2.102	Jones Sonter	March 2008	6 February 2009
Level 1 Plan DA2.103	Jones Sonter	March 2008	6 February 2009
Level 2 Plan DA2.104	Jones Sonter	March 2008	6 February 2009
Level 3 - 6 Plan DA2.105	Jones Sonter	March 2008	6 February 2009
Level 7 Plan DA2.106	Jones Sonter	March 2008	6 February 2009
Sections A-A and B-B DA4.101	Jones Sonter	March 2008	6 February 2009
Section C-C DA4.102	Jones Sonter	March 2008	6 February 2009
<i>North Elevation A1020-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>East Elevation A1021-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>South Elevation A1022-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>West Elevation A1023-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>North Elevation A2022-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>East Elevation A2023-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>South Elevation A2024-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
<i>West Elevation A2025-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	11/10/2018
Unit Layouts Building A & Unit Layouts Building A Penthouse Level DA3.101, DA3.105	Jones Sonter	January 2009	6 February 2009
Unit Layouts Building A & Unit Layouts Building A Penthouse Level DA3.101, DA3.105	Jones Sonter	January 2009	6 February 2009

Unit Layouts Building B - sheet 1-3 to sheet 3-3, DA3.102, DA3.103, DA3.104	Jones Sonter	January 2009	6 February 2009
Unit Layouts Building B penthouse level DA3.106	Jones Sonter	January 2009	6 February 2009
Drainage plans HDA01/P1, HDA02/P1, HDA03/P1, HDA04/P1, HDA05/P1, HDA06/P1HDA07/P1HDA08/P1,HDA09/P1	Whipps-Wood Consulting	August 2008	10 October 2008,
Landscape plans DA-LI	CAB Consulting Pty Ltd	5 February 2009	6 February 2009
Pedestrian & vehicle access plan (basement) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (ground floor) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 1) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 2) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 3 - 6) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 7) Rev A	Dyldam	-	13/12/2013
Staged Landscape Works Plan	CAB Consulting Pty Ltd	September 2013	13/12/2013
Construction management plan phase 1 Rev A	Dyldam	-	27/09/2013
Construction management plan phase 2 Rev A	Dyldam	-	27/09/2013
Construction management plan phase 2 (basement) Rev A	Dyldam	-	27/09/2013
Subdivision staging and section plan Rev D	Dyldam	11/09/13	27/09/2013

[Amendment A— Section 96(1A) amended on 3 November 2009]

[Amendment B — Section 96(2) amended on 17 May 2012]

[Amendment D — Section 96(1A) amended on 8 January 2014]

[Amendment E — Section 4.55(1A) amended on 13 November 2018]

3. *The development must be implemented substantially in accordance with the Finishes & Sample board A1080, prepared by Level 33 Architectural Division.*

[Amendment E — Section 4.55(1A) amended on 13 November 2018]

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel is satisfied that the revised materials will provide an improved presentation and are in keeping with the character of the area.
- The Panel noted the retention of the green wall vertical garden adjoining the communal open space within the site.

The Chairperson closed the meeting at 10:10 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

27/11/2018

Item No	6.1
Application Type	Deferred Development Application
Application No	DA-2017/107
Lodgement Date	29/09/2016
Property	DA-2017/107 - 1-3 Oriental Street, Bexley
Ward	Bexley
Owner	Y Z Z Investment Pty Ltd
Applicant	Mr Peter Yuan
Proposal	Demolition of existing buildings and construction of a four (4) storey residential flat building comprising 14 residential units, roof terrace and basement car parking
No. of Submissions	Two (2)
Cost of Development	\$4,711,892
Report by	Marta Gonzalez-Valdes, Coordinator Development Assessment

Officer Recommendation

1. That Development Application DA-2017/107 for demolition of existing structures and construction of a four (4) storey residential flat building comprising 14 residential units, roof terrace and basement car parking at 1-3 Oriental Street, Bexley, be APPROVED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*.
 2. That the objectors be notified of the Bayside Local Planning Panel's decision.
-

Location Plan

Attachments

- 1 Planning Assessment Report
- 2 Draft Conditions of Consent
- 3 Bayside Planning Panel Meeting 24/04/2018 - Item 6.2 - Planning Report
- 4 South & North Elevations
- 5 West & East Elevations
- 6 Roof Plan
- 7 Perspectives
- 8 External Finishes Schedule
- 9 Shadow Diagrams

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	DA-2017/107
Date of Receipt:	20 October 2016
Property:	1-3 Oriental Street, Bexley (Lots 36 and 37 in DP 5216)
Owners:	Y Z Z Investment Pty Ltd
Applicant:	Mr Peter Yuan
Proposal:	Construction of a four (4) storey residential flat building comprising 14 residential units, roof terrace, basement car parking and demolition of existing buildings.
Recommendation:	Approval
No. of Submissions:	One in first round; nil in second round; one in third round.
Cost of Development:	\$4,711,892
Author:	Brendon Clendenning, Creative Planning Solutions Pty Limited
Date of Report:	13 November 2018

Key Issues

On 10 April 2018, the Bayside Local Planning Panel (the Panel) considered this development application and resolved:

- 1. That this item be deferred to allow the applicant the opportunity to submit amended plans to address concerns that have been raised and investigate alternative solutions. The deferral will also allow for the plans to be notified in accordance with Council's DCP. The matter is to be referred back to the Panel in an appropriate and timely manner to allow determination*

The application was recommended for refusal when it was presented to the panel meeting of 10 April 2018, for a variety of reasons. The applicant has submitted several sets of amended plans to address the issues presented to the Panel at their meeting of 10 April 2018. Since the previous meeting, the plans have been notified on two separate occasions. The current amended plans include a reduction in the number of apartments (from the previously proposed 15 apartments). These plans have been reviewed and the application is now recommended for approval, subject to conditions. Each of the previous concerns are discussed individually within this report.

Recommendation

1 That:

- (A) Development Application DA-2017/107 for construction of a four (4) storey residential flat building comprising 14 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley, be APPROVED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, for the following reasons:
- (B) That the objectors be notified of the Bayside Local Planning Panel's decision.

Proposal

The applicant has submitted amended plans which have sought to address the issues raised within the panel's deferral. The changes have been described by the applicant as the following:

-
1. *Closure of East/west breezeway on all levels.*
 2. *Rear units shifted NW to create an equal setback of 4.4m from each side boundary.*
 3. *Closure of breezeways on level 1 and 2 and reduction of lobby size. (these 2 lobbies are now included in the GFA calculations).*
 4. *Minor apartment entry adjustments to accommodate redesigned lobbies.*
 5. *Deletion of Unit 15 on level 3 reducing the total units to 14.*
 6. *Private open space now allocated to penthouse (unit 13) on level 3 and rooftop open area deleted for unit 13.*
 7. *Common area on level 3 replaces deleted unit.*
 8. *Breezeway on ground floor and level 3 retained and not included in GFA calculations as agreed.*
 9. *Deletion of car space associated with deleted unit and replacement with turning bay.*
-

Assessment of the Issues within the Previous Report

Each of the issues that informed the reasons for refusal within the previous report are discussed below:

1. **Floor Space Ratio**

The previous proposal considered by the Panel provided a gross floor area calculated to be 1229.84sqm, which equated to an FSR of 1.17:1. This was a non-compliance with the FSR standard of 1:1, with a variation to the standard of 17.7%.

The amended proposal provides a total gross floor area of 1,021sqm and an FSR of 0.98:1, which is now compliant with the standard.

2. **Setbacks**

The setbacks of the proposal are to be considered against the design criteria within Part 3F of the Apartment Design Guide (ADG), which prescribes minimum separation distances to be provided between windows and balconies from a building to the side and rear boundaries, as reproduced below:

Design criteria

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

The previous report had outlined a number of rear setback non-compliances as outlined in the following table:

Rear Setbacks		
Dwelling no. and location	Setback	Non-compliance
Basement	0.0	6.0m
Unit 1, Ground	4.7m	1.3m
Unit 3, Ground	4.7m	1.3m
Unit 5, Level 1	5.3m	1.8m
Unit 7, Level 1	6.0m	N/A
Unit 9, Level 2	5.3m	1.8m
Unit 11, Level 2	6.0m	N/A
Unit 13, Level 3	5.3m	0.7m

All rear setbacks now exceed 6m (the minimum rear setback is approximately 6.5m) and rear setbacks are compliant with the requirements of Part 3F of the ADG.

With respect to side setbacks, all floors are now setback at least 3m from the side boundaries. However, given habitable rooms and balconies are proposed at the edges of the building, there remains some non-compliances with the 6m setback requirement. The previous non-compliances to each side boundary are discussed below.

The previous Unit 13 has been deleted from the proposal (the numbering of the units to the top floor has also changed).

South-eastern side setbacks

The previous report described the previous setbacks as follows:

"With respect to the south-eastern side boundary, the proposal provides for a 3m setback for the majority of the south-eastern façade contained above ground level. At ground level, the setbacks are as low as 1.25m. At each level, habitable rooms are located along the entire length of the south-eastern façade, with all non-habitable rooms located adjacent to the circulation core of the building. This represents a non-compliance of 3m to this wall".

The report noted that these setbacks may have been appropriate within the front half of the building, which partly adjoins a blank boundary wall, but were not appropriate to the rear, primarily because the small setbacks would create overshadowing impacts to 443-449 Forest Road, which although currently containing traditional "main street" shops, is affected by controls which permit densification for multi-storey shop top housing.

North-western side setbacks

Comments from the previous report in relation to this setback are reproduced below:

"The majority of the north-western façade is setback 4.2m from the north-western boundary. The rear portion of each front units is setback a smaller amount, being 3m. In addition, the ground floor also features a raised floor terrace area which is set back 3m from the northern boundary. The rooms on this side of the building are a mixture of habitable and non-habitable rooms. However, the western façade utilises smaller windows to attempt to mitigate privacy impacts.

The proposal provides a reasonable response to balconies that are situated a short distance from the side boundary. However, the Level 3 terrace generates unreasonable privacy impacts on these properties, as well as on any future development situated to the west. The setbacks are not supported in this location".

Assessment of current proposal

As indicated earlier, the minimum side setbacks are now 3m and these setbacks are provided within the front units and to the stairwell. The rear units are provided with 4.4m setbacks to both side boundaries, which remains non-compliant. However, the proposed setbacks are supported for the following reasons:

- The development is located within an area containing older residential flat buildings generally provided with lesser side setbacks and somewhat larger rear setbacks than that which is proposed. The proposal provides rear setbacks which are compliant and side setbacks which exceed that generally provided elsewhere within the locality.
- The building appears to be deliberately sited to maximise setbacks, where the potential for adverse impacts is the highest. Smaller setbacks are provided to the front portions of the side boundaries and larger

- setbacks are provided towards the rear of the building where the potential for adverse impacts are higher.
- There are relatively few design options available that would improve the overall siting of the building, noting the following:
 - The size of the lobby areas has been minimised in order to minimise the overall size of the building.
 - Although the balconies are larger than the minimum requirement, they are all designed to face towards the front and rear boundaries, which is appropriate to minimise privacy impacts towards the shorter setback areas. Therefore, reducing the size of the balconies would not have any impact on compliance with the side setback requirements.
 - Any redesign involving the relocation of the building further toward the front boundary is unlikely to create any significant reductions in the proposed side setbacks.

For the various reasons outlined above, the revised rear and side setbacks are considered to be acceptable and are supported in this instance.

3. Solar Access

The previous report had indicated that insufficient information was provided to demonstrate compliance with a number of requirements from Part 4A of the ADG and Part 4.4.2 of the RDCP 2011. The relevant solar access requirements were spelled out generally within the previous report as the following:

Part 4.4.2 requires buildings to be designed and sited to minimise the extent of shadows cast on:

- *private and communal open space within the development;*
- *private and communal open space of adjoining dwellings;*
- *public open space such as parkland and bushland reserves;*
- *solar collectors of adjoining development; and*
- *habitable rooms within the development and in adjoining developments.*

Furthermore, Part 4A of the ADG requires the following:

- *Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.*
- *A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter*

Despite the previous report indicating that there was inadequate information provided in relation to solar access, the level of information that has been provided within the amended proposal is generally commensurate with that provided within the previous proposal.

However, as a consequence of the reduced side setbacks, the proposal will now produce less overshadowing onto neighbouring properties. In addition, as

indicated earlier in relation to the discussion of the proposed setbacks, the building is sited as to maximise solar access to neighbouring properties. The information that was provided is sufficient to demonstrate that this is the case, particularly when the proposal is compared with the previous design considered by the Panel.

443-449 Forest Road

Given the adjoining properties that are most vulnerable to overshadowing (443-449 Forest Road) do not currently contain residential development (but contain the potential to do so in the future), it is not necessary to understand the precise numerical impact of the proposal on solar access to that property, but simply to understand that overshadowing has been minimised as much as possible and that a well-designed building on the affected properties will receive adequate solar access.

The shadow diagrams that were provided to accompany the current design depict overshadowing in plan at 9am, 12pm, and 3pm. A comparison between the shadow diagrams associated with the design previously considered by the Panel and that within the current design is shown within the images below:

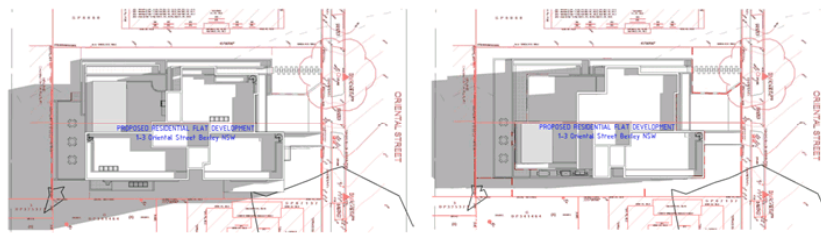


Figure 1 Comparison of the previous (left) and the current (right) shadow diagrams – 9am (Resolut, 2018)

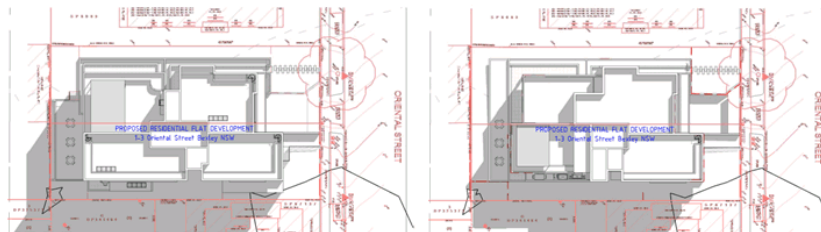


Figure 2 Comparison of the previous (left) and the current (right) shadow diagrams – 12pm (Resolut, 2018)

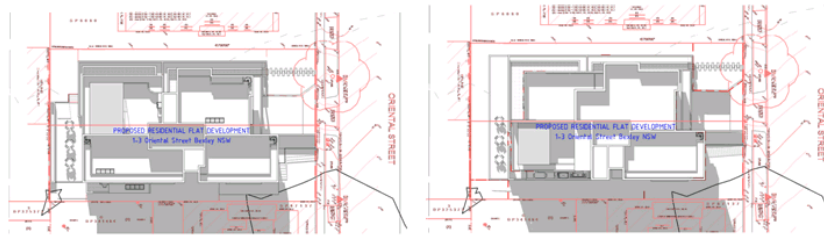


Figure 3 Comparison of the previous (left) and the current (right) shadow diagrams – 3pm (Resolut, 2018)

The amended shadow diagrams depict a significant reduction in the length of the shadows cast on to neighbouring buildings. The deletion of the previous Unit 13 will especially result in marked improvements to solar access to the surrounding properties.

437 Forest Road

In relation to the existing apartment development at 437 Forest Road, a submission was received concerning the 'natural light' that is available to the balconies of that property. There is no numerical requirement for natural light and an assessment of solar access is generally able to be used to provide a partial understanding to the impacts to natural light.

The submission describes the balconies in question:

"There are 4 apartments on the north side of 437 Forest Road, 2 on each of Levels 1 & 2. Those on the north-east side have the main outlook (lounge room) to the street on the eastern side, however the main bedroom faces north, immediately in the direction of the proposed development. These main bedrooms have private balconies which face north, directly into the proposed development.

Those on the north-west side have the lounge rooms on the northern side, immediately facing the proposed new development: these also contain the sole balcony of these apartments".

The four balconies that face the subject site are separated by a blade wall on each level, with the Level 3 balconies providing a roof above the Level 2 balconies, but being unroofed themselves. These balconies can be seen within the images below.



Figure 4 Neighbouring building at 437 Forest Road, viewed from Oriental Street, with balconies shown towards the subject site (CPS, 2017)



Figure 5 Neighbouring building at 437 Forest Road, viewed from the south (Nearmap, 2018)

The upper level balconies are also depicted on the submitted survey and within the shadow diagrams; however, the blade walls and the lower level balconies are not shown.

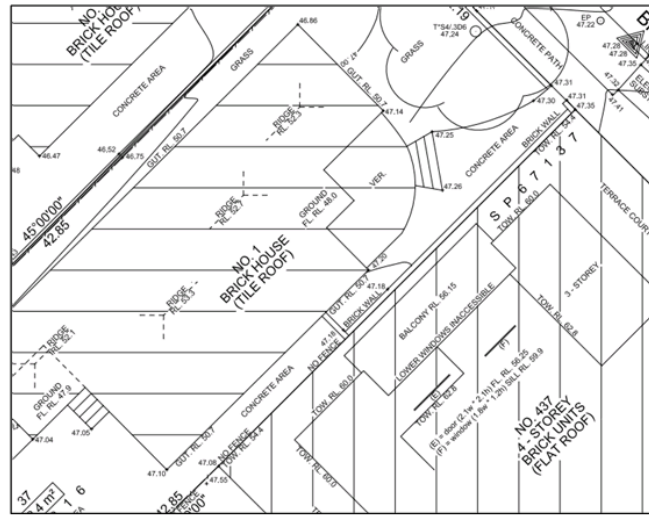


Figure 6 Extract from survey showing location of balconies that are the subject of the submission (S.J. Surveying Services Pty Ltd, 2015)

The outer edge of these balconies measures to be approximately 0.4m from the boundary shared with the subject site. As discussed within the previous report, there is a masonry boundary wall located within the front section of the shared boundary.

The level of the higher balconies is RL56.15 as shown on the survey. The survey does not show the levels of the floor below but it would be estimated to be approximately and approximately RL 53.2. These levels would approximately correspond with the floor levels of Level 2 and Level 3 within the proposed development.

Elevation shadow diagrams have not been provided with this application. However, the amended 12pm shadow diagram (shown again below) indicates that the design has deliberately sought to avoid overshadowing to these balconies.

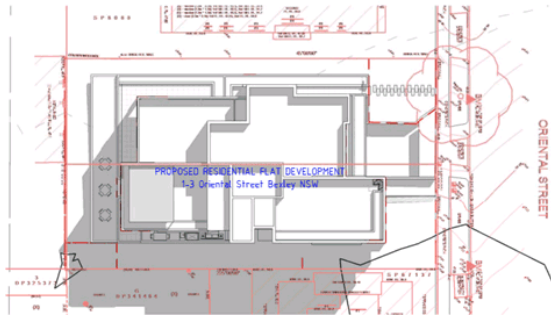


Figure 7 Comparison of the previous (left) and the current (right) shadow diagrams – 12pm (Resolut, 2018)

It is likely that the proposal will cast shadows on to these balconies at certain times within midwinter. However, preservation of solar access to these balconies is extremely difficult, given they are located only 0.4m from the common boundary and to preserve solar access to these balconies would unduly sterilise the development potential of the subject site. The proposal is able to be supported in this regard.

Solar Access to Subject Development

With respect to solar access to the dwellings within the development, Part 4A of the ADG requires that at least 70% of the apartments within the development receive a minimum of 2 hours of direct sunlight between 9am and 3pm at mid-winter. It is evident that all apartments oriented toward Oriental Street will receive excellent solar access throughout the year. These apartments represent 8 of the total 14 apartments, or 57.1%.

The three apartments facing the rear, at the southern corner (Units 3, 7, and 11) receive very little midwinter solar access and would not be expected to be able to comply. Therefore, compliance would rest on whether the three apartments in the western part of the site (Units 1, 5, 9) are able to comply with the requirement. All three of these units will be constrained by overshadowing from the existing building at 5 Oriental Street.

Unit 9 could be oriented so that improved solar access is provided. However, for privacy reasons, the balcony is not open to the north-western boundary, and bedrooms (rather than living rooms) are oriented towards that boundary. Similarly, Unit 1 would be expected to receive excellent solar access, given it is provided with a 66sqm terrace and that the living areas are well setback from the neighbouring development to the north. Each of these apartments may not receive the required two hours of sunlight in midwinter, despite receiving excellent solar access during midwinter afternoons and throughout the year. All apartments within the proposal are provided with a generally high standard of amenity, having dual aspects, large private and

communal open space areas, and generous setbacks from neighbouring properties, such that strict numerical compliance with the control within Part 4A is not critical.

Although the development may not achieve strict compliance, the development has been designed appropriately to maximise solar access to the subject site and neighbouring properties, as well as maintaining privacy to existing surrounding apartment developments.

4. Apartment Mix

Part 4.5.1 outlines the dwelling mix that is required for residential flat developments to be as follows:

- 1 bed/studio units – 10-30%
- 2 bedroom units – 50-75%
- 3 bedroom unit – 10-20%

The previous report indicated the following:

The proposal provides for two (2) x 1-bedroom units (13.3%), twelve (12) x 2-bedroom units (80%), and one (1) x 3-bedroom unit (6.7%). As a consequence, only the 1-bedroom units are consistent with the proportional dwelling mix, and there is an over-allocation of 2-bedroom units, and an under-allocation of 3-bedroom units.

The proposal now provides two (2) x 1-bedroom units (14.3%), eleven (11) x 2-bedroom units (78.6%), and one (1) x 3-bedroom unit (7.1%).

The amended proposal has moved towards compliance, but non-compliances are still evident in relation to the 2-bedroom and 3-bedroom units. The proposal could achieve compliance through the conversion of one x 2-bedroom apartment to a 3-bedroom apartment. However, given the constraints at the site in relation to floor space ratio and setbacks, it is accepted that such an amendment would create further non-compliance with a competing numerical requirement. The non-compliance is therefore supported.

5. Stormwater

A number of issues were identified within the previous report as follows:

- *The Drainage of Low Level Properties Checklist refers to an absorption system in accordance with Geotechnical report (which is not the case) where Stormwater Plans / Stormwater Plan Certification and Check List refers to an onsite detention system. Clarification is required.*
- *The concept stormwater design / checklist failed to acknowledge the following;*
 - *Disposal of surface runoff from landscape areas, mainly the backyard – Drainage of low level properties procedure.*

- *Protection of low level driveways procedure – Basement inundation.*
- *A gutter flow analysis, prepared in accordance with Technical specification stormwater management is required to be submitted for assessment. The analysis is required to:*
 - *Estimate the flow of water in the street kerb and gutter; and*
 - *Recommend the required crest level in the driveway to protect the low level driveway from flooding.*

Information has been provided to Council during the intervening period between the previous panel meeting and Council is now satisfied that all stormwater concerns are satisfied, subject to conditions of consent.

6. Visual and Acoustic Privacy

In addition, to the building separation matters already discussed, the previous report also outlined reasons for refusal relating to other specific visual and acoustic privacy impacts. Each of these issues are described below:

- *The trafficable areas of these spaces are setback approximately 1.25m-1.35m from the edge of the building, with planter boxes provided within that setback area. Were the application recommended for approval, a condition of consent would be recommended to increase that dimension to 1500mm. However, given the privacy issues, these rooftop elements are not supported.*
- *Bedroom 1 within Unit 1 is located with windows adjoining the common walkway towards the ground floor communal open space. The bedroom is not supported in this location, and could be designed to be away from this noise source. In addition, as outlined elsewhere, further planting is required within the southern boundary setback to minimise the transfer of noise to adjoining properties.*

Each of these issues has been addressed as follows:

- The trafficable areas of the rooftop communal open space areas remain setback less than the required 1500mm. As indicated within the earlier report, this can be remedied through conditions of consent.
- Bedrooms from all ground floor units are now located on the outer sides of the building, away from the central walkway areas.

7. Private Open Space

The previous proposal contained one apartment which did not comply with the minimum dimension requirements outlined within Part 4E of the ADG. This has been amended; however, as a consequence of the redesign, some of the ground floor apartments are now non-compliant. Further discussion is provided elsewhere in relation to non-compliances created by the design amendments.

8. Communal Open Space and Landscape Design

Commentary within the previous report outlined several reasons why the proposal was not consistent with Part 3D of the ADG, as reproduced below:

The proposal provides for a total of 191sqm of communal open space, including the ground floor (131sqm) and the area on Level 3 (60sqm). This equates to approximately 18% of the site area, which does not comply with the 25% requirement. It is noted that smaller communal open space areas are contemplated by the RDCP2011.

The Level 3 communal open space is likely to create adverse privacy impacts to adjoining properties, particularly given the non-compliant setbacks. The ground floor communal open space is long and narrow, overshadowed by the proposed building, and is provided with a poor relationship to neighbouring terraces, creating privacy issues.

Furthermore ... the design features provided within the communal open space area are considered to be inadequate.

Each of these matters are discussed below:

- The rear setback has been increased such that compliant communal open space is able to be provided within the rear setback area, with additional communal open space provided to Level 3, such that a total of approximately 370sqm (35%) of communal open space is provided, which comfortably exceeds the ADG requirement of 25% of site area.
- Communal open space has been relocated from the northern side of the Level 3 rooftop area to the southern side. Unlike the northern side, the southern side of the Level 3 rooftop area does not face towards existing windows. Notwithstanding, as indicated earlier within this report, there is potential for dwellings to be located on properties adjoining to the south in the future. A condition requiring trafficable areas to be setback 1500mm from the edge of the communal space is recommended, similar to that recommended for the private open space situated adjacent.
- The ground floor communal open space has also been used to provide additional design features for the benefit of future residents. Furthermore, the provision of excess communal open space places reduced importance on the precise layout of these areas, and the overall communal open space outcome is now satisfactory.

9. Car Parking

Commentary within the previous report outlined the following issue in relation to the proposed car park:

One of the visitor spaces may be difficult to access due to its location next to the ramp and a storage cage, and is not supported by Council's engineer. In addition, the shared car wash space is not adequately dimensioned and requires a minimum width of 3.5m. Given the issues with the layout, these issues are captured within the reasons for refusal, particularly given there are limited opportunities to increase the site coverage of the basement. The applicant has not provided a response to these issues.

Several design changes have been made to the carpark in accordance with the requirements of Part 4.6 of the RDCP 2011. Overall resident parking has been reduced, consistent with the reduction in the number of proposed units. The visitor space has also been relocated and is no longer constrained by the driveway ramp. The car wash space has also been redesigned such that it is 3.5m wide.

10. Streetscape

The previous design contained largely black and white finishes, which were not considered to be compatible with the existing streetscape within Oriental Street that is largely characterised by brick residential flat buildings containing earthy tones. The amended colour scheme more appropriately responds to this context and is supported.

The previous report had also indicated that services (e.g. substations and fire boosters) were not shown on the plans. Conditions can be imposed to ensure that services are appropriately incorporated into the design.

11. Site Coverage

Part 5.2 of the RDCP 2011 requires that site coverage be limited to no more than 35% of the site and that the building footprint for this development includes not only the internal floor areas of the building, but as the site is not flat, it also includes the raised terraces within the rear yard. The building at ground floor will equate to site coverage of approximately 327sqm (31%). Inclusion of all raised ground floor terrace areas will result in a non-compliance; however, it is not possible to determine precisely which parts of the terraces should be included within the site coverage calculation. Notwithstanding, even if all ground entire terrace areas were to be accounted for within this calculation, the development provides compliant landscaping, deep soil and communal open space as well as providing a built form and building setbacks that have been designed to minimise the overall scale of the development. Any technical non-compliance associated with the slope of the land is able to be supported.

S.4.15(1) - Matters for Consideration – General**S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP and BASIX certification. A Basix certificate was submitted with the original proposal in accordance with the provisions of this SEPP. An amended BASIX Certificate is to be incorporated into the development consent.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 4.1.5 Contaminated Land of the Rockdale Development Control Plan 2011. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

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

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

As part of the application several trees are proposed to be removed from the site to accommodate the proposed development. Council's Tree Management Officer has reviewed the original application and raised no objection to the proposed tree removals, including several trees which are sought for retention. The White Cedar tree within the street is not able to be removed. Tree management conditions are included within the recommendation.

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

The previous assessment report provided detailed discussion on several relevant matters for consideration under SEPP 65, including the advice of the Design Review Panel, the Design Quality Principles, as well as a discussion of any non-compliances with the design criteria of the ADG. The issues that came from those discussions have been considered earlier within this report. Additional non-compliances resulting from the amended design are discussed below:

Ground floor private open space

The Design Criteria within Part 4E of the ADG stipulates a minimum private open space area for individual apartments. The majority of the apartments provide private open space areas that are well in excess of the minimum requirements. However, Unit 3 and Unit 4 are short of the requirements for ground floor dwellings, being 15sqm with a minimum dimension of 3m. Unit 4, which fronts Oriental Street, is also not provided with direct access from the street, contrary to the requirements of Part 3C of the ADG, RDCP 2011, and the recommendations of the Design Review Panel. Unit 4 is provided with an 11sqm terrace with a 2m dimension, and Unit 3 is provided with a 13sqm terrace with a 2.6m dimension.

The two apartments in question are relatively unusual being ground floor one-bedroom apartments. Strict application of this requirement for one-bedroom apartments would require a nearly 50% increase in the minimum 8sqm of private open space required for upper levels (compared with 10sqm for 2-bedroom apartments and 12sqm for 3-bedroom apartments).

Conditions could be imposed to require compliance; however, this would either interfere with the landscape scheme, interfere with the continuous areas of deep soil and communal space, or – in the case of Unit 3 - require level changes within the private open space.

Given the small size of the apartments and that these areas are well connected to landscaped and communal areas, a more appropriate condition would be to require that these terraces be provided with openings to provide direct connection to the adjoining landscaping or communal open space areas. This would enable direct access to communal open space for occupants of these units, in circumstances where larger spaces are needed. It is expected that there will be ample opportunities for use of the communal open space areas by the occupants of these dwellings, given the generous provision of private open space in other units, the second communal open space to the roof, and that only 12 other units are accommodated within this development.

Circulation Spaces

The Design Guidance within Part 4F of the ADG requires that daylight and natural ventilation be provided to all common circulation spaces that are above ground. The previous design complied with this requirement at all levels; however, in order to minimise FSR and maximise setbacks, the circulation spaces to Level 1 and Level 2 have been reduced in size to be 12sqm, and these spaces are provided with no daylight or natural ventilation.

These circulation spaces are inevitably small in order to accommodate an apartment development on a constrained site. Given only four apartments are provided to each of Level 1 and Level 2, and that each apartment is provided with balconies that comfortably exceed the minimum private open space requirement, appropriate amenity is provided to each level. The circulation spaces are acceptable, particularly as their small size minimises travel distance between apartment entries and the vertical circulation areas.

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The previous assessment report provided a detailed consideration of relevant provisions of RLEP 2011. Any issues that came from those discussions have been considered earlier within this report.

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

There are no draft planning instruments that will affect the proposed development.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011 (RDCP 2011)

The previous assessment report provided a detailed consideration of any non-compliances associated with the RDCP 2011. Any issues that came from those discussions have been considered earlier within this report. Additional non-compliances resulting from the amended design are generally in line with the non-compliances associated with the ADG and these have been discussed earlier.

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

There are no relevant clauses of the Regulations that are particularly relevant to the amended proposal.

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

Potential impacts associated with the proposed development have been discussed in detail within this report.

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

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

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

The original proposal development has been notified in accordance with the provisions of the RDCP 2011. In response, one (1) submission was received, which objected to the proposal. The notification has been notified twice since, most recently following the receipt of amended plans in November 2017. No submissions were received during the second notification period, and one (1) new submission was received during the third notification period.

The issues raised in the original submission, as well as those within the recent submission, have been taken into consideration in the assessment of the application as discussed below:

Original submission

Issue 1: Height, noting that other buildings within the area are a maximum of three storeys.

Comment: The previous revision of the plans considered by the panel were an amendment from an earlier revision, which were amended to comply with the required maximum height limit. The proposal complies with the maximum permitted height at the site and is therefore in accordance with the type of development anticipated in this location. Furthermore, the uppermost floor is provided with a reduced floorplate, to minimise any impacts associated with the height of the proposal.

Issue 2: Traffic and parking

Comment: The submitted traffic report indicates that surrounding streets can accommodate the additional traffic movements, and all outstanding parking matters

have been addressed. There are no particular parking or traffic issues that would warrant refusal of the application.

Issue 3: Privacy impacts, particularly the balcony to 12/5-7 Oriental Street.

Comment: Privacy impacts have been mitigated within the design of the building. For instance, high-level windows and window spacing is provided towards the property at 5-7 Oriental Street. The rear balconies are open towards this side; however, they are situated away from windows within the building at 5-7 Oriental Street. These balconies may create some reciprocal privacy issues with the balconies situated in a similar location at 5-7 Oriental Street. These impacts can be minimised with small privacy screens to these locations.

Issue 4: Extra bins on street, and the associated impacts on parking.

Comment: A bin storage area is located within the basement, and conditions of consent will require that the waste bins be stored within the basement after they are emptied.

Issue 5: Proposal inappropriate in the local context, noting the colour of the brickwork, and that there are few other developable sites in the street.

Comment: Concerns in relation to the previous colour selection and in relation to the bulk of the development at the rear have now been rectified. The proposal will realise development potential that currently exists at this site.

Issue 6: Glare from white paint and windows

Comment: The previously proposed white render no longer forms part of the proposal; however, issues remain with the proposed finishes. The proposed windows would provide amenity to the apartments, and the reflectivity is required to comply with relevant conditions.

New submission

One (1) new submission was received in response to the notification period undertaken during 24 October-8 November 2018. The submission was received from an owner-

occupier of one of the apartments within the adjoining development at 437 Forest Road. The following issues were raised within the submission:

Issue 1: Impact on natural light to the northern lounge rooms and main bedrooms, particularly in relation to the proposed setbacks.

Comment: There is no numerical requirement for natural light and an assessment of solar access is generally able to be used to provide a partial understanding to the impacts to natural light. Detailed discussion has been provided within the assessment of solar access.

Issue 2: Privacy impacts associated with the roof terrace, with line of sight into bedrooms of apartments.

Comment: The trafficable areas of the rooftop communal open space areas remain setback less than the required 1500mm. As indicated within the earlier report, this can be remedied through conditions of consent.

Issue 3: Impact of a 4-storey development on the character of Oriental Street, which accommodates predominately 3-storey developments.

Comment: A similar concern was put forward within the earlier submission. The proposal complies with the maximum permitted height at the site and is therefore in accordance with the type of development anticipated in this location. Furthermore, the uppermost floor is provided with a reduced floorplate, to minimise any impacts associated with the height of the proposal.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed development represents a high-quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

Developer Contributions

Developer contributions will apply to the development, as a result of the proposed increase in density, and conditions are recommending requiring contributions in accordance with *Rockdale Section 94 Contributions Plan 2004*.

Conclusion

The issues raised within the previous report presented to the Panel at their meeting of 10 April 2018 have now been addressed. Amended plans submitted to Council have been assessed and are considered to address the issues that were raised and the proposal now represents an improved outcome. Therefore, it is recommended that the Panel consider the amended plans and determine the application in accordance with the recommendation provided.

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
Architectural Plans		
DA004 Location Map & Development Data (Rev. 10)	Resolut	21 October 2018
DA005 External Finish Schedule (Rev. 10)	Resolut	21 October 2018
DA101 Basement Parking Plan (Rev. 10)	Resolut	21 October 2018
DA102 Ground Floor Plan (Rev. 10)	Resolut	21 October 2018
DA103 Level 1 Plan (Rev. 10)	Resolut	21 October 2018
DA104 Level 2 Plan (Rev. 10)	Resolut	21 October 2018
DA105 Level 3 Plan (Rev. 10)	Resolut	21 October 2018
DA106 Roof Plan (Rev. 10)	Resolut	21 October 2018
DA201 East & West Elevations (Rev. 10)	Resolut	21 October 2018
DA202 North & South Elevations (Rev. 10)	Resolut	21 October 2018
DA301 Indicative Section 01 & Ramp Details (Rev. 10)	Resolut	21 October 2018
DA302 Indicative Section 02 (Rev. 10)	Resolut	21 October 2018
Landscape Plans		
Landscape Design (Issue B)	Outliers Design Studio	15 June 2018
Stormwater Plans		
SW010 Cover Sheet, Drawing Index, General Notes and Site Plan (Rev. A)	TAA Consulting Engineers	26 July 2016
SW-020 Basement Floor (Rev. A)	TAA Consulting Engineers	26 July 2016
SW-020 Ground Floor (Rev. A)	TAA Consulting Engineers	26 July 2016

SW-020 Level 1 Floor (Rev. A)	TAA Consulting Engineers	26 July 2016
SW-020 Level 2 Floor (Rev. A)	TAA Consulting Engineers	26 July 2016
SW-020 Level 3 Floor (Rev. A)	TAA Consulting Engineers	26 July 2016
Roof Floor Plan (Rev. A)	TAA Consulting Engineers	26 July 2016

Report	Prepared by	Dated
Geotechnical Investigation report ID: G16047BEXR01F	Geo-Environmental Engineering Pty Ltd	10 May 2016
BASIX Certificate 744647M_02		16 November 2018
Waste Management Plan	n.a.	n.d.
Traffic and Parking Assessment Report Ref: 16068	Terraffic Pty Ltd	14 September 2016
Acoustic Report Reference No. 2016-348	Acoustic Noise & Vibration Solutions P/L	14 July 2016

Where there is any inconsistency between the plans prepared by Resolut, with those prepared by either Outliers Design Studio or TAA Consulting Engineers, the plans prepared by Resolut shall prevail.

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 744647M_02 other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. The balcony/terraces shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and

letter in the alphabet.

10. A total of 15 residential, 3 visitors including 1 shared carwash bay, 4 commercial / retail car spaces, a minimum of 1 motorcycle parking spaces, a minimum of 2 bicycle parking spaces and 1 car wash bay shared with visitors, must be provided within the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements and the minimum rates provided below. This parking must be reflected in any subsequent strata subdivision of the development.

Allocated Spaces

One (1) bedroom apartments and Two (2) bedroom apartments 1 space per apartment

Three (3) bedroom apartments 2 spaces per apartment

Non-Allocated Spaces

Residential Visitor Spaces = Three (3) spaces

Note:

- All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.
- 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 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

11. Waste bins are to be returned to the basement storage areas on the same day that they are emptied.

Development specific conditions

The following conditions are specific to the Development Application proposal.

12. The design and construction of the off-street parking facilities shall: Comply with Australian Standards, as follows:
 - Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
 - Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 - The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
 - Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
 - The car parking spaces shall not be enclosed at any time.
 - For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
 - Allocate all off-street visitor parking, loading bays and car wash bay as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
13. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
 - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
 - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - d) Graffiti resistant materials shall be used to ground level external surfaces.
 - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. 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.
 15. 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.
 16. 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.
17. 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.
18. 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.
19. Temporary dewatering of the site to construct the subsurface structure is not permitted.
20. 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.
21. 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.
22. All vertical plumbing shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located as shown on the approved plans. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. Any change to the location of the services would require an application to Council for modifications to the development consent.
23. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:
- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems (including installation) proposed for use or used in the

- construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
- b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
24. The landscape plan prepared by Outliers Design Studio Landscape Design Issue B, 15 June 2018 shall be the subject of detailed landscape construction level documentation to be submitted to and approved by Bayside Council's Landscape Architect prior the issue of the relevant Construction Certificate. The following conditions shall be fully addressed:
- (1) Deep soil areas shall minimise turf area. Turf area proposed along southern side setback shall be replaced with deep soil planting, of trees, shrubs and groundcover in mulch bed. Southern area has a low sun access, and turf will be hard to maintain. Stepping stones with groundcovers (*Viola headrace*, *Ajuga reptans*, *Dichondra repens*) in between can be provided along southern setback to minimise maintenance issues, and facilitate circulation.
 - (2) Lawn at the rear of the property, adjacent to common terrace, is appropriate. All other lawn areas shall be replaced with planting, or a low maintenance treatment.
 - (3) All proposed *Viburnum suspensum* (Sadankua Viburnum) proposed in deep soil, along north, west and southern boundary to provide privacy shall be replaced with a mix of native screen shrubs to reach a minimum mature height of 2.5 meters. Recommended species are: *Syzygium austral* 'Cascade', *Acmena smithii* Sublime, *Waterhousia floribunda*, *Callistemon* 'Burgundy', 'Candy Pink', 'Wilderness White', *Leptospermum* 'Burgundy Queen', *Leptospermum petersonii*, or similar.
 - (4) Frontage setback shall allow one (1) canopy tree to be *Angophora bakeri* (Smoothed barked Apple), or *Eucalyptus haemastoma* (Scribbly Gum), to be planted and supplied in a minimum pot size of 75 Litres.
 - (5) The proposed on site detention Basin is showing the perimeter wall on top of trees to be retained along northern boundary line. The wall shall avoid any tree protection zone (TPZ) of trees to be retained. Amended landscape plan shall clearly identify trees to be retained and their TPZ.
 - (6) Western (rear) and southern setbacks shall include a greater number of native canopy trees.
 - (7) Roof terrace shall be adapted to latest architectural layout. Further details shall be included in landscape plan: top of walls, finishes, specify a climber to pergola. Each terrace shall allow for at least one tree or a structure pergola with planting on top to provide amenity, shade and privacy.
 - (8) Roof pergola shall allow at least one climber plant to grow on top, being capable of covering the pergola to provide shade in summer months.
 - (9) All proposed planter boxes soil depth shall allow growth of proposed vegetation. Planter boxes constructed over a concrete slab must comply with SEPP65 RFDC or ADG. All planter boxes shall be irrigated, and shall have

the required depth to sustain the proposed planting. Minimum width shall be 800mm.

- (10) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas on slab. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas on slab. . 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. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.
- (11) Preference should be given to locally indigenous and Australian native plant species wherever possible. For indigenous species please refer to Rockdale Technical Specification -Landscape, <https://www.rockdale.nsw.gov.au/development/Pages/pdf/Development/TS-Landscape.pdf>
- (12) Public Domain Landscape Works
 - (a) Existing street tree *Melia azedarach* (WhiteCedar), shall be retained and protected measures shall be follow prior and during construction as per Council DCP.
 - (b) Provide street tree planting to Oriental Street. One (1) *Eucalyptus leucaloxylon* 'Rosea' shall be planted in the verge strip between footpath and kerb. Specifications as follow:
 - (i) Pot size supplied shall be not less than 100 Litre.
 - (ii) Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries.
 - (iii) Root barriers shall be specified to be installed in all street trees along both kerb and footpaths. Root barriers shall be installed as far as possible of trees. Ensure 50mm of root barrier is left above finished ground height. Root barrier shall be minimum 2 meters long to each side. Root barriers shall be installed alongside the landscape element to be protected in accordance with manufacturer's recommendations.
 - (iv) Tree trunk shall be not less than 3 meters from any driveway.
 - (v) Tree pit to be 2.5 m long, width of the space between kerb and footpath. Interface between turf and tree pit shall be hardwood to flush kerb finished level with the front edge of footpath and top of kerb.
 - (vi) 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.
 - (vii) 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.
 - (viii) Trees provided shall conform to NATSPEC guide.

- (ix) Tree pits shall be planted with native grasses and groundcovers (6 x m2): *Dianella caerulea* 'Breeze', *Lomandra Tanika*, *Brachyscome multifida* and *Chrysocephalum apiculatum*. No groundcovers shall be planted 600mm from tree trunk.
 - (x) A DialBeforeYouDig enquiry is required prior to all tree planting.
25. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and 2.4 metres for all non-habitable areas as measured vertically from finished floor level to the underside of the ceiling. Details are to be shown in the Construction Certificate drawings.

Prior to issue of the construction certificate

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

26. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- i. A Footpath Reserve Restoration Deposit of \$10,362.00. 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 \$19.00.
27. 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.
28. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
29. A Section 94 contribution of \$143,733.96 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 Rockdale Section 94 Contributions Plan 2004 (Amendment 5). 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 2004 (Amendment 4) in the following manner:

Open Space	\$124,283.02
Community Services & Facilities	\$6,550.55
Town Centre & Streetscape Improvements	\$2,461.97
Pollution Control	\$9,714.38
Plan Administration & Management	\$724.04

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

30. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

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

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

31. The applicant shall confer with Ausgrid to determine if installation of electricity conduits in the footway is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

1. The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

32. 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.
33. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

34. Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:
- i) Construction of footpath & streetscape works.
 - ii) Construction of vehicular entrance
35. 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.
36. 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 exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to the Certifying Authority for approval illustrating compliance with this requirement, prior to the 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.

37. As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must;
- (a) All recommendations contained in the report prepared by Geo-Environmental Engineering Pty Ltd. Ref: Report ID: G16047BEX-R01F, dated 10 May 2016 shall be implemented.
 - (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) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.

NB:

- (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.
- (ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.
- (iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking/waterproofing).
- (f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

38. 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.

39. Any sub-surface structure within the highest known groundwater table + 0.5m shall be designed with a waterproof retention system 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. The design of the subsurface structure, 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. *After construction is completed no seepage water is to discharge to the kerb. Permanent dewatering will not be permitted.*
- b. *Continuous monitoring of groundwater levels may be required.*
- 40. Prior to the issue of a Construction Certificate for *building works*, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including access comply with the conditions of consent
- 41. 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.
- 42. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
- 43. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to the Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The drainage plans must show how groundwater is managed within the 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.

The design shall take into consideration of geotechnical recommendations.

Note:

- a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management
- b. The basement pump well size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.
- c. Implement all recommendations contained in the preliminary geotechnical investigation report prepared by Geo-Environmental Engineering Pty Ltd. Ref: Report ID: G16047BEX-R01F, dated 10 May 2016.
- d. The low-level driveway shall be protected from street gutter flows. The design of the basement carpark access ramp crest level is to be 100mm above the 1 in 100 year Gutter flow level.

- e. To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.
- 44. Prior to the issue of a construction certificate, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves or improves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*.
- 45. Amended plans shall be submitted for approval to the principal certifier prior issue of Construction Certificate containing the following design amendments:
 - (a) An individual pedestrian entry, similar to that provided to Unit 2, must be provided to Unit 4. A minor redesign to the landscape scheme is permitted, but only so far as necessary to accommodate this requirement.
 - (b) A pedestrian gate, similar to that provided to Unit 2, must be provided between Unit 3 and the adjacent rear communal open space. A minor redesign to the landscape scheme is permitted, but only so far as necessary to accommodate this requirement.
 - (c) The rooftop terrace marked on the Level 3 plan as 'Unit 14 Private Open Space' is to be allocated to the adjacent Unit 13.
 - (d) Barriers and screen planting to all rooftop areas shall be increased in depth such that no trafficable rooftop areas are located within 1500mm of the edge of the rooftop area.
 - (e) Privacy screening (either stationary or movable) is to be provided to the north-western side of the balconies to Unit 5 and Unit 9. The privacy screening should screen approximately half of the north-western side of these balconies and should be designed to be similar to privacy screening provided elsewhere within the development.
 - (f) The west elevation must accurately show the boundary setbacks of each building, as shown on the approved floor plans.
 - (g) Two adaptable units are to be provided to the development.

Prior to commencement of works

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

- 46. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
- 47. 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.
48. 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.
49. 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.
50. Prior to the commencement of work, a Tree Protection Zone shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip line where possible around the White Cedar street tree at the front of the site which is required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zone at any time.
51. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
52. 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.
53. 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.
54. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
- i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
55. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

56. 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.
57. 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.
58. 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.
59. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
60. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
61. 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.
62. 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.

63. 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.
64. 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.
65. 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.
- 66. 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.
- 67. The White Cedar (*Melia azedarach*) tree located on the nature strip at the front of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 68. All existing trees located within the site may be removed.
- 69. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by contacting Council's Tree Management Officer.
- 70. Underground Services such as pipelines or cables to be located close to trees, must

be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.

71. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
72. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.

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.

73. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
74. 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.
75. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
76. 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.

77. 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.
78. Lots 36 and 37 of DP 5216 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
79. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.

80. 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.
81. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
82. 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".
83. 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.
84. Bollard(s) shall be installed by the Developer on adaptable shared spaces.
85. 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.

86. 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.
87. The noise reduction measures specified in the noise report prepared by Acoustic Noise & Vibration Solutions P/L dated 14 July 2016 and the requirements of relevant conditions of consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifier prior to the issue of an Occupation Certificate. A copy shall be submitted to Council concurrently.
88. 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.
89. Prior to occupation, a chartered professional engineer shall certify that the **basement** 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.
90. 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.

91. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
92. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
 - (i) The stormwater detention facility to provide for the maintenance of the system.
93. 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.
94. 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.

95. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
96. Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

Integrated development/external authorities

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

97. Sydney Airport related conditions

Sydney Airport Corporation Limited (SACL) and the Department of Infrastructure and Regional Development have approved the maximum height of the proposed building at 60.7 metres relative to Australian Height Datum (AHD). The following conditions are imposed:

- a) The building must not exceed a maximum height of 60.7 metres AHD, inclusive of

all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden platings, exhaust flues etc.

b) The proponent must advise Airservices at least 3 business days prior to the controlled activity commencing by emailing <pds.obs@airservicesaustralia.com> and quoting "SY-CA-419".

c) Separate approval must be sought under the Regulations for any cranes required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

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

Breaches of approval conditions are subject to significant penalties under sections 185 and 187 of the Act.

Roads Act

98. 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.

99. 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.
100. 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.

101. 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.
102. 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.
103. 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.
104. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

Development consent advice

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

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au 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. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
 - choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours

- educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- e. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.

Bayside Planning Panel**24/04/2018**

Item No	6.2
Application Type	Development Application
Application Number	DA-2017/107
Lodgement Date	29 September 2016
Property	1-3 Oriental Street, Bexley
Owner	Y Z Z Investment Pty Ltd
Applicant	Mr Peter Yuan
Proposal	Construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings.
No. of Submissions	One (1) in opposition
Cost of Development	\$ 4,711,892.00
Report by	Brendon Clendenning, Creative Planning Solutions Pty Limited Pascal van de Walle, Coordinator Development Assessment

Officer Recommendation

- 1 That the Bayside Planning Panel does not support the variation to Clause 4.4 in accordance with the Clause 4.6 justification provided by applicant.
- 2 That Development Application DA2017/107 for construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley, be REFUSED pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:
 - i) 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 considerations listed within Clause 28 of State Environmental Planning Policy 65 Design Quality of Residential Apartment Development:
 - a) 3D – Communal Open Space
 - b) 3F – Visual Privacy
 - c) 4A – Solar Access
 - d) 4E – Private Open Space
 - e) 4H – Acoustic Privacy
 - f) 4K – Apartment Mix
 - ii) 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 requirements of State Environmental Planning Policy – BASIX, as an amended certificate has not been provided to accompany an amended design.

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Bayside Planning Panel 24/04/2018

- iii) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following requirements or objectives of Rockdale Local Environmental Plan 2011:
 - a) Clause 2.3 – Zone Objectives
 - b) Clause 4.4 – Floor Space Ratio
 - c) Clause 4.6 – Exceptions to Development Standards.
 - d) Clause 6.7 - Stormwater
 - iv) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:
 - a) 4.1.3 – Water Management
 - b) 4.2 – Streetscape and Site Context
 - c) 4.3.2 – Private Open Space
 - d) 4.3.3 – Communal Open Space
 - e) 4.3.4 – Open Space and Landscape Design – Residential Building
 - f) 4.4.2 – Solar Access
 - g) 4.4.5 – Visual and Acoustic Privacy
 - h) 4.4.6 – Noise Impact
 - i) 4.5.1 – Housing Diversity and Choice
 - j) 4.6 – Car Parking and Movement
 - k) 5.2 – Residential Flat Buildings
 - v) Having regard to the abovementioned non-compliances and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.
 - vi) Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development has not been adequately demonstrated.
 - vii) 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.
- 3 The objectors be advised of the Bayside Planning Panel's decision.

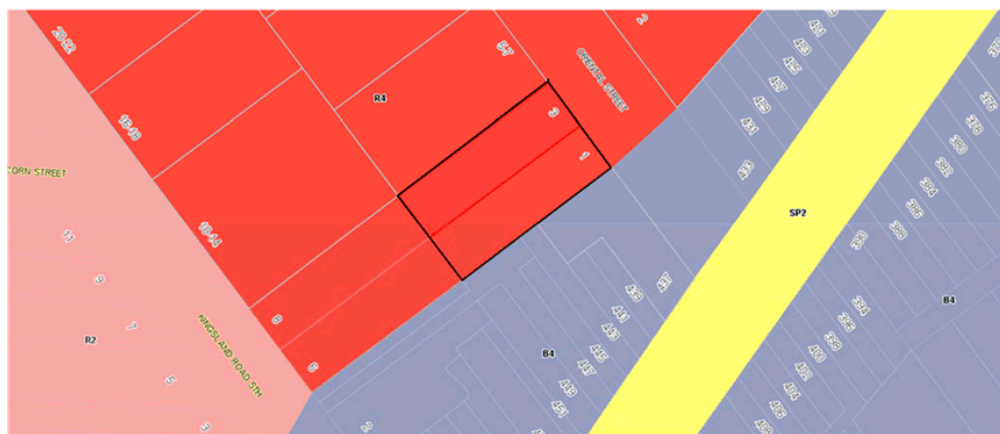
Attachments

- 1 Assessment Report
- 2 Site Analysis Plan
- 3 North & South Elevations Plan
- 4 East & West Elevations Plan
- 5 Landscaping Plans and Details
- 6 Basement Parking Plan
- 7 Written Clause 4.6

Item 6.2

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Location Map



Item 6.2

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BAYSIDE COUNCIL

Bayside Planning Panel Assessment Report

Application Details

Application Number:	DA-2017/107
Date of Receipt:	29/09/2016
Property:	1-3 Oriental Street, BEXLEY NSW 2207
Lot & DP/SP No:	Lots 36 and 37 in DP 5216
Owner:	Y Z Z Investment Pty Ltd
Applicant:	Mr Peter Yuan
Proposal:	Construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings.
Value:	\$ 4,711,892
Recommendation:	Refusal
No. of submissions:	One (1) in opposition
Author:	Brendon Clendenning, Creative Planning Solutions Pty Limited
Date of Report	4 April 2018

Key Issues

Council received Development Application No. DA-2017/107 on 29 September 2016 seeking consent for the construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley.

Following the receipt of amended plans in relation to the comments of the Design Review Panel, Council issued an additional information request in August 2017, which outlined a range of issues with the proposal, relating to Apartment Design Guide non-compliance (including building separation), solar access, apartment schedule, building design, apartment mix, floor space ratio, plan details, Design Review Panel comments, waste transport, landscaping.

Council received additional information in October 2017.

Minimal changes were included within the amended proposal, and the information that was requested by Council to provide further support of the non-compliances was not provided. The proposal exhibits a wide range of non-compliances, with the most fundamental issues relating to floor space ratio, building separation and solar access.

The original proposal sought a variation to the floor space ratio standard for the site. The proposal was amended in response to the floor space ratio issues; however, the overall size of the building was increased. The amended proposal provides a breezeway or 'open lobby' to each level of the building, with full height screening provided at either end of the open lobby, and void areas provided for each level above the ground floor. It is understood that the applicant intends for the open lobby areas to be excluded from the calculation of gross floor area, and for the proposal to comply with the 1:1 floor space ratio requirement. However, given the screening provided at either end of the open lobbies, it is considered that these areas meet the definition for gross floor area. The floor space ratio variation is not supported.

The proposal does not comply with the building separation requirements for three of the four boundaries. It is acknowledged that the existing blank wall to the south provides an opportunity for reduced setbacks towards the south, but this would be expected to be limited to those levels that are equivalent in height to the blank wall. The various other setback non-compliances are not appropriate in this instance.

With respect to solar access, limited information has been provided to enable a consideration of the impacts to surrounding properties. A range of additional information was sought to enable a proper assessment of solar access impacts. This information was not provided; however, it is likely that the impacts to solar access would be deemed to be unacceptable.

The amended plans submitted in October 2017 in response to Council's letter, resulted in an increase in the overall size of the proposed building, which would require a re-notification of the proposal. Given that the application is recommended for refusal, these plans have not yet been notified. Should the panel determine that the recommendation of refusal is not appropriate, it is recommended that the application be deferred to enable a further notification period, with a supplementary report to be provided addressing any submissions made. **Any development consent granted without an additional notification period would most likely be declared invalid if it were challenged in Class 4 Land and Environment Court proceedings.**

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for refusal, for the reasons outlined within the Recommendation.

Recommendation

That:

- A. That the Bayside Planning Panel does not support the variation to Clause 4.4 in accordance with the Clause 4.6 justification provided by applicant; and,
- B. Development Application DA2017/107 for construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley, be REFUSED pursuant to Section 80(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 considerations listed within Clause 28 of State Environmental Planning Policy 65 Design Quality of Residential Apartment Development:
 - a) 3D – Communal Open Space
 - b) 3F – Visual Privacy
 - c) 4A – Solar Access
 - d) 4E – Private Open Space
 - e) 4H – Acoustic Privacy
 - f) 4K – Apartment Mix
2. 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 requirements of State Environmental Planning Policy – BASIX, as an amended certificate has not been provided to accompany an amended design.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following requirements or objectives of Rockdale Local Environmental Plan 2011:
 - a) Clause 2.3 – Zone Objectives
 - b) Clause 4.4 – Floor Space Ratio
 - c) Clause 4.6 – Exceptions to Development Standards.
 - d) Clause 6.7 - Stormwater
4. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:
 - a) 4.1.3 – Water Management
 - b) 4.2 – Streetscape and Site Context
 - c) 4.3.2 – Private Open Space
 - d) 4.3.3 – Communal Open Space
 - e) 4.3.4 – Open Space and Landscape Design – Residential Building
 - f) 4.4.2 – Solar Access

- g) 4.4.5 – Visual and Acoustic Privacy
 - h) 4.4.6 – Noise Impact
 - i) 4.5.1 – Housing Diversity and Choice
 - j) 4.6 – Car Parking and Movement
 - k) 5.2 – Residential Flat Buildings
5. Having regard to the abovementioned non-compliances and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.
 6. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development has not been adequately demonstrated.
 7. 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.
- C. The objectors be advised of the decision of the Panel.

Background

History

29 September 2016 – DA-2017/107 submitted to Council

Construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings.

8 – 26 October 2016 - Public notification of proposal

19 October 2016 – Consideration by Design Review Panel

The primary concerns that the Design Review Panel raised were in relation to the insufficient information about building separation and associated impacts, floor space ratio (FSR) exceedance, solar access and overshadowing impacts on adjoining properties, privacy impacts, insufficient provision of large trees in deep soil zones, overall amenity including apartment layouts, and apartment mix.

The Design Review Panel recommended the deletion of Unit 13 and its replacement with an additional roof garden to reduce bulk and to bring the FSR into approximate compliance. It was considered that this would improve the provision of communal open space and mitigate privacy concerns with neighbours. It was also recommended that the communal open space area at ground level and the rooftop space at Level 3 be carefully designed to increase buffer planting between private and common space and that furniture be carefully positioned to minimise overlooking.

13 December 2016 – Tree Management Officer referral response

The Tree Management Officer referral response indicated that the existing White Cedar street tree was to be retained and protected, whilst other trees were supported for removal.

10 February 2017 – Submission of updated plans

20 February 2017 - Referral to Sydney Airport Corporation

The decision was to approve the controlled activity of the proposal under the *Airports (Protection of Space) Regulations 1996*, to a maximum of 60.7 metres AHD (this height was later reduced), inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues, etc.

April 2017 – Submission of further updated plans

August 2017 – Request for further information

Letter sent to applicant regarding several deficiencies in the DA and the proposal in general. These dealt with various non-compliances with the specific design criteria and design guidance

prescribed within the Apartment Design Guide (including minimum apartment sizes, lack of ventilation and solar access to circulation areas, building separation requirements), solar access and overshadowing impacts, building design, apartment mix, FSR, and landscaping. Other information was also sought such as an apartment schedule and updates to the architectural plans.

October 2017 – Submission of further updated plans

The updated plans submitted to Council did not adequately reflect the amendments sought by the letter requesting further information in August 2017. A number of matters remained outstanding, as outlined within this report.

4 December 2017 – Landscape Architect referral response

The Landscape Architect referral response indicated that the landscaping was in need of further improvement. The main issues include the quality of amenities to the rooftop communal open space area, insufficient planting at the southern boundary and within the communal open space area, requirement for a shade structure or awning near or over the BBQ area, and an inadequate number of trees and lawn area within the deep soil zone at Oriental Street. The applicant was later notified of these issues.

5 December 2017 – Engineering referral response

The Development Engineer referral response indicated that there were issues in relation to the stormwater design and calculations. Additionally, the location and dimensions of some of the parking areas are not suitable. The applicant was later notified of these issues.

16 January 2018 – Meeting with applicant

After earlier advising the applicant that Council intended to refuse the application, Council agreed to a further meeting with the applicant in an attempt to resolve the issues. A meeting was held on 16 January 2018 and direction was given to the applicant on design amendments that may result in approval. At this meeting, discussions were held not only relation to the issues that were identified in Council's letter of August 2017, but also in relation to issues that were later identified within the landscape and engineering referral responses.

Council indicated to the applicant, that the prompt return of an amended proposal was required in order for Council to facilitate approval of the application, and the applicant indicated that the plans would be provided within three weeks of the meeting date. A follow up email was sent to the applicant on 23 January 2018 to clarify the position of Council.

No further information has been provided to Council, and the assessment is therefore based on the plans submitted in October 2017.

Notification

The amended plans submitted in October 2017 resulted in an increase in the overall size of the proposed building, which would require a re-notification of the proposal. Given that the

application is recommended for refusal, these plans have not yet been notified. Should the panel determine that the recommendation of refusal is not appropriate, it is recommended that the application be deferred to enable a further notification period, with a supplementary report to be provided addressing any submissions made. **Any development consent granted without an additional notification period would most likely be declared invalid if it were challenged in Class 4 Land and Environment Court proceedings.**

Site Description

The site is known as 1-3 Oriental Street, Bexley. It comprises two lots which are legally described as Lot 36 within DP 5216 (3 Oriental Street) and Lot 37 within DP 5216 (1 Oriental Street).

The site is located on the southwestern side of Oriental Street, at the south-eastern end of Oriental Street, a short distance from the cul-de-sac head. The site is rectangular in shape and has an area of 1,044.8sqm. It has a primary frontage of 24.38m to Oriental Street and a depth of 42.85m.

The site is relatively flat with fall of approximately one metre towards to the south-eastern boundary. The site currently contains two single storey brick dwellings with roof tiling. A detached brick garage exists in the rear yard of 1 Oriental Street.

The site contains landscaping and tree plantings along the frontage as well as throughout the site. A large street tree sits in front of the site at 3 Oriental Street, with a small tree in the front setback to 1 Oriental Street. Two trees are located adjacent to the boundary shared with 5-7 Oriental Street.

Each existing dwelling is provided with vehicular access from Oriental Street, with the driveway to 3 Oriental Street located on the southern side of the allotment. 1 Oriental Street is provided with vehicular access via a right of carriageway accessed from Kingsland Road South. The subject site is affected by Class 5 Acid Sulfate Soils and subject to Sydney Airport's Building Height Controls.

The site is at the end of the Oriental Street cul-de-sac., The cul-de-sac terminates at this end of Oriental Street, but pedestrian access is available through to Forest Road. The adjoining development to the south-east faces Forest Road and is part of the Bexley town centre where there is a mixture of retail and recreational facilities. The site is also within close proximity to regular bus services along Forest Road and Stoney Creek Road, as well as educational facilities (Bexley Public School), and various services located along Forest Road.

The adjoining development to the south-east comprises a four (4) storey mixed use development and is known as 437 Forest Road, Bexley. This development includes commercial premises on the ground floor which front Forest Road, as well as three (3) storeys consisting of residential units on the upper levels. The adjoining development to the north-east of the site includes a "walk-up" residential flat development, generally of three (3) to four (4) storeys in height with a consistent setback, at 5-7 Oriental St and 9-11 Oriental Street, Bexley.

Development opposite the site comprises of a two storey residential flat building, and is known as 2 Oriental Street, Bexley.

Description of Development

The development application DA-2017/107 at 1-3 Oriental Street, Bexley, seeks consent for the construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley.

The key development statistics and details of the proposal are outlined below.

Site area	1044.8sqm (survey)
Site dimensions	<ul style="list-style-type: none"> • Frontage/width: 24.38m • Length: 42.85m
Gross floor area	1044.8sqm
Floor space ratio	1.177:1
Building Height	14.27m
No. of Units	15
Unit sizes	50sqm – 90sqm
Private Open Space sizes	12sqm – 67sqm (terraces and balconies)
Communal Areas	<ul style="list-style-type: none"> • Communal open space: 130.7sqm • Level 3: 60.2sqm
Parking	<ul style="list-style-type: none"> • Car spaces: 19 • Accessible spaces: 3 (including 1 visitor space) • Visitor spaces: 3 • Motorcycle spaces: 1 • Bicycle spaces: 2

Built form

The proposed built form consists of a four (4) storey building, roughly rectangular in shape. The building includes a flat roof containing rooftop terraces. The building contains a lift and stair core providing access to each of the levels and the basement below.

The building is setback 5.85m from Oriental Street, 1.1m from the south-eastern side boundary, and 1.56m from the north-western side boundary. The rear portion of the building is setback 3m from the rear boundary.

Internal layout and facilities

The development consists of 15 units with a mix of 1-bedroom, 2-bedroom and 3-bedroom units. Each unit contains a living area, combined dining and kitchen, a bathroom, a laundry, storage space and either a terrace or balcony, with rooftop terraces also provided to each of the Level 3 units, with spiral staircases proposed within the balconies to enable access to the rooftop spaces. Each floor provides a floor plate containing four units, except for Level 3 which contains only 3 unit units, and a communal open space area oriented towards the north.

Basement

The development includes a single level of basement car parking which comprises fourteen (14) car parking spaces, 4 accessible spaces (including 1 visitor space and 1 shared space), 3 visitor spaces, 1 motorbike space, 2 bicycle spaces, a waste bin storage room, and one (1) lift core providing pedestrian access to the building above. Vehicular access to the basement is provided off a driveway to Oriental Street. The car park is arranged in a single aisle. The basement has setbacks which are not entirely consistent with the setbacks of the surrounding buildings, being a 3000mm side setback to the southern side boundary, 2000mm side setback to the northern side boundary and a nil rear setback at the western boundary.

Materials and finishes

The materials and finishes of the development include a mixture of light and dark toned bricks, aluminium framed windows, glass balustrades and render. The Oriental Street elevation is shown within Figure 1.

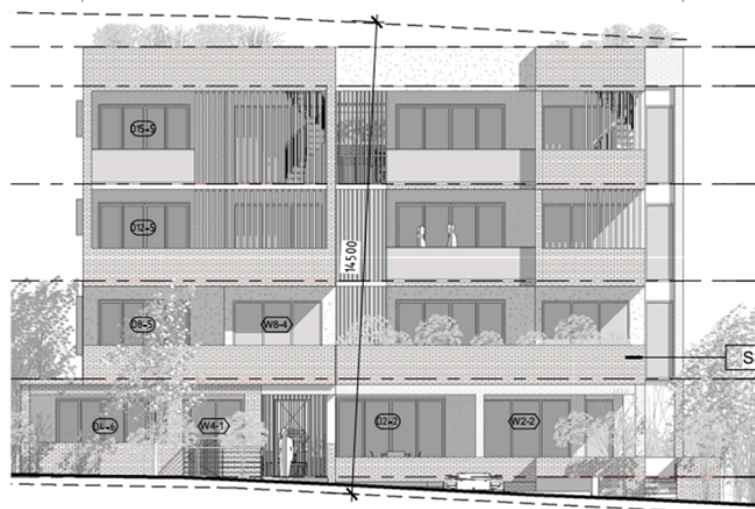


Figure 1. Streetscape Elevation (Resolut, 2017)

Trees and landscaping

The proposal provides for deep soil areas within the front setback (61sqm) and at the rear (39sqm). Most site trees are proposed to be removed, while a street tree, as well as trees adjacent to the north-western boundary are proposed to be retained and protected. Several screen plantings along the side boundaries and rear boundary are proposed, as well as at the terraces for Units 1 and 2. Several larger trees are proposed in the front and rear setback areas.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.4.15(1) - Matters for Consideration – General**S.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP and BASIX certification. A Basix certificate was submitted with the original proposal in accordance with the provisions of this SEPP. However, an amended Basix Certificate was not provided in either of the amendments that were submitted to Council. In this regard, it is unclear whether the proposal satisfies the provisions and objectives of this SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 4.1.5 Contaminated Land of the Rockdale Development Control Plan 2011. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

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

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

As part of the application several trees are proposed to be removed from the site to accommodate the proposed development. Council's Tree Management Officer has reviewed the original application and raised no objection to the proposed tree removals, including several trees which are sought for retention. The White Cedar tree within the street is not able to be removed. Tree management conditions would be able to be imposed were the application recommended for approval.

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

SEPP 65 requires Council to consider the design quality of residential flat buildings comprising of three or more storeys and including four or more dwellings. In accordance with SEPP 65, before determining any development application subject to SEPP 65, the consent authority must consider the following:

- (a) the advice (if any) obtained from the design review panel,
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

Advice from Design Review Panel

The original scheme was considered by the St George Design Review Panel (DRP) at a meeting held at Council's offices on 19 October 2016.

Subject to these meetings the DRP recommended several changes be made to the proposal in order to satisfy the nine (9) design quality principles of SEPP 65. The applicant responded to the recommended changes and provided amended architectural plans in April 2017 but the proposal was not again referred to the DRP.

The recommendations of the DRP are highlighted below, followed by a comment by the assessment officer in relation any design response made by the applicant:

- a) **DRP comment:** The application contains insufficient information about these boundary conditions. At a minimum, all architectural drawings (plan and section) should show detailed information for adjacent buildings at each level. These should include window locations, setbacks, balconies, trees etc.

Assessment consultant comment: Floor plans have been superimposed over survey, and elevations provided with some detail on neighbouring properties. Details of each

individual level of neighbouring buildings is not shown on the submitted plans. This is discussed further in relation to solar access.

- b) **DRP comment:** The proposal should attempt to be more sympathetic to the largely brick context and landscape frontages.

Assessment consultant comment: It is agreed that the previously proposed colours and finishes created an uneasy contrast with the existing streetscape. Council later requested that the predominately white façade be substituted with neutral tones similar to the character of the street. The amended plans provide for a dark grey brickwork throughout the development, which is also not considered to be compatible. Further discussion is provided throughout the report.

- c) **DRP comment:** The scale is appropriate however; the Built Form requires further consideration in regard to the following:
- i. The design applies 3 metre setback to side boundaries without demonstrating impacts on and relationship with the adjacent building to the south;
 - ii. Overshadowing impacts on adjacent properties should be demonstrated using either sun eye-view analysis or elevations to inform building form and layout refinements
 - iii. The location of rooftop communal space in the southern corner adjacent to the existing building should be reviewed to minimise privacy impacts between properties;
 - iv. Consider the removal of Unit 13 and its replacement with additional roof garden to reduce building bulk in the rear of the site and adjacent existing apartments and houses.
 - v. The location of the bin storage and entry feature within the street setback needs to be removed. Bins should be relocated to the basement level. Entry should be simplified and designed as a predominantly planting area with a large tree to supplement the existing street tree planting;
 - vi. Services should be clearly indicated on the architectural package and located outside of landscape zones. Hydrants should be located perpendicular to the street and integrated into driveway access to minimise the visual impact;
 - vii. Excessively high walls adjacent to driveway access and pedestrian paths should be removed;

Assessment consultant comment: Comments on each of the above points are provided below:

- i. The design seeks a setback as low as 1.1m side setback to the southeastern boundary and a 1.56m side setback to the north-western boundary. It is agreed that a thorough analysis of the impacts of these non-compliances has not been provided. In this regard, the proposal is recommended for refusal. The impacts of the proposed side setbacks are discussed elsewhere within this report.

- ii. Sun eye-view analysis or elevation shadows have not been provided. The applicant has indicated that there are limited windows on the adjoining properties that could be affected by the proposal. Further information was requested, either through sun eye-view analysis or otherwise, in order to demonstrate that the impacts were acceptable. However inadequate information has been provided, and the application is consequently recommended for refusal.
 - iii. Rooftop communal open space remains and is not supported.
 - iv. Unit 13, a 3-bedroom unit, has been retained, despite the request of the DRP.
 - v. Bin storage has been relocated to within the basement. The entry area is well landscaped and features a deep soil area with plantings.
 - vi. The fire booster has not been shown on the architectural plans. There may be potential to widen the driveway to facilitate a fire booster. Other services have not been shown on the plans.
 - vii. Other than the courtyard fences, there are no large walls within the front setback.
- d) **DRP comment:** There has not been a convincing argument provided for exceeding the floor space ratio. As raised above, there are a number of significant concerns related to proximity and impact to and from neighbours. Exceeding the FSR is unacceptable given these issues.

The removal of Unit 13 and its use as additional communal space would bring FSR into approximate compliance and improve the provision of communal open space and mitigate privacy concerns with neighbours.

Assessment consultant comment: Further discussion on the variation that is sought to floor space ratio is provided elsewhere within this report. The proposal is recommended for refusal given the proposed floor space ratio non-compliance.

- e) **DRP comment:** There is an insufficient provision of large trees in deep soil zones. This impacts on the local micro climate and should be reviewed.

Further information is required as to solar access compliance with ADG.

Assessment consultant comment: The tree plantings within the deep soil zones remains inadequate. Further discussion on solar access is provided elsewhere within this report.

- f) **DRP comment:** The current design has not adequately considered privacy issues between ground floor apartments and communal space at the rear of the site. It is recommended that this be carefully designed to increase buffer planting between private and common space and that furniture be carefully positioned to minimise overlooking. The deep soil should be utilised to provide large trees at the rear of the property and on the side boundaries. It is preferable that trees are grouped where possible.

Assessment consultant comment: Insufficient planting is provided for privacy purposes. As indicated above, there is an insufficient provision of large trees in deep soil zones

- g) **DRP comment:** The front landscape zone needs complete redesign as noted in comments above under Built Form. These zones should be predominantly planted with large trees and under-storey planting to provide amenity for residents and to the street. All supplementary walls should be removed.

Assessment consultant comment: Other than the courtyard fences, there are no large walls within the front setback. The front setback area is well landscaped. There is insufficient provision of large trees in deep soil zones.

- h) **DRP comment:** Detention tanks and basins should be located outside of garden spaces and deep soil zones (such as under driveway, in basement carpark zones). It appears that there is a large stormwater pit in the front lawn. This should be relocated out of the deep soil zone.

Assessment consultant comment: It is recommended that any OSD/trenching be located underneath driveway/vehicle circulation areas to maximise the area available for deep soil tree planting and landscaping on the site. However, the application is recommended for refusal.

- i) **DRP comment:** Small isolated pockets of lawn should be replaced with planting.

Assessment consultant comment: The lack of planting within the lawn areas remains unsatisfactory. Refer to comments elsewhere within this report.

- j) **DRP comment:** The apartment layouts should be reviewed in order to ensure that room sizes and shapes are fit for purpose and furnishable. Units 1 and 13 have insufficient space around the entry. Units 8 and similar units above have awkwardly positioned dining rooms and these units should be re-planned to provide a more suitable kitchen and dining relationship. Similarly, Bedroom 2 is undersized and should be amended to comply with the ADG minimum.

The spiral staircases to Units 13, 14 and 15 need to be reconsidered in terms of location, safety and amenity.

The communal open space should be redesigned to allow for a range of uses to enjoy the space. This should be incorporated into the design approach through the creation of a series of small outdoor spaces defined by planting and incorporating a variety of furniture layouts and facilities. Provision of a small amenity room with toilet and storage would improve the function of this space.

Assessment consultant comment: Concerns remain with the space provided to apartment entries. All apartments are generally provided with open plan living areas. The previous proposal contained undersized bedrooms and units, but this has been amended.

The amended plans have detailed furnishing within the rooftop communal open space, and it is unclear if this space caters for a range of uses. An amenities area has not been provided within either the ground floor or Level 3 communal open space.

The spiral staircases have been retained and their retention contributes to the reasons for refusal.

- k) **DRP comment:** The front entrance is particularly awkward with an offset entry from the street to the lobby and a curved disabled access ramp dominating the space. This raises a number of issues related to amenity for the units as well as general amenity for the residents of the building. It should be completely redesigned. If necessary internal floor levels should be modified to reduce the length of external ramping.

Assessment consultant comment: The floor levels of the development have been lowered and the proposal now accommodates a linear entry ramp which provides a direct connection to the building entry.

- l) **DRP comment:** The current design with large walls and concealed spaces at the entry of the building are a potential safety issue.

Assessment consultant comment: The design of the entry has been rationalised and is now acceptable.

- m) **DRP comment:** There is an excess of 2-bedroom units and the proposal should comply with Council's required apartment mix.

Assessment consultant comment: Apartment mix remains non-compliant, and this is included as a reason for refusal.

- n) **DRP comment:** As noted above, the selection of materials could be more sympathetic with the dominant brick context. The Panel appreciates the desire for a contemporary building expression but believes this could be achieved whilst still responding to the context.

Assessment consultant comment: The proposal has been amended to address comments from the DRP and Council. The amended colours and finishes schedule provides for a reduced portion of lighter materials. However, it is considered that earthy tones should be used, consistent with the remainder of the street. The dark grey bricks that are proposed would create an uneasy contrast in Oriental Street.

- o) **DRP comment:** The Panel recommends the removal of the clutter in the front setback by removing garbage bin storage to the basement. Mail boxes should be

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integrated into existing building walls. All services should be located in a visually unobtrusive location. Refer to comments above under Built Form and Landscape.

Assessment consultant comment: The majority of these matters have been addressed; however, fire boosters were not shown on amended plans.

Design Quality Principles

The following comments provide a general discussion of the response of the proposal to the design quality principles. These comments are partly informed by the commentary provided by the Design Review Panel.

Principle	Comment
Context	<p>The site is located on a quiet cul-de-sac within 30 metres of a highly prominent location at Forest Road, where much of the Bexley Town Centre is concentrated. The surrounding context is predominantly characterised by a mixture of residential and commercial land uses. Oriental Street is characterised by residential land uses primarily consisting of two and three storey residential flat buildings. Forest Road is primarily characterised by commercial land uses in a traditional two storey shopfront arrangement.</p> <p>The existing building to the south is a mixed use building with a party wall along the side boundary for the ground floor, with residential balconies, with variable setbacks, facing towards the side boundary on upper levels. The DRP noted that there are many balconies at the adjoining three storey apartment building to the north which face the site boundary. The Panel recognised that the Development Application contains insufficient information about these boundary conditions and that all architectural drawings were to indicate detailed information for adjacent buildings at each level.</p> <p>The Panel also considered that the proposal should attempt to be more sympathetic to the largely brick context of Oriental Street and its landscaped frontages. Landscaped area at the site frontage is now appropriate, however concerns remain with the colour and material selection, and an overall lack of planting within deep soil zones.</p> <p>Building separation non-compliances remain to both side boundaries and to the rear boundary. A blank wall at a height of two storeys is situated on the boundary shared with 437 Forest Road, adjacent to the front half of the subject site. The non-compliant setbacks to this property are acceptable insofar as they respond to this existing wall, and to some extent the reduced setbacks to the side boundaries are consistent with the streetscape character of development within the Oriental Street. However, the proposal is not consistent with the prevailing pattern of development, with respect to height, floor space, and rear setbacks, and for this reason, the existing pattern of development provides only limited guidance on an appropriate setback response.</p> <p>The proposal has had little regard for the future development potential of properties to the south and west, whereby similar developments may be able to</p>

Principle	Comment
	<p>be undertaken in the future. It is noted that a right of carriageway, benefitting 1 Oriental Street - and possibly other properties - currently sits at the rear of the site. However, this will no longer be required as a consequence of the proposal, and the proposed setbacks do not respond appropriately to the potential future character of these sites.</p> <p>The extent of overshadowing as a consequence of the setback non-compliances is also unclear, and insufficient information has been provided to enable a thorough consideration of this matter.</p> <p>The proposal is not considered to be consistent with the desired future character established by the planning controls, and does not provide an appropriate response to this context and setting of the neighbourhood.</p>
Built Form & Scale	<p>In terms of bulk, scale and built form, the proposed is of a similar streetscape scale to the development at 437 Forest Road, to the south, also being 4-storeys in height. However, there are few other buildings within the locality that are of a similar scale to the proposal or 437 Forest Road. The overall scale of the proposal is not appropriate in this location. Refer to comments elsewhere.</p> <p>The facades of the building are generally well articulated with balconies and architectural features, recesses in elevations, use of variable building materials and colours creating visual interest along the streetscape and when viewed from adjoining properties. However, concerns remain in relation to the specific colour selection.</p> <p>Following receipt of comments from Council's DRP, minor amendments have been made to the building design. However, there are still various non-compliances with the design. The principal factors governing the bulk and scale of buildings is that of building separation and FSR. Building separation non-compliances remain on both sides and the rear of the building.</p> <p>As indicated earlier, there is redevelopment potential to the properties zoned as B4 further to the southwest of 437 Forest Road, and to properties zoned as R4 to the rear of the subject site. Residential flat buildings are permissible within the R4 zone, and shop top housing is permissible within the B4 zone. The proposed development does not respond appropriately to the development that be likely to eventuate there in the future. Furthermore, the proposed non-compliant setbacks unduly constrain development on these properties. In this context, the balconies are also oversized, given the inappropriate building massing and setbacks.</p> <p>FSR remains largely non-compliant with a proposed FSR of 1:177. This is 17.71% in excess of the FSR permitted by RLEP2011. The amended design has introduced wider circulation areas to all levels which improves internal amenity. However, these areas are labelled as breezeways and it is understood that they are omitted from the applicant's GFA calculations. It is understood that</p>

	<p>it was the applicant's intention that the amended proposal would comply with the FSR standard, and that the GFA would be reduced compared with the first amendment. A review indicates that the applicant has possibly omitted all of the open circulation areas from the calculation. Regardless of whether these areas are included within the GFA calculation, they add to the overall size of the building, and contribute to the excessive scale of the building. Furthermore, the overall width of the northern part of the building at the western elevation has evidently increased, and this is generally due to the wider circulation areas.</p> <p>One of the DRP's recommendations was to consider the removal of Unit 13 on Level 3 and to replace it with additional roof garden in order to reduce building bulk in the rear of the site and the adjacent existing apartments and houses. It is noted that Unit 13 remains. There are other design options available that could potentially enable compliance with the floor space ratio standard, as well as a reduced scale.</p>
Density	<p>As mentioned above, the FSR is non-compliant by 17.71%. The DRP considered that the FSR exceedance was unacceptable due to several significant concerns related to proximity and impact to and from neighbouring properties.</p> <p>The DRP recommended deletion of Unit 13 in order to address the FSR non-compliance, improve the provision of communal space and mitigate privacy concerns with neighbours. Unit 13 has not been deleted as part of the amended proposal. Deletion of Unit 13, as well as other design amendments, would assist in providing appropriate density at the site.</p>
Sustainability	<p>In consideration of the initial plans, the DRP comments had indicated that there was an insufficient provision of large trees in deep soil zones. The Panel also commented that further information was required as to solar access compliance with the ADG.</p> <p>It is noted that an amended Landscape Plan has not been submitted. Furthermore, the extent of overshadowing remains unclear as the impacts have not been demonstrated adequately. Finally, an amended Basix Certificate has not been provided.</p>
Landscape	<p>The proposal provides for landscaped areas generally located at the front and rear at the site, with some plantings also provided to the first Level 3 communal open space.</p> <p>The Rooftop communal open space area does not provide adequate amenities for the residents, and the design has not yet fully met the potential of this space. The mix of soft landscaping should be increased by 20% and larger plantings are required. There is a lack of adequate design features such as shade structures and plantings.</p> <p>The southern boundary would benefit from a larger amount of plantings with wider planters to provide an acoustic barrier from the other premises. This space</p>

	<p>would be greatly improved with increased 'natural' plantings to break away from the solid nature of the building. This space currently can be made more private by adding at least more native plantings of large trees to understorey plantings or climbers to provide a cooling and aesthetic improvement to this area.</p> <p>The minimised paved communal area does not provide adequate shading from the western sun. Further planters would be appropriate in this location, including vegetable/herb raised beds. The level of offering could be further enhanced and possibly divided into areas of passive and active recreation including a turfed area</p>
Amenity	<p>As previously mentioned, the extent of overshadowing remains unclear as the shadow diagrams do not adequately demonstrate the impacts of the proposal.</p> <p>It is acknowledged that the applicant has attempted to minimise privacy impacts on the adjoining properties through the careful selection of windows and included screening. However, these are not adequate particularly when the setback non-compliances are significant.</p> <p>With regards to visual privacy, there are significant non-compliances with building separation at both sides and the rear of the proposed building. The applicant's arguments regarding the existence of a blank wall on the lower two floors of the building to the south (437 Forest Road) and the window selection will assist in minimising privacy impacts. However, there are no particular sound environmental planning reasons for the majority of the building separation non-compliances.</p> <p>Room layouts have been amended and some indicate good design, and unit size non-compliances have been addressed. However, Unit 1 still has issues with providing sufficient space at the entrance. It has now been modified to include a longer narrow hallway leading to the kitchen with a bedroom adjoining the communal walkway. The unit layout has been modified but is still problematic.</p> <p>Spiral staircases to Units 13, 14 and 15 were considered an issue and were recommended to be reconsidered in terms of location, safety and amenity. However, these staircases remain and no amendment has been made.</p> <p>The Level 3 communal spaces and rooftop private open spaces have generally remained unchanged and it is considered that privacy issues still remain. The DRP's comments to delete Unit 13 and replace it with additional roof garden to reduce building bulk in the rear of the site have not been incorporated into the design. The DRP also recommended the creation of a series of small outdoor spaces defined by planting and incorporating a variety of furniture layouts and facilities, as well as the provision of a small amenity room with a toilet and storage. None of these recommendations have been considered in order to further improve the amenity and function of the space</p> <p>The DRP also commented on the front entrance being particularly awkward and requiring redesign. Subsequently, the ground floor level has been lowered to</p>

	enable the deletion of the curved disabled access ramp which dominated the front space. Direct access from the street is now proposed at a gradient of 1:40.
Safety	<p>The DRP comments outlined safety concerns with the original design, due to the large walls and concealed spaces at the entry of the building.</p> <p>The applicant has made amendments to the entry of the building which assist in creating further opportunities to maximise passive surveillance of the area and therefore promote safety.</p> <p>Having regard to the above, the proposal is therefore considered satisfactory with regard to safety.</p>
Housing diversity and social interaction	<p>The proposal does not provide an acceptable dwelling mix and the DRP had noted that there was an excess of 2-bedroom apartments. The DRP advised that the proposal should comply with Council's required apartment mix. Following amendments, it is now further non-compliant. There are 80.0% of 2-bedroom units and 6.7% of 3-bedroom units. RDCP2011 requires 50-75% of 2-bedroom units and 10-20% of 3-bedroom units.</p> <p>The number of adaptable dwellings is compliant.</p>
Aesthetics	<p>The DRP commented that the selection of materials could be more sympathetic with the dominant brick context. The Panel recommended the removal of the clutter in the front setback by removing the garbage bin storage to the basement. It was also recommended that mailboxes be integrated into the existing building walls and that all services be located in a visually unobtrusive location.</p> <p>Amendments have been made according to these recommendations. The garbage bin storage area within the front setback has been deleted and relocated within the basement area. Furthermore, the mailboxes have been relocated and integrated into the existing building wall at the entrance.</p> <p>The amended colours and finishes schedule provides for a reduced portion of lighter materials. However, it is considered that earthy tones should be used, consistent with the remainder of the street. The dark grey bricks that are proposed, would create an uneasy contrast in Oriental Street.</p>

Apartment Design Guide

The proposed development has been assessed against the NSW Apartment Design Guide (ADG). There are numerous non-compliances which are not considered acceptable. These non-compliances against the design criteria are discussed as follows:

Part 3D Communal open space

The proposal provides for a total of 191sqm of communal open space, including the ground floor (131sqm) and the area on Level 3 (60sqm). This equates to approximately 18% of the site

area, which does not comply with the 25% requirement. It is noted that smaller communal open space areas are contemplated by the RDCP2011.

The Level 3 communal open space is likely to create adverse privacy impacts to adjoining properties, particularly given the non-compliant setbacks. The ground floor communal open space is long and narrow, overshadowed by the proposed building, and is provided with a poor relationship to neighbouring terraces, creating privacy issues.

Furthermore, as discussed elsewhere, the design features provided within the communal open space area are considered to be inadequate.

Part 3F Visual privacy

The design criteria for Part 3F of the guidelines prescribes minimum separation distances to be provided between windows and balconies from a building to the side and rear boundaries, as reproduced below:

Design criteria		
1.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	
Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Figure 2 Building Separation Requirements

The proposal incorporates four-storeys with a building height of 14.27 metres measured from the building roof top edge. The lower three storeys would require boundary setbacks of 3m for non-habitable rooms and 6m for habitable rooms and balconies. The fourth storey would require setbacks of 12m; however, given approximately one third of the fourth storey sits above 12m, a larger setback of 4.5m for non-habitable rooms and 9m for habitable rooms and balconies may also be appropriate. However, for simplicity, this assessment considers only the controls for buildings under 12m.

The proposal seeks various non-compliances with the building separation requirements.

Rear setbacks

At the rear of the building, the proposed floor levels would sit more than 1m above natural ground level at the northern side of the allotment. Therefore, the ground floor external terraces at the rear of the proposal, are to be considered in an assessment of the rear setback control. Similarly, the basement extends to the rear boundary, and is provided more than 1m above the ground level, and thus requires consideration in the calculation of the building setbacks.

The table below summarises the proposed rear setbacks.

Rear Setbacks		
Dwelling no. and location	Setback	Non-compliance
Basement	0.0	6.0m
Unit 1, Ground	4.7m	1.3m
Unit 3, Ground	4.7m	1.3m
Unit 5, Level 1	5.3m	1.8m
Unit 7, Level 1	6.0m	N/A
Unit 9, Level 2	5.3m	1.8m
Unit 11, Level 2	6.0m	N/A
Unit 13, Level 3	5.3m	0.7m

The Statement of Environmental Effects provides the following justification for the non-compliance:

"In terms of the setback to the western (rear) boundary, the development generally complies with the required setback to this boundary with the exception of balconies, being less than 1m under the controls. The development in its current form will not give rise to significant visual privacy impacts to this boundary due to the low level of activity that has a primary orientation to the west and with the proposed windows being fitted with sliding screens and timber louvers. Deep soil landscaping is also proposed along this boundary which will assist in minimising overlooking between properties. Therefore, there will be minimal impact on privacy of the surrounding residential development".

The property to the northwest, 5-7 Oriental Street is set back approximately 11m from the rear boundary. The property to the southeast, lies within the B4 Mixed Use zone. These properties are oriented towards Forest Road, which results in the subject site sharing a side boundary with three properties. Adjoining to the southeast at the rear part of the subject site, is a carparking area associated with 447 Forest Road, which is burdened by a right of carriageway, benefitting several lots within the locality. The sites to the east may be subject to potential shop top housing development in the future.

Given the context of the surrounding properties, it is not considered that a reduced rear setback is acceptable in this instance. A reduced setback will not be consistent with future development to the south, potentially undermining the pattern of development that may be undertaken on the adjoining B4 zoned properties. Shop top housing would require setbacks in accordance with the ADG requirements, and the proposal does not account appropriately for future development in this location.

The two properties to the rear, 6 Kingsland Road South and 8 Kingsland Road South, currently accommodate single dwellings, but lie within the R4 zone. These properties are also able to accommodate residential flat buildings, which would require a 6m rear setback in order to comply with building separation controls. The rear setbacks, including the protrusion of the basement out of the ground, are not appropriate in these circumstances. The basement location also impacts on the potential of deep soil planting to be provided within this location.

South-eastern side setbacks

With respect to the south-eastern side boundary, the proposal provides for a 3m setback for the majority of the south-eastern façade contained above ground level. At ground level, the setbacks are as low as 1.25m. At each level, habitable rooms are located along the entire length of the south-eastern façade, with all non-habitable rooms located adjacent to the circulation core of the building. This represents a non-compliance of 3m to this wall.

The Statement of Environmental Effects provides the following justification for the non-compliance:

“The setback of the adjoining development to the south (No 437 Forest Road) is also minimal with no windows facing the subject site at the lower levels (illustrated in Figure 11). The inconsistency with the setback requirements of the ADG on both properties would not result in any loss of privacy at these lower levels. For the upper levels, the majority of windows which face this adjoining property are bathroom and bedroom windows as outlined in Figure 10. While there are some living area windows also facing this boundary, these are secondary windows with the main orientation towards the street and rear open space. Therefore there is likely to be minimal overlooking between sites.

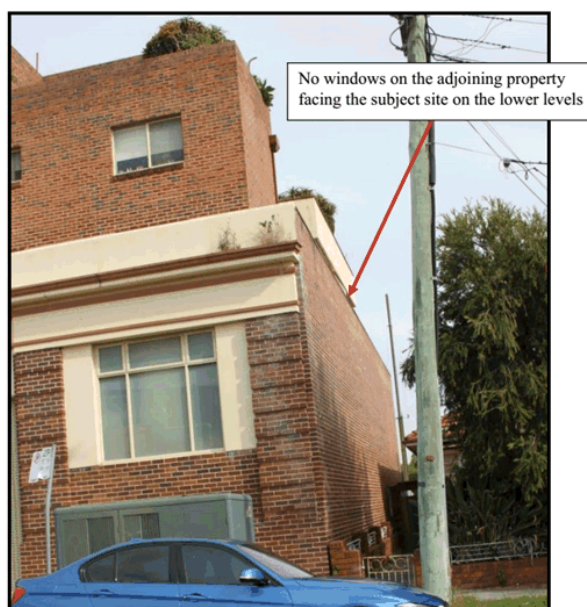


Figure 3 Neighbouring building at 437 Forest Road, viewed from Oriental Street (Steven Layman Consulting, 2016)

It is agreed that a suitable response to the minimal setback to the blank wall shown above, within 437 Oriental Street, is to provide lesser setbacks than that required by the ADG. However, this wall lies adjacent to the front dwellings of the proposed development, but not adjacent to the rear dwellings. The proposed rear dwellings lay adjacent to the properties from 443-449 Forest Road. Furthermore, the wall is 7m tall, well short of the proposed height of the development, which is in excess of 14m.

Limited information has been provided to enable a consideration of the impacts to the solar access to the surrounding properties, including the balconies at the adjoining development. In addition, the ground floor provides 3m high blank walls less than 1.5m from the property boundary, which is not appropriate. The setback non-compliances are not supported.

North-western side setbacks

The majority of the north-western façade is setback 4.2m from the north-western boundary. The rear portion of each front units is setback a smaller amount, being 3m. In addition, the ground floor also features a raised floor terrace area which is set back 3m from the northern boundary. The rooms on this side of the building are a mixture of habitable and non-habitable rooms. However, the western façade utilises smaller windows to attempt to mitigate privacy impacts.

The proposal provides a reasonable response to balconies that are situated a short distance from the side boundary. However, the Level 3 terrace generates unreasonable privacy impacts on these properties, as well as on any future development situated to the west. The setbacks are not supported in this location.

The proposal also provides rooftop terraces to each of the top floor units, which sit above the internal floor area of each unit. Given the inadequate setbacks provided throughout the development, these rooftop terraces are not appropriate, given the privacy implications.

Part 4E Private Open Space

The proposed development generally provides for balconies with an area will in excess of that required by Part 4E. However, to address concerns relating to unit mix, the amended proposal includes a reduced balcony to Unit 13, such that it is no longer compliant with the specific requirements of Part 4E. In addition, the spiral staircase situated within this balcony area reduces the open space that is available. It should be noted that the spiral staircases within the Level 3 balconies are not supported, and that this forms part of the reasons for refusal.

As the roof top terraces and the spiral staircases are not supported, and as there is a poor connection to the internal living areas situated below, it is considered that compliant private open space should be provided level with the internal floor area.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with standard/provision
2.3 Zone R4 High Density Residential	No - see discussion
4.3 Height of buildings	Yes
4.4 Floor space ratio - Residential zones	No – see discussion
4.6 Exceptions to development standards	4.6 request submitted - see discussion
5.10 Heritage conservation	Yes
6.1 Acid Sulfate Soil - Class 5	Yes
6.2 Earthworks	Yes
6.3 Development in areas subject to aircraft noise	Yes
6.2 Airspace Operations	Yes
6.7 Stormwater	No – see discussion
6.12 Essential Services	Yes

2.3 Zone R4 High Density Residential

The subject site is zoned R4 – High Density Residential under the provisions of the RLEP 2011. The proposed development is for the purpose of a 'residential flat building' which is permitted with consent in the zone.

The objectives of the R4 zone are outlined in the following:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is not considered to meet first two objectives, for reasons outlined elsewhere within this report.

4.3 Height of buildings

Clause 4.3 provides a maximum height of buildings on the subject site of 14.5 metres. The existing ground levels beneath the proposed roof area range from RL 46.13 – RL 47.26. The highest building levels is RL 60.40, and therefore the maximum building height is 14.27m. The proposal complies with the development standard and therefore satisfies this clause.

4.4 Floor space ratio - Residential zones

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

The gross floor area of the development is calculated to be 1229.84sqm which equates to an FSR of 1.17:1. This does not comply with the FSR permitted under the RLEP2011 – i.e. a variation of 17.7%.

4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*

*5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and
5(b) the public benefit of maintaining the development standard.*

The variations to the floor space ratio has been assessed below.

It is noted that the proposal has further been assessed against the principles established by the Land and Environment Court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90. The judgement established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular site circumstances of the site and development.

Extent of Variations Proposed - FSR

The proposal seeks to vary the FSR standard for the site as noted in Clause 4.4 - FSR. The original proposal contained circulation spaces with no access to natural light or ventilation. The amended proposal provides a breezeway or 'open lobby' to each level of the building, with full height screening provided at either end of the open lobby, and void areas provided for each level above the ground floor. It is understood that the applicant intends for the open lobby areas to be excluded from the calculation of gross floor area, and for the proposal to comply with the 1:1 floor space ratio requirement. However, given the screening provided at either end of the open lobbies, it is considered that these areas meet the definition for gross floor area.

Furthermore, it has been calculated that the proposal would not comply with the 1:1 floor space ratio requirement, even with the benefit of the exclusion of the open lobbies.

The gross floor area of the development is calculated to be 1229.84sqm which equates to the proposal having a maximum FSR of 1.177:1 which exceeds the maximum permitted FSR of 1:1. This represents a non-compliance of approximately 185sqm, or 17.7%.

The original application was accompanied by a detailed justification for the proposed variation to the development standard. A summary of the key rationale provided in the applicant's clause 4.6 in respect of the FSR development standard are as follows (it should be noted that the design had twice been amended since the submission of the reasons for the variation, however, it is likely that the arguments remain the same):

- *The non-complying FSR does not result in unreasonable impacts on the amenity of nearby properties in terms of overshadowing, privacy, loss of views and has minimal impact on the streetscape.*
- *Compliance with FSR is considered to be unreasonable and unnecessary given the proposal and its relationship to neighbouring properties due to being well-designed and it unlikely to result in any significant adverse impact regarding overshadowing or loss of privacy.*
- *The proposed additional building articulation and architectural detailing proposed for the built form will minimise the visual impact. This is achieved through the use of a variety of*

materials and the design of the development with changes in building alignment and use of building recesses. The additional floor space allows articulation and the reduction of bulk and scale over the floor space limit thus assisting in reducing the potential visual impact of the proposal.

- *There is no adverse environmental impact resulting from the FSR variation. There are minimal trees to be removed and limited landform change. Proposed landscaping will soften the development and provide stormwater benefits.*
- *The proposal is considered to be a better planning outcome as it allows for various unit sizes that generally comply with the requirements of the ADG. The units will achieve sufficient ventilation and solar access and provide private open space areas. The proposal will also provide greater housing choice and housing types due to various one, two and three bedroom units, as well as adaptable dwellings.*
- *The existing site constraint is that it is virtually the last remaining development site in the street. This provides an opportunity unique to this site. The proposal generally complies with the minimum unit sizes under the ADG and provides for a high level of amenity with a variety of unit sizes. There are sufficient environmental planning grounds to justify varying the FSR as it will allow for additional housing opportunities in a well serviced location.*
- *The proposal is in the public interest given additional housing opportunities will be provided in close proximity to transport and services and within an accessible building. It will provide for the housing needs of the community in a high-density environment.*
- *The proposal involves an amount of floor space that seeks to maximise the development density and intensity of the proposed land use on the site, given the availability of infrastructure in the area. It is capable of distributing the traffic generated by it easily throughout the surrounding road network.*
- *The proposal will maintain an appropriate visual relationship between new development and the existing character of the area due to the prevalence of three and four storey residential flat buildings in the street, the mix of development within the locality due to the proximity of the Bexley Town Centre and the range of housing densities.*
- *The proposed floor space will be compatible with the adjoining development at 437 Forest Road and allow for an appropriate transition along the streetscape to the adjoining 3 storey residential flat building at 5-7 Oriental Street.*
- *Landscaping opportunities are provided for and these will assist in minimising runoff and providing an aesthetically pleasing development when viewed from the street and outdoor open space areas.*

Floor Space Ratio Discussion

The proposal seeks a variation to clause 4.4 Floor Space Ratio. The objectives of this clause are as follows:

- (a) *to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*
- (b) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*

- (c) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

Consideration has been given as to whether the built form of the proposal is consistent with that of the surrounding area. It is considered that the FSR variation as proposed is inappropriate for the following reasons:

- (a) Building separation non-compliances remain to both sides boundaries and to the rear boundary. The blank wall on 437 Forest Road is at a height of two storeys and for the area adjacent to the front half of the subject site. There does not appear to be any particular sound environmental planning reasons for the majority of the building separation non-compliances, and it is evident that there are other design options available which would provide for a lower overall floor space, increased setbacks to the side and rear boundaries, as well as addressing some of the other non-compliances (for example, unit mix).
- (b) Aside from the existing building at 437 Forest Road, the proposal is generally inconsistent with other residential apartment development within the locality, in relation to bulk, scale and built form, as there are no four storey apartment buildings of this size, on a site as small as the subject site. The FSR exceedance is unacceptable due to the impacts to neighbouring properties, including issues relating to overshadowing, privacy, and visual bulk and scale.
- (c) It is considered that redevelopment potential exists to the properties zoned as B4 further to the southwest of 437 Forest Road, and to properties zoned as R4 to the rear of the subject site. RFBs or shop top housing are permissible in both zones. The proposed non-compliant setbacks unduly constrain development on these properties, and the proposal is not compatible with the potential future character of development on surrounding sites. Any new development proposed on surrounding sites would be expected to be provided with a compliant setback, and the scale of the proposed development would not be compatible with any future development in this location. It is noted that the subject site benefits from a right of carriageway to the south; however, this land could become part of a development site in the future.
- (d) The proposal is likely to create significant overshadowing impacts on the properties to the south which front Forest Road, including land that in which shop top housing is permissible, with a building height of 16m (and up to 19m for buildings with a site area in excess of 600sqm). The exact extent of overshadowing remains unclear as the shadow diagrams do not adequately demonstrate the impacts of the proposal; however, it is likely that the proposal will cast significant shadows on neighbouring properties.
- (e) The overall scale of the development has not been reduced in order to minimise the impacts of the FSR non-compliance. The proposal seeks generally oversized balconies and raised terraces, and a raised basement provided with a nil setback to the south-western boundary. Each of these elements add to the overall building bulk. Further, insufficient landscaping is proposed to screen the development, and reduce the perception of its scale.

- (f) The maximum FSR standard that applies to the subject site is considered a reasonable reflection of the maximum development potential of the site.

It is considered that there are other design options available that could potentially enable compliance, as well as a reduced scale of development.

Despite the arguments presented within the 4.6 variation request, the proposed FSR variation is not supported. It has not been demonstrated that the applicable FSR development standard referred to above are unreasonable or unnecessary in this instance.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. An Acid Sulfate Soils Management Plan is not required as the proposed works are unlikely to lower the water table below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

6.2 Earthworks

Earthworks including excavation are required on site in order to allow for the construction of the basement on site. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The proposal meets the objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51.00 AHD. At a maximum height of 60.70 AHD, the proposal will penetrate the OLS by 9.7 metres, and therefore represents a controlled activity under Section 182 of the *Airports Act 1996*.

The application was referred to Sydney Airports Corporation Ltd (SACL), who approved the controlled activity, subject to conditions. It is noted that the maximum height of the amended proposal is 60.40 AHD.

6.7 Stormwater

Several issues are outstanding in relation to the submitted stormwater plans. Refer to discussion in relation to Part 4.1.3 of RDCP2011.

6.12 Essential services

Services will generally be available on the site. The proposal complies with the requirements of this clause.

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

There are no draft planning instruments that will affect the proposed development.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

A summary of the compliance assessment against the Rockdale Development Control Plan 2011 (RDCP2011) for the proposed development is provided below. Detailed discussions are provided as noted.

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.1.1 Views and Vista	Yes
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes – refer to discussion
4.1.3 Water Management	No – refer to discussion
4.1.4 Soil Management	Yes
4.1.6 Development on sloping sites	Yes
4.1.7 Tree Preservation	Yes
4.1.8 Contamination	Yes – see discussion in relation to SEPP 55
4.1.9 Lot size and Site Consolidation – residential flat buildings	Yes – see discussion
4.1.9 Lot size and Site Consolidation – Avoidance of isolated sites	Yes – see discussion
4.2 Streetscape and Site Context – General	No – refer to discussion in relation to SEPP 65
4.2 Streetscape and Site Context – Fencing	Yes – see discussion
4.3.1 Open Space and Landscape Design – Residential flat building centres	No – see discussion
4.3.2 Private Open Space - Residential Flat Building	No – refer to discussion in relation to the ADG
4.3.3 Communal Open Space	No – refer to discussion in relation to the ADG
4.4.2 Solar Access – General Controls	No – see discussion

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.4.3 Natural Lighting and Ventilation - Residential	N/A – as per clause 6A(1)(b) and (g) of SEPP 65 this section no effect.
4.4.3 Natural Lighting and Ventilation - Ceiling heights	N/A – as per clause 6A(1)(b) and (g) of SEPP 65 this section no effect.
4.4.4 Glazing – General controls	Yes
4.4.5 Visual and Acoustic Privacy	No – see discussion
4.4.5 Visual privacy – roof top area	No – see discussion
4.4.6 Noise impact – Non-residential	No – see discussion
4.5.1 Social Equity - Housing Diversity and Choice	No – see discussion
4.5.2 Social Equity - Equitable Access	Yes
4.6 Car Park Location and Design	No – see discussion
4.7 Air Conditioning and Communication Structures	Yes
4.7 Waste Storage and Recycling Facilities	Yes
4.7 Laundry Facilities and Drying Areas	Yes
4.7 Letterboxes	Yes
4.7 Service Lines/Cables	Yes
5.2 RFB – General	No – refer to discussion in relation to the ADG
5.2 RFB – Setbacks	No – refer to discussion in relation to the ADG
5.2 RFB – Balcony Balustrade	Yes – see discussion

4.1.1 Views and Vista

The subject site is located a short distance from the local ridge line along Forest Road. The site is not afforded any view of Botany Bay or any items of local or State heritage. In this regard, the subject site does not enjoy any significant views or vistas.

It is unlikely that the siting of the proposed development will generate any significant impacts on the views of the street and general neighbourhood that are enjoyed by adjacent properties.

4.1.2 Heritage – vicinity

The nearest item of heritage significant is a house at 30 Kingsland Road South (item I151, local significance) which is located approximately 140m to the northwest. The spatial distance between the subject site and heritage item is considered to be sufficient to ensure the heritage item is not impacted by the proposed development.

4.1.3 Water Management

Drainage

The following comments were provided by Council's development engineer:

- *"The Drainage of Low Level Properties Checklist refers to an absorption system in accordance with Geotechnical report (which is not the case) where Stormwater Plans / Stormwater Plan Certification and Check List refers to an onsite detention system. Clarification is required.*
- *The concept stormwater design / checklist failed to acknowledge the following;*
 - *Disposal of surface runoff from landscape areas, mainly the backyard – Drainage of low level properties procedure.*
 - *Protection of low level driveways procedure – Basement inundation.*
- *A gutter flow analysis, prepared in accordance with Technical specification stormwater management is required to be submitted for assessment. The analysis is required to:*
 - *Estimate the flow of water in the street kerb and gutter; and*
 - *Recommend the required crest level in the driveway to protect the low level driveway from flooding.*

Where a crest is required, an amended longitudinal surface profile must be also be submitted for assessment".

Although not identified in Council's earlier letters, the applicant was afforded the opportunity to address these issues, but no information was provided. Subsequently, this matter is included in the recommended reasons for refusal.

Groundwater

The submitted geotechnical report indicates that groundwater is located 3m below ground. In accordance with the submitted geotechnical report, permanent groundwater is not expected within the depth of the basement and anticipated seepage may be below 3mL per year, which is below the threshold requiring an approval for a controlled activity pursuant to the *Water Management Act 2000*.

Sewer

The submitted geotechnical report indicates that the proposed development is in the presence of a Sydney Water Sewer line which crossed the western portion of the site. The report indicates that based on information from Sydney Water, the sewer comprises a 225mm vitrified clay pipe with an invert depth of approximately 1.98m. Considering the extent and depth of the proposed basement, this section of sewer would require re-alignment. Were the application recommended for approval, this could be addressed as a condition of consent.

4.1.4 Soil management

The proposed development will involve considerable earthworks for the construction of the basement car parking level, which will result in the disturbance of soil and dust.

In this regard, conditions of consent requiring a Soil and Water Management Plan (prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils) would be required to be submitted to the Principal Certifying Authority prior to the commencement of works. However, this application is recommended for refusal.

4.1.9 Lot Size and Site Consolidation - Residential flat buildings

The site provides the minimum frontage width of 24m.

4.1.9 Lot Size and Site Consolidation – Avoidance of isolated sites

In accordance with RDCP 2011, a property will be isolated by a proposed development when that property cannot satisfy the minimum lot requirements to achieve its development potential under the planning controls. Oriental Street is generally characterised by existing residential flat developments, and the subject site represents the final two allotments before the B4 zoned land to the southeast. Therefore, the proposal does not render any potential development sites as being isolated.

4.2 Streetscape and Site Context – Fencing

Front fencing is provided to the ground floor units facing Oriental Street. Parts of the front fences sit approximately 1.8m above the footpath level; however, the fences are generally no greater than 1.2m above the ground floor level. This is not inconsistent with the requirements of the ADG, which encourages raised levels for ground floor private open space areas.

4.3.1 Open Space and Landscape Design - Residential Flat Building

It is noted that the site includes some larger trees, some of which are proposed to be retained. Several screen plantings along the side boundaries and rear boundary are proposed, as well as at the terraces for Units 1 and 2. Several larger trees are proposed in the front and rear setback areas, as per the submitted landscape plan prepared by Outliers Design Studio. This plan was reviewed by the Landscape Architect who has highlighted that the rooftop communal open space area does not provide adequate amenities for the residents, that inadequate landscaping is provided within the southern boundary setback, and that an increase in planting is required to the deep soil zone. This is consistent with commentary provided by the Design Review Panel, and the application is recommended for refusal in relation to these recommendations.

4.4.2 Solar Access to residential flat buildings

Part 4.4.2 requires buildings to be designed and sited to minimise the extent of shadows cast on:

- private and communal open space within the development;
- private and communal open space of adjoining dwellings;
- public open space such as parkland and bushland reserves;
- solar collectors of adjoining development; and
- habitable rooms within the development and in adjoining developments.

Furthermore, Part 4A of the ADG requires the following:

- *Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.*
- *A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter*

In its letter to the applicant, dated in August 2017, Council sought additional information to enable a thorough understanding of the solar access and overshadowing impacts.

Commentary on the amended plans that were submitted to address the issues outlined within the information request, is outlined in the following:

- *The shadow diagrams provide insufficient detail on neighbouring properties to determine the overall impact. The degree of overshadowing to neighbouring windows and balconies should be provided in a shadow elevation plan. Note that the Design Review Panel (DRP) had also recommend that each floor plan show details on the corresponding level of the neighbouring site, and that each elevation provide details on the neighbouring properties. This has not been shown on the plans.*

Comment: Levels of neighbouring properties have not been shown to assist in determining solar access.

- *There is insufficient detail to determine the extent of overshadowing on the communal open space areas. An analysis of the provision of solar access to the ground floor and Level 3 communal open space should be provided. Shadows cast by neighbouring buildings, fences, and the proposal must be accounted for in this analysis.*

Comment: This information has not been provided.

- *The view from sun analysis that was requested by the Design Review Panel has not been provided.*

Comment: This information has not been provided. However, the submission of the remainder of the outstanding information would likely have been sufficient to address this point.

- *The Statement of Environmental Effects indicates that all units comply with the solar access requirements of the ADG. However, given the location and orientation of certain*

units (for example, Unit 11), it is not possible for all units to receive the two hours midwinter solar access that is required by the applicable control.

Comment: The submitted sun path shadow diagrams are not useful in determining compliance. They do not appear to account for levels above and they also indicate compliance where it is not possible.

The amenity of the units is generally acceptable; however, deletion of an additional unit would improve overall solar access and be consistent with the original recommendations.

- To ensure the accuracy of the shadow diagrams, the location of true north is to be determined by applying the current angle between magnetic north and true north (magnetic declination). This has not been shown accurately on the survey, and it is likely that this angle was relied upon in the preparation of the shadow diagrams. Note that the magnetic declination in Sydney is currently approximately 12 degrees.

Comment: This has not been provided.

- In order to determine compliance, a detailed analysis of the required information outlined above is to be provided to Council.

Comment: A detailed analysis of solar access has not been submitted.

The information that was provided with the amended package was similar to the information provided at lodgement. Examples of the amended shadow diagrams that were provided is shown below:

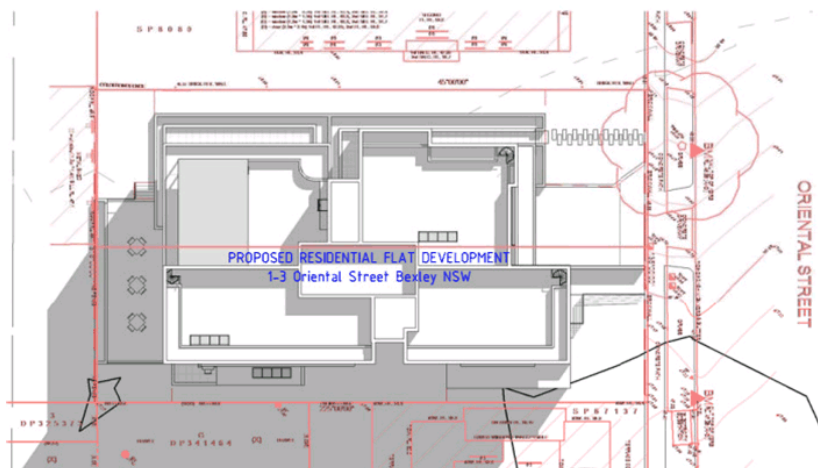


Figure 4 12pm midwinter shadow diagrams (Resolut, 2017)

With respect to overshadowing to surrounding properties, Figure 4 provides an example of the information that was provided to demonstrate the impacts to neighbouring properties. The shadow diagram within Figure 4 depicts the overshadowing to neighbouring properties. However, very limited information is provided on the neighbouring properties. No elevation shadow diagrams have been provided to demonstrate the impacts to balconies, etc, and insufficient information is provided to enable any proper understanding of the impacts to ground level overshadowing, as the entirety of the shadows are not shown.

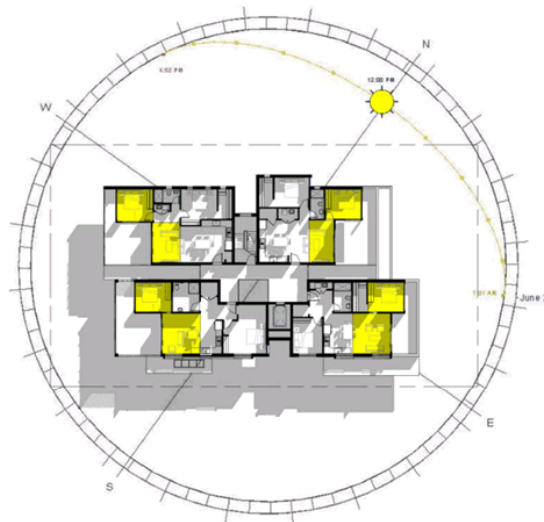


Figure 5 12pm Level 1 midwinter sun path shadow diagrams (Resolut, 2017)

With respect to solar access to the subject property, Figure 5 provides an example of the information that was provided to demonstrate the solar access received by dwellings within the development. The submitted Statement of Environmental Effects indicates that 100% of units receive compliant solar access. However, this is not possible, given:

- The units on the southern corner of the building would be expected to receive very little solar access in midwinter, as all openings face either southwest or southeast.
- Living rooms on the western corner of the building are also oriented towards the south and are unlikely to receive compliant solar access.
- It would be expected that the neighbouring building to the northwest would also cast shadows on the proposed dwellings.

Therefore, it is unlikely that the proposal will be compliant with the controls contained within Part 4A of the ADG. Note that it is unclear what is intended to be depicted by the yellow shading within Figure 3.

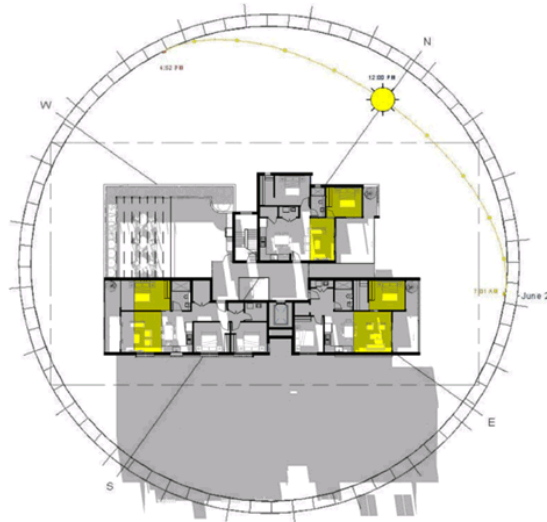


Figure 6 12pm Level 3 midwinter sun path shadow diagrams (Resolut, 2017)

Finally, with respect to overshadowing to the proposed communal open space areas, Figure 6 provides an example of the information that was provided to demonstrate compliance. The direction of the shadow diagrams would be expected to be cast in a southerly direction, identical to those shown within Figure 5, however, the shadow diagrams depict shadows being cast towards the southeast. It is not possible to determine the level of solar access that is received to the communal open space. Excellent solar access should be provided to the Level 3 communal open space, as the ground floor communal open space, provided within a narrow and non-compliant rear setback area, would receive very little midwinter solar access.

The application does not provide adequate information to demonstrate compliance with the various solar access and overshadowing controls that are applicable to the proposed development. Given the application seeks an in-fill residential flat development, with non-compliant setbacks and floor space ratio, it is imperative that solar access impacts are demonstrated in detail, in order to determine whether the proposal has responded appropriately to the constraints of the site. Note that similar points were also raised by the Design Review Panel.

4.4.5 Visual Privacy – roof top area

Part 4.4.5 of the RDCP 2011, outlines that the use of the roof top area for recreational purposes is permissible as long as the usable area of the roof is setback at least 1500mm from the edge of the building, and that other devices such as privacy screens and planter boxes to be incorporated to protect the visual and acoustic amenity of neighbouring properties. A communal open space area is provided on Level 3, above Unit 9, but sitting below the overall rooftop of

the building. In addition, three separate rooftop private open spaces are provided on the roof of the building.

The trafficable areas of these spaces are setback approximately 1.25m-1.35m from the edge of the building, with planter boxes provided within that setback area. Were the application recommended for approval, a condition of consent would be recommended to increase that dimension to 1500mm. However, given the privacy issues, these rooftop elements are not supported.

4.4.5 Visual and Acoustic Privacy and 4.4.6 Noise Impact

Bedroom 1 within Unit 1 is located with windows adjoining the common walkway towards the ground floor communal open space. The bedroom is not supported in this location, and could be designed to be away from this noise sources. In addition, as outlined elsewhere, further planting is required within the southern boundary setback to minimise the transfer of noise to adjoining properties.

An acoustic assessment, prepared by Acoustic Noise & Vibration Solutions P/L certifies that the internal noise attenuation levels for the proposed development will otherwise satisfy the requirements of AS2021-2015 and the requirements of Council.

4.5.1 Housing Diversity and Choice

Part 4.5.1 outlines the dwelling mix that is required for residential flat developments to be as follows:

- 1 bed/studio units – 10-30%
- 2 bedroom units – 50-75%
- 3 bedroom unit – 10-20%

The proposal provides for two (2) x 1-bedroom units (13.3%), twelve (12) x 2-bedroom units (80%), and one (1) x 3-bedroom unit (6.7%). As a consequence, only the 1-bedroom units are consistent with the proportional dwelling mix, and there is an over-allocation of 2-bedroom units, and an under-allocation of 3-bedroom units.

Part 4.5.1 of the DCP further outlines that the dwelling mix may be refined with regard to:

- Location of development to public transport, public facilities, employment areas, schools, and retail areas;
- Population trends; and
- Whether development is for affordable housing/ community housing or non-for-private organisation.

The submitted Statement of Environmental Effects has provided the following justification for this departure from the control:

"It is considered that the proposed unit mix is satisfactory for the subject site given its proximity to the Bexley town centre and bus services to surrounding suburbs. This proximity increases the demand for 2 bedroom units since it is likely that the proposal will comprise smaller households close to public transport. Furthermore, the trend towards smaller households requires that the majority of the proposal should comprise 2 bedroom units.

The provision of a spread of units comprising one, two and three bedroom units in a development of 15 units is considered to be adequate and therefore housing choice is considered to be appropriately addressed by the proposal. It is requested that the Council support this variation".

The justification above fails to identify the particular reasons why the proposed dwelling mix provides an appropriate response to the specific location of the site; that is, there are no reasons given as to why the specific location of the site increases the demand for 2-bedroom units.

Furthermore, as R4 zoned land is generally provided in areas with good access to public transport and other amenities, it is not considered that there are any particular circumstances that apply to this site that would warrant variation to this development control. Variation to this control would be more likely to be supported in areas where it can be demonstrated that a proximity to particular services warrants variation to the control.

Given the other issues raised elsewhere within this report in relation to setbacks and floor space ratio, it is considered that there are design options available that would enable compliance with dwelling mix controls and setback controls. For instance, the rear 2-bedroom dwellings at any of the levels above ground level are able to be combined into a single 3-bedroom unit, which could enable for a reduction in the size of the building, compliance with setbacks, and improvements to the unit mix.

It should be noted that Council's Design Review Panel had also sought changes to the proposed dwelling mix.

4.5.2 Social Equity - Equitable Access

The proposed development provides ramped access where required from public areas to the development, three (3) accessible parking spaces are provided in the basement close to the lift location. The communal open space area on Level 3 is accessible via the lift.

An Access Compliance Assessment Report prepared by Sydney Access Consultants accompanied the development application. The Access report identifies that the proposed development is capable of satisfying the accessibility requirements of the DDA and BCA. In this regard, the proposed development can be considered to be suitable from an accessibility perspective.

4.6 Car Parking, Access and Movement

The proposed development provides for a complying 16 parking spaces for residents, three (3) of which are accessible, with three (3) car parking spaces for visitors, one (1) of which also doubles as a car wash bay, within the basement car park level. Two (2) bicycle spaces are also provided within the basement.

The location of the vehicle access point off Oriental Street is considered to be rational and suitable, and it is likely that the occupants of the subject site will no longer require the use of the right of carriageway provided via Kingsland Road South.

One of the visitor spaces may be difficult to access due to its location next to the ramp and a storage cage, and is not supported by Council's engineer. In addition, the shared car wash space is not adequately dimensioned and requires a minimum width of 3.5m. Given the issues with the layout, these issues are captured within the reasons for refusal, particularly given there are limited opportunities to increase the site coverage of the basement. The applicant has not provided a response to these issues

4.7 Air Conditioning and Communication Structures

Part 4.7 of the RDCP 2011 requires that for each building comprising two (2) or more dwellings that a master TV or satellite dish to be provided. The submitted plans and Statement of Environmental Effects does not include any reference to master antenna or satellite dish. This matter would be able to be dealt with via conditions. However, the application is recommended for refusal.

4.7 Waste Storage and Recycling Facilities

The proposed waste storage area within the basement provides space for 10 bins within the basement, with temporary space available for larger waste. This is appropriate for a development of this size.

5.2 RFB – Site Coverage

Part 5.2 of RDCP 2011 requires a maximum building footprint of 35%. The building footprint for this development includes not only the internal floor areas of the building, but also the raised terraces within the rear yard, which sit above the ground level. Additionally, the building footprint of the ground floor and the upper levels are not identical, and a comparison of the basement, the ground floor, and the upper levels is required in order to accurately determine the site coverage.

5.2 RFB – Balcony Balustrade

Part 5.2 of RDCP 2011 outlines that solid balustrading should be included in the façade design to provide screening of clothes line and other paraphernalia. The proposal will include some glass balustrades. Conditions would be able to be imposed to require opaque balustrades. However, the application is recommended for refusal.

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

Potential impacts associated with the proposed development have been discussed in detail within this report.

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

As previously mentioned in this report, the subject site is of a suitable overall area and dimensions to accommodate a reasonable increase in density. The design of the proposal however is not suitable for the subject site for the reasons previously detailed within this report.

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. It is reiterated that the proposal exceeds FSR requirements and as a result, creates privacy and overshadowing impacts.

As such, the proposal is recommended for refusal and the site is not suitable for the proposed development in its current form.

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

The original proposal development has been notified in accordance with the provisions of the RDCP 2011. In response, 1 submission was received, which objected to the proposal. Following the receipt of amended plans in November 2017, despite an increase in the overall size of the building, the application was not renotified, given that the application was to be recommended for refusal. **Any development consent granted without an additional notification period would most likely be declared invalid if it were challenged in Class 4 Land and Environment Court proceedings.**

The issues raised in the submissions have been taken into consideration in the assessment of the application as discussed below:

Issue 1: Height, noting that other buildings within the area are a maximum of three storeys.

Comment: The plans have been amended to comply with the required maximum height limit. The adjoining building to the southeast is a total of four storeys in height. However, it is agreed that the building is not appropriate in its context, and the proposal is recommended for refusal.

Issue 2: Traffic and parking

Comment: The proposal does not provide adequately dimensioned parking within the basement, and this is included as a reason for refusal. The submitted traffic report indicates that surrounding streets can accommodate the additional traffic movements.

Issue 3: Privacy impacts, particularly the balcony to 12/5-7 Oriental Street.

Comment: It is agreed that inadequate information has been submitted to demonstrate that the proposed building separation is reasonable in this instance. Refer to discussion in relation to Part 3F of the ADG.

Issue 4: Extra bins on street, and the associated impacts on parking.

Comment: A bin storage area is located within the basement, and conditions of consent would require that the waste bins be stored within the basement after they are emptied.

Issue 5: Proposal inappropriate in the local context, noting the colour of the brickwork, and that there are few other developable sites in the street.

Comment: It is agreed that the proposal should respond to design cues within Oriental Street, particularly given there are few other developable sites within the street. Concerns remain in relation to the colour selection, and in relation to the bulk of the development at the rear, and these issues are reflected within the reasons for refusal.

Issue 6: Glare from white paint and windows

Comment: The previously proposed white render no longer forms part of the proposal; however, issues remain with the proposed finishes. The proposed windows would provide amenity to the apartments, and the reflectivity would be required to comply with relevant Australian Standards.

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

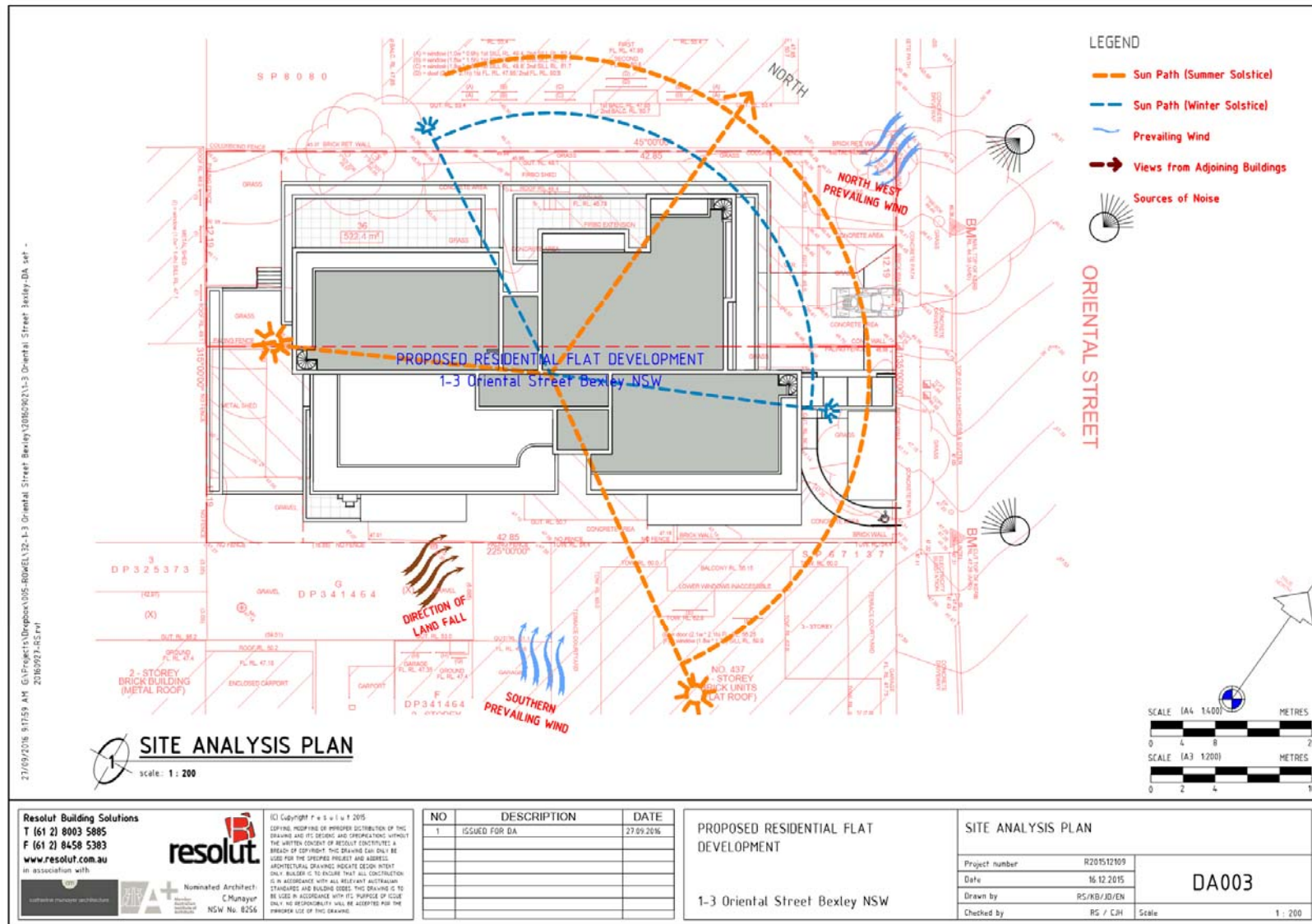
For the reasons outlined previously within this report, the proposed development is inconsistent with the requirements and objectives of relevant planning policies and as such is deemed to be unsatisfactory and not in the public interest in its current form.

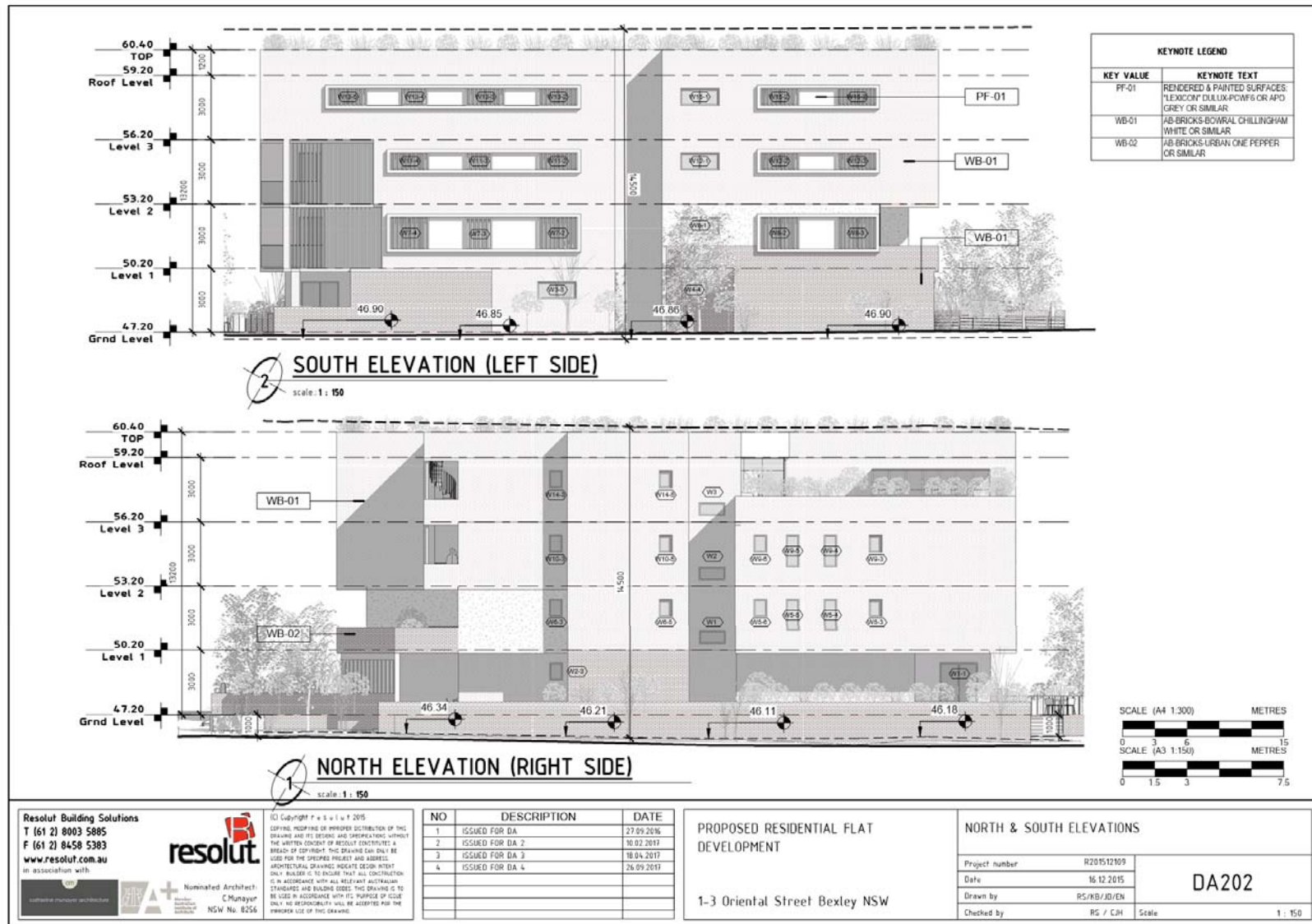
Section 94 Contributions

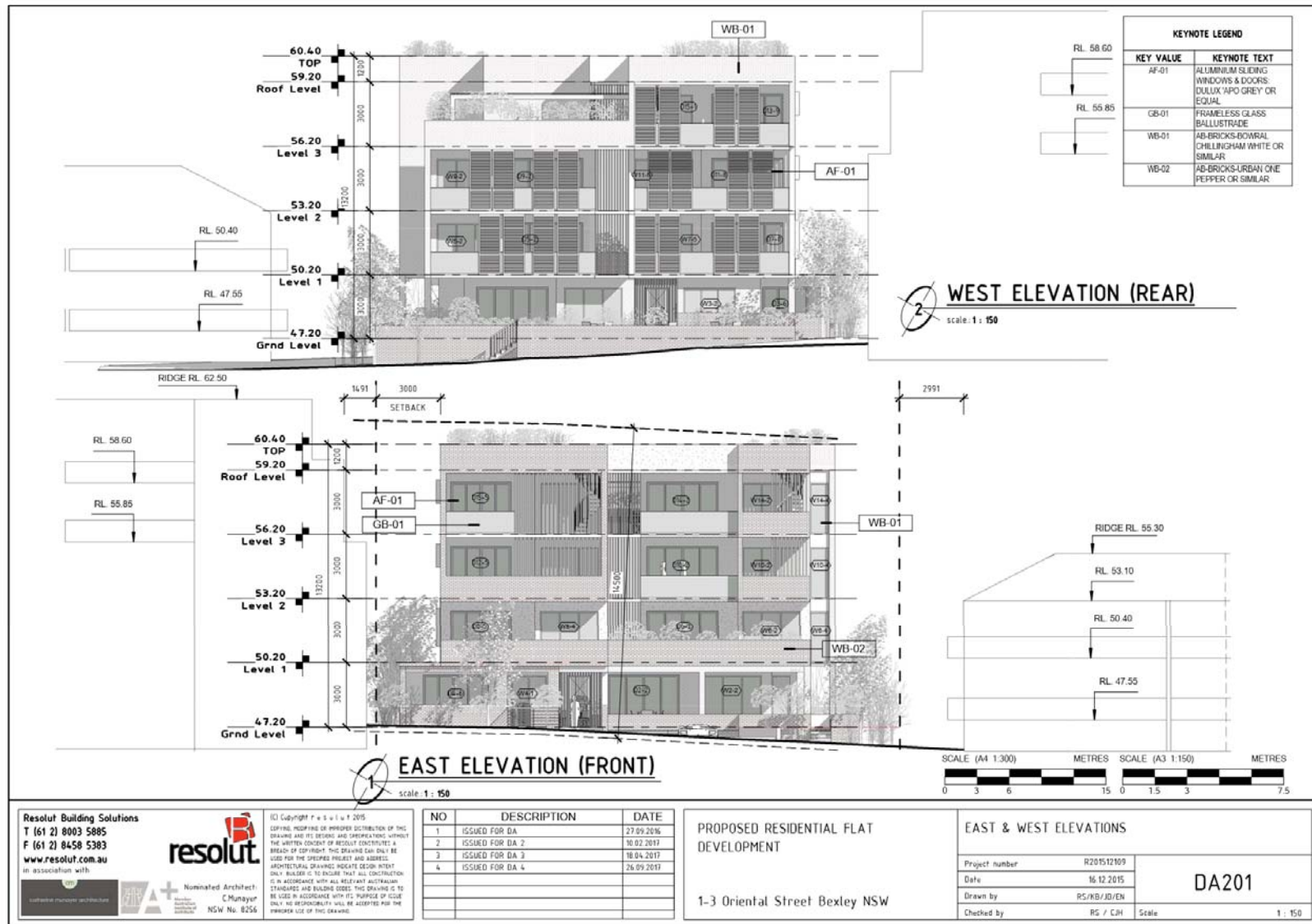
S94 contributions would apply to the development, as a result of the proposed increase in density, should the proposal have been supported.

Conclusion

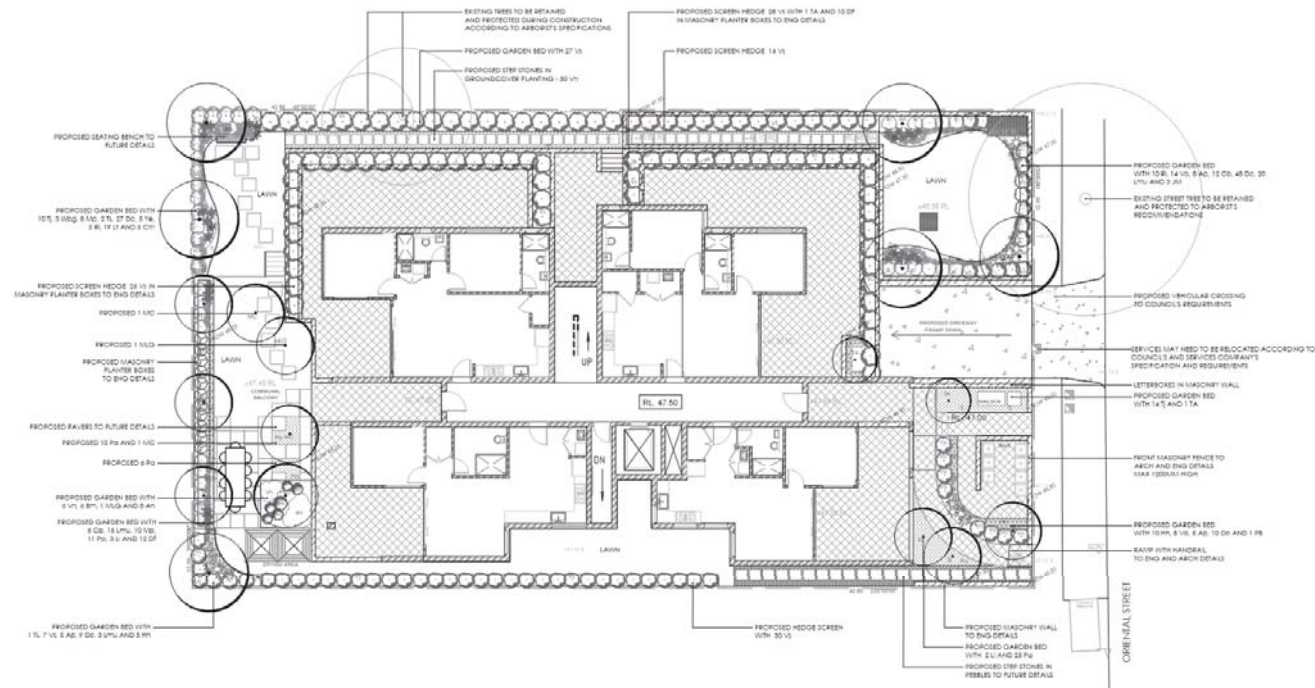
Development Application No. DA-2017/107 for the construction of a four (4) storey residential flat building comprising 15 residential units, roof terrace, basement car parking and demolition of existing buildings at 1-3 Oriental Street, Bexley has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for refusal for the reasons outlined within the recommendation.







CONCEPT LANDSCAPE PLAN - ROOFTOP
SCALE - 1:100 @ A1



AMENDMENTS Item Date Description _____ _____ _____			PROJECT PROPOSED RESIDENTIAL FLAT DEVELOPMENT 1-3 ORIENTAL STREET, BEALEY NSW 2207 LOTS 36 AND 37, DP 8216		Drawing Title CONCEPT LANDSCAPE PLAN GROUND FLOOR	Drawn by AB Checked by AB Authorised by	Scale 1:100 @ A1 1:200 @ A3	Date 12.08.18	Proj. No. 162106	Rev. No. LA-001	Issue A
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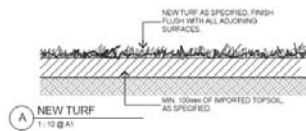
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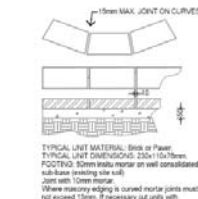
A 12.06.19 CONCEPT LANDSCAPE PLAN FOR DEVELOPMENT APPLICATION
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LANDSCAPE DETAILS AND SPECIFICATIONS SCALE - VARIES

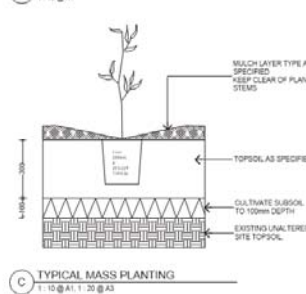
GENERAL NOTES:
 1. EACH DRAWING IS TO BE READ IN CONJUNCTION WITH LANDSCAPE WORKS SPECIFICATION AND DETAILS.
 2. DO NOT SCALE OFF DRAWINGS. REFER TO DIMENSIONS SHOWN ON PLAN.
 3. ALL SERVICES ARE TO BE CHECKED AND VERIFIED ON SITE.
 4. FOR CIVIL AND STRUCTURAL DETAILS, REFER TO ENGINEER'S DRAWINGS.
 5. PRIOR TO LANDSCAPE WORKS, REMOVE ALL BUILDERS DEBRIS AND RIP ALL GARDEN BED AND TURF AREAS TO A MINIMUM DEPTH OF 100mm. THE AREA WITHIN THE DRIP ZONE OF EXISTING TREES AND SHRUBS TO BE RETAINED ARE TO BE HAND DUG.



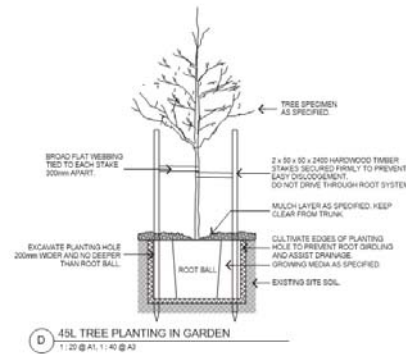
A NEW TURF
1:10 @ A1



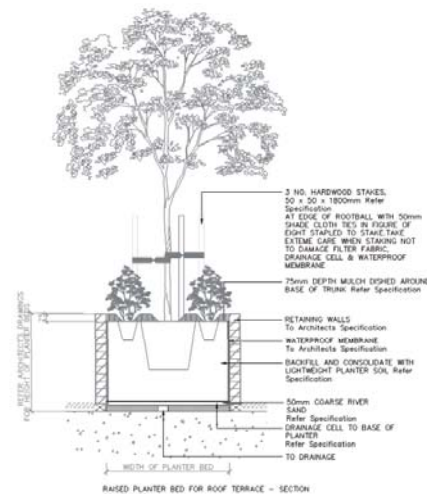
B Brick Edge
1:10 @ A1



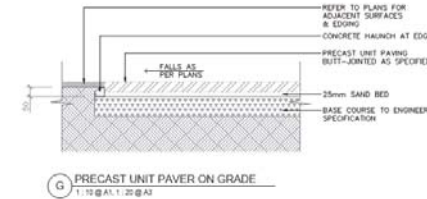
C TYPICAL MASS PLANTING
1:10 @ A1, 1:30 @ A3



D 45L TREE PLANTING IN GARDEN
1:20 @ A1, 1:40 @ A3



E RAISED PLANTER BED FOR ROOF TERRACE
1:20 @ A1



F PRECAST UNIT PAVES ON GRADE
1:10 @ A1, 1:20 @ A3

LANDSCAPE SPECIFICATION with 52 WEEK MAINTENANCE PERIOD

1. GENERAL: 1.1 The Contractor is to site the site to landscape hereafter with site conditions prior to tender. 1.2 The Contractor will be held responsible for any damage to utility services, pipes, building structures, paving surfaces, fencing, footways, kerbs, roads and existing plant material to be retained during the construction and maintenance periods. 1.3 The Contractor is to be considered liable for all Contract areas during the Contract period. 1.4 The site is to be left in a clean and tidy condition at the completion of the works to the satisfaction of the Superintendent. 1.5 No substitution of material is to be made unless written approval is given by the Superintendent.
2. SOIL PREPARATION: 2.1 Proposed subgrade is to be free of stones, concrete and builder's debris larger than 50mm and any other foreign matter that could hinder plant growth.
3. IMPORTED TOPSOIL: 3.1 Import topsoil into comprising 80% loam topsoil, Compost 30% and OVA sand to 20% by volume for mass planted and individual plantings as specified and as detailed. 3.2 For turf areas supply topsoil comprising 80% sand and 20% loam by volume.
4. COMPOST: 4.1 Shall be well rotted vegetable material or animal manure, or other approved material, free from harmful chemicals, grass and weed growth and with neutral pH. Provide a certificate of proof of pH on request.
5. MULCH: 5.1 Application: Place mulch to the required depth and rate to an even surface following 25mm below adjoining levels. Ensure mulch is watered in and tamped down during installation. 5.2 Forest Mulch: For use in all garden beds other than side of building and balcony planters. 5.3 River Gravel Mulch: 20mm min. diameter rounded colored pebble mulch such as is available from 'Materials in the Past - Orange Cores' or similar.
6. PLANT MATERIAL: 6.1 All plant material is to be vigorous, healthy, hardier off, disease and insect free and true to species, type and variety specified. Plants are not to be root bound. Trees are to have one leading shoot. 6.2 Do not carry out planting in extreme weather conditions. 6.3 Planting holes are to be 100mm larger than size of plant container to the sides and bottom of the hole. Loosen the soil to the sides and bottom of the hole. Combined topped soil with loosened soil.
7. PLANTING: 7.1 Remove all stakes and labels from the plants prior to installation. 7.2 Thoroughly soak root ball, allow to drain before removing plant from container for planting. 7.3 After removing plant from the container, use spading fork or sharp secateurs and gently loose soil to the roots to the sides of the root ball before installation. 7.4 After installation, the soil level around the plant is to be flush with the soil surface in the surrounding bed except for a shallow dish made in the soil around the plant to retain water when moisture is available. Level and gently pat soil around plant and ensure air pockets are removed. 7.5 Thoroughly water plant material immediately after planting. 7.6 Fertiliser 1.5 Spread 10mm Forest Mulch as indicated on the landscape plan. All garden beds to be mulched.
- 8.0 FERTILISER: 8.1 GARDEN BEDS: Fertilise with suitable organic fertiliser such as 'Dynamax Lift' or well decomposed, weed and disease free cow manure applied at the recommended rate for 'Dynamax Lift' or as a 50mm layer for cow manure. Do not use spent mushroom compost. 8.2 Turf: Shall be Deluxa No. 17 or approved equal thoroughly mixed into the topsoil prior to planting turf.
- 8.0 BRICK EDGE: 8.1 Edge beds, not abutting hardworks, with brick edge as shown in detail.
- 10.0 TURF AREAS: 10.1 Level and grade area to be turfed allowing for a 100mm layer topsoil and turf such that turf will flush level with the brick garden edge and handrails. 10.2 Cultivate subsoil to 100mm. 10.3 Spread 100mm layer imported topsoil comprising 80% sand and 20% loam by volume. 10.4 Lay turf along the contours and drive tines. Roll after laying. Thoroughly soak turf immediately after laying. 10.5 Water and mow turf regularly to establish and maintain the turf in healthy condition until the completion of the landscape contract period. 10.6 Fertiliser turf with a turf fertiliser at the final mowing at the end of the landscape contract period.
11. IRRIGATION: 11.1 Supply and install drip irrigation to all garden beds and planters in accordance with Sydney Water requirements.
- 12.0 PRACTICAL COMPLETION AND MAINTENANCE: 12.1 At the end of the landscape construction period an inspection of the landscape works by the Superintendent is to be carried out with the contractor. Any defects or changes to the works required by the Superintendent are to be noted by the Contractor and a copy of the list is to be given to the Superintendent within 3 days. 12.2 Defects and changes listed are to be carried out immediately. 12.3 The Superintendent will issue a written notice of practical completion once the works are completed to the Superintendent's satisfaction. 12.4 A 52 week maintenance period is to begin on receipt of practical completion at the end of the landscape construction period. 12.5 During the maintenance period, regularly mow turf to maintain a height of 40mm, weed turf and planted areas, and top up mulch layer as required. Remove plants as required and fertilise mass planted and turf areas and individual trees in turf with appropriate fertiliser at recommended rates. Replace dead plants with healthy new stock as indicated on the plan and plant schedule. Where existing plants are damaged and/or removed these are to be replaced with advanced specimens of the same species.

AMENDMENTS

Rev. No. Date Description

1 12/08/18

2 12/08/18

3 12/08/18

4 12/08/18

5 12/08/18

6 12/08/18

7 12/08/18

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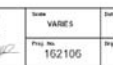
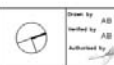
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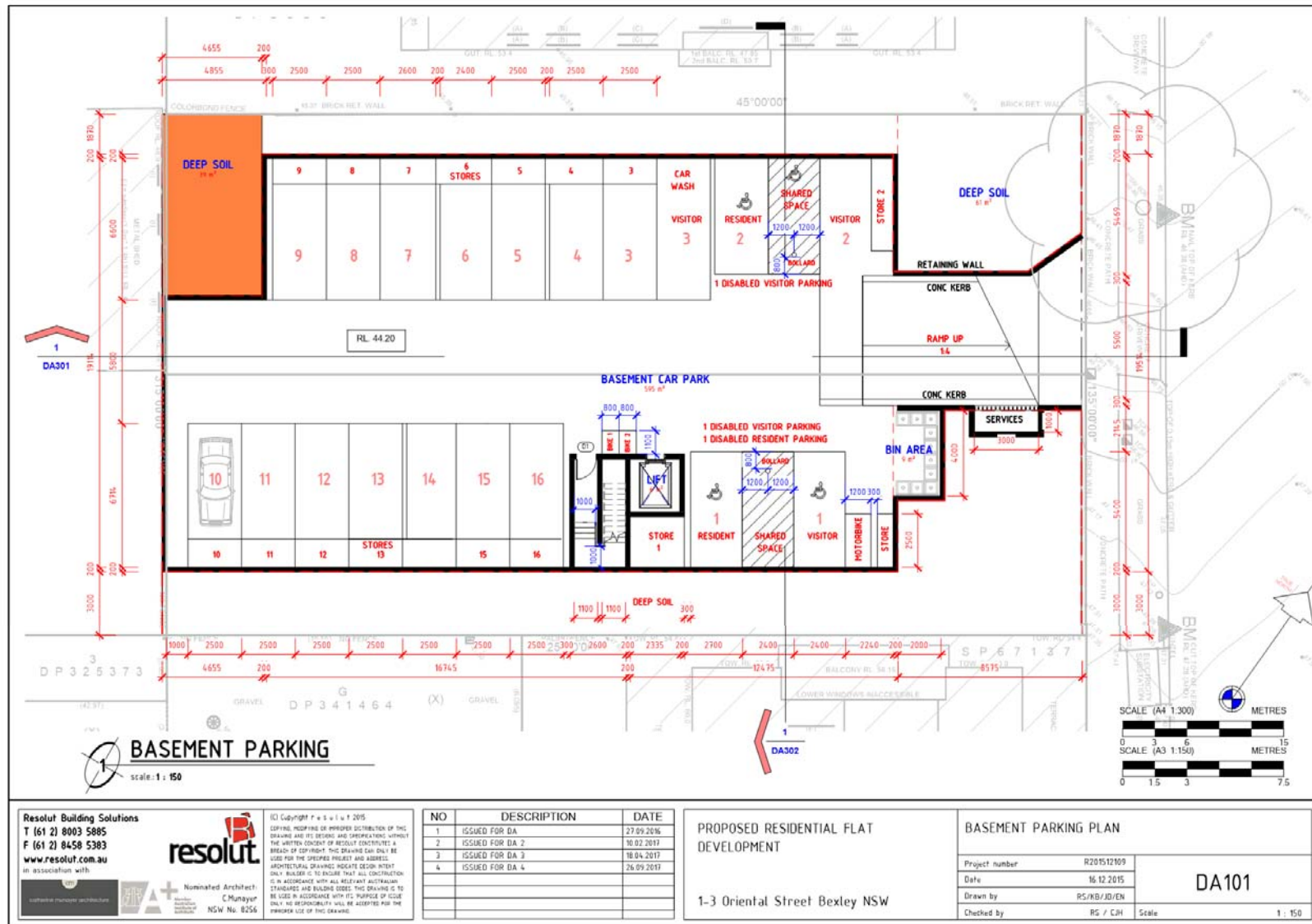
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STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

**APPENDIX B – CLAUSE 4.6 OF ROCKDALE LEP 2011: EXCEPTIONS
TO DEVELOPMENT STANDARDS – FSR VARIATION**

FOR A PROPOSED RESIDENTIAL FLAT BUILDING

AT

1 - 3 ORIENTAL STREET BEXLEY

**CLAUSE 4.4(2) OF ROCKDALE LOCAL ENVIRONMENTAL PLAN 2011 –
FLOOR SPACE RATIO**

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STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

1. Introduction

This written Clause 4.6 variation request accompanies a Development Application (DA) submitted to Rockdale City Council for a proposed residential flat building. The subject site is legally described as Lots 36 and 37 in DP 5216 and is known as No 1-3 Oriental Street, Bexley.

Approval is sought for the following:-

- Demolition of the existing dwellings and associated structures on the site; and
- Construction of a four (4) storey residential flat building with basement parking comprising the following:-
 - Basement level – 19 car parking spaces (including 3 disabled spaces) comprising 17 residential spaces (including 2 disabled spaces), 3 visitor parking spaces (including 1 disabled space) with a space designated as a car wash bay, motorcycle parking, bicycle parking, storage areas and lift access;
 - Ground floor – 2 x 2 bedroom units and 2 x 1 bedroom units and their associated terrace areas as well as a bin storage area and access ramp in the front area of the site;
 - Level 1 - 4 x 2 bedroom units and their associated balconies;
 - Level 2 - 4 x 2 bedroom units and their balconies; and
 - Level 3 - 2 x 2 bedroom units and 1 x 3 bedroom unit and their associated balconies.

2. Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the *Rockdale Local Environmental Plan 2011* ("RLEP 2011") aims to provide an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances (Clause 4.6(1)).

Clause 4.6 Exceptions to development standards states:-

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

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

Note. *When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition, R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (ca) *clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D), unless it is for a demonstrable public benefit, such as the provision of pedestrian links,*
 - (cb) *clause 4.3A.*

Development consent may, subject to Clause 4.6(2), be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. Clauses 4.6(6) and (8) do not specifically exclude the development standard at Clause 4.4(2) of the RLEP 2011. Accordingly, this development standard can be varied to allow the proposal. Clause 4.6(7) and (8) do not require any further consideration in this variation.

A written request from the applicant that seeks to justify the contravention of the development standard is required before development consent can be granted, demonstrating the following (Cl 4.6((3)):-

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

- b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

These matters are considered in Section 7 of this submission.

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), the proposed development will be in the public interest (proposal is consistent with the zone and development standard objectives) and the concurrence of the Secretary has been obtained (Cl 4.6(4)).

These matters are considered in Section 7 below.

The 'five part test'

The long-standing 5 part test was set out in *Winten Property v North Sydney* (2001) 130 LGERA 79 for SEPP 1 objections (the relevant requirement at the time) as:

1. *Is the planning control in question a development standard?*
2. *If so, what is the underlying object or purpose of the standard?*
3. *Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979?*
4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (A related question is: would a development which complies with the standard be unreasonable or unnecessary?)*
5. *Is the objection well founded?*

Webbe v Pittwater Council [2007] NSW LEC 827 shed light on this test for the assessment of a SEPP 1 objection with *Chief Justice Preston* in his reconsideration, setting out a new 5 part test and rephrased the assessment process as follows:

1. *The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and*
3. *It is also important to consider:*
 - a. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Preston CJ then stated that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

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;*

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90, and the subsequent appeal against the Commissioner's decision, it was established that the key elements which are required to be addressed in any Clause 4.6 written request, in order to satisfy the tests contained in clause 4.6, are:

- (a) *Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
- (b) *Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?*
- (c) *Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? – is it consistent with the objectives of the development standard and the objectives of the particular zone?*

The Commissioner found that consistency with the objectives is required elsewhere (by Clause 4.6(4)(a)(ii)) and accordingly, could not be relied upon to satisfy the test in clause 4.6(3)(a). The Commissioner found that additional considerations are required in order to establish that compliance would be unreasonable or unnecessary.

The environmental planning grounds relied upon to justify the contravention of the standard must be “particular to the proposed development on the site”. That is, the environmental planning grounds relied upon cannot be benefits which apply to any development of the site or surrounding sites which would provide the same outcome. In the Commissioner's view, environmental planning grounds which were not particular to a site were not sufficient to justify the contravention of the standard.

Four2Five Pty Limited has established that although the first test in *Webbe v Pittwater Council* [2007] NSWLEC 827 remains a relevant consideration, it can no longer be the only basis upon which an applicant submits that compliance is unreasonable or unnecessary. Something additional needs to be established. The Court of Appeal decision has confirmed that the other *Webbe* tests (2 to 5) may still be applied and relied upon.

These matters are considered in Section 7 below.

3. The Development Standard to be varied

Clause 4.4(2) of the RLEP 2011 states the following:-

“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 maximum FSR for the subject site pursuant to the Floor Space Ratio Map is 1:1 or 1,045m² as illustrated in **Figure 1**.

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

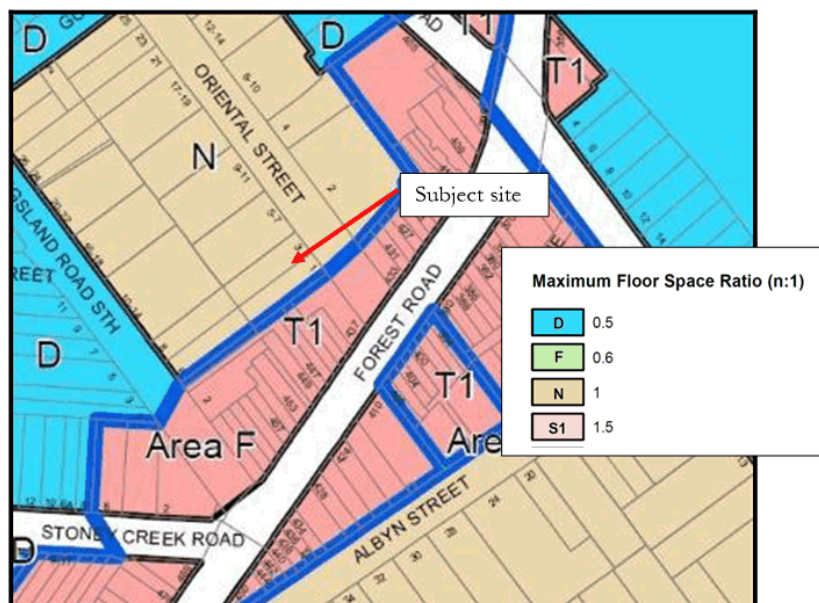


FIGURE 1: FSR MAP (SOURCE: WWW.LEGSLAITON.NSW.GOV.AU)

4. Extent of Variation to the Development Standard

The proposed development involves a gross floor area of 1,238m² on a site with a total area of 1,045m², resulting in an overall FSR of 1.18:1. Therefore, the proposal exceeds the maximum FSR development standard by 193m² representing a 18% variation to the development standard contained in Clause 4.4(2)(a) of the RLEP 2011. This variation is outlined in Table 2 of the Statement of Environmental Effects ("SEE").

5. Objectives of the Development Standard

The objectives of the FSR development standard, pursuant to Clause 4.4(1) of the RLEP 2011, state:-

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.

6. Objectives of the Zone

The objectives of the R4 High Density Residential zone pursuant to Clause 2.3 of the RLEP 2011 are:-

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.

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

7. Assessment

Pursuant to Clause 4.6 and following the *Four2Five Pty Limited v Ashfield Council* [2015] NSWLEC 90 decision outlined above, the following matters are required to be considered in this assessment:-

- (a) Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- (b) Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?
- (c) Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest. – is it consistent with the objectives of the standard and zone as set out above.

These matters are considered below.

7.1 Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

It is considered that the development standard is unreasonable and unnecessary in the circumstances of this case as a better planning outcome is provided by varying the standard, the non-compliance better achieves the objects of the Act and there are no significant adverse impacts to adjoining properties arising from the proposal. These reasons are discussed further below.

a) Amenity Impacts and the Streetscape

The non-complying floor space ratio of the proposed building does not result in any unreasonable impacts on the amenity of nearby properties in terms of overshadowing, privacy, loss of views and has minimal impact on the streetscape. The proposal, with the additional floor space, is consistent with surrounding development. Requiring compliance with this development standard would therefore prevent a building that does not adversely affect the amenity of the existing adjoining residential development from being achieved on the subject site.

b) Design of the Development

Compliance with the floor space ratio development standard is considered to be both unreasonable and unnecessary given the design of the proposal and its relationship to neighbouring properties. The proposal will provide a well-designed and appropriate residential development which, despite any technical non-compliance with the FSR control, is unlikely to create a significant impact on the streetscape in terms of bulk and scale and is unlikely to result in any significant adverse impact on surrounding properties in terms of overshadowing or loss of privacy.

c) Visual Impact

The visual impact of the proposal is minimised by, among other things, the proposed additional building articulation and architectural detailing proposed for the built form on the site, which is provided within the additional floor space. The additional floor space within the built form allows it to be broken up to reduce bulk and scale over the floor space limit. This assists in reducing the

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potential visual impact of the proposal when viewed from adjoining properties and the street. Requiring compliance with this development standard would therefore prevent this improvement in visual impact from being achieved on the subject site. The design of the development is illustrated in **Figure 2**.



FIGURE 2: PROPOSED DEVELOPMENT

(Source: Resolut Building Solutions, August 2016)

d) Environmental Impact

There is no adverse environmental impact resulting from the FSR variation.

e) Better Planning Outcome

The proposal is considered to be a better planning outcome on the site as the proposed development allows for the provision of a variety of unit sizes within a well-designed development which generally complies with the requirements of the ADG. The proposed variation will ensure a more efficient use of the subject site. The units will achieve a high standard of accommodation given it generally accords with minimum area requirements, achieves sufficient ventilation and solar access and provides private open space areas for the enjoyment of future occupants.

The proposal seeks to increase the available floor space of the built form which is located in a convenient location close to various uses and bus services which is a preferred planning outcome given greater housing choice is provided. Overall the variation with the floor space control allows for a better planning outcome while it minimises the impacts to the surrounding properties and ensures an appropriate bulk and scale transition along Oriental Street.

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

f) No State or Regional Planning Implications

It is considered that the additional floor space of the proposed building on the subject site does not raise any matters of state or regional planning significance. It is considered that the public benefit of maintaining planning controls is not adversely affected by this non-compliance with floor space ratio given the site achieves the objectives of the development standard and the zone and provides much needed residential housing in the area.

g) Objects of the *Environmental Planning and Assessment Act 1979*

The proposal, notwithstanding the non-compliance with the maximum FSR development standard, achieves the objects of the *Environmental Planning and Assessment Act 1979* ("EP&A Act"). These objects pursuant to Section 5 of the EP&A Act include:-

- (a) *to encourage:*
 - (i) *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,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*

The proposal is considered to be consistent with the objects of the EP&A Act, in particular Section 5(a)(ii), despite this non-compliance, as the proposed development will allow for the promotion and co-ordination of the orderly and economic use and development of land by allowing additional housing opportunities within a residential development. These objects would not be obtained if strict compliance with this development standard were required given the proposal would not be able to offer the variety of unit sizes and levels of accessibility without the additional floor space.

Furthermore, the social and economic welfare of the community would not be promoted as it would prevent the provision of additional housing catering to the needs of the local community in a location close to residential, public transport and employment.

It is therefore considered that compliance with the floor space ratio development standard would be inconsistent with the aims of the Policy, in that requiring compliance with this development standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act as outlined above.

Accordingly, it is considered that the development standard is unreasonable and unnecessary in the circumstances of this case for the reasons outlined above.

7.2 Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?

The proposal involves additional floor space over the maximum development standard on a site which largely remains the only undeveloped site in the street. The vast majority of the street

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

consists of three to four storey residential flat building, with the exception of the subject site and 21, 23 and 25 Oriental Street at the north-western end of the street.

This existing site constraint, being virtually the last remaining development site in the street, provides an opportunity unique to this site, to provide for a 15 unit development which generally complies with the minimum unit sizes under the ADG and provides for a high level of amenity with a variety of unit sizes.

There are sufficient environmental planning grounds to justify varying this development standard in this instance given such a variation would allow for additional housing opportunities in a well serviced location.

Following *Four2Five Pty Limited*, it is clear that this environmental planning ground is particular to the proposed development on this site and does not apply to the development of any surrounding sites which would provide the same outcome. That is, this is a large site in the context of the locality and presents a unique opportunity to provide additional housing in area which is close to the services of the Bexley town centre and other local facilities in a development which is compatible with existing development in the street.

The provision of additional floor space which does not comply with the maximum FSR development standard allows the proposal to achieve a greater housing choice and internal areas which reduces impacts to surrounding properties.

In the circumstances of this case, there are sufficient planning grounds to justify the FSR development standard variation sought.

7.3 Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? Is it consistent with the objectives of the standard and zone as set out above?

It is considered that the proposal is in the public interest given additional housing opportunities will be provided in close proximity to transport and services and within an accessible building. This will allow for the accommodation of a variety of households in terms of number of bedrooms as well as accessibility. The proposal, notwithstanding the non-compliance with the floor space ratio development standard, is consistent with the objectives of the development standard and the zone (outlined below).

This residential development provides for a high level of amenity and makes efficient use of the site area. The proposal results in an appropriate bulk and scale along Oriental Street due to the design and location of other residential flat buildings of a similar size and scale. There is also a lack of amenity impacts which further demonstrates that the proposal and its associated amount of floor space are in the public interest. The proposal is generally consistent with the remainder of the planning controls and therefore is in the public interest.

The proposal is considered to be consistent with the objectives of the FSR development standard as outlined above for the following reasons:-

- The proposal involves an amount of floor space that seeks to maximise the development density and intensity of the proposed land use on the site, given the availability of infrastructure in the area. The proposal is capable of distributing the traffic generated by it easily throughout the surrounding road network.

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

- The proposal with its increased floor space, does not adversely affect the environment as there are minimal trees to be removed, there is limited landform change and landscaping is proposed to soften the development and provide stormwater benefits.
- The proposal does not significantly adversely affect the amenity or enjoyment of the adjoining residential properties. There will be limited overlooking opportunities, there will be some overshadowing but will be within the planning controls and there will be no view loss arising from the additional floor space proposed on the subject site.
- The proposal will maintain an appropriate visual relationship between new development and the existing character of the area due to the prevalence of three and four storey residential flat buildings in the street, the mix of development within the locality due to the proximity to the Bexley town Centre and the range of housing densities.
- The proposal provides a high quality urban form with an appropriate level of articulation and architectural detailing achieved through the use of a variety of materials and the design of the development with changes in building alignment and use of building recesses.
- The proposed floor space will be compatible with the adjoining development to the southeast along Forest Road (No 437) and will allow for an appropriate transition along the streetscape to the adjoining three storey residential flat building to the northwest (No 5-7 Oriental Street) of the subject site. This is illustrated in **Figure 3**.

The proposal is considered to be consistent with the objectives of the R4 Zone as outlined above for the following reasons:-

- The proposal provides for the housing needs of the community in a high density environment.
- The proposal provides a variety of housing types in that there are one, two and three bedroom units proposed as well as an adaptable dwelling and accessibility throughout the proposed development. The provision of ground floor as well as upper level units allows for a variety of households to be accommodated including single person households through to families requiring ground floor with larger terrace areas.
- The proposal provides for landscaping opportunities which will assist in minimising runoff and providing an aesthetically pleasing development when viewed from the street and outdoor open space areas.

The proposal is therefore considered to be consistent with the objectives of the development standard for FSR and the objectives of the zone as outlined above, despite the non-compliance, which is consistent with the first *Webb* test.

STATEMENT OF ENVIRONMENTAL EFFECTS – 1 – 3 ORIENTAL STREET BEXLEY

**FIGURE 3: PROPOSED STREETScape PRESENTATION***(SOURCE: RESOLUT, DECEMBER 2015)***8. Conclusion**

While the proposed development does not strictly comply with the floor space ratio development standard in Clause 4.4(2) of the Rockdale LEP 2011, it nevertheless satisfies the stated/underlying objectives of the development standard and the broader planning and zoning objectives.

The design and siting of the proposal minimises adverse impacts that may arise from the proposed additional floor space of the proposal. The non-compliance in floor space ratio does not result in any significant or unreasonable amenity impacts to the neighbouring property or any significant adverse impact in relation to visual amenity. The proposal provides for an appropriate form of development, and will make a positive contribution to the visual amenity and character of the surrounding residential locality.

It is considered that this objection is well founded in that the aims of the Policy are better served by allowing the development standard to be varied given the resulting development achieves the objects of the Act. Furthermore, the proposal, notwithstanding its non-compliance with the floor space ratio development standard, is consistent with the development standard objectives as well as the zone objectives.

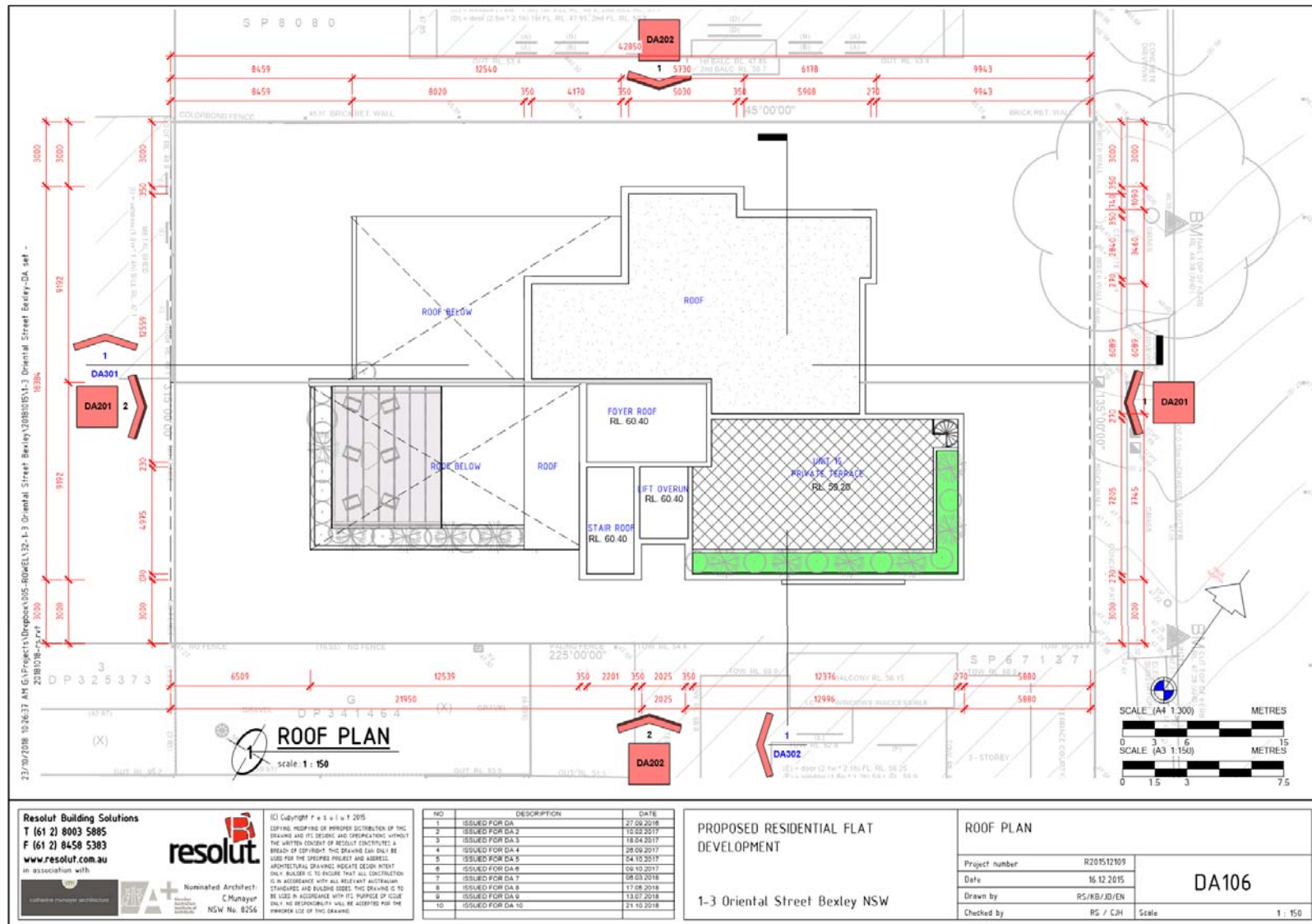
As outlined above, it is considered that compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of this case and refusal of the development application as a result of the proposed non-compliance with the floor space ratio development standard is not warranted.

Steven Layman

STEVEN LAYMAN CONSULTING
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PROPOSED RESIDENTIAL FLAT DEVELOPMENT

1-3 ORIENTAL STREET BEXLEY NSW

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DA000	PERSPECTIVES AND DRAWING INDEX
DA002	BASIC COMMITMENTS & MATTERS SUMMARY
DA003	SITE ANALYSIS PLAN
DA004	LOCATION MAP & DEVELOPMENT DATA
DA005	EXTERNAL FINISH SCHEDULE
DA006	STREETSCAPE ELEVATION
DA100	SITE / ROOF PLAN
DA101	BASEMENT PARKING PLAN
DA102	GROUND FLOOR PLAN
DA103	LEVEL 1 PLAN
DA104	LEVEL 2 PLAN
DA105	LEVEL 3 PLAN
DA106	ROOF PLAN
DA107	ADAPTABLE UNIT
DA201	EAST & WEST ELEVATIONS
DA202	NORTH & SOUTH ELEVATIONS
DA301	INDICATIVE SECTION 01 & RAMP DETAILS
DA302	INDICATIVE SECTION 02
DA601	DOORS SCHEDULE
DA602	WINDOWS SCHEDULE
DA603	SHADOW DIAGRAM - WINTER
DA604	SHADOW DIAGRAM - SUMMER
DA605	SHADOW DIAGRAM - EQUINOX
DA607	SUN PATH SHADOW DIAGRAMS - WINTER (GROUND)
DA608	SUN PATH SHADOW DIAGRAMS - WINTER (LEVEL 1)
DA609	SUN PATH SHADOW DIAGRAMS - WINTER (LEVEL 2)
DA610	SUN PATH SHADOW DIAGRAMS - WINTER (LEVEL 3)
DA701	SOIL EROSION & SEDIMENT CONTROL PLAN
Grand total: 28	

Resolut Building Solutions
T (61 2) 8003 5885
F (61 2) 8458 5383
www.resolut.com.au
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2	ISSUED FOR DA-2	10.02.2017
3	ISSUED FOR DA-3	18.04.2017
4	ISSUED FOR DA-4	29.09.2017
5	ISSUED FOR DA-5	04.10.2017
6	ISSUED FOR DA-6	06.10.2017
7	ISSUED FOR DA-7	09.03.2018
8	ISSUED FOR DA-8	17.08.2018
9	ISSUED FOR DA-9	13.07.2018
10	ISSUED FOR DA-10	25.10.2018

PROPOSED RESIDENTIAL FLAT DEVELOPMENT

1-3 Oriental Street Bexley NSW

PERSPECTIVES AND DRAWING INDEX

Project number	R2015121009	DA000
Date	16.12.2015	
Drawn by	RS/RB/JD/EN	
Checked by	RS / CJH	

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GB-01	FRAMELESS GLASS BALLUSTRADE
PF-01	RENDERED & PAINTED SURFACES "LEXICON" DULUX PCWF6 OR APO GREY OR SIMILAR
WB-01	RENDERED DULUX WHITE DUCK HALF OR SIMILAR
WB-02	RENDERED DULUX LINSEED OR SIMILAR

PF-01

AF-01

GB-01

WB-01

WB-02

White Duck Half
P16B1H

Linseed
P15B3

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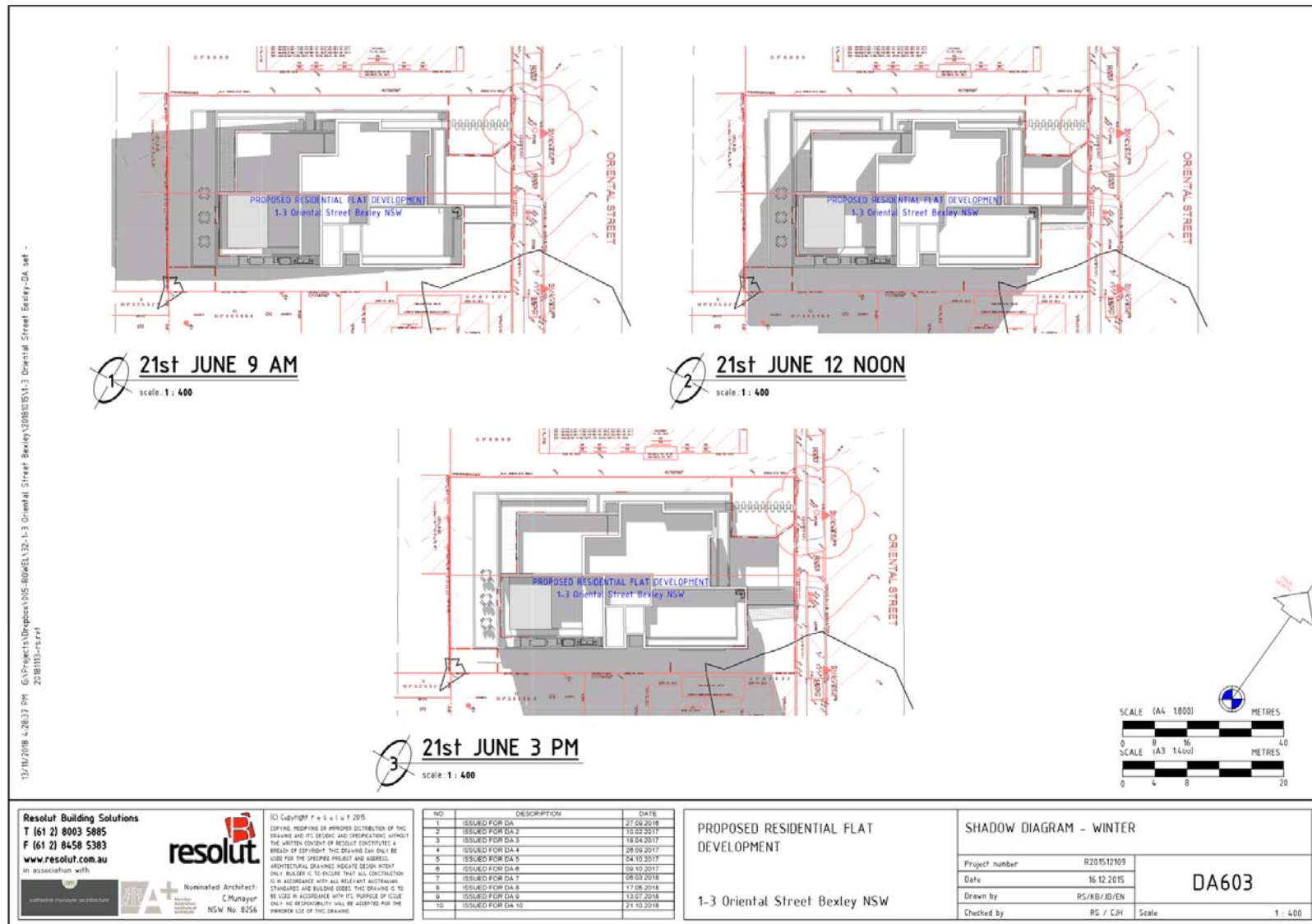
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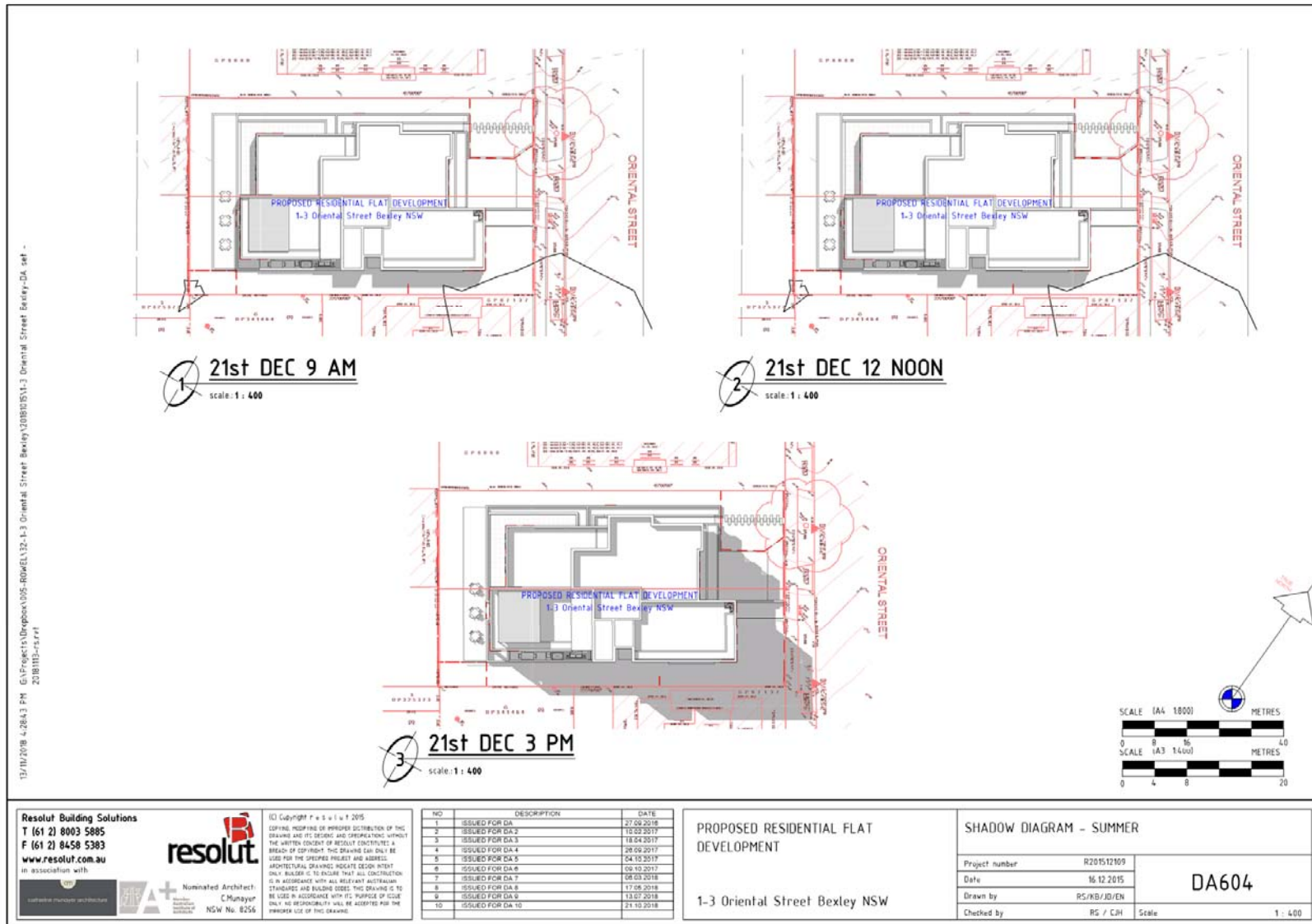
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8	ISSUED FOR DA.8	17.08.2018
9	ISSUED FOR DA.9	13.07.2018
10	ISSUED FOR DA.10	21.10.2018

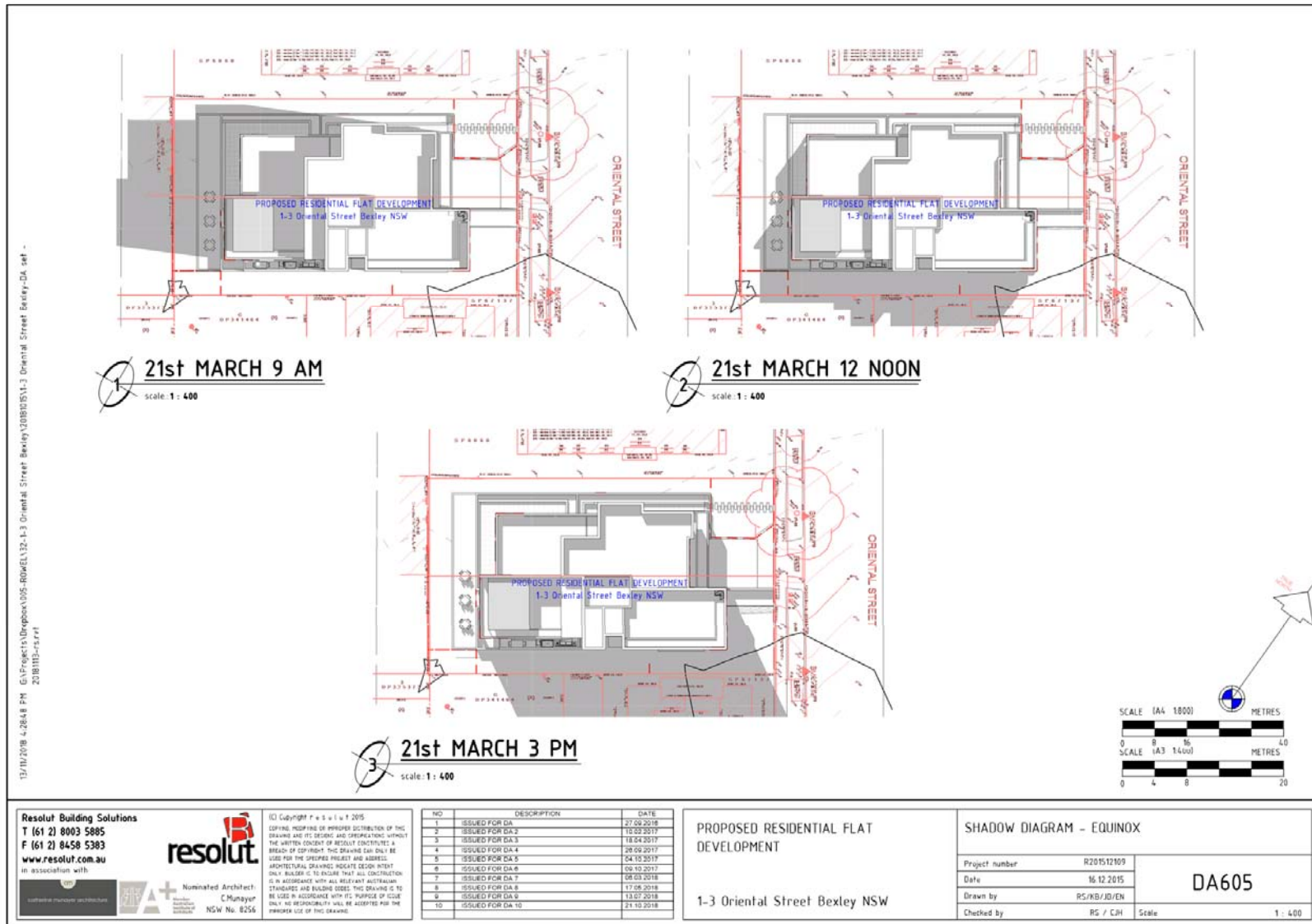
**PROPOSED RESIDENTIAL FLAT
DEVELOPMENT**

1-3 Oriental Street Bexley NSW

EXTERNAL FINISH SCHEDULE	
Project number	R2015121009
Date	16.12.2015
DA005	
Drawn by	RS/RB/JD/EN
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Scale	1 : 700







Bayside Local Planning Panel

27/11/2018

Item No	6.2
Application Type	Development Application
Application No	DA-2018/89
Lodgement Date	21/04/2018
Property	DA-2017/50 - 43 Crawford Road, Brighton Le Sands (Brighton Memorial Playing Field)
Ward	Botany Bay
Owner	Bayside Council
Applicant	Dolls Point Football Club
Proposal	Erection of two (2) light poles with luminaires
No. of Submissions	Two (2)
Cost of Development	48000
Report by	Ben Latta, Coordinator Development Assessment

Officer Recommendation

1. That Development Application (DA-2017/50) be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to conditions attached to this report.
 2. That the objectors be advised of Council's determination.
-

Location Plan



Attachments

- 1 Planning Assessment Report - DA-2018_89- 43 Crawford Rd Brighton Le San
- 2 Draft Conditions for BPP - DA-2018-89
- 3 Pole Dimensions
- 4 Site Plan
- 5 Light Spillage (Updated)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/89
Date of Receipt:	21 April 2018
Property:	Brighton Memorial Park, 43 Crawford Road, BRIGHTON-LE-SANDS NSW 2216 Lot 1 in Deposited Plan 849264
Owner:	Bayside City Council
Applicant:	Dolls Point Football Club
Proposal:	Erection of two (2) light poles with luminaires
Recommendation:	Approval subject to recommended conditions of consent
No. of Submissions:	Two (2) submissions have been received following notification of the DA in accordance with the provisions of the <i>Rockdale Development Control Plan 2011</i> .
Author:	Patrick Waite - Creative Planning Solutions Pty Limited
Date of Report:	2 November 2018

Key Issues

The key issues with the proposal are as follows:

- **Council owned land** – The application has been assessed by an independent town planner as the proposal is located on Council owned land. Further, because the land owner is the Council, the DA must be determined by the Bayside Local Planning Panel in accordance with the Minister's direction dated 23 February 2018.
- **Light spill** – Given the proposal will augment the existing lighting arrangements at the sports field, the proposal has the potential to result in obtrusive light spillage impacting on sensitive receivers such as the adjoining residential areas.

A light spill report submitted by the applicant has illustrated that the proposed development is capable of complying with *Australian Standards for Control of the obtrusive effects of outdoor lighting* (AS 4282-1997), subject to the appropriate installation of the light poles and luminaires. A condition for a validation report will be imposed to ensure that the proposed lighting complies with AS 4282-1997, and that the lights be switched off

automatically at 9:45pm each time they are in use so as not to impede with the amenity of adjoining property.

- **Acoustic impacts** – The proposal seeks not to increase the numbers of people utilising the sports fields at any-one time, or the areas of the sports field that will be illuminated. The proposal only seeks to improve the quality of illumination to the sports field, particularly its western portion.

Nevertheless, to ensure the number of participants does not increase beyond the current usage, a condition of consent is recommended to ensure the number of people using the sports field at any one time does not exceed 70.

In addition, the assessment has recommended a condition of consent requiring the preparation of a Plan of Management (including a noise management plan) be submitted to and approved by Council prior to the issue of any Occupation Certificate.

- **Traffic and parking** – The proposed development does not seek to increase the number of users at the sports field on a given evening, nor does the proposal seek to extend the length of time throughout the year in which the sports field is utilised. As such, it is not anticipated that the proposal will result in a significant impact to the existing traffic and parking arrangements for the site.

It is however acknowledged that concerns have been raised in the submissions regarding traffic safety issues on Sybil Lane, as well as street parking impacts associated with the use of the sports field.

In this regard, the assessment has recommended a condition of consent requiring the preparation of a Plan of Management (including a traffic and parking management plan) be submitted to and approved by Council prior to the issue of any Occupation Certificate.

Recommendation

1. That this Development Application (DA-2017/50) be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to conditions attached to this report.
2. That the objectors be advised of Council's determination.

Background

History

Council's online development tracker includes no development consent history for 43 Crawford Road, Brighton-Le-Sands (the Site). However, it is noted on 2 March 2018 Bayside Council issued a Permit to the St George Football Association for winter allocation of the Brighton Memorial Park sports field (herein simply referred to as the 'Permit'). The Permit confirms days and times for use of the field for the 2018 winter season are Mondays to Thursdays 6:00pm to 8:00pm from 1 March to 19 August 2018. The Special Conditions of Use

cover restrictions on noise generation, consumption of liquor at the park, vehicles entering the fields, along with requirements for supervision, keeping the fields in a tidy manner, and adherence to Bayside Council's Recreation and Community Facilities Management Policy.

A summary of the assessment history of the subject DA (DA-2018/89) is provided as follows:

- On 21 April 2018 the subject DA was lodged with Bayside Council.
- On 5 June 2018 the application was notified in accordance with the Part 8 of the *Rockdale Development Control Plan 2011*, for two (2) weeks. Two (2) submissions have been received. The concerns raised in the submissions included traffic safety on Sybil Lane, street parking, private parking, and light spill impacts.
- On 7 June 2018 a referral response was received from Council's Environmental Health Officer indicating support for the proposed development, subject to consent conditions.
- On 15 June 2018 the subject DA was referred to CPS Planning for independent planning assessment.
- On 21 June 2018 a referral response was received from Council's Development Engineer, which raised no objection to the proposal subject imposition of recommended conditions of consent.
- On 29 June 2018 a referral response was received from Sydney Airport, which raised no objection to the proposal subject imposition of recommended conditions of consent.
- On 9 July 2018, an additional information request was sent to the applicant outlining the following deficiencies with the subject DA:

1. *Light Spill*

The proposal is required to comply with AS 4282-1997 (Control of the obtrusive effects of outdoor lighting) including the requirement that obtrusive light intensity at site boundaries before 11pm be:

- 10 Lux or less at a residential boundary, and
- 25 Lux or less at a commercial boundary.

The location of the existing light poles on the Obtrusive Light diagram (page 1 of 4) does not align with the location of the actual light poles on the eastern side of the park per the aerial image. As such the accuracy of the submitted plans by Gerard Lighting is questioned.

In this regard, it would appear an amended lighting plan needs to be submitted to Council with the accurate positioning of the light poles and a demonstration that compliance with AS 4282-1997 is achieved.

2. *Trenching*

The submitted application does not outline how the proposed lighting poles will be connected to services. It is understood that trenching may be required to connect the light poles to electricity. Details of any earthworks or trenching required for the erection of the light poles is to be provided to Council

3. *Intensification of Use*

The applicant has provided insufficient information to ascertain whether the proposed works will facilitate an intensification of the use of the site. The following details are required:

- What sporting organisations are currently approved to utilise the field?
- How many persons are permitted on the field at any one time?
- What periods of the year are these sporting organisations approved to use the field?
- What times of the day or what days of the week are these organisations permitted to use the field?
- What times of the day are the existing light poles permitted to illuminate the field?
- Why are the proposed light poles being installed?
- Will the new light poles facilitate additional numbers of people to use the field at any one time?
- Will the new light poles facilitate usage of the field later into the evening?
- Will the new light poles enable the field to be used at other times throughout the year, or additional days of the week?
- Will the new light poles facilitate the usage of the field for additional sporting organisations, and if so what are these sporting organisations?

In demonstrating the above, the applicant should provide details of any existing consents, permits, leases or licences for the use of the Memorial playing Fields.

Should the requested information demonstrate that an intensification in field use is apparent, then the impacts of the intensified use on the residential amenity of nearby dwellings will need to be considered.

This may necessitate the preparation of an acoustic impact assessment which considers the noise associated with additional player and spectator activity, referee whistles, additional motor vehicles entering/exiting the parking area, and slamming of car doors etc.

- On 17 July 2018 the applicant submitted additional information to Council, including:
 - Response to Council's intensification of use questions. These responses are provided in *italics* below:
 - What sporting organisations are currently approved to utilise the field?
 - *St George Football Association currently hold the permit, who allocate the ground for use as a home ground to Dolls Point Football Club*
 - How many persons are permitted on the field at any one time?
 - *Presently, the ground is used by 4 senior football teams on training nights.*
 - What periods of the year are these sporting organisations approved to use the field?
 - *The approval operates between 1 March and 30 September each year.*
 - What times of the day or what days of the week are these organisations permitted to use the field?
 - *Mondays to Thursday Night til 9:30pm, and Saturday and Sunday during daylight hours.*
 - What times of the day are the existing light poles permitted to illuminate the field?
 - *From sundown to 9:30pm.*
 - Why are the proposed light poles being installed?

- *To supplement the existing lighting to allow better use of the field on the western side in a safer manner.*
- Will the new light poles facilitate additional numbers of people to use the field at any one time?
 - *No.*
- Will the new light poles facilitate usage of the field later into the evening?
 - *No.*
- Will the new light poles enable the field to be used at other times throughout the year, or additional days of the week?
 - *Not within the current usage permit, as the ground is currently fully utilised in the evenings.*
- Will the new light poles facilitate the usage of the field for additional sporting organisations, and if so what are these sporting organisations?
 - *Only if permitted by St George Football Association. There are no plans or additional demand for the ground during that period on top of the current usage.*
- On 6 August 2018 the applicant submitted additional information to Council, including:
 - Updated lighting diagram, and
 - Details of trenching (electrical servicing).
- On 27 August 2018 a referral response was received from Council's Environmental Scientist. The referral was made to Council's Environmental Scientist given the land is impacted upon by acid sulphate soils, and an acid sulphate soils assessment was included as part of the DA submission. The referral response indicates support for the proposal, subject to a condition of consent relating to excavated materials on the site.

The assessment detailed in this report has been completed using the information submitted with DA lodgement and also the updated information provided as additional information responses received on 17 July 2018 and 6 August 2018.

Proposal

The proposed development seeks consent to erect two (2) additional light poles fitted with luminaires for the purposes of improving illumination on the western side of the sports field at Brighton Memorial Park for evening sports use.

The specifics of the proposal are as follows:

- **Heights** – Two (2) 18-metre-high lights poles.
- **Light fittings** – Each light pole will be fitted with two (2) x 2000w luminaires with glare control shields, resulting in a total of four (4) light poles providing lighting to the sports field of Brighton Memorial Park.
- **Footings** – Each light pole shall be connected to a pad footing that is to be constructed in accordance with the appropriate Australian Standards and technical design criteria. This

will include minor earthworks with a maximum excavation depth of 3m below existing ground level (source: Acid Sulfate Soils Assessment report prepared by EI Australia, dated 22 May 2018).

- **Location** – The two (2) light poles will be located on the western side of the sports field at Brighton Memorial Park. Refer to **Figure 1** for a site location diagram.
- **Trenching** – The primary trenching to connect the light poles to electrical connection will follow the north and western perimeter of the sports field connecting from the amenities block located on the east-north side of Brighton Memorial Park.
- **Training hours** – Training times are not proposed to be changed. Presently, the existing permits in place for use of the field allow training to occur Monday to Thursday until 9.30pm. Games are played on Saturday and Sunday during daylight hours.
- **Usage** – The sports field use is not proposed to be intensified or changed. The works will improve the existing level of illumination for the sports field only. The applicant has outlined that the grounds are currently used by four (4) senior football teams on training nights.

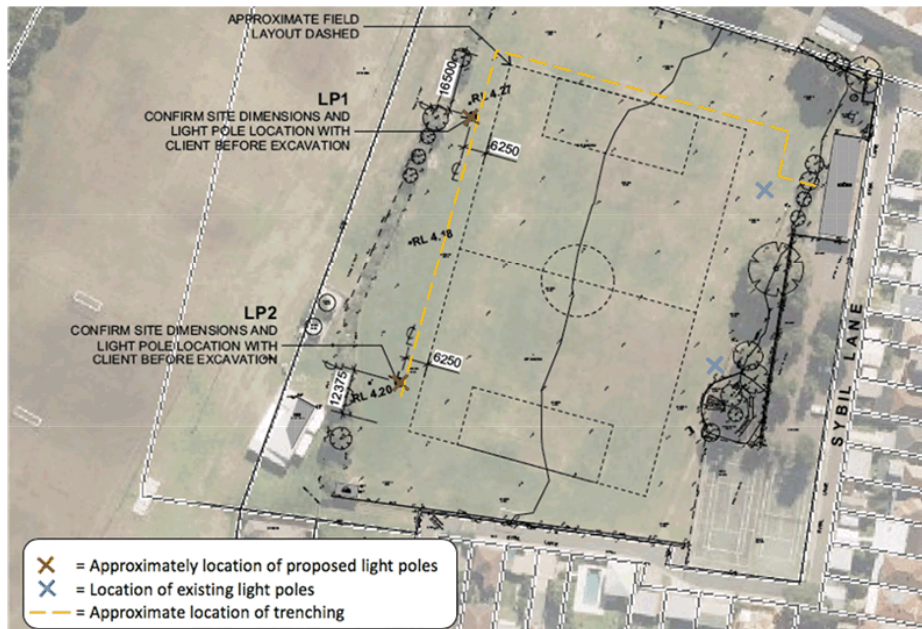


Figure 1 – Aerial image of Memorial Park, illustrating location of the two proposed light pole and two existing light poles, existing light pole, and proposed trenching.

Source: Submitted Site Plan with DA-2017/156, as adapted by CPS Planning for diagrammatic purposes.

Site location and context

Brighton Memorial Park is located at 43 Crawford Road, Brighton-Le-Sands and is formally known as Lot 1 DP 849264 (subject site).

The subject site is rectangular in shape occupying area of approximately 2 hectares, and is improved by one full sized soccer field, two tennis courts, a children's playground, car parking,

an amenities block, and two light poles fitted with two luminaries each to the eastern side of the field. Refer to **Figure 2** for aerial image of the subject site.

Low density residential accommodation, in the form of mostly single detached dwelling houses, bound the subject site to the west and south with some separation provided by Sybil Lane on both frontages. Adjoining directly to the north is Brighton-Le-Sands Public school on land zoned R2 Low Density Residential, and directly to the east is land currently used as open space but is zoned SP2(Classified Road) and nominated for future road construction – i.e. F6 Corridor. Refer to **Figure 3** for aerial image of the local area.

President Avenue, an east-west regional road, is located 160m to the south of the subject site and is benefited by a range of bus stops which improve site access. Kogarah train station is located around 1.3km to the west.

The residential land in the vicinity of the park is indicative of an established low density residential neighbourhood.

Rockdale's Plan of Management (PoM) for sports fields within the Rockdale local government area identifies that the Brighton Memorial Park includes one (1) sports field, sports amenity building, field lighting, and permits sportsground levelling and resurfacing and irrigation / drainage. The future use of the park as outlined in the PoM is subject to land use permissibility of the *Rockdale Local Environmental Plan 2011* and provides a specific mention of the SP2 (Classified Road) zoning.



Figure 2 – Subject site as improved by existing structures and uses
Source: Maps Six image, as adapted by CPS Planning for diagrammatic purposes.



Figure 3 - Surrounding area illustrating adjoining Public School to the north, open space to the west, and residential land to the east and south of Memorial Park.
Source: Maps Six image, as adapted by CPS Planning for diagrammatic purposes.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.4.15(1) - Matters for Consideration - General

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No 55 – Remediation of Land

The subject site is zoned RE1 (Public Recreation) under the *Rockdale Local Environmental Plan 2011* (RLEP). Prior to the current zoning the subject site was zoned 6(a) Existing Open Space under the *Rockdale Local Environmental Plan 2000*. As such, it is understood that

contaminating land uses such as industrial, defence, agricultural uses have not been permissible on the subject site for at least the last 18 years.

The subject site has no history of any written notices (contamination or clean up) having been issued on the site under the *Contaminated Land Management Act 1997* (source: <https://apps.epa.nsw.gov.au/prclmapp/searchregister.aspx>)

Site and desktop investigation has found no evidence that contaminating land uses are ongoing or have occurred in the past on adjoining land.

As part of the assessment of the subject DA, the proposal was referred to Council's environmental health offices, and also environmental scientist. In their referral responses, no issues were raised in relation to potential site contamination.

With reference to the above, there is no evidence to suggest that the subject site is contaminated and therefore further investigation is not considered to be warranted. Accordingly, the subject site is considered to be suitable for the proposed development subject to the imposition of recommended conditions of consent.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The submitted Statement of Environmental Effects suggests that no trees need be removed as a result of the proposed development. The nearest tree is located at least 10m from the proposed light poles and associated trenching required to service the poles.

In this regard, the proposed development is suitable when considering the provisions and objectives of this SEPP.

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP) updates and consolidates into one integrated policy SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection), including clause 5.5 of the Standard Instrument – Principal Local Environmental Plan. These policies are now repealed.

The Coastal Management SEPP gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.

The western portion of the sports field at Brighton Memorial park is identified as being within a 'Proximity Area for Coastal Wetlands' under the Coastal Management SEPP. An extract of the online mapping for the Coastal Management SEPP demonstrating the portion of the land affected is included below.



Aerial Image of the subject site showing hatched in blue the portion of the land identified as comprising the "proximity area for coastal wetlands"
Source: Coastal Management SEPP maps

Clause 11(1) of the Coastal Management SEPP prescribes that development consent must not be granted to development on land identified as "proximity area for coastal wetlands" unless the consent authority is satisfied that the proposed development will not significantly impact on:

- a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

The proposed development is considered to satisfy the provisions of clause 11(1)(a) and (b) for the following reasons:

- Proposed development is minor in nature, being limited to the erection of two (2) additional light masts with associated trenching,
- No trees or vegetation is proposed to be removed as part of the proposed development,
- Subject to the completion of the proposed development there will be no change to the existing landform and therefore the adjoining watercourse and wetland

will not be impacted by any subsequent change to the existing flooding and water run-off behaviour,

- The proposed development is considered to be designed and sited appropriately to avoid causing adverse environmental impacts given the direction of the new luminaries will be toward the east, and away from the nearby coastal wetland areas,
- Proposed development will need to comply with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils,
- Any disturbed acid sulfate soils will need to be managed in accordance with the EPA (2014) Waste Classification Guidelines, and
- Proposed development will complement existing recreational land use and will not introduce any new land uses, nor intensify the use of the existing illuminated sports field.
- Light spill associated with the proposed luminaries achieves compliance with Australian Standards for Control of the obtrusive effects of outdoor lighting (AS 4282-1997).
- The DA has been referred to Council's technical officers for comment on environmental matters and is deemed satisfactory subject to conditions.

Having regard to the above, it is considered the proposed development will not significantly impact upon the matters outlined in clause 11(1) of the Coastal Management SEPP.

Rockdale Local Environmental Plan 2011

The relevant provisions of the RLEP have been considered against the proposed development and are discussed in the following:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone RE1 Public Recreation	Yes	Yes - see discussion
4.3 Height of buildings	N/A	N/A
4.4 Floor space ratio - Residential zones	N/A	N/A
5.10 Heritage conservation	Yes	Yes – see discussion
6.1 Acid Sulfate Soil - Class 4 and 5	Yes	Yes – see discussion
6.2 Earthworks	Yes	Yes
6.4 Airspace Operation	Yes	Yes – see discussion
6.6 Flood planning	Yes	Yes – see discussion
6.7 Stormwater	Yes	Yes
6.8 Biodiversity Protection	Yes	Yes – see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
6.10 Wetlands	Yes	Yes – see discussion
6.12 Essential Services	Yes	Yes – see discussion

2.3 Zone RE1 Public Recreation

Pursuant to the RLEP Land Zoning Map – Sheet LZN_004 (dated 4 May 2018), the subject site is zoned RE1 Public Recreation, refer to **Figure 4**.

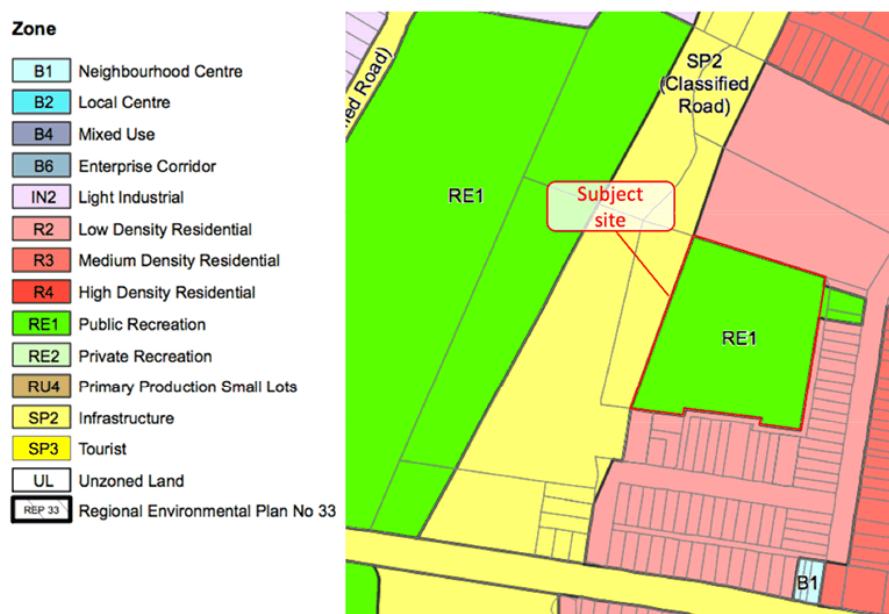


Figure 4 – Land Zoning Map extract, illustrating the RE1 zoning of the subject site in the centre of the image

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The objectives of the Public Recreation zone are:

- to enable land to be used by the public for open space and recreational activities,
- to provide a range of recreational settings and activities and compatible land uses, and
- to protect and enhance the natural environment for recreational purposes.

Within this land use zone the following applicable land uses are permitted with consent:

- Recreation Areas,
- Recreation facilities (indoor), and
- Recreation facilities (outdoor).

The existing Brighton Memorial Park, as supported by its existing improvements, provides for an appropriate area to perform outdoor recreation, and therefore falls within the land use definition for recreation area. The RLEP defines recreation area, as follows:

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,
and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

The proposed development, being the erection of two (2) additional light poles for improving the illumination of the sports field at Brighton Memorial Park, is ancillary to the use of the subject site as a recreation area.

The proposal supports the existing use of the park as a recreation area, as it will allow for the continued use of the park after the sun has set into the evening period.

In this regard, the proposal further helps realise the RE1 zone objectives by enabling appropriately zoned land to be used for recreational activities.

4.3 Height of buildings

Pursuant to the Height of Building Map – Sheet HOB_004 (dated 29 June 2018), the subject site is not identified as being restricted to a maximum height, refer to **Figure 5**.

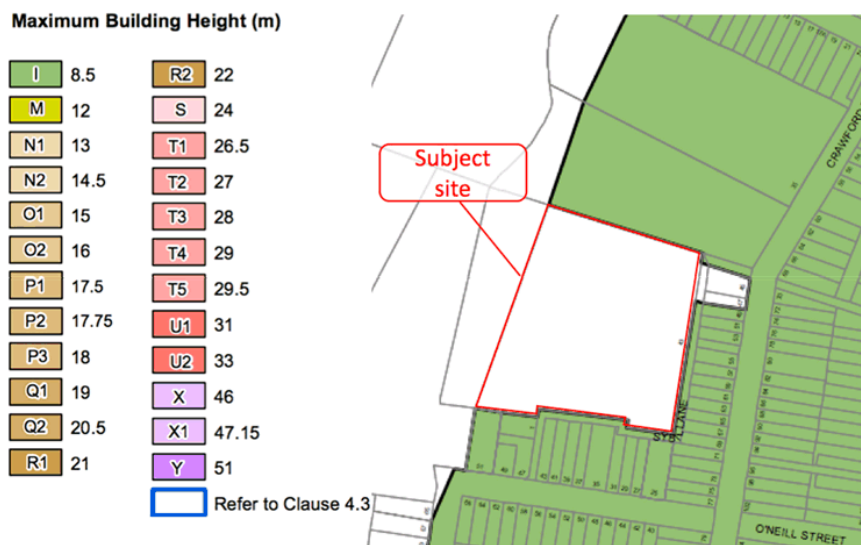


Figure 5 – Maximum Height of Buildings Map extract, illustrating that the maximum height of building clause (4.3) has not been applied to the subject site.

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The proposal is furthermore not considered to offend the objectives of clause 4.3 as it will not impact on the sky exposure or reduce daylight to any nearby buildings or public domain.

The maximum height of the proposed light masts will need to be considered in terms of any impact caused on the operations of the Sydney Kingsford Airport, which is discussed under clause 6.4 of the RLEP below in this report.

5.10 Heritage conservation

Pursuant to the Heritage Map – Sheet HER 003 (dated 21 October 2016), the subject site is not identified as containing a heritage item. However, the site adjoins the Brighton-Le-Sands Public School (I167) and adjacent Kings Wetland area (I169), both of which are identified as items of local heritage significance. Refer to **Figure 6**.

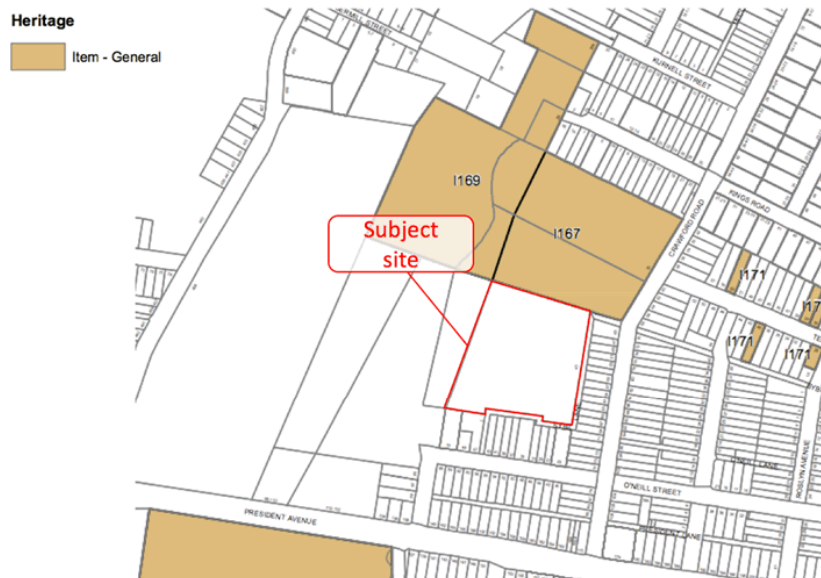


Figure 6 – Heritage Map extract, illustrating that the subject site does not contain any items of Heritage significance. North adjoining Brighton-Le-Sands public school is identified as an item of heritage.

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The proposed development is not considered to impact the heritage significance of the adjoining heritage listed items, due to the following reasons:

- Proposed development is minor in nature, being limited to the erection of two (2) additional light poles at an existing sports field,
- Proposed development will complement the existing recreational land use and does not propose any new or novel land uses,
- Proposed light poles are centrally located and at least 50m from Brighton-Le-Sands Public School (nearest heritage item), and
- Proposed development does not necessitate the removal of any existing mature trees within the vicinity of the heritage item that may otherwise detract from the heritage landscape.

It is for the reasons listed above, that the proposed development is not considered to have an adverse impact on the heritage values of the Brighton-Le-Sands public school or the Kings Wetland.

As part of the assessment, the DA has been referred to Council's heritage officer, and the referral response has raised no objection to the development.

Having regard to the above, the proposal is deemed to have satisfied the provisions and objectives of clause 5.10 of the RLEP.

6.1 – Acid Sulfate Soils – Class 3 and 4

Pursuant to the Acid Sulfate Soils Map – sheet ASS_004 (dated 11 July 2014), the subject site is identified as being affected by Class 3 and 4 Acid Sulfate Soils (ASS), refer to **Figure 7**.

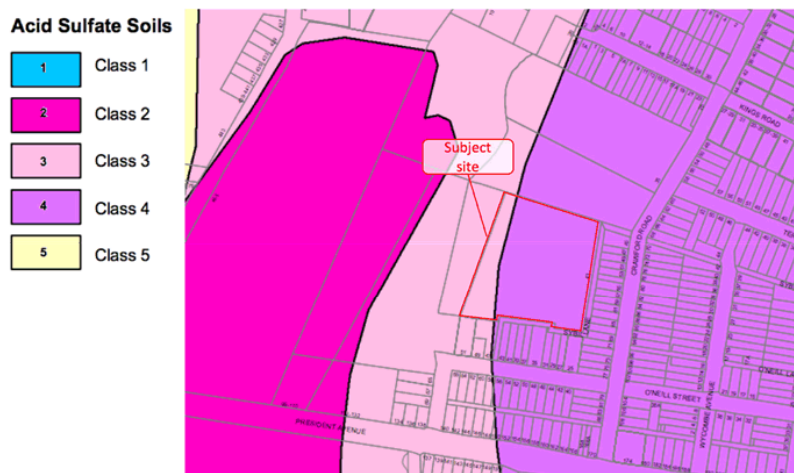


Figure 7 – Acid Sulfate Soil Map extract, illustrating the subject site as being affected by Class 3 and 4 Acid Sulfate Soils

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

Clause 6.1 outlines that an acid sulfate soils management plan must be prepared for any land identified as being affected by Class 3 or Class 4 ASS, for any proposed works that:

- Is 1 metre below natural ground surface for land identified as Class 3 ASS, or 2 metres for land identified as Class 4 ASS, or
- Will likely lower the water table below 1 metre for land identified as Class 3 ASS or 2 metres for land identified as Class 4 ASS.

The proposal will include some minor earthworks associated to the footings of the light poles and trenching for electrical connection.

The subject DA was accompanied by an Acid Sulfate Soils Assessment, prepared by EI Australia and dated 22 May 2018, which concluded the following:

'Based on the laboratory results EI consider the potential for ASS or PASS (potential acid sulfate soils) presence onsite to be low. As such management planning is not required.'

Soils to be removed from the site during the proposed development will require appropriate classification in accordance with the EPA (2014) Waste Classification Guidelines.'

Accordingly, an acid sulfate soils management plan has been demonstrated to be unnecessary for the proposed development. As covered in the submitted Acid Sulfate Soils Assessment, it is recommended that the following condition of consent be imposed and to be applied during physical works:

Waste – Soils

Any soils proposed to be removed from the site during the proposed development will need to be disposed of in accordance with the EPA (2014) Waste Classification Guidelines (Part 4: Acid Sulfate soils).

As part of the assessment of the DA, the proposal was referred to Council's environmental scientist given the acid sulphate soil land affectation. In the referral response, no objection was raised in relation to the DA, subject to the imposition of a consent condition regarding the treatment of excavated materials on site.

In this regard, the proposed development has satisfied the provisions and objectives of this clause.

6.4 – Airspace operations

The proposed development is located within the inner horizontal surface (51m AHD) identified on Sydney Airports Obstacle Limitation Surfaces (OLS) map as declared by the Department of Infrastructure and Regional Development on 20 March 2015.

Accordingly, a referral was sent to Sydney Airport pursuant to the 183 Airports Act - Notification of decision under Reg 15A(2) of the Airports (Protection of Airspace) Reg's 1996. Sydney Airport raised no objection to the erection of the proposed development to a maximum height of 22.0 metres AHD.

In this regard, subject to conditions of consent ensuring the development complies with a maximum height of 22.0 metres AHD, the proposed development has satisfied the objectives and provisions of this clause.

6.6 – Flooding

Pursuant to the Flood Planning Map – Sheet FLD_004 (dated 11 July 2014), the subject site is not identified as being located within a Flood Planning Area, however the north adjoining property is identified as being flood affected, refer to **Figure 8**.

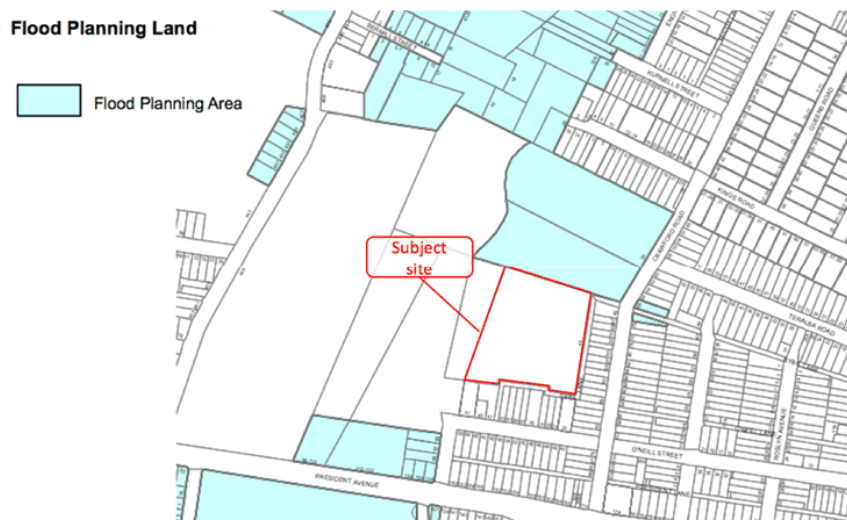


Figure 8 – Flood Planning Land extract, illustrating that the subject site not identified as Flood Planning Land

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The proposed development will incorporate minor excavation associated with the light pole footing work and trenching, however at completion the existing ground level or land form will not be altered.

Accordingly, the proposal will not impact the existing water storage capacity of the site, or the existing flooding behaviour of the immediate land and therefore will not impact the flood affected nature of adjoining properties.

Council's Development Engineer has reviewed the proposed development and requested underground power connections to the light poles be provided 500mm above the 1 in 100-year flood level. This request will be added as a condition of consent.

In this regard, further flooding investigation is unnecessary as the objectives of clause 6.6 are not offended by the proposed development.

6.7 – Stormwater

The proposal involves excavation works for the trenching required for the electrical wiring and structural pads for the light masts. The nature of the excavation works is however considered to be minor. Subject to a recommended consent condition requiring soil and erosion mitigating measures be implemented in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils, any stormwater runoff during construction works will have minimal impacts on the receiving waters and adjoining land.

The proposal will not have any additional on-going stormwater impacts.

6.8, 6.9, 6.10 – Biodiversity protection, Riparian Land, and Wetlands

The subject site is mapped as containing Environmentally Significant Land (ESL) including Wetlands or Terrestrial Biodiversity. However, the west adjoining properties are mapped as containing ESL, refer to **Figure 9, 10, and 11**.

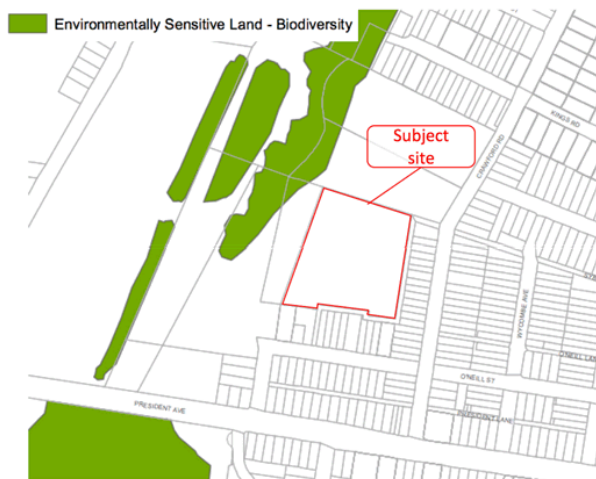


Figure 9 - Biodiversity Protection Map

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

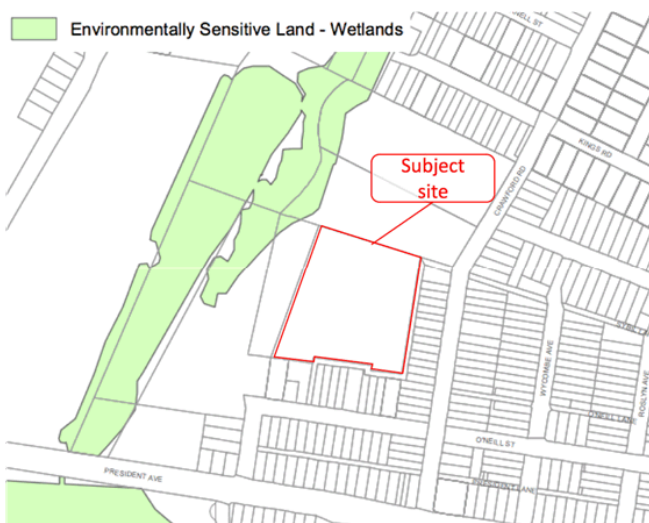


Figure 10 - Wetlands Protection Map

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

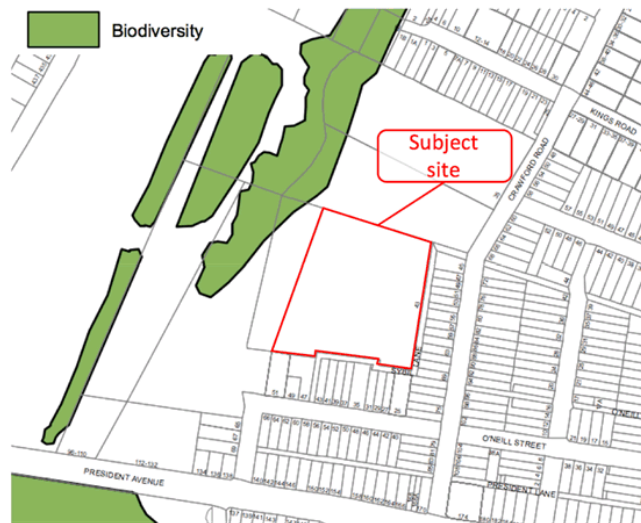


Figure 11 - Terrestrial Biodiversity Map

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The proposed development is not considered to impact the environmental values of the adjoining land for the following reasons:

- Proposed development is minor in nature, being limited to the erection of two (2) additional light masts with associated trenching,
- No trees or vegetation is proposed to be removed as part of the proposed development,
- Subject to the completion of the proposed development there will be no change to the existing landform and therefore adjoining watercourse and wetland will not be impacted by any subsequent change to the existing flooding and water run off behaviour,
- The proposed development is considered to be designed and sited appropriately to avoid causing adverse environmental impacts,
- Proposed development will need to comply with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils,
- Any disturbed acid sulfate soils will need to be managed in accordance with the EPA (2014) Waste Classification Guidelines, and
- Proposed development will complement existing recreational land use and will not introduce any new land uses.
- Light spill associated with the proposed luminaries achieves compliance with Australian Standards for Control of the obtrusive effects of outdoor lighting (AS 4282-1997).

With consideration of the above, the proposed development is not considered to result in any adverse environmental impacts and is therefore considered to satisfy the objectives and provisions of these clause 6.8, 6.9 and 6.10 of the RLEP.

6.12 – Essential services

Given the existing use of the site, essential services such as water, electricity, sewage, and local roads are already available.

Conditions of consent will be imposed requiring that consultation with the relevant utility providers be had prior to commencing any works to ensure that specific requirements for the provision of services are satisfied.

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

No relevant proposed instruments are applicable to this proposal.

S.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 (RDCP)

The relevant provisions of the RDCP have been considered against the proposed development and are discussed in the following:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes – see discussion
4.1.2 Heritage Conservation	Yes	Yes – see discussion
4.1.3 Water Management	Yes	Yes – see discussion
4.1.4 Soil Management	Yes	Yes
4.1.8 Biodiversity	Yes	Yes
4.2 Streetscape and Site Context	Yes	Yes – see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes – see discussion
4.6 Parking, Access and Movement	Yes	Yes – see discussion

4.1.1 Views and Vista

The proposed development is not considered to have an impact on any significant views to, from and across the site. Brighton Memorial Park is not readily visible from any main roads, with only a distant view being lent from President Avenue. The remainder of the park is shielded from view by existing residential development.

As two (2) light poles already exist on the subject site, and several occupy the land on the adjacent open space area to the west, the proposed light poles will be a consistent addition to the existing vista when viewed from the local area (mostly Sybil Lane). Furthermore, the presence of light poles on well-used sports fields are not an unusual or offensive visual feature.

In this regard, the proposal is considered to have an acceptable impact on the views of Brighton Memorial Park.

4.1.2 Heritage Conservation

As discussed in the assessment against clause 5.10 Heritage Conservation of the RLEP earlier within this report, the proposed development will not impact the Heritage significance of the adjoining heritage listed items, being the Brighton-Le-Sands Public School or the Kings Wetlands.

As part of the assessment, the DA has been referred to Council's heritage officer, and the referral response has raised no objection to the development.

4.1.3 Water Management

The proposed development is not considered to impact or require augmentation to the existing stormwater management arrangements on the site.

The proposal involves minor excavation works for the trenching required for the electrical wiring and structural pads for the light poles. As the nature of excavation works is minor, and will not result in the loss of any measurable water retention capacity, a geotechnical report covering groundwater was not considered to be necessary.

To ensure that the proposed development has a minimal impact on the soil and any pollution resulting from the physical works, the recommended conditions of consent include the requirement that soil and erosion mitigating measures in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils be implemented.

It is noted the subject DA was referred to Council's Development Engineer as part of the assessment. In the referral response it has been recommended a condition be imposed that all power connections to light poles must be located 500mm above the 1 in 100-year flood level.

4.1.4 Soil Management

Prior to any physical works commencing an erosion and sediment control plan which details the proposed method of soil management and its implementation in accordance with The Blue Book - Managing Urban Stormwater: Soils & Construction by Landcom, must be prepared and submitted to the principal certifying authority.

4.1.8 Biodiversity

As discussed in the assessment against clause 6.8, 6.9, and 6.10 of the RLEP earlier within this report, due to the minor nature of the proposed works, the location of the light poles/trenching, and acknowledgment that no vegetation or trees will be removed, the proposed development is not considered to impact the environmental values of the adjoining land.

4.2 Streetscape

The proposed development is designed and positioned appropriately in relation to the broader urban context. As discussed under 4.1.1 Views and Vistas, the proposed additional light poles

will not be perceptible from nearby local roads (O'Neill St and Crawford Road) but only from Sybil Lane which directly adjoins the park.

The proposed light poles will not be a visually distinctive element within the context of the park as the purpose of the lights directly complements the occupying sports field.

The presence of mature tall trees and existing light poles on the subject site and the adjoining open space to the west means that the proposed light poles will not be a discordant feature of the Brighton Memorial Park skyline.

Accordingly, the proposal has an acceptable streetscape impact.

4.3.1 Open Space and Landscape Design

The proposed development does not seek to change the use of the open space or any of the existing landscaping. The erection of the light poles will be required to be located a minimum 4 metres from the nearest tree by way of consent conditions.

Existing Trees

The light poles must be located a minimum distance of four (4) metres from the nearest tree measuring three (3) metres or greater in height.

A review of the submitted Site Plan illustrates that the nearest tree to the proposed light pole is at a distance of around 6 metres.

4.6 Parking, Access and Movement

The proposal is considered to essentially represent an 'alterations and additions' DA, being the addition of light poles and luminaries to an existing recreational facility.

The development controls of Part 4.6 of the RDCP outline the following parking requirements for 'alterations and additions' to an existing development:

'Additional parking is required to be provided equivalent to the increase in gross floor area, number of seats, number of beds, or whichever specific unit upon which car parking demand is measured.'

In this regard, parking demand is a determinant of the 'number of participants' using the sports field, and therefore shall be the specific unit upon which car parking demand should be measured.

In terms of the proposed number of participants, the applicant provided a response to Council's intensification questions (received 17 July 2018) confirming that *'presently, the ground is used by 4 senior football teams on training nights'* and that the new light poles will not facilitate additional numbers of people using the field at any one time. The light poles are simply to improve the quality of illumination for the sports field.

Considering the applicant's response and submitted information, it is unreasonable to require the preparation of a traffic and parking impact assessment where there is no proposal to increase the intensity, or 'number of participants' using the sports field.

A review of the Permit, along with a discussion held with Council's Coordinator – Sport and Recreation, has confirmed that there is currently no restriction on the number of participants that may utilise the field at any one time.

It is acknowledged that one of the concerns raised by objectors as part of the notification of the DA was traffic and parking impacts. One measure to ensure the sports field lighting does not result in an intensification in the use of the site, and therefore associated traffic and parking impacts, is to recommend a condition limiting the number participants that may utilise the field at any one time.

This is not to suggest that the sports field is incapable of accommodating additional football teams in the future, however any proposal that did try to increase the number of teams using the sports field should be subject to a full assessment under the provisions of S.4.15 of the *Environmental Planning and Assessment Act 1979*. A proposal to increase the number of participants on the site would need to be accompanied by a traffic and parking impact report by a suitably qualified engineer.

Four (4) senior football teams are considered to equate to about 50-60 players, and with coaches and supporting staff a maximum of 70 persons would presently be using the sports field.

The recommended condition limiting the number of sports field users is

Maximum number of persons using the sports field

The number of people using the sports fields of Brighton Memorial Park at any one time is not to exceed 70.

Note. Should the number of people using the sports field at Brighton Memorial Park sought to be increased beyond 70 people, a Section 4.16 modification application will need to be lodged with Council. An acoustic report and traffic and parking impact assessment will need to accompany any such Section 4.16 modification application.

As part of the assessment of the subject DA, the proposal was referred to Council's Development Engineer for comment. In the referral response received, the following condition of consent has been recommended by the Development Engineer to address potential traffic and parking impacts:

Traffic

Should the existing traffic and car parking situation deteriorate as a result of the erection and operation of the subject lighting poles, then at Council's request a specific Plan of Management must be prepared and submitted to the satisfaction of Council.

The Plan of Management must include details of training days and hours, player numbers, and mitigating measures ensuring the operation of the sports field will result in minimised traffic and parking impacts.

Reason: to ensure the existing traffic and parking situation is not negatively impacted by the proposed development.

In the opinion of the assessing officer, the traffic and car parking situation should not be left to deteriorate before which time a Plan of Management is prepared by the applicant to address traffic and parking issues. It is considered that a Plan of Management (including traffic and parking management plan) for the use of the sports field by the applicant should be prepared and submitted to Council prior to the commencement of the use of the additional sports field lighting. This will help ensure the use of the field moving forward is carried out in an responsible

manner that balances the needs of the community using the sports field, as well as adjoining neighbours that may be affected by the sports field use.

For this reason, the following condition of consent has been recommended:

Plan of Management

A Plan of Management must be prepared and submitted to the satisfaction of Council prior to the issue of an Occupation Certificate.

- Capacity of the facility;
- Hours of operation for the facility;
- Staffing arrangements, including contact details of the manager for any complaints;
- Anticipated schedule of activities at the centre;
- Traffic and parking management plan, including management of the parking areas, and safety measures to be put in place for the parking areas.
- Noise management plan to ensure the facility does not become a source of 'offensive noise' impacting adversely on the acoustic amenity of neighbours. This should include commitments on how the facility intends on being a responsible and good neighbour to local residents, as well as opportunities for community liaison over noise complaints – i.e. maintenance of a complaints register etc.;
- Security measures policy that outlines the safety and security measures proposed to be put in place by management – i.e. arrival and departure procedures etc.;
- Emergency response plan for injuries or incidents occurring at the facility; and
- Waste minimisation and recycling plan.

Subject to the recommended conditions of consent, the proposal is considered to have an acceptable impact on traffic and parking.

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

Clause 92-94 of the Regulations outlines the matters to be considered in the assessment of a DA.

The matters prescribed by clause 92-94 of the Regulations does not apply to the proposed development. In this regard the provisions of the Regulations have been considered.

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

The majority of the likely impacts resulting from the proposed development has been considered in the assessment of the RLEP and RDCP. The likely impacts of the proposal that are not covered within the assessment of Council's planning instruments and controls, or which require further consideration include:

- Light Spill Impacts, and
- Acoustic Impacts.

Light Spill Impacts

Brighton Memorial Park sports field lighting will need to comply with the Australian Standards for Control of the obtrusive effects of outdoor lighting (AS 4282-1997). The most pertinent of

the requirements of AS 4282-1997 to the assessment of the development, is considered to be the obtrusive light intensity at the boundary of the site and adjacent residential development. Table 2.1 within AS 4282-1997 provides that obtrusive light intensity at site boundaries before 11pm are to be as follows:

- 10 Lux or less at a residential boundary, and
- 25 Lux or less at a commercial boundaries.

For reader reference, twilight exhibits a lux level of 10.8.

After 11pm, the Lux levels at the site boundaries are to be reduced to 2 Lux in light surrounds and 1 Lux in dark surrounds.

The proposal seeks to add two (2) lighting poles with attached luminaires for use in the evening of the winter sporting season (1 March – 30 September) with training concluding at 9.30pm.

The DA has been supported by a Light Spillage report, prepared by Gerard Lighting (dated 20 March 2018). The report considers the obtrusive effects of the proposed two (2) lighting poles in addition to the two (2) existing light poles on the eastern side of the sports field, see as per **Figure 12** below. It is noted that the submitted Light Spill report has relocated the existing south-eastern light pole further south however.

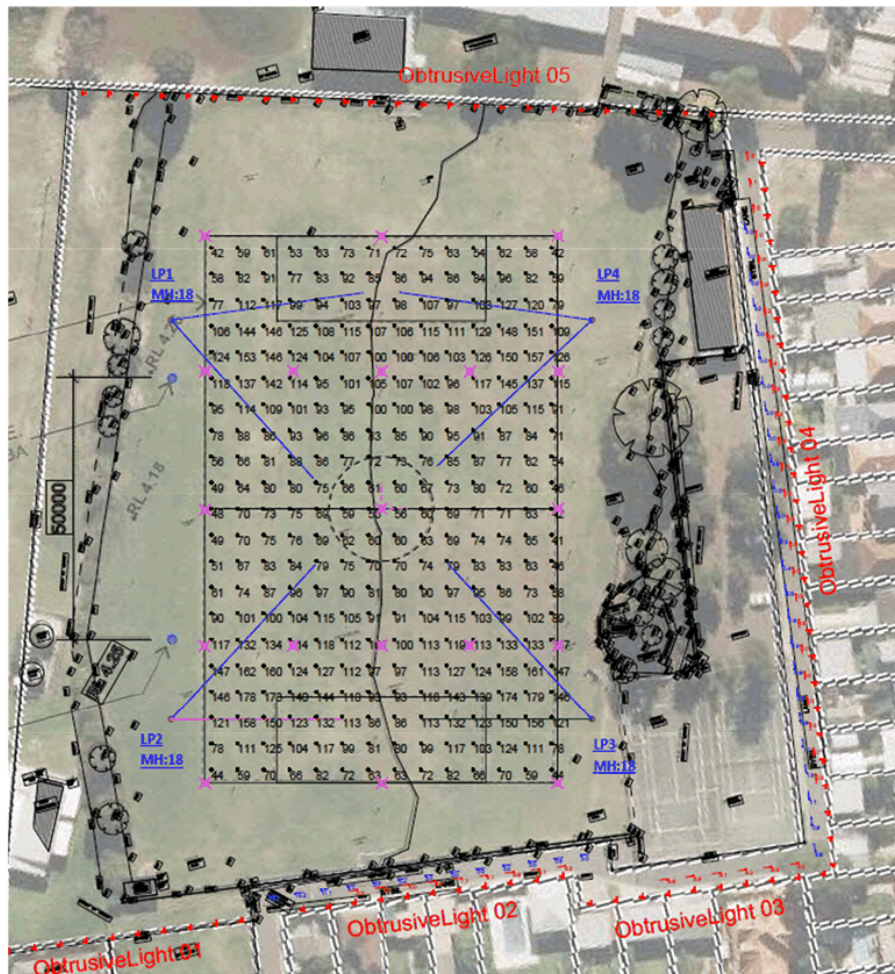


Figure 12 – Extract of Light Spill report illustrating new light poles at LP1 and LP2

Source: Lighting Services Specification, prepared by HHH Consulting, dated 26 January 2017

The Light Spillage report anticipates the following Lux levels at the boundaries of the sports field subject to the operation of the additional lighting:

- 1.2 Lux at Obtrusive Light Boundary 01 (south residential boundary),
- 2.9 Lux at Obtrusive Light Boundary 02 (south residential boundary),
- 1.1 Lux at Obtrusive Light Boundary 03 (south residential boundary),
- 1.2 Lux at Obtrusive Light Boundary 04 (east residential boundary), and
- 17.9 Lux at Obtrusive Light Boundary 05 (north boundary shared with the public school also zoned residential).

As per the above, it is clear that compliance is achieved at all residential boundaries.

Although compliance is not achieved at the northern boundary, it is noted that this boundary is to the Brighton-Le-Sands Public School, and as such is not sensitive to the obtrusive effects of the lighting.

It is nonetheless noted that Brighton-Le-Sands Public School is zoned for residential purposes, despite its current use as a school. In the event this land no longer is used as a school, and changes to residential accommodation compliance would not be achieved.

The submitted Light Spill report has illustrated that the impact of the sports field lighting (proposed lighting and existing) can be adjusted through a number of measures including, fixing of hoods to the luminaires, adjustments to the angle of the luminaires, and the selection of the type of luminaire to be used. Noting these comments, in the event the school changes to a residential use, it is considered there are measures that can be adopted to ensure the proposed lighting can be made to comply with AS 4282-1977.

To ensure that the predictions within the Light Spill report are accurate, and that compliance with AS 4282-1977 is achieved, the following consent condition is recommended:

Light Spill Validation Report

A validation report must be obtained from a suitably qualified and experienced lighting engineer prior to the issue of any Occupation Certificate. The report shall demonstrate and certify that light spill impacts comply with the Australian Standard AS4282-1997 'Control of Obtrusive Effects of Outdoor Lighting'.

To further minimise the potential for the late-evening lighting nuisance, all the sports field lights are required to be extinguished 15 minutes after training has concluded, being 9.45pm Monday – Thursday nights. The 15-minute period after training has concluded is considered to provide the participants with sufficient time to pack up any sporting equipment and return to amenities block or their vehicles.

In this regard, the following conditions of consent are recommended:

Automatic light switch

An automated curfew switch is to be installed, along with manual off switches, for each light pole.

Light curfew

The sports field lights are to be automatically extinguished by 9:45pm on training days, Monday – Thursday (inclusive). Should the training conclude earlier, the lights are to be extinguished at the earlier concluding time.

It is also noted that as part of the assessment of the subject DA, the proposal was referred to Council's Environmental Health Officer who has raised concern in relation to light spill impacts as a result of the proposed development.

Acoustic Impact

The proposed development will facilitate the evening use of the western side of the sports field at Brighton Memorial Park which is currently poorly illuminated. Note, the western portion of the sports field is located further from the sensitive residential receivers to the east.

As discussed earlier in this report, the proposal does not seek to intensify the use of the sports field by increasing the number of users, but rather improve the quality of light illuminating the existing sports field.

A condition of consent has been recommended to ensure the number of sports field users does not increase as part of the subject DA.

In this regard, the existing acoustic environment should not change as a result of the proposed development.

It is also noted that the existing Permit for use of the sports field by the Dolls Point Football Club includes the following Special Condition of Use:

Condition 9. *No amplified music to be played. All noise to be kept to a level that does not affect the amenity of adjoining residents and shall not exceed 82 decibels at any time.*

As discussed earlier, it has also been recommended that a Plan of Management be prepared and submitted to Council for approval prior to the issue of the Occupation Certificate. The condition includes a requirement for a noise management plan to ensure the facility does not become a source of 'offensive noise' impacting adversely on the acoustic amenity of neighbours.

With a limitation on the increase of sports field users, along with the existing Special Conditions of Use, and proposed Plan of Management, the potential acoustic impacts of the proposal will be satisfactorily mitigated.

It is also noted that as part of the assessment of the subject DA, the proposal was referred to Council's Environmental Health Officer who has raised concern in relation to noise impacts as a result of the proposed development.

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

The proposed development was notified on 5 June 2018 for a period of two (2) weeks during which public comment could be received. Two (2) submissions were received during the notification period. The issues raised in the submissions are indicated below, along with a comment from the consultant planner.

1. Traffic safety on Sybil Lane

A submission raised a safety concern regarding the narrow and well used Sybil Lane, particularly noting the conflict between park users and adjacent residents.

As discussed in this report, the additional lighting is not sought to increase the number of participants on the field on a given evening. A condition of consent is however recommended that the applicant prepare a Plan of Management to Council's satisfaction that takes into consideration management of the parking areas, as well as safety measures to be put in place for the parking areas.

2. Street Parking

A submission raised concern regarding illegally parked cars on Saturday afternoons.

The proposed development relates to sports field lighting to improve lighting during week day evening training sessions. The proposal does not impact on Saturday park usage.

For concerns relating to illegally parked cars, it is recommended that Council's Rangers be contacted or advised of the complaint raised by the objector.

3. Private parking for sports field

A submission requested that more parking be provided for the sports field.

As discussed in this report, the additional lighting is not sought to increase the number of users at the field on a given evening. A condition of consent has been recommended to ensure there is no increase in the current number of field users.

Additionally, a consent condition for a Plan of Management (with traffic and parking management plan) has been recommended for submission to Council's satisfaction prior to the issue of an Occupation Certificate. As such, an opportunity to review the proposed management practices around traffic and parking at the site will be had.

Should the applicant seek to increase the number of persons using the field in the future, a Section 4.55 modification application would need to be submitted and assessed by Council in order to amend the recommended condition limiting sports field users as part of this DA.

4. Lighting spill

A submission raised concern regarding the potential impact of light spill.

As per the applicant's submitted Light Spill report, the proposal has been predicted to comply with the Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting. A condition of consent has been recommended for a validation report to be completed prior to the sports field operation to ensure compliance with AS 4282-1997 is achieved.

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

The proposed development will support the safe use of the sports field at Brighton Memorial Park by improving lighting of the sports field after sunset.

Improved access to and increasing the opportunities for participation in organised outdoor activities is in the public interest. The improved use of the subject site supports the economic use of the land, and helps reduce the need to use additional land for recreational activities to cater for the demand of the community.

With the recommended conditions of consent to ensure any impacts resulting from the proposed development is effectively mitigated, it is considered that the proposed development is in the public interest.

Report prepared by:



Patrick Waite
Consultant Planner
Creative Planning Solutions Pty Limited

Report reviewed by

A handwritten signature in black ink, appearing to be 'Ben Tesoriero', with a long horizontal stroke extending to the right.

Ben Tesoriero
Consultant Planner
Creative Planning Solutions Pty Limited
2 November 2018

Bayside Council Conditions Summary

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
General Arrangement (Pole Dimensions) - Drawing No. GA10607, Rev.1	Ingal EPS	24/03/2017	01/06/2018
Site Plan, Drawing DA-01 B	Dolls Point Football Club	04/04/2018	22/04/2018
Lighting Plan and Light Spillage Analysis (Amended) - Document No. 0178486, pages 1- 4	Gerard Lighting	20/03/2018	07/08/2018

3. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
4. **Sports field lighting use**
The sports field lighting is only permitted for use between 1 March and 30 September each year. During this period, the sports field lighting is only permitted for use Monday to Thursday, from 4:00pm to 9:45pm.
5. **Light curfew**
The sports field lights are to be automatically extinguished by 9:45pm on training days, Monday – Thursday (inclusive). Should the training conclude earlier, the lights are to be extinguished at the earlier concluding time.

Development specific conditions

The following conditions are specific to the Development Application proposal.

6. **Existing Trees**

The light poles must be located a minimum distance of four (4) metres from the nearest tree measuring three (3) metres or greater in height.

7. **Maximum sports field participant numbers**

The number of people using the sports fields of Brighton Memorial Park at any one time should not be greater than 70.

Note. Should the number of people using the sports field at Brighton Memorial Park sought to be increased beyond 70 people, a Section 4.16 modification application will need to be lodged with Council. An acoustic report will need to accompany any such Section 4.16 modification application.

8. **Automatic light switch**

An automated curfew switch is to be installed, along with manual off switches, for each light pole.

Prior to issue of the construction certificate

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

9. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$2,640.00. 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.
10. A footpath inspection fee of \$134 shall be paid to Council with lodgement of the Construction Certificate with Council, or by the PCA when submitting the copy to Council.
11. 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.
12. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

 Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
13. The following must be complied with in the plans submitted with the Construction Certificate:
 - Underground power and wiring to be provided to the light poles.

- All power connections to be provided 500mm above the 1 in 100year flood level.

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 4 June 2018, Ref:FA2018/53.

Prior to commencement of works

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

14. 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.

15. 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.
16. 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.
17. 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.
18. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
19. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

20. 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.
21. 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.
22. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i) prior to pouring any in-situ reinforced concrete building element,
 - a. Trench and steel for footing
 - b. Ground floor steel, and
 - iv) after the building work has been completed and prior to any occupation certificate being issued in relation to the building

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request. If Council is appointed as the Principal Certifying Authority, 48 hours notice is to be given that the above works is ready for inspection.
23. 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.
24. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
25. All site access for site works and construction shall be limited to access via the gate off the north-eastern end of the site off the northern end of Sybil Lane.
26. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
27. **Waste – Soils**

Any soils proposed to be removed from the site during the proposed development will need to be disposed of in accordance with the EPA (2014) Waste Classification Guidelines (Part 4: Acid Sulfate soils).

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.

28. Plan of Management

A Plan of Management must be prepared and submitted to the satisfaction of Council prior to the issue of an Occupation Certificate or commencement of use.

- Capacity of the facility;
- Hours of operation for the facility;
- Staffing arrangements, including contact details of the manager for any complaints;
- Anticipated schedule of activities at the centre;
- Traffic and parking management plan, including management of the parking areas, and safety measures to be put in place for the parking areas.
- Noise management plan to ensure the facility does not become a source of 'offensive noise' impacting adversely on the acoustic amenity of neighbours. This should include commitments on how the facility intends on being a responsible and good neighbour to local residents, as well as opportunities for community liaison over noise complaints – i.e. maintenance of a complaints register etc.;
- Security measures policy that outlines the safety and security measures proposed to be put in place by management – i.e. arrival and departure procedures etc.;
- Emergency response plan for injuries or incidents occurring at the facility; and
- Waste minimisation and recycling plan.

Integrated development/external authorities

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

29. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 22 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

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

Roads Act

30. 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.

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.

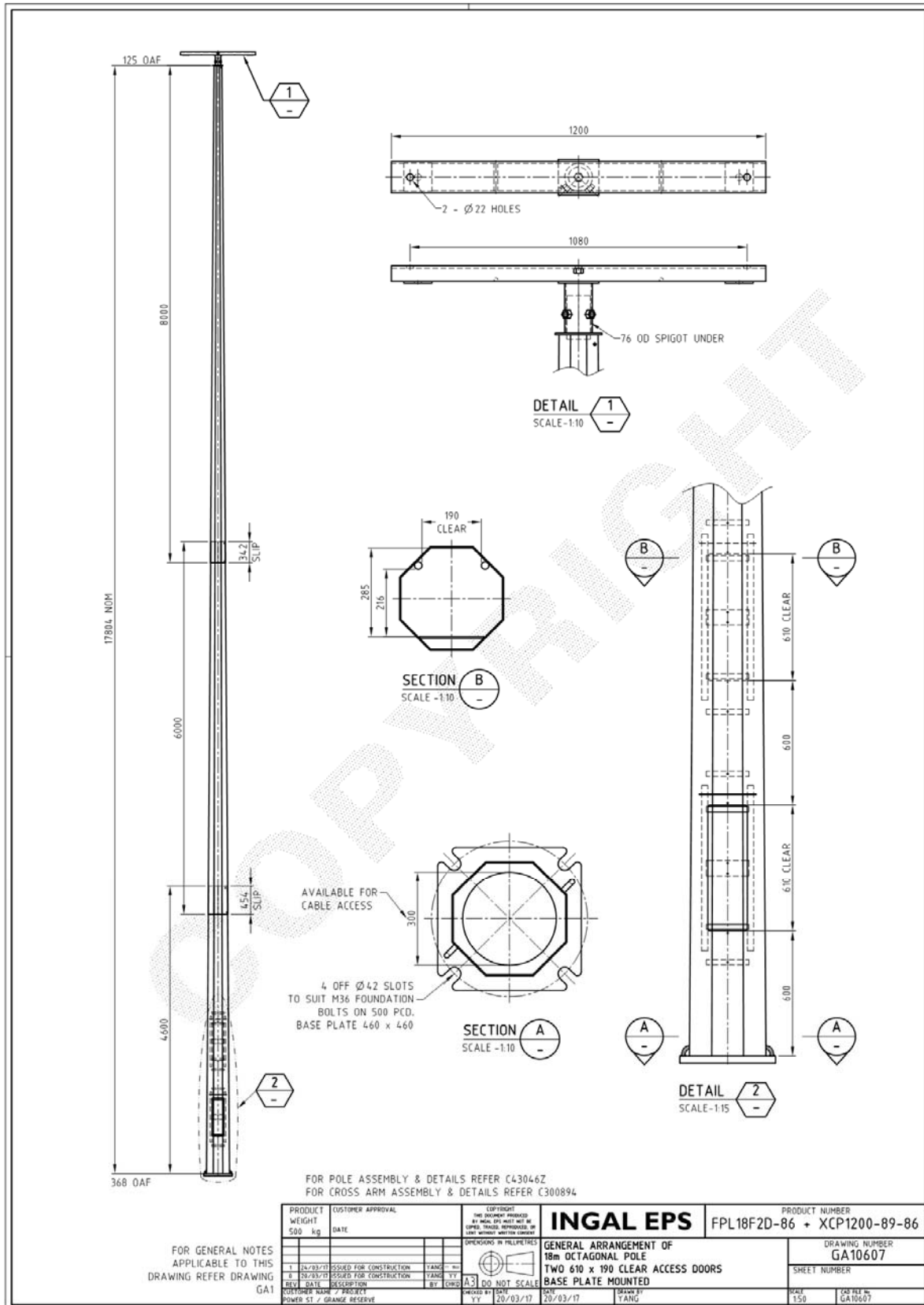
- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

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. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- e. 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.
- f. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



DEVELOPMENT APPLICATION FOR THE INSTALLATION OF TWO NEW LIGHTING POLES

MEMORIAL PLAYING FIELDS. 43 CRAWFORD ROAD, BRIGHTON-LE-SANDS



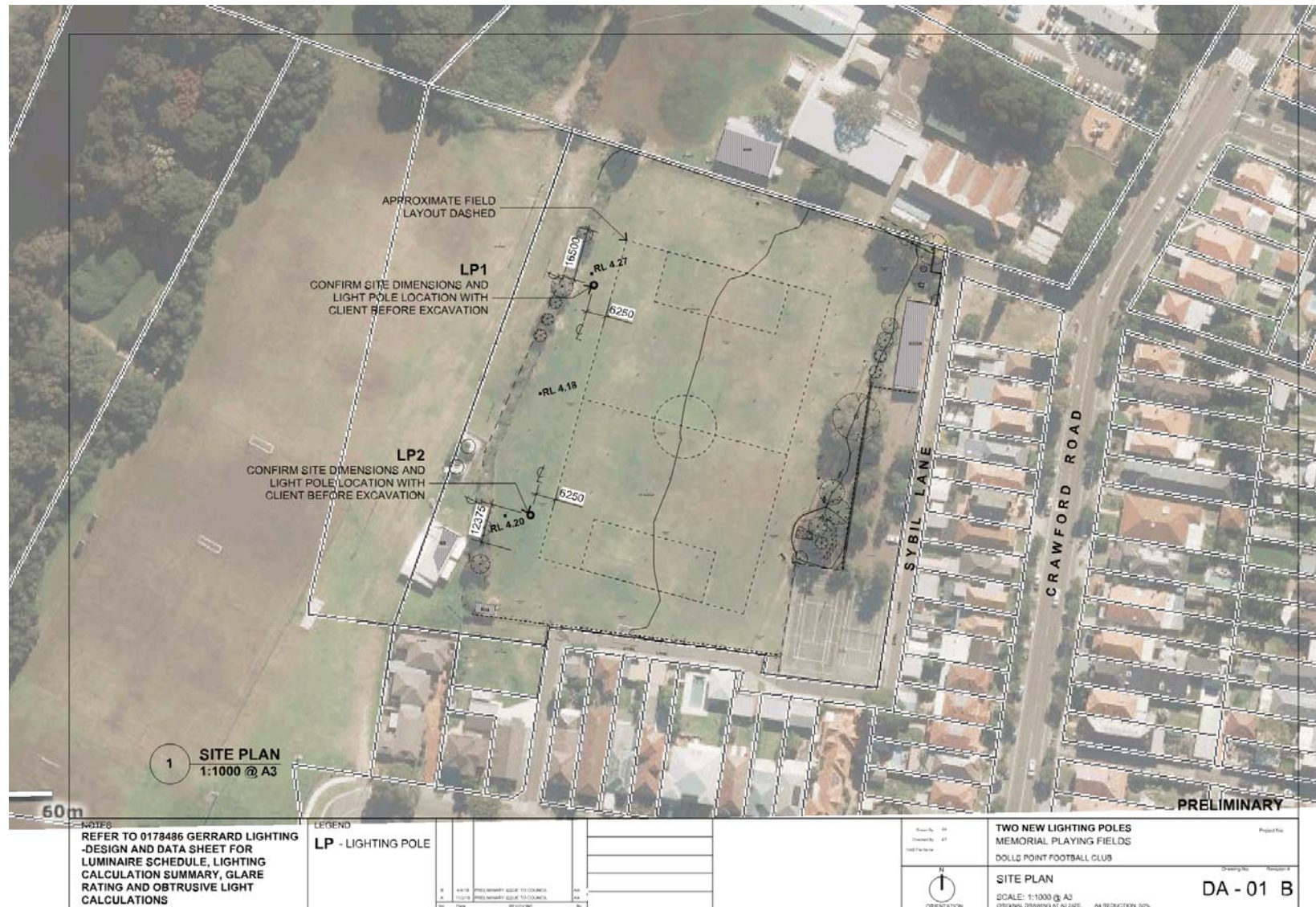
1 SITE LOCATION PLAN

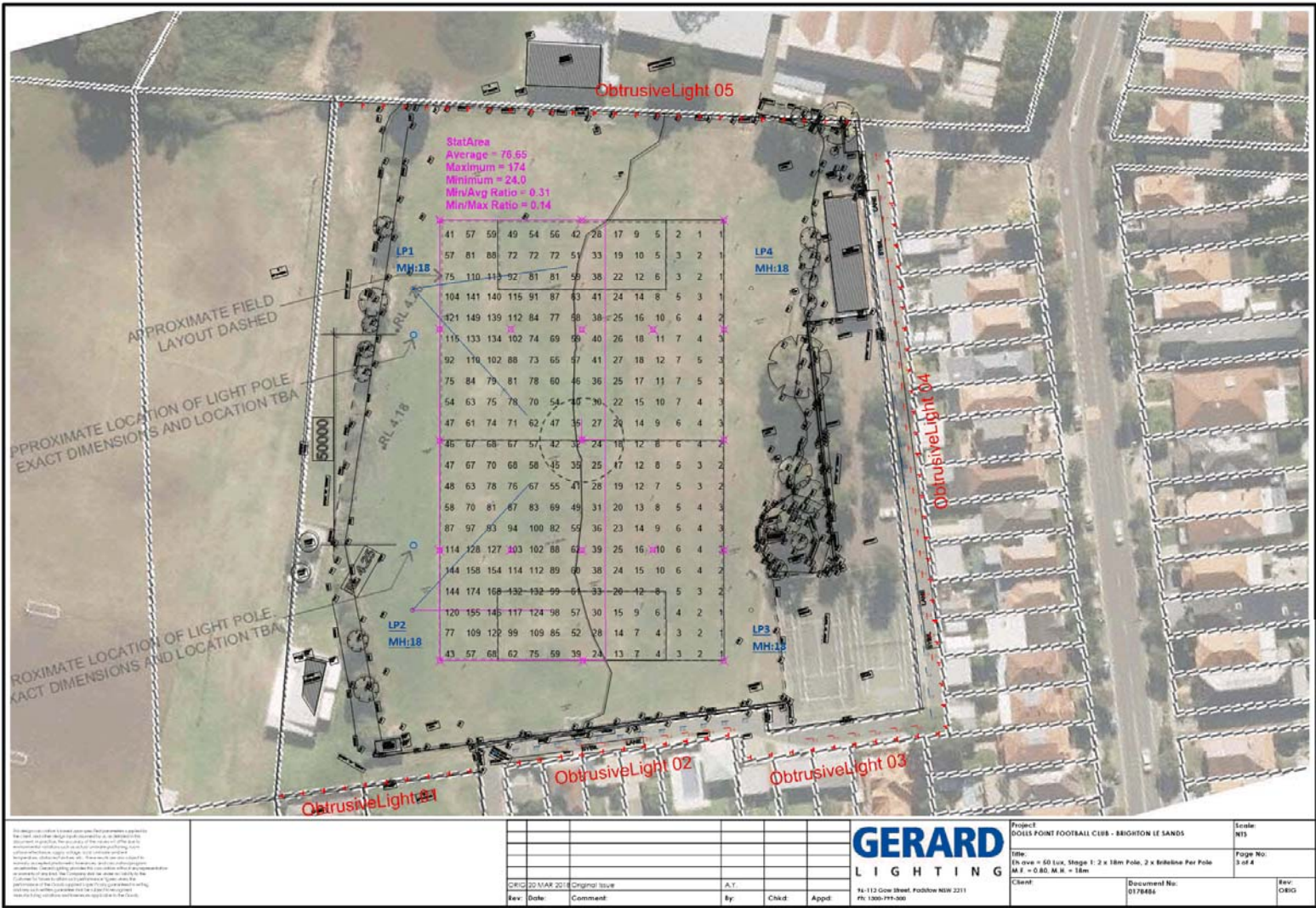
DRAWING LIST

- DA - 00** COVERSHEET
- 125035** PLAN SHOWING SELECTED
DETAIL AND LEVELS OVER LOT 1
DP 849264 43 CRAWFORD ROAD,
BRIGHTON-LE-SANDS
- DA - 01** SITE PLAN
- 0178486** GERARD LIGHTING - DESIGN AND
(2 PAGES) DATA SHEETS

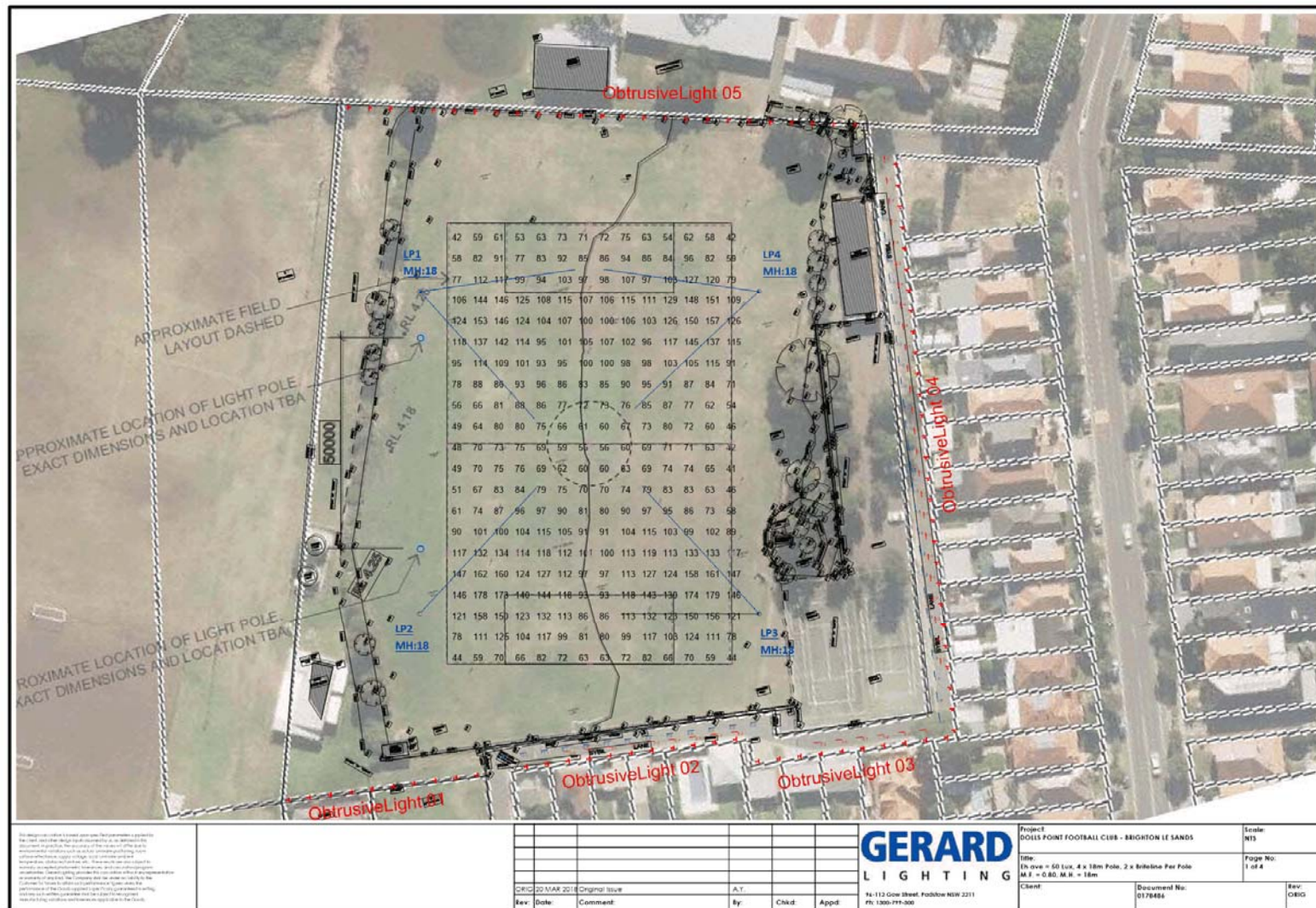
PRELIMINARY

NOTES	LEGEND				Drawn By: AS Checked By: ST 000 Factor:	TWO NEW LIGHTING POLES MEMORIAL PLAYING FIELDS DOLLS POINT FOOTBALL CLUB Drawing No: Revision: 1 DA - 00 B
		R 434/18 PRELIMINARY ISSUE TO COUNCIL A 11/01/18 PRELIMINARY ISSUE TO COUNCIL M 01/12/18 PRELIMINARY ISSUE TO COUNCIL			N ORIENTATION	COVERPAGE SCALE: NTS ORIGINAL DRAWING AT A3 (200) A4 REDUCTIONS 50%





183



Luminaire Schedule						
Symbol	Qty	Label	Description	Lumens/Lamp	LLF	
6	6	BLS65 T10 UWL	SLA BLS65 2000W T10 + UWL Hood, lmax +8, 0 deg.	225000	0.800	
1	1	BLS65 T10 GS Top+LHS	SLA BLS65 2000W T10 + GS Top and LHS lmax +8, 0 deg.	225000	0.800	
1	1	BLS65 T10 GS Top+RHS	SLA BLS65 2000W T10 + GS Top and RHS lmax +8, 0 deg.	225000	0.800	

Calculation Summary							
Project: Project_1							
Label	CalcType	Units	Avg	Max	Min	Min/Avg	Min/Max
Eh Field	Illuminance	Lux	95.52	179	41	0.43	0.23

GR			
Project: GR			
Label	CalcType	Units	Max
StatArea_GR	Glare Rating	N.A.	47.0

Spill			
Project: Spill			
Label	CalcType	Units	Max
ObtrusiveLight 01_III_Seg1	Obtrusive Light - III	Lux	1.2
ObtrusiveLight 02_III_Seg1	Obtrusive Light - III	Lux	2.9
ObtrusiveLight 03_III_Seg1	Obtrusive Light - III	Lux	1.1
ObtrusiveLight 04_III_Seg1	Obtrusive Light - III	Lux	1.2
ObtrusiveLight 05_III_Seg1	Obtrusive Light - III	Lux	17.9

TI				
Project: TI				
Label	CalcType	Units	Max	L (cd/m2)
sybil lane eastbound	Obtrusive Light - TI	%	13.7	0.1
sybil lane northbound	Obtrusive Light - TI	%	1.3	0.1
sybil lane northbound_1	Obtrusive Light - TI	%	11.4	0.1
sybil lane southbound	Obtrusive Light - TI	%	1.2	0.1
sybil lane westbound	Obtrusive Light - TI	%	8.9	0.1

Design Notes:

This drawing has been recreated manually from hard copy drawings and/or site measurements taken. Site dimensions need to be confirmed prior to installation to finalize the lighting design.

A maintenance factor of 0.8 has been applied to all luminaires.
A maintenance policy should be adopted to support the maintenance factor of 0.8.

M.H. (ave) of 18m indicates height above the playing surface to a single crossarm.

Maximum glare rating is not applicable for this level of play in AS2560.2.3 2007. However, it has been calculated and is 47.0 for observer locations as per Figure 6 AS2560.2.3 2007. Glare ratings are based on a diffuse playing surface reflectance of 25%.

AS4282 1997 - "Control of the obtrusive effects of outdoor lighting"

LIGHT TECHNICAL PARAMETERS - Pre-curfew hours
 -> Ev Commercial Areas - 25 lux maximum
 -> Ev Residential Areas - 10 lux maximum
 -> Luminous Intensity Emitted - Level 1 & Level 2 control (refer Table 2.2)
 -> Threshold Increment - 20% maximum

DESIGN ASSESSMENT - ALL LUMINAIRES SWITCHED ON

Vertical spill illuminance has been calculated on the boundary as shown from 1.5 m to 20 m above ground level. The maximum calculated vertical illuminance with all floods switched on is:

- ObtrusiveLight 01 = 1.2 lux maintained (1.5 lux initial)
- ObtrusiveLight 02 = 2.9 lux maintained (3.6 lux initial)
- ObtrusiveLight 03 = 1.1 lux maintained (1.4 lux initial)
- ObtrusiveLight 04 = 1.2 lux maintained (1.5 lux initial)
- ObtrusiveLight 05 = 17.9 lux maintained (22.4 lux initial)

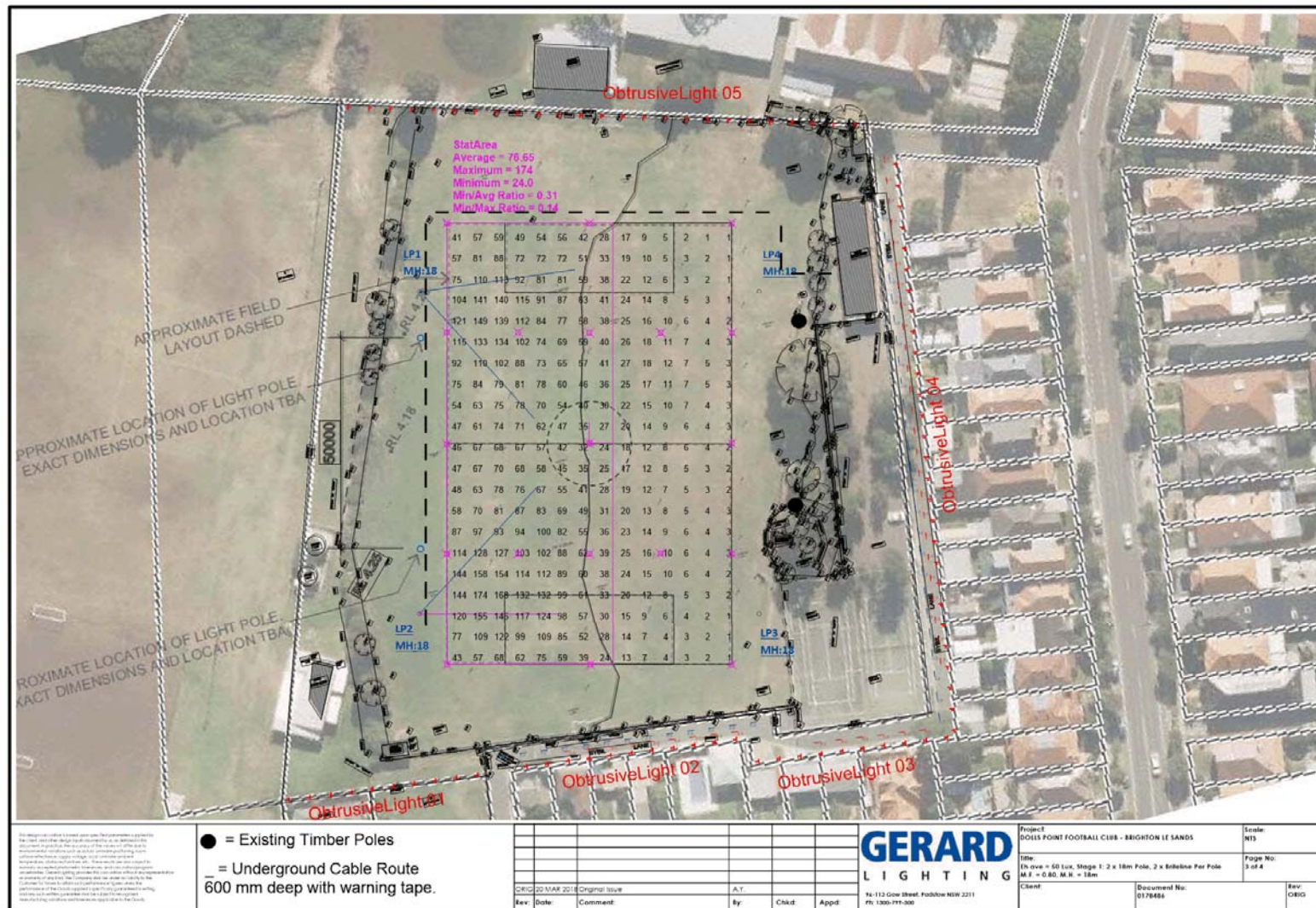
The maximum luminous intensity emitted per luminaire has been assessed using a large controlling dimension of >75 metres. The maximum elevation used in the design is 6 degrees which results in a maximum luminous intensity within Level 1 control limits.

Threshold increment has been calculated on the roadways. It is within the maximum allowable value of 20% based on an assumed roadway adaptation luminance of 0.1 cd/m2.

There have been no obstructions such as trees included in this lighting calculation.

DESIGN EVALUATION
 PRELIMINARY ONLY

<small>This design is intended to be used as a guide only. It is not a contract document. The client is responsible for ensuring that the design is suitable for the intended use. The client is responsible for ensuring that the design is suitable for the intended use. The client is responsible for ensuring that the design is suitable for the intended use.</small>		GERARD LIGHTING		Project: DOLLS POINT FOOTBALL CLUB - BRIGHTON LE SANDS	Scale: NTS
Title: 1x 600 x 600 Luminaire, 4 x 18m Pole, 2 x 18m Pole Per Pole M.F. = 0.80, M.H. = 18m		Client: 14-112 Gower Street, Pottsville NSW 2311 Ph: 1300-779-300		Document No: 0178484	Page No: 2 of 4
Rev: 01	Date: 01/11/2018	Comment: Original Issue	By: A.T.	Check: A.T.	Appd: A.T.



Luminaire Schedule						
Symbol	Qty	Label	Description	Lumens/Lamp	LLF	
3	3	BL565 T10 UWL	SLA BL565 2000W T10 + UWL Hood, lmax +8, 0 deg.	225000	0.800	
1	1	BL565 T10 GS Top+RHS	SLA BL565 2000W T10 + GS Top and RHS lmax +8, 0 deg.	225000	0.800	

Calculation Summary							
Project: Project_1							
Label	CalcType	Units	Avg	Max	Min	Min/Avg	Min/Max
Bh Field	Illuminance	Lux	47.53	174	1	0.02	0.01
StatArea	Illuminance	Lux	76.65	174	24.0	0.31	0.14

GR			
Project: GR			
Label	CalcType	Units	Max
StatArea_GR	Glare Rating	N.A.	52.0

Spill			
Project: Spill			
Label	CalcType	Units	Max
ObtrusiveLight 01_III_Seg1	Obtrusive Light - III	Lux	0.4
ObtrusiveLight 02_III_Seg1	Obtrusive Light - III	Lux	2.0
ObtrusiveLight 03_III_Seg1	Obtrusive Light - III	Lux	0.9
ObtrusiveLight 04_III_Seg1	Obtrusive Light - III	Lux	1.1
ObtrusiveLight 05_III_Seg1	Obtrusive Light - III	Lux	10.3

TI				
Project: TI				
Label	CalcType	Units	Max	L (cd/m2)
sybil lane eastbound	Obtrusive Light - TI	%	0.0	0.1
sybil lane northbound	Obtrusive Light - TI	%	0.0	0.1
sybil lane northbound_1	Obtrusive Light - TI	%	11.0	0.3
sybil lane southbound	Obtrusive Light - TI	%	0.0	0.1
sybil lane westbound	Obtrusive Light - TI	%	9.0	0.1

Design Notes:

This drawing has been recreated manually from hard copy drawings and/or site measurements taken. Site dimensions need to be confirmed prior to installation to finalize the lighting design.

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A maintenance policy should be adopted to support the maintenance factor of 0.8.

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Maximum glare rating is not applicable for this level of play in AS2560.2.3 2007. However, it has been calculated and is 52.0 for observer locations as per Figure 6 AS2560.2.3 2007. Glare ratings are based on a diffuse playing surface reflectance of 25%.

AS4282 1997 - "Control of the obtrusive effects of outdoor lighting"

LIGHT TECHNICAL PARAMETERS - Pre-curfew hours
 -> Ev Commercial Areas - 25 lux maximum
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 -> Luminous Intensity Emitted - Level 1 & Level 2 control (refer Table 2.2)
 -> Threshold Increment - 20% maximum

DESIGN ASSESSMENT- ALL LUMINAIRES SWITCHED ON

Vertical spill illuminance has been calculated on the boundary as shown from 1.5 m to 20 m above ground level. The maximum calculated vertical illuminance with all floods switched on is:

- ObtrusiveLight 01 = 0.4 lux maintained (0.5 lux initial)
- ObtrusiveLight 02 = 2.0 lux maintained (2.5 lux initial)
- ObtrusiveLight 03 = 0.9 lux maintained (1.1 lux initial)
- ObtrusiveLight 04 = 1.1 lux maintained (1.4 lux initial)
- ObtrusiveLight 05 = 10.3 lux maintained (12.9 lux initial)

The maximum luminous intensity emitted per luminaire has been assessed using a large controlling dimension of >75 metres. The maximum elevation used in the design is 6 degrees which results in a maximum luminous intensity within Level 1 control limits.

Threshold increment has been calculated on the roadways. It is within the maximum allowable value of 20% based on an assumed roadway adaptation luminance of 0.1 cd/m2.

There have been no obstructions such as trees included in this lighting calculation.

DESIGN EVALUATION
PRELIMINARY ONLY

<small>Our design is based on the information provided to us. We do not accept liability for any errors or omissions in the design or for any consequences arising from the use of the design. The design is for information only and is not to be used for construction purposes. The design is not to be used for any other purpose without the written consent of Gerard Lighting. The design is not to be used for any other purpose without the written consent of Gerard Lighting.</small>				GERARD LIGHTING				Project: DOUGLAS POINT FOOTBALL CLUB - BRIGHTON LE SANDS Title: 1h ave = 50 Lux, Stage 1: 2 x 18m Pole, 2 x 18m Pole Per Pole M.F. = 0.80, M.H. = 18m Client:		Scale: NTS Page No: 4 of 4 Document No: 01/18484 Rev: 01818	
Rev:	Date:	Comment:	By:	Check:	Appd:	14-112 Gove Street, Pottsville NSW 2311 Ph: 1300-779-300					

Bayside Local Planning Panel

27/11/2018

Item No	6.3
Application Type	Development Application
Application No	DA-2018/209
Lodgement Date	13/08/2018
Property	DA-2018/209 - 4 Prospect Street, Carlton
Ward	Rockdale
Owner	Y and S El-Masri Pty Ltd
Applicant	Clique Developments Pty Ltd
Proposal	Demolition of existing structures and construction of a ten (10) room boarding house development
No. of Submissions	44 Submissions (1 st round) & 33 Submissions (2 nd round)
Cost of Development	\$1,195.304
Report by	Sumeet Badhesha, Development Assessment Planner

Officer Recommendation

- 1 That Development Application No. 2018/209 for the proposed demolition of all structures and the construction of a ten (10) room boarding house development at 4 Prospect Street, Carlton be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
 - 2 That the objectors be advised of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 Planning Assessment Report
- 2 Architectural Plans
- 3 Revised Plan of Management
- 4 Statement of Environmental Effects

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/209
Date of Receipt:	13 August 2018
Property:	4 Prospect Street, CARLTON (Lot 5 DP 8251)
Owner:	Y And S El Masri Pty Ltd
Applicant:	Clique Developments Pty Ltd
Proposal:	Demolition of all structures and the construction of a ten (10) room boarding house development
Recommendation:	Approved
No. of submissions:	44 (1st round) & 33 (2nd round)
Author:	Sumeet Badhesha
Date of Report:	

Key Issues

The proposal is for a boarding house and therefore State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) applies. A boarding house is one in which some, or all, of the rooms are self contained with ensuite and kitchenette facilities, and that also comply with the size, communal living space, height, landscape area, car parking and other requirements contained in the ARHSEPP.

The site is located on the north eastern side of Prospect Street, with a primary frontage to Prospect Street and rear lane access via Union Lane. The site is zoned R2 Low Density Residential under the provisions of the Rockdale Local Environmental Plan 2011 (RLEP2011). The proposed boarding house is permissible with the consent of Council.

Clause 29(2) of the ARHSEPP sets standards that cannot be used as grounds to refuse a development. The proposal complies with all of these deemed to satisfy provisions, including the maximum 0.5:1 FSR, minimum room size, car parking requirements, streetscape. Clause 30 of the ARHSEPP contains development standards, including maximum room sizes, maximum room occupancies and provision of motorcycle and bicycle parking. The proposal also complies with these standards.

Clause 30A of the ARHSEPP requires that "*a consent authority must not consent to a boarding house unless the design of the development is compatible with the character of the local area*". The proposal as modified demonstrates compliance with this clause.

The development was notified on two (2) occasions, and a number of submissions were received as summarised below:

- 1st Notification (original application) - 44 letters of objection (16 of these were unique)
- 2nd Notification (amendment) - 33 letters of objection (10 of these were unique)

A further 9 identical letters of objection (in addition to the above mentioned) were received by Council on 14 November 2018 post notification period (2nd round of notification) and the issues raised within these submissions have already been addressed. The main issues raised within the submissions during both rounds included non-conformity with the zone objectives, streetscape & character, traffic & parking, over development and over intensification of the site, and compliance with the definition of a boarding house. The issues raised in the submissions have been considered in detail in the assessment of the proposal. Furthermore, the proposal has been accompanied by a Plan of Management (PoM) which includes measures to manage the ongoing operation of the boarding house, including the use of indoor / outdoor communal areas, in order to minimise disturbances to neighbouring properties. The proposal has been conditioned to minimise impacts and ensure the orderly operation of the development, including a condition requiring that the boarding house operate in accordance with the submitted PoM.

Recommendation

1. That Development Application No.2018/209 for the proposed demolition of all structures and the construction of a ten (10) room boarding house development at 4 Prospect Street, Carlton be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the objectors be advised of the Bayside Local Planning Panel's decision.

Background

History

A search of Council's records indicates there are no historical applications which relate to the subject property. The site has a long history of residential use.

Proposal

The application seeks consent for the demolition of existing structures and the construction of a ten (10) room boarding house development. Specifically, the proposal comprises of the following:

- **Demolition and Site Preparation Works:** Demolition of the existing fibro dwelling and ancillary structures at the rear of the site and removal of vegetation
- **Construction:** Construction of a boarding house development which comprises of a two (2) storey building to the front (Building A) and one (1) storey building to the rear (Building B), with ten (10) boarding rooms and one (1) centrally located communal room. Building A comprises of eight (8) rooms and Building B comprises of two (2) rooms. Each room is provided with kitchen, bathroom and laundry facilities;
- **Parking:** Five (5) car parking spaces (one (1) within the front setback and four (4) along the rear lane), two (2) motorcycle spaces and two (2) bicycle spaces; and
- **Fencing:** The proposal includes a front fence (along Prospect Street) which ranges in height from 0.8m to 1.45m

The development includes one adaptable unit within Building B and an accessible car parking space adjacent to the adaptable unit.

Landscaping is provided along all boundaries to soften the development and minimise privacy impacts to adjoining properties.

The boarding house will be a registrable general boarding house under the Boarding Houses Act 2012.

Site location and context

The subject site is known as Lot 5 in DP 8251, 4 Prospect Street, Carlton, with a primary frontage to Prospect Street and rear lane access from Union Lane. The site is rectangular in shape and has a slope of 1m downwards from the front to the rear boundary. The site has a total area of 594.50sqm and the following dimensions:

Front (Prospect Street): 12.19m

North side: 48.765m

South side: 48.765m

Rear (Union Lane): 12.19m

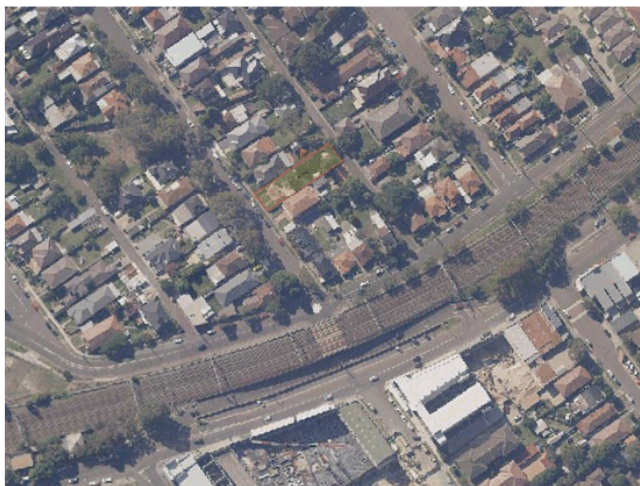


Figure 1: Aerial map of site and surrounding

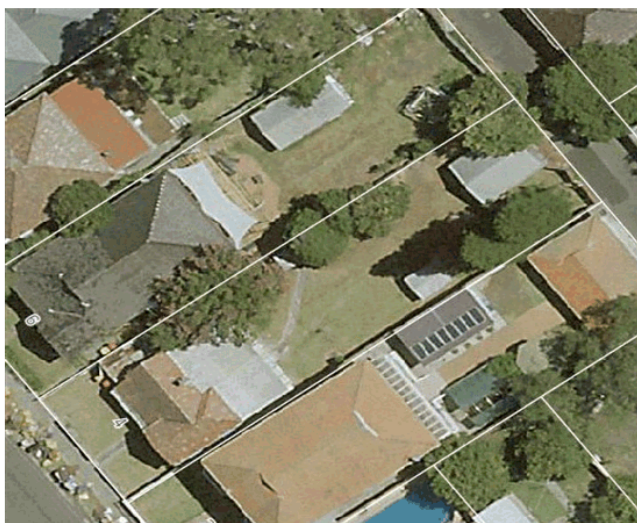


Figure 2: Aerial of site

The site comprises of a single storey fibro dwelling with a combination of tiled and metal roof, a metal shed and garage to the rear and numerous trees scattered throughout the rear yard. Development immediately to the north of the site is a single storey brick dwelling with a tiled roof and to the south is a two (2) storey brick dwelling with a tiled roof. Other development surrounding the site consists of low density residential accommodation.

The site is located within close proximity to public transport with the public entrance of Carlton Station 500m (7 minute) walking distance and Kogarah Station (9 minute walk) 700m. Numerous bus stops are also located in close proximity to the site.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Affordable Rental Housing) 2009

Part 2 – New Affordable Rental Housing			
Division 3 – Boarding Houses			
Clause	Requirement	Proposed	Complies

26 - Land to which this division applies	SEPP applies to R1, R2, R3, R4, B1, B2 and B4 zones	The subject site is located within the R2 Zone. The proposal is for the demolition of existing buildings and construction of a two storey ten (10) room boarding house. The proposal is permissible within the R2 Zone.	Yes
27 – Accessible Area	Site to be located within an "accessible area" i.e. 800m walking distance of a public entrance of a railway station or 400m walking distance of bus stop with regular service	<p>The site is located in a relatively accessible area. The SEPP sets out the requirements for a site to be considered as located within an "accessible area", and this includes being located within 800m walking distance of a public entrance of a railway station or 400m walking distance of a bus stop used by a regular bus service.</p> <p>The site is located within 200m of a bus stop, 500m walking distance (7 minute walk) of the public entrance to Carlton Station and 700m (9 minute walk) to Kogarah Station.</p>	Yes
29 -Standards that cannot be used to refuse consent	FSR – 0.5:1	The proposal has an overall gross floor area of 288.87sqm, which equates to a floor space ratio of 0.49:1.	Yes
	Height – 8.5m maximum	The building has a height of 8.425m at the highest point.	Yes

Landscape front setback – compatible with streetscape	The front setback is oriented at the western quadrant of the development site. This setback presents a landscaped area of 31.40sqm and various plantings including a tree, which integrates the built form with the locality and enhances tree canopy. The application was referred to Council's Landscape Architect for assessment and no concerns were raised, subject to suitable conditions of consent.	Yes
Solar Access – 3hrs midwinter to communal living room	The communal living room and open space are located at the northern quadrant of the site and hence the living room and open space will receive reasonable solar access. The communal living room and open space receive a minimum of 50% direct solar access.	Yes
Private Open Space – 1 x 20sqm with min dimension 3m for lodgers	The development provides for one (1) communal open space area which is greater than 20sqm with a minimum dimension of 5.3m	Yes
Parking Requirement: – Parking - 0.5 of space per room,	The development provides 5 parking spaces and there are 10 rooms.	Yes

	<p>Accommodation Size - 12sqm per single room excl kitchen / bathroom OR 16sqm for multiple</p>	<p>The development proposes ten (1) rooms with the following areas:</p> <p><u>Ground Floor:</u></p> <ul style="list-style-type: none"> Unit 1 - 16sqm (double) Unit 2 - 16sqm (double) Unit 3 - 16sqm (double) Unit 4 - 16sqm (double) <p><u>First Floor:</u></p> <ul style="list-style-type: none"> Unit 5 - 21.76sqm (double - adaptable) Unit 6 - 15.51sqm (single) Unit 7 - 16sqm (double) Unit 8 - 16sqm (double) Unit 9 - 16sqm (double) Unit 10 - 16sqm (double) <p>Unit 5 has been designated to be adaptable and is located on the ground floor. It is noted all other units except for Unit 6 may accommodate more than one (1) lodger.</p> <p>The proposal complies with the intentions of the SEPP.</p>	Yes
	<p>Facilities – Can be shared or independent e.g. kitchen / bathroom</p>	<p>Each of the ten (10) boarding rooms provide kitchen, bathroom and laundry facilities</p>	Yes

30 - Development Standards	> 5 rooms then minimum one communal living room	The development consists of ten (10) boarding rooms and provides one communal living on the ground floor. The communal living room is centrally located within the development and has direct access to the open space area.	Yes
	Boarding room max size 25sqm	The proposed development comprises of ten (10) rooms, whose areas vary from 15.51sqm to a maximum of 21.76sqm.	Yes
	Boarding room occupied by max 2 adult lodgers	The applicant states that no more than 2 lodgers will be occupying any room. Unit 6 is to be occupied by a maximum of one lodger, whilst all other units are to be occupied by a maximum of two lodgers.	Yes
	Provision of kitchen / bathroom facilities within boarding house for each lodger	Each of the ten (10) boarding rooms provide kitchen, bathroom and laundry facilities	Yes
	Boarding House Manager required on site if boarding house has capacity to accommodate 20 or more lodgers. Boarding room or dwelling to be provided for manager.	The proposed building comprises of ten (10) units and a capacity to accommodate a maximum of 19 lodgers. Therefore there is no requirement for a Boarding House Manager.	N/A
	No ground level residential accommodation if zone is for commercial purposes.	The site is located within a residential zone.	Yes

	One bicycle space for every 5 boarding room One motorcycle space for every 5 boarding room	Two (2) bicycle and two (2) motorcycle spaces have been proposed.	Yes
30A - Character of local area	Development to be compatible with local area	The subject site is located within an R2 Low Density Residential zone and presents as a two (2) storey building similar to a dwelling, ensuring a consistent bulk and scale with those adjoining immediately and further beyond. For further discussion see Note 1 below.	Yes (See Note 1 at the end of the table)
52 - Subdivision	No subdivision of boarding houses	No subdivision proposed.	N/A

NOTE 1 - Character:

Clause 30A of the ARHSEPP states that "A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area".

The proposal has been amended to address this requirement given that the original proposal included a two-storey building to the rear of the site that was found to result in impacts to neighbouring residents. The amended design now includes a one-storey building.

Figures 1 and 2 below are provided to demonstrate how the proposal has been amended to address the pattern of development existing in the street.

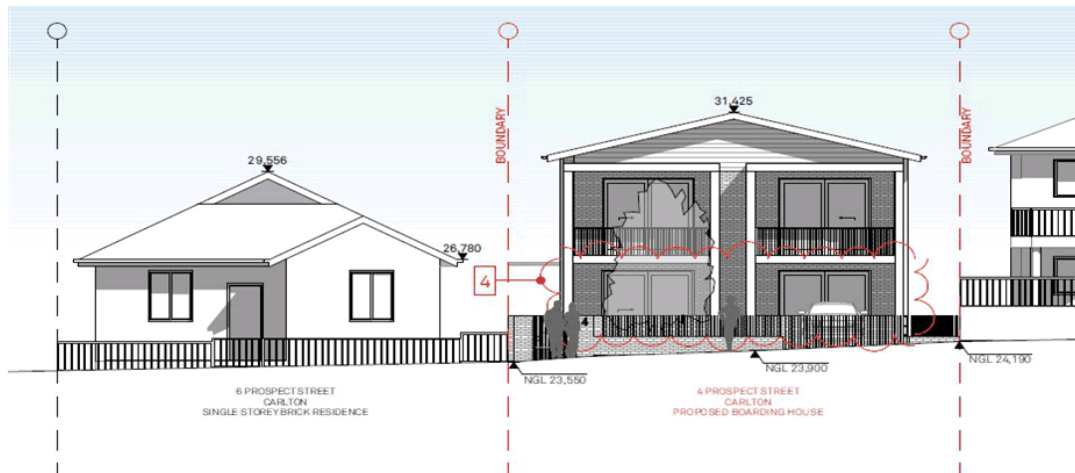


Figure 3 - Proposed West Elevation Streetscape (Prospect Street)

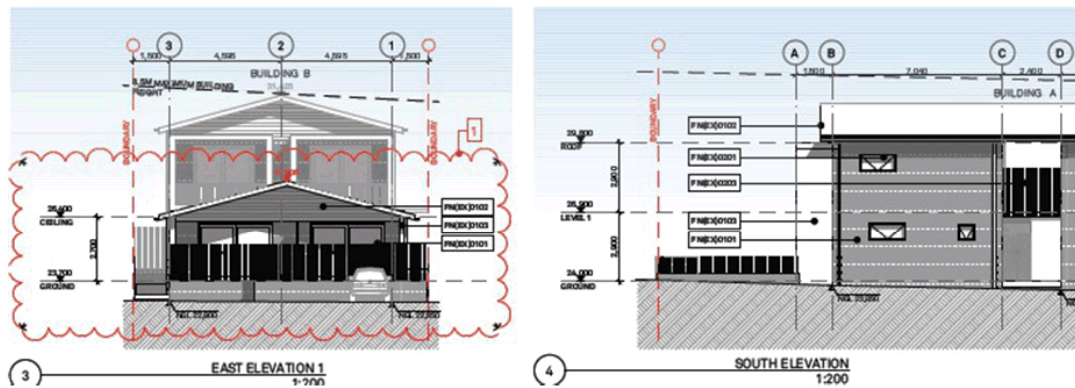


Figure 4 - Proposed East Streetscape Elevation and South Side Elevation (Union Lane)

Compatibility with the existing character of the R2 Low Density Residential zone is desirable in this case given the surrounding context of detached dwelling houses.

The impacts of the proposed development have been considered later in the report, primarily in the assessment against RLEP 2011, RDCP 2011 and Section 4.15(1)(b) of the EP&A Act. The amended proposal has been found to have minimal impacts on the amenity of surrounding properties and the locality. In addition, the proposal will not constrain the development potential of adjoining sites.

The proposal respects the relationship of the built form to the surrounding context as the development is split into two separate buildings, with the provision of the open space area located between the two buildings to match the site layout and built form on the properties within the street. This site layout also permits the two buildings to appear as two separate detached dwellings that have a similar bulk and scale as adjoining and nearby dwellings, with one dwelling fronting Prospect Street and the other fronting Union Lane.

The amended built form has a height, form, massing and density that is consistent with the existing development and the desired future character of the area as articulated in the relevant policies, including RLEP 2011, RDCP 2011 and the ARHSEPP. The proposal also incorporates materials and colours that are in keeping with the adjoining and nearby dwellings.

Furthermore, the proposed front setback accords with the established setbacks in Prospect Street as well as meeting the requirements of RDCP 2011, and landscaping will be provided that is consistent with the character of the area.

The proposal is therefore found to respect the character of the local area and is consistent with Clause 30A of the Affordable Rental Housing SEPP.

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

The application is considered under the remit of the SEPP (BASIX) and accordingly, is accompanied by a revised Multi Dwelling Certificate No. 947307M_03 and dated Thursday, 11 October 2018. The Certificate demonstrates the development satisfies the relevant water; thermal comfort and energy commitments required by the SEPP. Subject to condition, the provisions of this Clause are satisfied.

Rockdale Local Environmental Plan 2011

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

2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a *boarding house* development, which is a permitted form of development, only with Council consent.

The definition of 'boarding house' contained in RLEP 2011 is the same as in the ARHSEPP. This includes a requirement that the facility provides lodgers with a principal place of residence for 3 months or more. A condition is therefore proposed requiring that the minimum term for any occupancy agreement is three (3) months. This minimum period of residence means that people residing at the premises will form an associate with the local area.

The objectives of the zone are:

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

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

The proposal is considered to satisfy the housing needs of the community within a low density residential environment. The boarding house will provide for a variety of housing types, and additional housing, within the surrounding low density residential environment. The property is ideally located to provide for a low cost affordable housing alternative for residents within the area. The proposal will not negatively impact on future land uses which can provide facilities or services to meet the day to day needs of residents. The proposal is also in keeping with the character of the area and does not result in adverse amenity impacts. The bulk and scale of the proposal reflects the existing and surrounding built form along Prospect Street and is consistent in the front setback and building height with other dwelling houses along the street. The matter regarding streetscape and character is further discussed within the ARHSEPP assessment section of this report above.

The proposal provides housing for the needs of the community and has been designed to minimise impacts on the character and amenity of the area. Subject to implementation with the recommended conditions of consent, the amended proposal is consistent with the objectives of the zone.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing dwelling and ancillary structures and hence satisfies the provisions of this Clause.

4.3 Height of buildings

The height of the proposed building is 8.425m at the highest point and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map.

Further, the proposed development will result in a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Residential zones

The Gross floor area of the proposed development has been calculated as 288.87sqm over a site area of 594.50sqm. In this regard, the proposed floor space ratio (FSR) for the building is 0.49:1 and therefore does not exceed the maximum FSR for the land 0.50:1 as shown on the Floor Space Ratio Map.

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

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

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, an ASS assessment is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD and no significant

excavation is proposed.

6.2 Earthworks

Earthworks including excavation are limited to the construction of the piers for the building. The development proposes minor fill to create flat platforms for the private open space area. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 60 metres to Australian Height Datum (AHD). The proposed building height is at 8.425metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves the construction of an on site detention system and a minimum 3000L rainwater tank to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause. Recommended conditions have been included in the consent.

6.12 Essential services

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

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

There are no draft EPI's applicable to the subject site.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes
4.1.3 Water Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - General Controls	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Other Uses	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
4.7 Hot Water Systems	Yes	Yes - see discussion
5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling	Yes	Yes - see discussion
5.1 Frontage Setback - Rear Lane	Yes - see discussion	Yes - see discussion

4.1.3 Water Management

The proposal provides an on site detention system and a rainwater tank of minimum 3000L capacity to manage stormwater. The application was referred to Council's Development Engineer and the proposed stormwater management method is considered acceptable.

4.1.4 Soil Management

Conditions have been included in the consent requiring erosion and sediment control measures to be in place during construction to ensure that the potential for impact on adjoining land is minimised.

4.1.7 Tree Preservation

The development proposal involves the removal of 9 trees. Council's Tree Management Officer raised no objections to the removal of the trees and the conditions recommended by Council's Tree Officer have been imposed in the draft Notice of Determination, regarding the removal of site trees subject to suitable replacement trees being planted in appropriate locations.

4.2 Streetscape and Site Context - Fencing

The application seeks consent for the construction of a part brick and part open form fence with pedestrian and vehicular entrance gates along the Prospect Street frontage. The fence ranges from a height of 0.8m to a maximum height of 1.45m due to the site sloping sideways. The proposed fence construction and height is considered acceptable and appropriate for the site as it is in keeping with the streetscape, respects the proposed building and maintains privacy and surveillance.

4.3.1 Open Space and Landscape Design

A Landscape Plan has been submitted with the application and was reviewed by Council's Landscape Architect. Council's Landscape Officer raised no concerns subject to recommended conditions being included in the notice of determination.

The development provides 146.33sqm or 25% of landscape area on the site, which is as per the

requirement of the RDCP 2011.

4.3.3 Communal Open Space

The development provides a communal private open space in accordance with the ARHSEPP provisions. The private open space is located along the northern side of the site to maximise solar access, and is of appropriate size, includes both covered and uncovered areas and landscaping.

The garage bin area has been located appropriately to minimise amenity impacts to adjoining properties.

The landscape design optimises useability, privacy and social opportunity, and respect for neighbours' amenity. The landscape design is considered satisfactory.

4.4.1 Energy Efficiency - Residential

The applicant has submitted a revised BASIX Certificate for the proposed development as amendments were made to the originally submitted design.

The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

4.4.2 Solar Access - General Controls

The site is located on the north eastern side of Prospect Street, and will therefore overshadow the site to the south (2 Prospect Street). The proposal will overshadow a small portion of the front yard during the morning and midday and the rear yard from midday onward. The proposal provides the minimum 3 hours sunlight required to the private open space areas of No. 2 Prospect Street. Overshadowing on the northern elevation windows of No. 2 Prospect Street is expected during the hours of 9am and 3pm. The level of overshadowing impact is considered acceptable due to the following:

- The two storey component of the development is limited to the front of the site;
- The development complies with all relevant planning controls such as setbacks, height, floor space ratio and landscaping; and
- Overshadowing is unavoidable in this instance due to the orientation of the site.

Therefore the proposal is satisfactory with regards to Clause 4.4.2 of RDCP 2011.

4.4.3 Natural Lighting and Ventilation - Residential

The boarding rooms will have a maximum depth of 7.04m and will allow rooms to achieve adequate natural lighting via proposed windows, and splitting the buildings will permit additional units to benefit from cross-ventilation. The proposal achieves the recommended minimum ceiling heights of 2.7m to the ground and first floors. Therefore the proposal is acceptable in this regard.

4.4.5 Visual privacy

The proposal has been designed and sited to minimise the overlooking of adjoining properties. The privacy impacts from the amended proposal are found to be satisfactory for the key reasons:

- all windows on the first floor side elevations are high-light windows only;
- overlooking opportunities from the first floor level corridor are mitigated through use of privacy screens;

- landscaping and tree planting has been proposed along boundary fences at a height of maximum height of 6m;
- the rear balconies of rooms 09 and 10 on the first floor of Building A are set back 11.8m from the rear boundary and provide solid screening along the side elevations to minimise overlooking into the private open space areas of the properties to the side and rear; and
- the communal room and associated communal open space area have been designed so that they are centrally located within the site and orientate internally within the site (i.e. face the other building within the proposed development site). Appropriate landscaping has been provided along the side boundaries, combined, with the boundary fence, will mitigate overlooking towards properties to the side.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties.

4.4.5 Acoustic privacy

The proposal has been designed to minimise impacts on the acoustic privacy of adjoining and surrounding properties. The private courtyards of each room are either internally facing or face towards Prospect Street and Union Lane. The balconies on the first floor are screened from the side elevations and are of appropriate size. The private courtyards of the rooms on the ground floor, and the communal room and communal open space area, are located at almost natural ground level, therefore the proposed landscaping and boundary fence will mitigate all direct visual privacy impacts and minimise noise impacts to the adjoining properties.

The communal room and communal open space area have been sited so they adjoin the outdoor private open spaces of both properties to the side (No. 2 and No. 6 Prospect Street). Further, the communal room and the communal open space are orientated internally and centrally located within the site, so that noise impacts are minimised. Combined with the landscaping along the boundaries, the restricted hours of use (8am to 10pm, 7 days), the acoustic impacts from the communal room and communal open space area will be satisfactorily minimised.

The use of the site will also remain residential. Any minor increase in noise from the use of the site as a boarding house will be residential in nature and not unlike that which could normally otherwise be expected within a residential zone.

Therefore, the design and siting of the development, combined with the proposed use of the site and recommended conditions of consent (including compliance with the submitted Plan of Management), are found to minimise acoustic privacy impacts to adjoining residents as required by RDCP 2011.

4.5.2 Social Equity - Equitable Access

The development includes the provision of an adaptable room on the ground floor and an accessible car space directly adjoining this room, which is easily accessible via Union Lane. The proposal includes ramp access to and from the car parking (accessible via Union Lane) space to the adaptable room. The proposal complies with the objectives of this clause.

4.6 Parking Rates - Other Uses

The Affordable Rental Housing SEPP 2009 stipulates a minimum of 0.5 car spaces per room. The development comprises of ten (10) rooms and provides five (5) car spaces, which complies with the requirements.

4.6 Car Park Location and Design

The proposed development provides one car space within the front setback via Prospect Street and four car spaces along the rear lane which are accessed via Union Lane. The revised architectural plans were reviewed by Council's Development Engineer and deemed acceptable with regards to the location and design.

4.7 Air Conditioning and Communication Structures

The plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed in the draft conditions requiring air conditioning units to be obscured from public view should they be provided and operate in accordance with the relevant provisions of the Protection of the Environment Operations Act, 1997. Subject to conditions, the development is acceptable with regards to this Clause.

4.7 Waste Storage and Recycling Facilities

The development proposes waste collection to the rear of the site via Union Lane. The waste bins are located along the southern boundary to the rear, and are not visible from Prospect Avenue. The application was referred to Council's Waste Management Unit and the proposed method of waste collected is considered appropriate. Suitable conditions have been included in the development consent.

4.7 Hot Water Systems

The proposal does not include hot water systems on the balconies, and a condition is included in the draft notice of determination to ensure that this does not occur.

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

The proposal comprises two separate buildings, Building A which is a two storey building and has a frontage to Prospect Street, and Building B which is a one storey building with a frontage to Union Lane. Both buildings have the appearance of dwelling houses. The buildings provide the following setbacks:

Building A (Fronts Prospect Street):

Front - 6m and is consistent with the prevailing street setback (respects the setbacks of adjoining dwellings)

North side - 1.5m

South side - 1.5m

Rear - 23.7m

Building B (to the rear, fronts Union Lane):

Front - located to the rear

Lane way frontage - 6.4m

North side - 1m

South side - 1.5m

Both buildings comply with the minimum required setbacks stipulated within the RDCP 2011.

Further, the proposal is not considered to adversely impact upon the adjoining dwellings by way of overshadowing and overlooking, and will not significantly reduce the solar access, light and air received by the adjoining dwellings. Therefore, the proposed setbacks are consistent with the objectives of this control.

5.1 Frontage Setback - Rear Lane

The site has a primary frontage to Prospect Street and rear lane frontage to Union Lane. The proposed development addresses both frontages, provides a 6.4m setback from Union Lane, and a fenced private courtyard and garden to the rear of both units. This complies with the requirements of this clause.

Clause 92 EP&A Regulation 2000 – Additional Matters

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

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. As discussed, the amended design, combined with the site location and orientation, minimises impacts to surrounding developments. Furthermore, the proposal has been accompanied by a Plan of Management (PoM) which includes measures to manage the ongoing operation of the boarding house and the use of indoor / outdoor communal areas in order to minimise disturbances to neighbouring properties. The PoM details house rules, including hours which the communal areas can be used, that seek to manage guest behaviour throughout the duration of their stay. Non adherence to guest rules may result in fines & eviction.

The proposal has been conditioned to require that the boarding house operates in accordance with the submitted PoM to ensure the orderly operation of the development.

The impacts that have not already been addressed are as follows:

Traffic & Parking

The proposal provides five (5) onsite parking spaces, including one (1) space for people with a disability, and complies with the requirements of Clause 29 of the ARHSEPP. In accordance with that clause, Council must not refuse consent to a boarding house development based on parking if it complies with the parking provision of the SEPP.

Sufficient off street parking facilities are provided for vehicles; motorcycles and bicycles. Additionally, the level of traffic generated from the proposal is considered to pose negligible impacts to Prospect Street in terms of traffic flow efficiency, loss of parking spaces, road safety and residential amenity. The site is located within an accessible area with two train stations located within 500m and 700m of the site.

The proposal is therefore found to be acceptable with regards to traffic and parking.

Social Impact

Boarding houses serve an important role in the community by providing low cost accommodation for people who value affordability and proximity to services over space, and those whom prefer simple and flexible tenure arrangements. For cost and other reasons, boarding houses are a preferable option for many individuals within the community and provide a positive social effect. These facilities are known to provide low cost accommodation for a range of people, including young professionals saving money for their first home, or for business people who travel regularly for work purposes. Each room includes its

own kitchen and bathroom facilities, while also containing a communal area for residents to interact and meet with guests.

Further, the tenants will be required to sign tenancy agreements. The application is accompanied by a Plan of Management which ensures the appropriate management of the facility and behaviour of residents in accordance with social expectations.

Construction

The existing residential building and ancillary structures on the site are proposed to be demolished. The dwelling may contain asbestos and recommended conditions of consent require its demolition must be undertaken in accordance with required standards. Additional conditions, including restrictions on the hours of construction have also been included in the draft notice of determination. There are no specific issues relating to the BCA in the proposed design, and the construction impacts associated with the proposal are considered to be minimised.

Social/Economic Impacts

The boarding house development will provide low cost housing within a well serviced locality and therefore provides a positive economic and social outcome for the Bayside LGA.

Safety and Security "Safer by Design"

Safer by Design principles of crime prevention through environmental design are incorporated into Rockdale DCP and this aspect is considered in the assessment of this proposal. The proposal has been designed as a secure development, with restricted access to private and communal areas. The proposed development includes a boundary fence to delineate public and private domain, and the development provides for passive surveillance to both Prospect Street and Union Lane through provision of windows and balconies overlooking the public domain.

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 site is zoned R2 Low Density Residential and has been continually used for residential purposes. The subject site is located 200m of bus stops, 500m of Carlton Train Station and 700m of Kogarah Train Station and meets the accessibility criteria in the Affordable Rental Housing SEPP. 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. There are existing trees proposed to be removed (including some weed species), however Council's Tree Management Officer has no objection to the removal of the trees on site. Therefore, the site is considered suitable for the proposed development.

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

The development was notified twice in accordance with the provisions of Rockdale DCP 2011 due to amended plans being received. The development was first notified between the period of 27 August 2018 and 12 September 2018 and 44 submissions were received. The application was re-notified between the period of 19 October 2018 and 1 November 2018 and 33 submissions were received during this period. The issues raised in the submissions during both rounds of notification are discussed below:

Issue 1: Non-conformity with the objectives of the R2 Low Density Residential Zone.

Comment: Boarding houses are a mandated use within the R2 zone under the provisions of the RLEP.

The matter regarding compliance with the objectives of the zone are discussed under the "RLEP 2011" assessment section of this report. In summary, the proposal is keeping with the existing character of the area and is of low density in nature.

There does not appear to be any evidence within the submissions which substantiates that the proposed boarding capacity (i.e. - number of lodgers) is directly linked to adverse impacts upon the low density residential environment of the street/locality. In any case, the proposed boarding capacity is fully contained within a building which is of low density (i.e. the development complies with the FSR, height, landscaping, setbacks, solar access, visual and acoustic privacy controls which apply to low density development).

Therefore there is no evidence to support this argument and the likely impacts of the development are capable of being well managed subject to on-going compliance with the submitted Plan of Management.

Issue 2: Traffic & Parking Impacts

Comment: This matter has been dealt with in the body of the report. The site is located within 200m of bus stops, 500m of Carlton Train Station and 700m of Kogarah Train Station. The provision of five (5) onsite car parking spaces, including one (1) space for people with a disability, and two (2) motorcycle and two (2) bicycle spaces is compliant with the controls contained in the ARHSEPP and therefore the proposal cannot be refused on this basis. The proposal is not an over-development of the site. The use is of an appropriate scale that is located within close proximity to public transport, and it is considered that traffic generated by the proposal is unlikely to have any significant impact on local traffic or parking. Appropriate conditions have been included regarding the construction of new driveway crossings.

Issue 3: Over intensification and over development

Comment: The site is zoned R2 Low Density Residential and a boarding house is a permissible form of development with consent. The proposal complies with all the requirements of the ARHSEPP, the RLEP 2011 and RDCP 2011, such as floor space ratio, height, set backs, landscaping, parking, solar access, visual privacy and acoustic amenity. The matter of compliance with the R2 Low Density Residential zone objectives has been addressed within this report. The proposal is not deemed an over development or over intensification of the site within a low density environment.

Issue 4: Nature / selection of residents and rental pricing

Comment: Existing older boarding house stock within the LGA is expected to be replaced over time with the new stock meeting the changing needs of the community. The new generation boarding house offers an opportunity to develop housing stock for a wide spectrum of society including students, single parents, young working professionals and couples. These are ordinary citizens and it cannot be assumed that they will contribute to any adverse social impacts because they are living in a particular type of housing. In addition, many of the occupants of boarding houses have stable employment, often key workers who are looking for accommodation close to the place where they work.

Regarding the income level of future households, there are no provisions within the ARHSEPP restricting the nature of occupiers for a boarding house development. This is a matter which is outside the scope of this development application.

Further, the rental pricing of the rooms is not a matter of consideration as part of the assessment of this development application.

Issue 5: Undesirable precedent for more boarding houses

Comment: Boarding houses are permissible with consent both under the ARHSEPP as a matter of State policy and also under the Council planning controls in the LEP. The RLEP 2011 or RDCP 2011 do not restrict the number of boarding houses within one area/street that may occur.

Issue 6: Asbestos in the existing dwelling

Comment: There are strict regulations regarding the removal of asbestos, and relevant conditions are proposed requiring that the applicant determine whether asbestos is present and that it is managed appropriately throughout the demolition process.

Issue 7: Inadequate Plan of Management (PoM):

Comment: Concerns were raised regarding the submitted PoM, particularly regarding the communal area operating hours, guest leaving hours, requirement for an on-site manager, waste management, complaints register and housekeeping policies for the boarding house. The proposed communal area and guest leaving hours are considered appropriate, there is no requirement for an on-site manager as the maximum number of lodgers does not exceed 20 lodgers, and waste collection is to occur to the rear via Union Lane (which will retain existing on-street parking). The PoM has been revised to address the raised concerns and appropriate conditions have also been included in the notice of determination.

Issue 8: Character / Streetscape

Comment: This matter has been dealt with previously in the assessment of State Environmental Planning Policy (Affordable Rental Housing) 2009. In summary, the proposal was found to comply with the FSR and all other relevant planning control for the site, and was also found to respect the character of the local area and to be consistent with the "Character of the Local Area" requirements contained in Clause 30A of the Affordable Housing SEPP.

Issue 9: Requirement for an on-site manager

Comment: The submitted plans, and the PoM, both demonstrate a maximum number of nineteen (19) lodgers. The trigger under the provisions of the ARHSEPP for the requirement of an onsite manager is 20 or more lodgers. Therefore, there is no requirement for an onsite manager to be provided and the development complies with this requirement of the ARHSEPP.

Issue 10: Siting of the adaptable room and proximity to accessible car space

Comment: The amended design involves the adaptable room being located adjacent to the accessible car space in order to improve access.

Issue 11: Visual Privacy

Comment: This matter has been addressed in detail in response to Part 4.5.5 of RDCP 2011. The first floor windows are highlight windows, and the balconies on the first floor face the streets or are internally facing (within the site) with appropriate side elevation screening. Combined with the boundary fencing and landscape planting, the privacy impacts resulting from the proposal are found to be minimised and acceptable in this case.

Issue 12: Noise Impacts

This matter has been addressed in detail in response to Part 4.5.5 of RDCP 2011. Combined with recommended conditions of consent, including compliance with the submitted Plan of Management, the noise impacts resulting from future residents of the proposal are found to be minimised and acceptable in this case. Therefore there is no requirement for an acoustic report to be prepared.

Issue 13: Social Impact / Community Safety

Comment: The site is managed by a Plan of Management that tenants will be required to comply with. A boarding house requires, by definition, that residents are provided with a principal place of residence for a minimum of three (3) months, and an occupancy agreement will be required in accordance with the Boarding Houses Act 2012 (which also permits the operator to evict tenants if required). This minimum period of residence means that persons residing in such establishments to form an association with the local area. A condition of consent is therefore proposed to ensure the use is clearly defined to maintain a minimum three month stay. The matter of nature of tenants is discussed previously in this report.

Issue 14: Smoking

Comment: Concerns were raised regarding a negative impact on air quality of neighbouring residences as a result of smoking. The proposal is for a residential use. There is no evidence to demonstrate that this will be a concern, and if issues arise it would be similar to any residential premises. The submitted PoM proposed to install "No Smoking" signs to mitigate impacts. The communal open area provides adequate space to accommodate boarders.

Issue 15: External Stairs

Comment: The revised scheme has resulted in only one two storey building on the site (Building A). The staircase is located in the middle of the building and is not visible from any street frontage or private open space area. Therefore it is considered acceptable.

Issue 16: Devaluation of property prices and increase in Council rates

Comment: There is no empirical evidence to support the argument that boarding house developments affect property values of surrounding properties. These matters are not a consideration for Council in the assessment of a development application against the provisions of S4.15 of the Environmental Planning & Assessment Act 1979.

Issue 17: No landscape plan has been submitted

Comment: The application includes a landscape plan and which was assessed and deemed satisfactory by Council's Landscape Architect. The landscape plan has been conditioned to be complied with.

Issue 18: "Please let everyone in the street know via formal communication"

Comment: Council has notified that application in accordance with the RDCP 2011.

Issue 19: "It is also suggested that Council explore restricted parking on Prospect Street and provide each residence with 2 on street parking permits"

Comment: The matter regarding the provision of parking permits for residents within Prospect Street falls outside the scope of assessment for this development application.

Issue 20: Proposal doesn't meet the definition of a boarding house and is more suited to a "unit complex"

Comment: Under the BBLEP 2013, boarding houses are defined as the following: *'a building that is wholly or partly let in lodgings, provides lodgers with a principal place of residence for 3 months or more, may have shared facilities, such as communal living room, bathroom, kitchen or laundry and has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers.'* A "unit complex" (defined as a residential flat building), is a prohibited use within the R2 zone. The operators will formalize rental agreements under the Rental Tenancies Act 2010 and conditions are included to enforce the minimum lease period of tenants. Boarding houses cannot be

subdivided under Strata Title or Community Title.

Issue 21: Communal rooms

Comment: The communal room is centrally located within the development and opens onto the communal area. The sitting and size of the communal area is considered to be appropriate.

Issue 22: Proposed development occupies all of the land and lack of open space for residents

Comment: As discussed above, the development is below the maximum floor space ratio permitted for the site and complies with the minimum required landscape area and communal open space area requirements. Therefore there is sufficient open space on site for the lodgers.

Issue 23: Union Lane not appropriate for vehicular access to parking spaces

Comment: The application was referred to Council's Development Engineer for assessment and the proposed parking arrangement is considered to be appropriate.

Issue 24: The developer will sell off the individual rooms to make a profit

Comment: Under the provisions of Clause 52 of the ARHSEPP, and further reinforced by way of condition within the notice of determination, the boarding house development cannot be subdivided and therefore the owner shall not be able to sell each room individually.

Issue 25: Non-residents utilising the Kogarah parking station and surrounding street

Comment: Concerns have been raised relating to non-residents parking in the area and within the Kogarah parking station. These private vehicles fall outside the scope of this development application.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building respects the existing streetscape character and will appear as two separate dwelling forms that address each of the sites two street frontages. Furthermore, the proposal does not create unreasonable impacts on surrounding properties and will provide low cost accommodation for a range of people within the community. As such it is considered that the development application is in the public interest.

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

A Section 7.11 Contribution Payment of \$46,327.59 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

Civil Aviation Act, 1988

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

Civil Aviation (Building Control) Regulations 1988

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

Section 3 Prohibition of the construction of buildings in specified areas

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations, however the proposed building height at 8.425m will have minimal impact upon the height requirement in the regulations.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site Plan / Dwg No. A-0005, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Floor Plans / Dwg No. A-101, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Elevations / Dwg No. A-0201, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Elevations / Dwg No. A-0202, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Streetscape / Dwg No. A-0203, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Sections / Dwg No. A-0251, Issue C	Benson McCormack Architecture	18.10.2018	11.10.2018
Landscape Plan 01 / Dwg No. LP01, Issue B	Matthew Higginson Landscape Architecture Pty Ltd	10.10.2018	11.10.2018
Landscape Plan 02 / Dwg No. LP02, Issue B	Matthew Higginson Landscape Architecture Pty Ltd	10.10.2018	11.10.2018
Stormwater Drainage/Sediment Control Details / Dwg. No. 1138-S1/3, Revision C	John Romanous & Associates Pty Ltd	10.10.2018	11.10.2018

Stormwater Drainage/Sediment Control Details / Dwg. No. 1138-S2/3, Revision C	John Romanous & Associates Pty Ltd	10.10.2018	11.10.2018
Stormwater Drainage/Sediment Control Details / Dwg. No. 1138-S3/3, Revision C	John Romanous & Associates Pty Ltd	10.10.2018	11.10.2018

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 **947307M_03 dated 11 October 2018** and prepared by Victor Lin & Associates Pty Ltd, 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>.

Development specific conditions

The following conditions are specific to the Development Application proposal.

6. Residential air conditioners must be designed so as not to operate:
 - A. during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - B. during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.

Peak time means:

 - the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
 - the time between 7:00 am and 10:00 pm on any other day

Off peak time means: Any time other than peak time.
7. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993, as amended and the Regulations there under.

8. 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.
9. 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.
10. The design and construction of the off street vehicle, motorcycle and bicycle parking facilities shall be designed in accordance with Australian Standard AS 2890 parking series.
11. 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.
12. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
13. The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.
14.
 - (1) In order to soften the impact of the development, one (1) native tree with a growth height of 8 meters shall be planted at the front setback of the building prior to occupation. Proposed front setback Magnolia shall be replaced with Eucalyptus haemastoma or Banksia integrifolia. Minimum pot size supplied shall be 100 Litres, height above container 2.4 meters. Tree shall be planted with three (3) stakes 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.

- (2) Capture of rainwater for irrigation purposes as a sustainability measure shall be provided. Irrigation system shall be connected to rainwater tank as a WSUD principle.
 - (3) A Landscape Maintenance Schedule is required to be submitted to Council Prior issue of Construction Certificate. Maintenance schedule shall cover a 12 month period and provides a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information:
 - (a) Shrub pruning/trimming (frequency, plant requirements);
 - (b) Fertilising and pest control (soil testing, types, rate, frequency);
 - (c) Mulching, weeding and soil improvement (frequency, materials);
 - (d) Irrigation (checks, adjustments);
 - (e) Adjustment of tree stakes and ties;
 - (f) Tree maintenance (fertilising, mulching, special tree requirements, stakes and ties replacements);
 - (g) Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, planter box walls etc).
 - (h) Replacement of failed, damaged or stolen trees, shrubs and groundcovers throughout the planting establishment period.
 - (4) Public Domain Landscape improvements. Prospect Street, (LGA managed road) verge strip shall be planted with one (1) Eucalyptus ficifolia "Summer Beauty" as per Rockdale Street Tree Master Plan.
 - (a) Pot size supplied shall be not less than 100 Litre. Trees provided shall conform to NATSPEC guide.
 - (b) Pit size to be 1.5 x 1.5 m. Interface with turf to be defined with hardwood.
 - (c) Tree shall be planted 3 meters away from any driveway, and 900 mm from kerb.
 - (d) Height above container 2.4 meters, calliper at 300mm greater than 50mm, with a clear trunk height of 1.5 meters.
 - (e) Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries and shall conform to NATSPEC guide.
 - (f) New street trees shall be maintained by the Owner for the duration of the first 52 weeks from final completion of landscaping works. 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 circumstance.
15. 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.
16. Occupancy
- a) Nothing in this consent authorises the use of the premises as detailed on the approved plans for any land use of the site beyond the definition of a 'Boarding House' as contained within the ARHSEPP.
 - b) The Boarding House is to operate in accordance with the requirements of the ARHSEPP. Any variation to the approved land use and occupancy of any unit beyond the scope of the above definition will require the submission of a new DA to

Council.

c) All tenants must enter into an agreement prior to commencing tenancy at the premises. The minimum period for the occupancy agreement must be three (3) months in accordance with the definition of Boarding House as contained within the ARHSEPP.

17. The Boarding House shall comply with the following:
- a) A maximum of ten (10) rooms with ten (10) beds shall be provided on the site. This includes ten (10) rooms for up to nineteen (19) lodgers at any one time.
 - The use of the communal area and room will be restricted to 8.00am and 10.00pm daily.
 - All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
 - A 24 hour/7 day a week contact number shall be provided to all immediate and nearby residential neighbours for use in the event of a disturbance. If the contact number changes, neighbouring residences shall be provided with a new telephone number within 7 days.
 - A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
 - Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
18. Plan of Management (PoM)
The Boarding House shall at all times be operated in accordance with the approved Plan of Management (PoM) submitted to Council on 11 October 2018 (except where amended by the conditions below).
- a) A copy of the approved PoM shall be displayed in the entry foyer and each of the boarding rooms at all times;
- b) A copy of the approved PoM shall be made freely available to family and visitors who frequent the facility, as well as to neighbouring property owners and local residents, if requested;
- c) The PoM shall be reviewed annually. If the PoM is updated following the review, the operator shall:
- (i) ensure that the amended PoM is consistent with the conditions of this consent;
 - (ii) provide a copy of the amended PoM to Council within 7 days of completion;
 - (iii) ensure that the amended PoM includes any additional operational requirements as required by Council.
19. Subdivision of the Boarding House is prohibited. The Boarding House shall remain in single ownership and management at all times.
20. The common room must not be used for habitable purposes.

Prior to issue of the construction certificate

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

21. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$2,640.00. 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 \$19.00.
22. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
23. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
24. A Section 7.11 contribution of **\$46,327.59** 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. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space	\$38,018.10
Community Facilities & Services	\$2,735.16
Town Centre & Streetscape Improvements	\$1,248.35
Pollution Control	\$4,056.27
Administration & Management	\$269.71

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
25. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
26. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
27. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

28. Prior to issue of the Construction Certificate, two longitudinal driveway profiles shall be submitted to Principal Certifying Authority for assessment and approval. The profiles shall start in the centre of the road and be along the critical edge (worst case) of the driveways. 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.
29. As excavation will be required 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. Prior to the issue the Construction Certificate for the relevant stage of works, a qualified practising geotechnical engineer must:
 - (a) Provide an investigation for the site in line with current geotechnical engineering standards;
 - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and will not negatively impact adjoining properties and
 - (c) 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.

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.

30. Any part of the proposed building within 3m of the proposed detention tank shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
31. Prior to the issue of the Construction Certificate, detailed drainage design plans generally in accordance with stormwater drainage plan prepared by John Romanous & Associates PTY. LTD., Drawing numbers 1138 – S1/2, S2/3, S3/3, Rev. C, dated 10.10.2018 for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. The following revisions shall be shown on the above mentioned detailed plans:
 - a) The rainwater tank volume shall be increased to at least 5000L and a catchment of at least 75% of the roof area of the development. The rainwater tank shall be designed to service all toilets, clothes washers and any external taps in accordance

with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. The overflow from the rainwater tank is to be directed to the proposed site drainage system.

b) Drainage grates shall be provided at property boundary for the driveway to Prospect Street. Drainage grates shall be provided on the rear driveway at a distance of 0.9 metres from the boundary with Union Lane. Width of all drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

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

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Prior to commencement of works

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

32. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
33. 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.

34. 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.
35. 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.
36. 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.
37. 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.
38. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures;
 - e) If the soil conditions require, retaining walls associated with the erection of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

During demolition / excavation / construction

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

- 39. 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.
- 40. 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.
- 41. 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.
42. 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.
43. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
44. 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.
45. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A 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.
46. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

47. The 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.

48. 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.
49. All existing trees located within the site may be removed.

Prior to issue of occupation certificate or commencement of use

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

50. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
51. 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.
52. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
53. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
54. At least one (1) native tree, in addition to the tree required under Condition 14 of this consent, of at least 100 litre pot size and capable of growing to a minimum height of eight (8) metres shall be planted in a suitable location within the property on completion of the building works and prior to the final inspection. That the species selected should be *Eucalyptus haemastoma*, (Scribbly Gum).
55. 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.
56. Prior to completion of the building works, two 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.
57. The width of the driveway shall be a maximum of 10m at the property boundary to Union Lane and a maximum width of 3.0 metres at the property boundary to Prospect Street.
58. Prior to occupation, the provision of a 0.9 metre wide right of footway in favour of Bayside Council along the boundary with Union Lane is to be provided. The right of footway is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. A suitable footpath of concrete construction is to be provided within the right of footway easement. Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.
59. Prior to occupation, all off-street car spaces shall be provided in accordance with the approved plan and shall be sealed and linemarked to the Principal Certifiers

satisfaction in accordance with AS/NZS 2890.1:2004. Bollard(s) shall be erected in the shared area for all accessible parking spaces. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements. Wheel stops must be provided for all off street parking spaces designed to AS/NZS 2890.1:2004.

60. 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.
61. 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.
62. 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.
63. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
64. The rainwater tanks 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.
65. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
66. 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.
67. Prior to the issue of any Occupation Certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 5000L rainwater tank in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. The rainwater tanks shall be certified as servicing the toilets, clothes washers and any external taps on the site. First flush

device shall be installed & overflow from the rainwater tank shall connect to the proposed site drainage system.

68. Prior to commencement of operations:

a) a final inspection has been carried out by Council's Environmental Health Officer and all health related requirements have been complied with.

b) The proprietor of the premises - places of shared accommodation shall provide Council with details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre.

c) The premises shall be registered with the NSW Fair Trading by the proprietor of the Boarding Houses by completing the registration form available online at www.service.nsw.gov.au and providing documentary evidence to the Principal Certifying Authority.

Roads Act

69. 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.

70. 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.

71. 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.

72. 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.
73. 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.
74. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

Development consent advice

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

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au 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)*

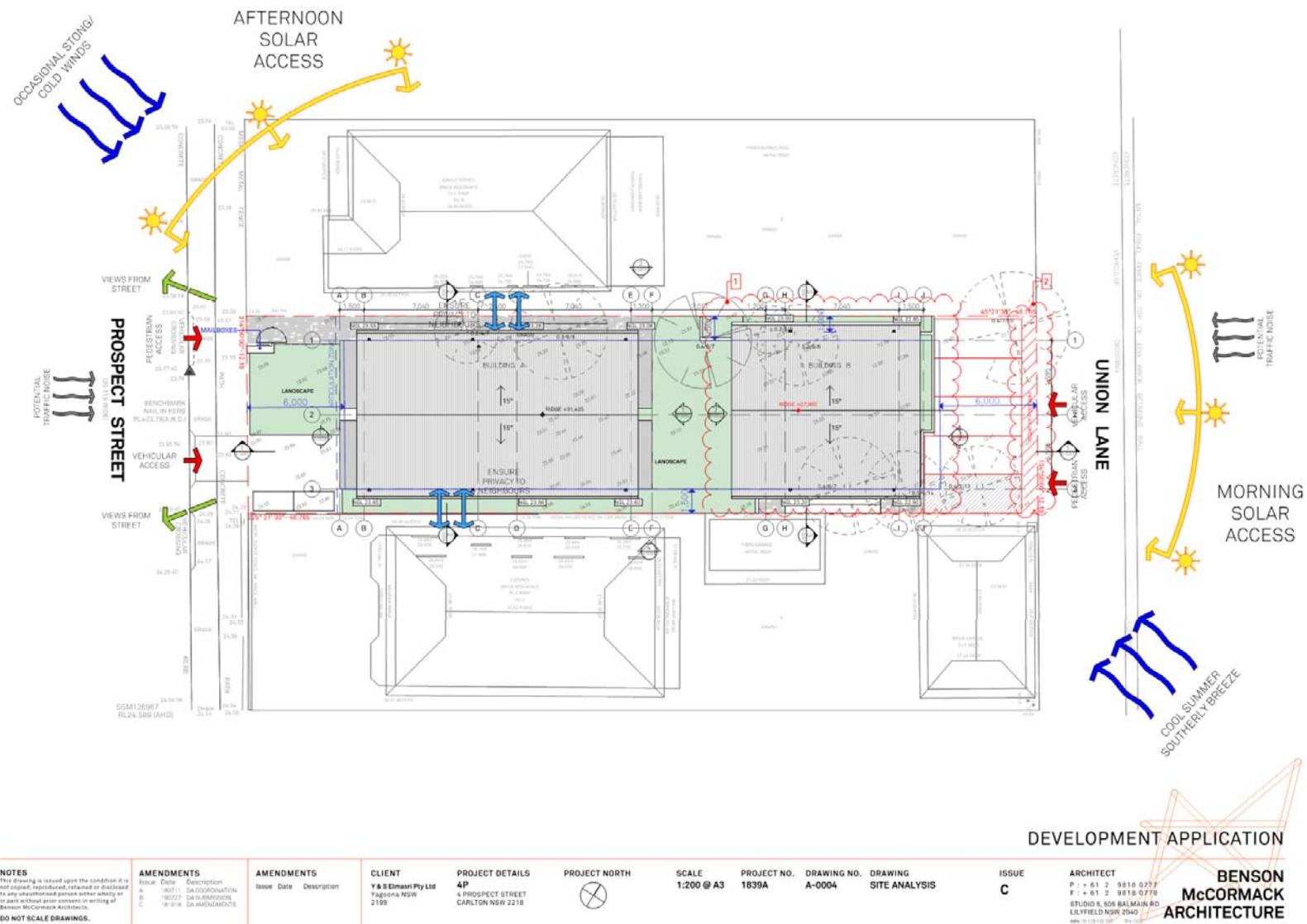
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. 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. Section 88E Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- e. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011

- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

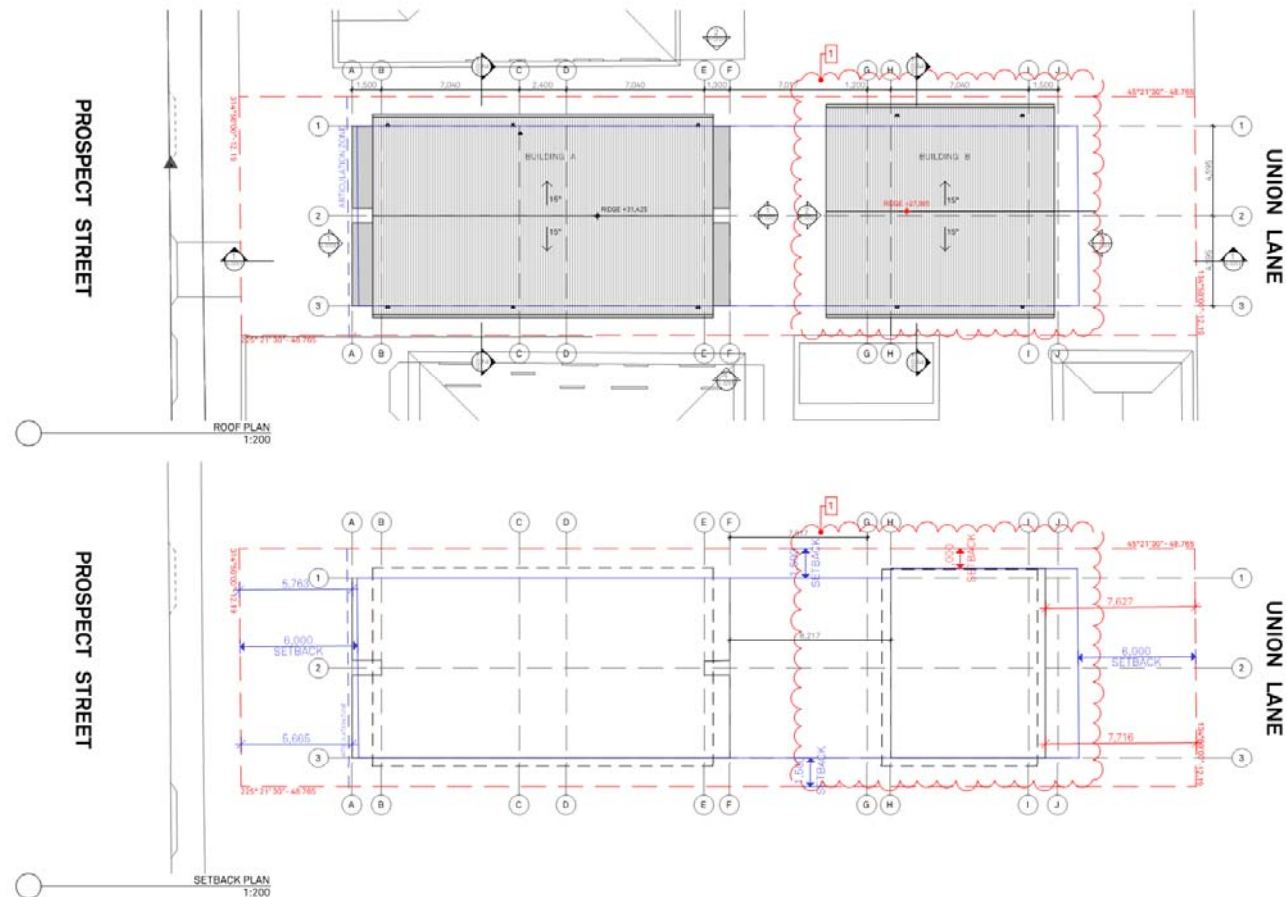
- f. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- g. 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.
- h. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- i. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's guideline - "Lead Alert - Painting Your Home".
- j. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- k. 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.



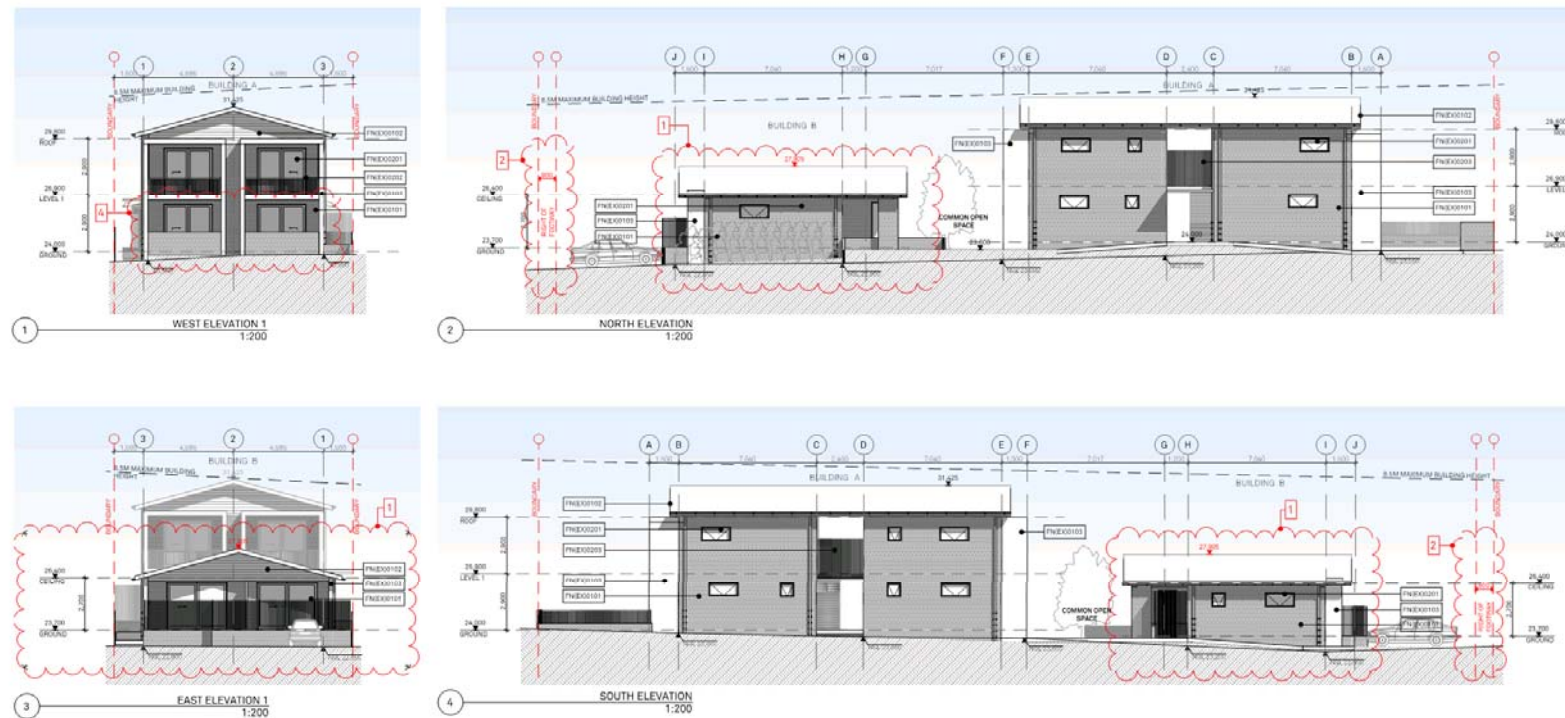


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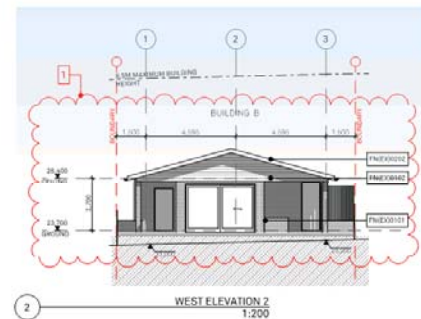
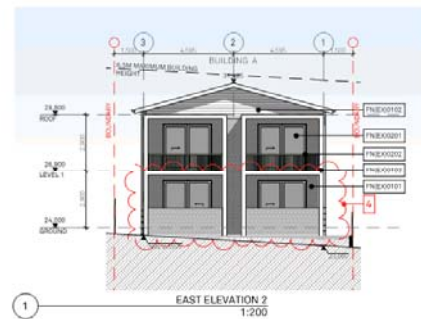
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AMENDMENTS		AMENDMENTS		CLIENT		PROJECT DETAILS		PROJECT NORTH		SCALE	
Issue Date Description		Issue Date Description		YA S S Elmslie Pty Ltd		4P				1:200 @ A3	
A 18/07/11 SA COORDINATION				Yagoona NSW		4 PROSPECT STREET				PROJECT NO. 1839A	
B 18/07/11 SA DIMENSIONS				2199		CARLTON NSW 2218				DRAWING NO. A-0102	
C 18/07/18 SA AMENDMENTS										DRAWING ROOF & SETBACK PLANS	
										ISSUE C	
										ARCHITECT	
										P : + 61 2 9818 0772	
										F : + 61 2 9818 0778	
										STUDIO 5, 505 BALMAIN RD	
										ULFIELD NSW 2040	
										ABN 16 120 152 556	
										BENSON McCORMACK ARCHITECTURE	

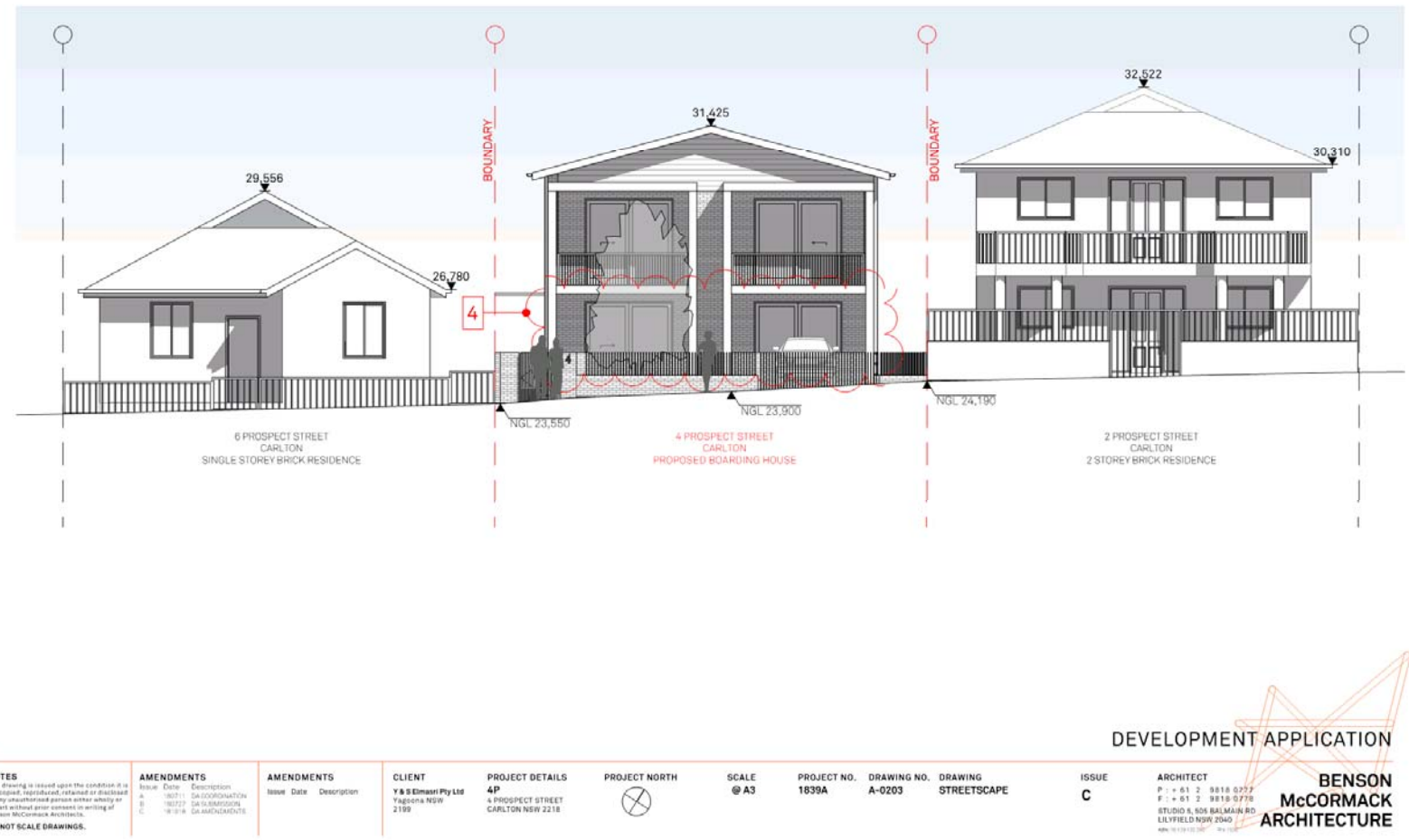


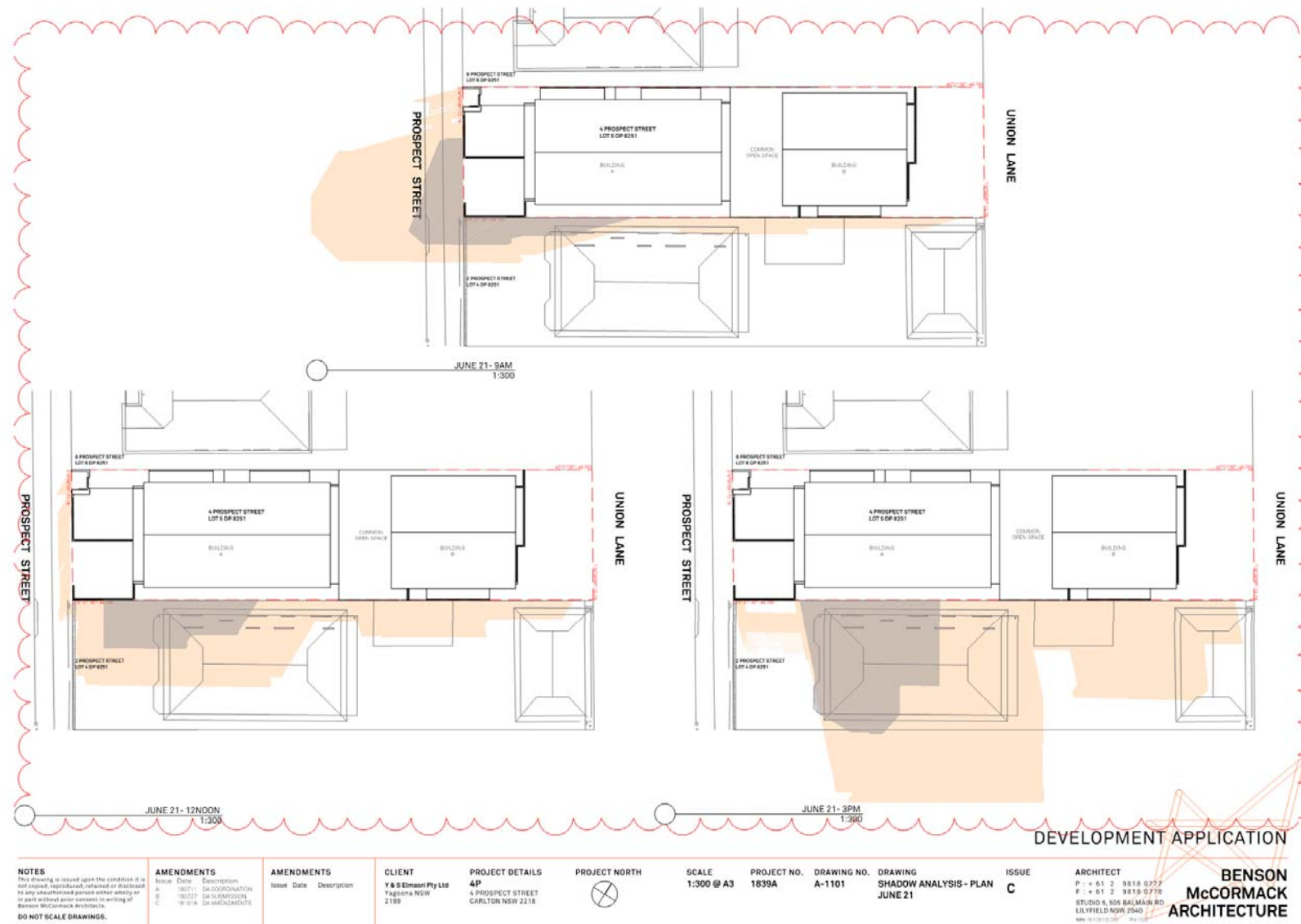
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Issue	Date	Description	Issue	Date	Description							
A	18/11/18	SA COORDINATION										
B	18/11/18	SA COORDINATION										
C	18/11/18	SA AMENDMENTS										
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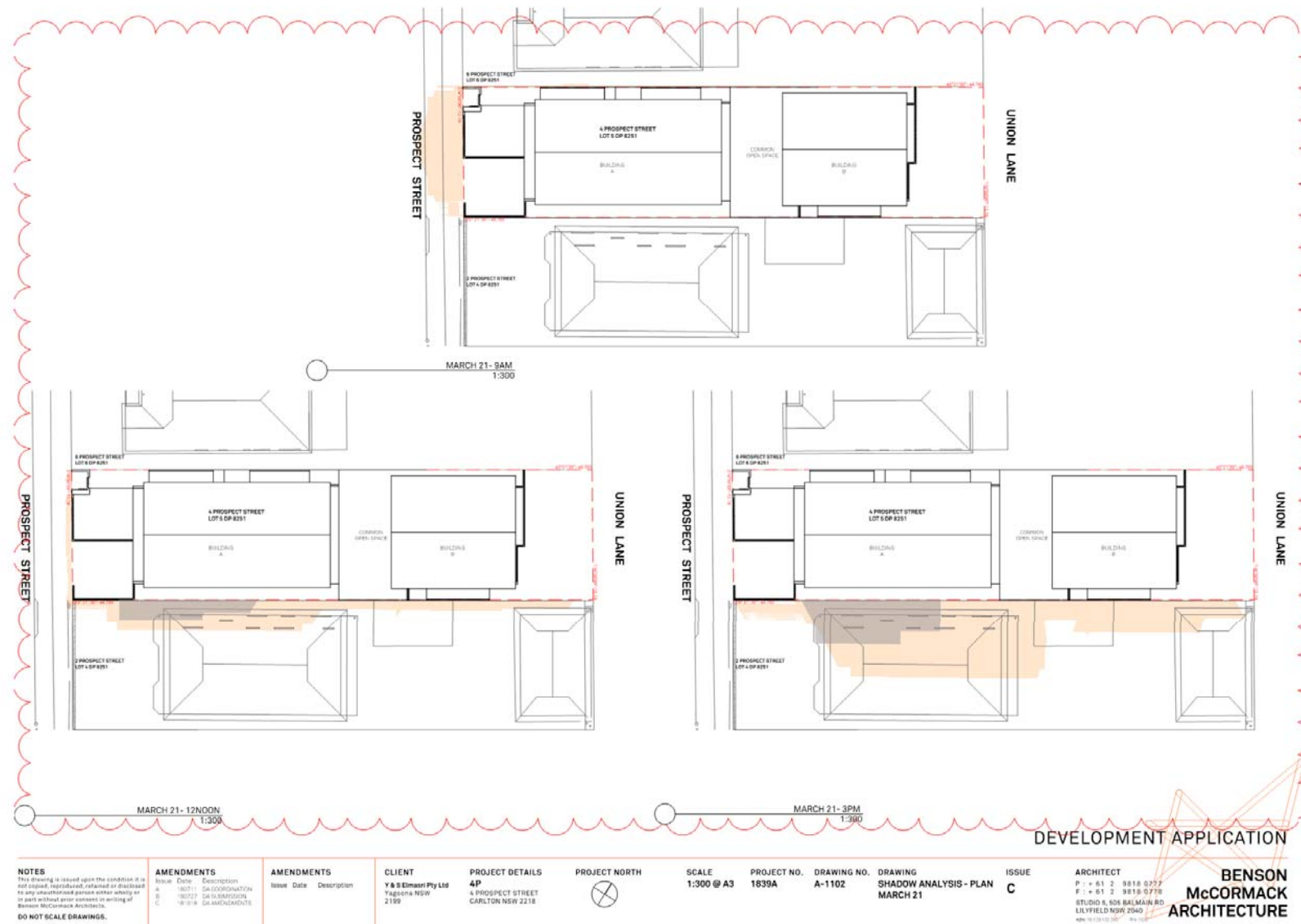


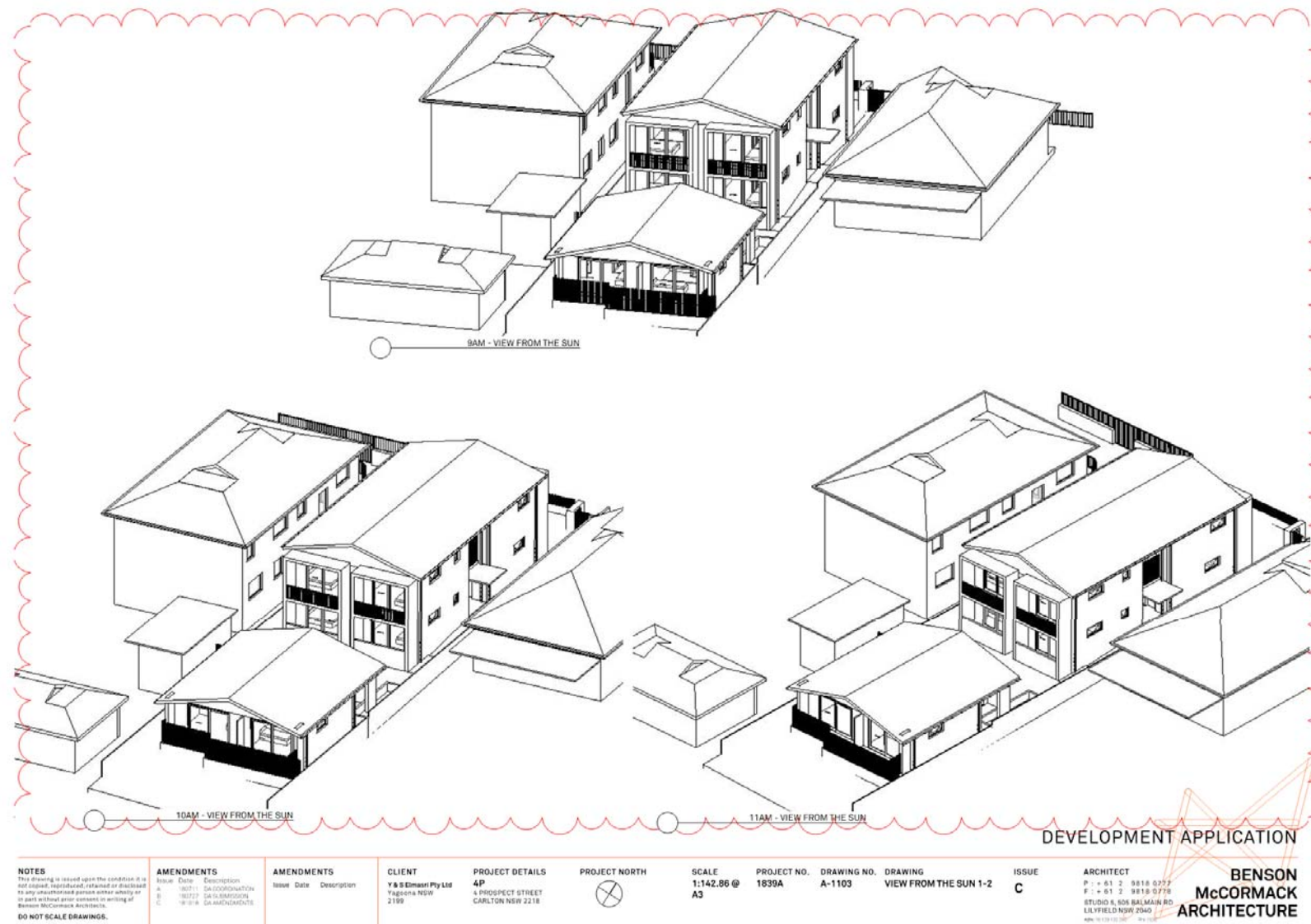
DEVELOPMENT APPLICATION									
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	PROJECT NO. 1839A		DRAWING NO. A-0202		DRAWING ELEVATIONS		ISSUE C		ARCHITECT P : + 61 2 9818 0772 F : + 61 2 9818 0778 STUDIO 5, 505 BALMAIN RD ULFFIELD NSW 2040 18/11/18 15:25:00

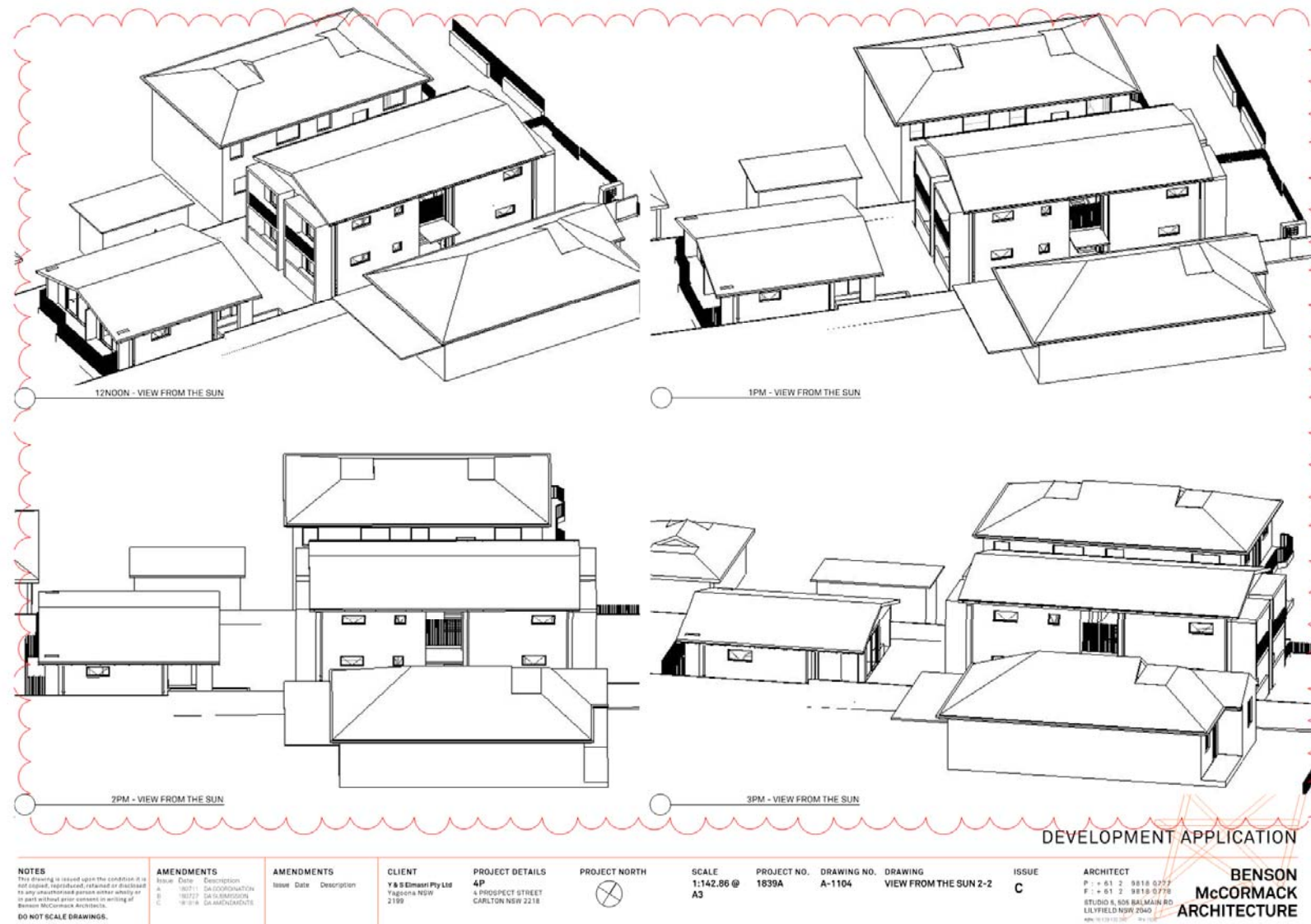


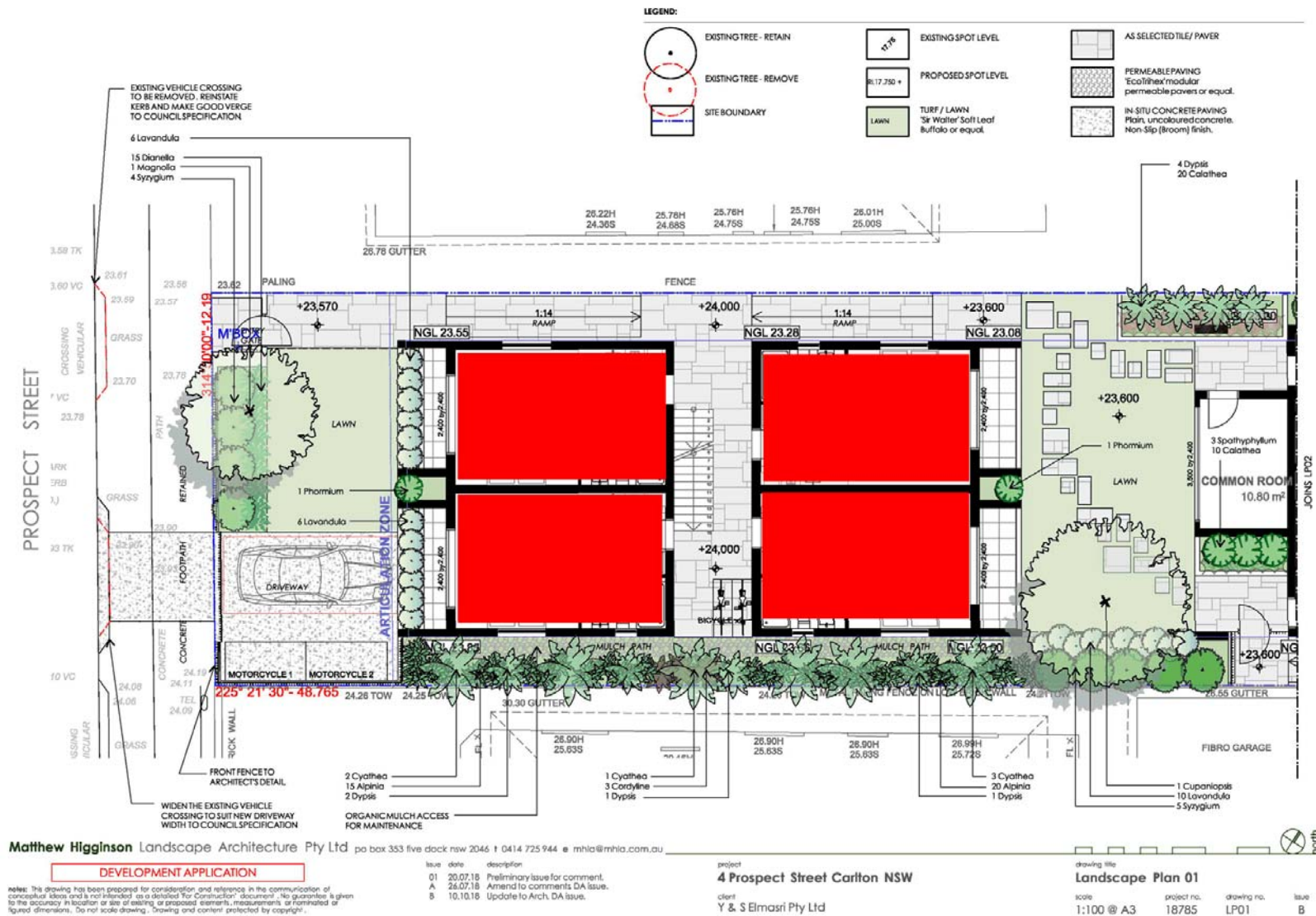














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issue	date	description
01	20.07.18	Preliminary issue for comment.
A	26.07.18	Amend to comments DA issue.
B	10.10.18	Update to Arch. DA issue.

client
Y & S Elmasri Pty Ltd

Botanic Name	Common Name	Supply Size (mm/L)	Mature Height	Mature Spread	Qty
Trees					
Cupaniopsis anacardioides	Tuckeroo	75L	6m	5m	1
Cyathea cooperii	Coih Spot Tree Fern	75L	5m	2m	6
Dypsis lutescens	Golden Cane Palm	75L	4m	2m	8
Magnolia 'Teddy Bear'	Teddy Bear Magnolia	200L	5m	3m	1
Shrubs					
Alpinia zerumbet 'Variagata'	Variagated Shell Ginger	200mm	2m	1m	35
Camelia japonica	Camellia	45L	3m	2m	8
Cordyline fruticosa 'Rubra'	Red TI plant	200mm	1m	1m	5
Lavandula 'Avonview'	Avonview Lavender	300mm	1m	1m	22
Rhaphiolepis 'Snow Maiden'	Snow Maiden Hawthorn	200mm	1m	1m	7
Spathyphyllum 'Sensation'	Sensation Peace Lily	300mm	1.5m	1m	3
Syzygium 'Pinnacle'	Pinnacle Lily Pili	45L	3m	1.5m	9
Groundcovers / Climbers / Aquatic					
Calathea zebrina	Zebra Plant	200mm	0.7m	0.7m	30
Dianella 'Breeze'	Breeze Flax Lily	150mm	0.7m	0.7m	35





01 North Elevation
Scale: 1:100



02 West Elevation
Scale: 1:100

Matthew Higginson Landscape Architecture Pty Ltd po box 353 five dock nsw 2046 t 0414 725 944 e mhla@mhla.com.au

DEVELOPMENT APPLICATION

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issue	date	description
01	2007.18	Preliminary issue for comment.
A	24.07.18	Amend to comments DA issue.
B	10.10.18	Update to Arch. DA issue.

project
4 Prospect Street Carlton NSW

client
Y & S Elmasri Pty Ltd

drawing title	project	scale	project no.	drawing no.	issue
Elevations	4 Prospect Street Carlton NSW	1:100 @ A3	18785	LP03	B



OPERATIONAL PLAN OF MANAGEMENT

This Plan of Management supersedes that originally submitted with Development Application No 2018/0209 relating to a proposed boarding house development at 4 Prospect Street, Carlton. This development providing ten (10) self-contained rooms, communal facilities and on-site parking for five (5) cars, two (2) motorcycles and two (2) bicycles.

The Operator of the boarding house is to implement and comply with the requirements of the Plan of Management, as well as all conditions of development consent that may be issued for the boarding house by Bayside Council.

The Objectives of the Operational Plan of Management are:

- a) To detail the nature of the operation and to ensure compliance with all conditions of development consent issued by Bayside Council.
- b) To ensure safety of all residents of the boarding house.
- c) To provide a comfortable and harmonious residential environment for residents.
- d) To ensure that the premises is properly maintained and operates in a manner which maintains a high level of amenity.
- e) To ensure that there are no adverse impacts arising from the premises on any adjoining property or the neighbourhood.

The Plan:

- a) Identifies the everyday operation of the premises.
- b) Establishes a monitoring system that ensures the objectives of this plan are met.
- c) Establishes "House Rules" for all persons who stay within the premises.
- d) Ensures procedures are in place to facilitate ongoing communication with the neighbours, Police, Bayside Council and Management of the premises, to resolve any operational issues that may arise.

This Plan of Management is divided into three sections. These are as follows:

Section I: Operational Matters.
Section II: Monitoring / Complaints.
Section III: House Rules.

Attachments:

Attachment A: Standard Occupancy Agreement

Attachment B: Accommodation Register

Attachment C: Complaints Register

Section I: OPERATIONAL MATTERS**PART 1 - General Parameters for the Boarding House:**

1. The premises is to operate as a registrable boarding house for the purposes of the NSW *Boarding Houses Act 2012* and the operation of the boarding house is to be in compliance with the Act at all times.

2. The premises is not to offer any alternative type of accommodation or be used for any purpose other than as a registrable boarding house.

PART 2 – Boarding House Operator:

1. The owner/operator of the premises is to achieve the objectives set out in the Introduction of this Operational Plan of Management.

2. The particular responsibilities of the Boarding House Operator will include:

a. Accepting and assessing applications for residence.

b. Enforcing House Rules:

- The Boarding House Operator has the authority to evict a resident who is refusing to comply with the House Rules set out in Section II. (Refer to Clause 11 of the 'Standard Occupancy Agreement' at Attachment A).

- Other than in exceptional circumstances (i.e. in order to protect the safety of other residents), prior to eviction, the Boarding House Operator is to issue the resident/s with a Notice of Intent to Evict. A standard wording for the Notice is to be provided by the owner/operator. In preparing the standard wording of the Notice, it is recommended that the owner/operator consults a lawyer to ensure legal correctness. The standard wording is to be altered to reflect the particular circumstances of the case.

- The Notice of Intent to Evict must provide the resident/s with an opportunity to modify their behaviour so as to avoid eviction. However, if the resident/s does not modify their behaviour in response to the Notice of Intent to Evict, the owner/operator may engage a security firm to implement the eviction.

c. Cleaning common areas:

- The owner/operator must ensure that the common room is kept in a clean and tidy state, including daily vacuuming/mopping.

- The common area is to be maintained by the owner/operator and is to be cleaned to a professional standard at least once a week.

- The owner/operator is to ensure that wastes are properly contained within the bins within the waste area. Bins are to be taken to the street for collection as required.

- The owner/operator is to ensure that any rubbish left around the site is properly disposed of. Appropriate signage will be installed around the premises to this effect.

d. Attending to any resident complaints

- If residents, either within the development or from surrounding residents, have complaints of enquiries, the owner/operator will listen to and address those. If required, the owner/operator will liaise between residents and surrounding residents.

e. Preparation of rooms for new residents

- When a room becomes vacant, the owner/operator is to ensure that the room is cleaned and ensure that the fixtures, fittings and furniture are in good order and if otherwise, replace or repair items as required.

f. General maintenance

- If minor repairs or replacement of items is required, such as replacing light bulbs in common areas and the like, the owner/operator is to attend to these. A small toolkit and general maintenance supplies will be provided and are to be kept in the communal facilities room.

3. With the exception of an initial security deposit (see below for details) the owner/operator or listing managing agent is not required to accept payments from residents. Rental payments are to be organised through electronic means and paid directly to the nominated account of the owner/operator of the Boarding House.

4. The owner/operator must not discriminate against residents on grounds of their race, religious beliefs, ethnicity, gender, sexual orientation or age. The Boarding House Manager must treat residents in a respectful manner and must not under any circumstances, use physical violence.

5. The owner/operator must not use illegal drugs or engage in any illegal activity.

PART 3 – Administration:

1. Any person who is to occupy a room in the boarding house is to sign an Occupancy Agreement. The Occupancy Agreement that will be used on site is based on the Standard Occupancy Agreement for General Boarding Houses under the NSW *Boarding Houses Act 2012* (refer to Attachment A). The owner/operator of the boarding house, or their delegate is also required to sign the Agreement.

2. Prior to entering into an Occupancy Agreement, the Boarding House operator, is to provide the prospective boarder/s with a copy of the Occupancy Principles within Schedule 1 of the *Boarding Houses Act 2012* (N.B. This is provided at Annexure 1 of the Standard Occupancy Agreement at **Attachment A**).

3. The Boarding Operator, is to provide a copy of this Operational Plan of Management to all new residents at the time that they sign an Occupancy Agreement. The Boarding House Operator is to advise the new resident/s that they must read and understand the resident obligations that are set out in the Operational Plan of Management. The new resident/s must sign a statement to the effect that they understand and will abide by those resident obligations.

4. Prior to entering into an Occupancy Agreement, prospective residents are to be advised that they may potentially be evicted if they breach the resident obligations.

5. Prior to entering into an Occupancy Agreement, all prospective residents are to provide photographic identification ("ID") (typically a driver's license or a passport) to confirm their identity. The Boarding House Operator is to enter the particulars of the ID (for example, the driver's license number or Passport number) in the Boarding House Accommodation Register (**Attachment B**).

6. Prior to entering into an Occupancy Agreement, all prospective residents are to provide the Boarding House Operator with next of kin details for emergency purposes. Next of kin details are to be kept by the Boarding House Operator for the entire duration of the lodgers stay.

7. Prior to entering into an Occupancy Agreement, the Boarding House Operator is to confirm with a prospective resident that they are obligated to reside within the boarding room for a period of no less than three months.

8. Prior to entering into an Occupancy Agreement, the Boarding House Operator is to advise prospective residents of the fees, including any applicable utility charges, prior to entering into any occupancy agreements.

9. Upon entering into an Occupancy Agreement, the Boarding House Operator is to accept a security deposit, amounting to two weeks of the occupancy fees and is to provide a receipt for that amount to the new resident/s.

10. Upon execution of an Occupancy Agreement, the Boarding House Operator is to enter the details of the new resident/s into the Boarding House Register (**Attachment B**), is to provide the resident/s

with a copy of the signed Occupancy Agreement and is also to keep a copy of the signed Occupancy Agreement in a secure location.

11. Upon a resident ceasing to occupy a boarding room, the security deposit, less any deductions authorised by the *Boarding Houses Act 2012*, is to be paid to the resident within 14 days of the date upon which the resident ceases to occupy the boarding room.

PART 4 – Signage:

The following signage must be conspicuously installed and maintained at the premises:

1. The name and 24 hour contact number of the Boarding House Operator must be displayed externally at the front of the premises, as well as in the in the ground floor lobby area.
2. 'No Smoking' or 'Smoke Free Premises' signage is to be displayed in all common areas of the premises.
3. The House Rules shall be displayed in the common area of the premises.
4. The minimum length of stay of any guest shall be displayed in public view outside the premises.
5. A schedule showing the numerical designation of each boarding room and the maximum number of persons permitted to be accommodated in each room must be displayed in the reception area.

PART 5 - Noise Management Measures:

1. The use of the outdoor communal area should be limited to a maximum of 19 people at any one time or as otherwise stipulated by Bayside Council as a condition of consent.
2. Access to the outdoor communal area should be restricted to no later than 10pm.
3. Amplified and/or canned music is not be played in the outdoor communal areas.
4. When noisy activities are occurring in the indoor communal living areas, doors and windows must be closed. The volume of the television or any noise generating device must be kept within reasonable levels.

PART 6 - Off Street Parking:

1. Off street parking is provided for the use of all residents on a 'first-in, first served' basis.
2. Cars, bicycles and motorcycles are to be parked in the allocated areas.
3. No car or motorcycle is to remain in a parking space, without being moved, for a period of longer than 72 hours.

PART 7 - General Cleanliness, Hygiene and Waste Management:

1. The Boarding House Operator or allocated person is to regularly inspect the premises and organise for daily cleaning of the common areas. All garbage receptacles in common areas are to be emptied daily.
2. Pest control inspections are to be carried out on a yearly basis as a minimum.
3. The waste and recycling bin storage area shall be kept in a clean and tidy manner. This area shall be thoroughly cleaned by the Boarding House Operator or allocated person on a weekly basis.
4. A minimum bi-weekly collection of waste and recycling is to be carried out by the nominated waste contractor.
5. A 'No Smoking' Policy inside all boarding rooms and the communal room will be applied on the premises.

6. All boarding rooms accommodate laundry and drying facilities. Residents will be responsible for the cleaning of personal items and clothing. Regular cleaning of linen will be carried out for each boarding room as considered reasonable and appropriate.

PART 8 - Security:

1. Residents must make sure their guests are aware of, and abide by the House rules.
- 2 The owner/operator must not enter residents' rooms other than as allowed under the Act.
- 3 Security cameras are permitted to be installed in the common areas.
- 4 All residents are to be provided with a security key / swipe card (or similar) upon arrival. The security key / swipe card must provide 24 hours access into the premises, to each respective level and entry to individual residents' rooms.

PART 9 - Door locks and keys:

1. Residents must not tamper with (or change) any locks on the premises, or make copies of or obtain additional security keys / swipe cards without the permission of the Boarding House Operator.

PART 10 - Room Capacities:

1. The capacity of each boarding room shall not exceed the maximum number of residents as imposed by any conditions of consent by Bayside Council.
2. There is to be no more than 2 residents residing in any one double room and there is to be no more than 1 resident residing in any one single room residing within the premises at any one time.

PART 11 - Building Services and Fire Safety Procedures:

1. In the instance of an emergency evacuation, residents shall be directed to emergency exits and the emergency assembly point.
2. Smoke Detectors are to be installed in every boarding room, communal room and all internal common areas.
- 3 In the event of a fire, the fire alarm will sound. An assembly point will be designated for residents.
- 4 An emergency evacuation plan prepared by a competent person shall be prepared and that emergency evacuation plan shall be displayed in each boarding room and in the common area.
- 5 All material installed in the fit out and furnishing of the rooms shall be of a type that resists the spread of fire and limits the generation of smoke.
- 6 An Annual Fire Safety Statement is to be submitted to Council and the Commissioner of the NSW Fire Brigade. A copy of the Annual Fire Safety Statement is to be displayed in the common area. The premises shall at all times comply with the fire safety provisions of the *NSW Environmental Planning and Assessment Regulation 2000*.
- 7 A list of emergency telephone numbers (plumbers, electricians, police, fire, ambulance) is to be provided within each boarding room.
- 8 Annual certification of fire safety equipment is to be carried out by the operator of the boarding house.
- 9 All doors to the boarding rooms and the external doors to the boarding house shall be lockable. The doors to the boarding house shall be self-closing and will be locked from the outside but will be openable from within the boarding house without the need for a key. All doors to the boarding rooms shall be self-closing and shall be lockable but shall be openable from the inside without the need for a key.

PART 12 - Review of Plan of Management, Noise Management Procedures or House Rules:

-If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this Plan for the better management of the premises, subsequent to that modification Bayside Council shall be provided with a copy of the modified Plan.

Section II: MONITORING/COMPLAINTS

To ensure that all complaints are appropriately recorded and acted upon, a Complaint Monitoring System has been established as part of this Plan.

A copy of the Operational Plan of Management is to be made available for inspection by any person who makes a request to the Boarding House Operator to view the document.

In the case where a lodger/resident or land owner/occupier adjacent to the premises believes that they have cause to make a complaint, it may be made to the Boarding House Operator by one of the following means:

- Telephone
- Mobile Phone
- Email
- Facsimile
- Mail

The Boarding House Operator is to take all necessary and timely action to rectify the matter and is to notify the complainant of the action taken to rectify the problem.

To assist in the investigation of the potential problem, it is suggested the following information be provided to the Operator of the operation:

- Exact nature and details of the incident;
- Date and time of the incident; and
- The full name and address of the complainant.

The details are to be recorded once a complaint has been actioned and a record kept on site and made available on request to demonstrate compliance in what is labelled as the "Complaints Register".

A pro forma providing an example of the information required to be kept is provided at **Attachment C**.

The Complaints Register is to be tabled at any internal Management meetings, or when any further action is required to be initiated and/or responsibilities allocated.

In receiving a complaint from a neighbouring resident/land owner, the Boarding House Operator is to adhere to the following guidelines:

1. When taking a telephone call or a personal visit, ensure that you remain polite and the visitor or enquirer is given every reasonable assistance.
2. If the comment/complaint is about a problem that is actionable immediately, appropriate action is to be taken to alleviate the problem immediately and the details are given to Management.
3. If the problem is not actionable immediately, the resident/landowner is to be contacted and informed of the progress and anticipated timeframe for action of their complaint.
4. Once all actions are completed, the matter is recorded and filed in a central Register the held by the Boarding House Operator.

5. If a message is received on a mobile phone, the resident/landowner's call is to be returned as soon as possible and the recording and follow up procedures as outlined above are to be followed.
6. The NSW Police are to be made aware of any complaints of a criminal nature.

Section III: HOUSE RULES

The following house rules apply. The rules consist of behavioural requirements as well as operational issues that need to be managed on site at all times. They are in no particular order of importance.

The House Rules may be amended by the owner/operator and/or the boarding house Management in order to resolve issues that arise due to operational matters that come from complaints, including general management changes required as part of the everyday running of the premises.

The House Rules are to be displayed in each room and in all common areas and will form part of the tenant's agreement that are signed by all occupants.

The House Rules are as follows:

PART 1 - Resident and guest behaviour:

1. Only the residents who have signed an Occupancy Agreement shall occupy a boarding house room.
2. All visitors of residents are to leave the premises by 10pm nightly.
3. Residents and their guests must not interfere with the reasonable peace, comfort and privacy of other residents. After 10pm every night, expectations of reduced noise levels are heightened. Accordingly, music, television and the like is to be lowered in volume so that it is not audible from outside the room. If a neighbouring resident/s complains that the noise is audible from their rooms, the noise generating activity is to be ceased.
4. The possession of and/or use of illegal drugs on the premises is prohibited. The possession and/or usage of illegal drugs will lead to eviction and police reporting and prosecution.
5. Residents must act in a responsible and considerate manner at all time. The consumption of alcohol in common areas is not permitted. Drunken behaviour may result in eviction.
6. The premises is Smoke-free and as such, smoking is not permitted inside the rooms or in any communal recreation or common areas and any open space of the building.
7. No parties are permitted on the premises.
8. All activities within the building including music are to be confined so it does not exceed 3dB above the background level between the hours of 10pm to 7am.
9. Anti-social behaviour is unacceptable. This includes threatening or demeaning any person within the building. Residents may not make comments to one another that are of a derogatory nature, on the basis of the other person's appearance, race, gender, sexual orientation, religion or ethnicity. Damage to any property, graffiti, theft of any property, physical or sexual harassment, or loud and rowdy noise can result in eviction and police intervention.
10. Residents are not permitted to walk around the premises in any state of undress and are to be respectful of other cultures.
11. Residents are to contain their general rubbish within a liner within the bins provided. When full or as required, the liners are to be tied and disposed of in the communal waste receptacles. Residents are to contain recycling, including recyclable containers and clean paper, within the communal recycling receptacles provided. For reasons of hygiene, containers should be lightly washed before disposal, as no liners may be used.

PART 2 - Maintenance of rooms:

1. Residents must maintain their rooms in a way that does not interfere with the reasonable comfort of other residents, and in a way that does not create a fire or health hazard. Residents must not intentionally or recklessly damage, destroy or remove any part of their rooms or facility/fixture in their rooms.
2. Residents are to keep their rooms' clean and tidy at all times. Kitchenettes and bathrooms are to be kept in a hygienic condition and floors are to be vacuumed regularly (a minimum of once per fortnight) to avoid an excessive accumulation of dust.
3. Burning of candles/incense is not permitted.
4. In the event any resident or their visitors causes wilful damage to any area, texture, fitting or furniture in the premises, the cost of repair or replacement will be met by that person, including any damage created in common areas.
5. Residents are responsible for the security of their money and other valuables all times and the owner/operator will not be responsible for any theft of personal property, or for any loss suffered by any resident or visitor.

PART 3 - Common areas:

1. Common areas are to be available to be shared by all residents and their guests at all times. Residents are to ensure that they and their guests leave common areas neat, clean and tidy after using them.
2. Residents are not to store personal items/goods in common areas of the site and must ensure that common areas are maintained in a cleanly state.
3. The use of the outdoor communal area is restricted to between 6am and 10pm Monday to Saturday and between 8am and 10pm Sundays and Public Holidays.
4. Access to the indoor communal areas is to be restricted from 10pm to 7am to reduce the potential for noise impact to other guests.
5. Any damages or required repairs to common areas must be promptly reported to the Boarding House Operator.

PART 4 - Animals:

1. No animals or pets are allowed anywhere within the premises.

Attachment A – Standard Occupancy Agreement

STANDARD OCCUPANCY AGREEMENT
For general boarding houses under the *Boarding Houses Act 2012*

Between	
Proprietor	
Resident	
For	
Room	Address

The resident's room is: unfurnished ☐ furnished ☐ (if furnished, an inventory can be attached)

Other areas of the premises which are available for use by the resident

Kitchen/s ☐ Bathroom/s ☐ Common room ☐ Laundry ☐

Other _____

Term of Contract			
Commencement Date	Term of agreement (if any)	Occupancy Fee	To be paid
		\$ _____ per week/month/year	

Proprietor's Contact Details	
------------------------------	--

AGREEMENT TERMS**1. Condition of the Premises (refer to occupancy principle 1 – see Annexure 1)**

The proprietor agrees to provide and maintain the premises so that they are in a reasonable state of repair, are reasonably clean and reasonably secure.

2. House Rules (refer to occupancy principle 2)

The resident agrees to comply with the House Rules of the boarding house, which are listed on the attached "Statement of House Rules." House rules may not be inconsistent with the Occupancy Principles stated in Annexure 1, and are not enforceable if they are inconsistent.

3. No Penalties (refer to occupancy principle 3)

The resident is not required to pay a penalty for a breach of this Occupancy Agreement or the House Rules.

4. Quiet Enjoyment (refer to occupancy principle 4)

The proprietor agrees to take all reasonable steps to enable the resident's quiet enjoyment of the premises.

5. Inspections and Access (refer to occupancy principle 5)

The proprietor may inspect boarding house common areas at any reasonable time. Repairs, cleaning and maintenance of common areas can be carried out at reasonable times.

The proprietor may only enter the resident's room, at a reasonable time, with reasonable notice and on reasonable grounds. Agreed access and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.

Reason For Access	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
In an emergency, or to carry out emergency repairs or inspections	Immediate access	Immediate access*
To clean the premises	24 hours	
To carry out repairs	24 hours	
To show the room to a prospective resident	24 hours	
To carry out inspections	48 hours	

* Immediate access is likely to be necessary in this situation for safety reasons.

6. Notice of Fee Increase (refer to occupancy principle 6)

The resident is entitled to 4 weeks written notice of any increase in the occupancy fee.

7. Utility Charges (refer to occupancy principle 7)

The proprietor may charge an additional amount for utilities if the resident is made aware of this on signing this agreement. Details of the charge, including how the charge will be calculated, are included in Annexure 2, and Annexure 2 must signed and dated by the resident and the proprietor.

Charges for utilities must be based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

8. Security Deposit (refer to occupancy principle 8)

A security deposit of \$_____ is payable to the proprietor, this amount being no more than the sum of two (2) weeks occupancy fee. The security deposit is payable on the day the agreement is signed or on the following day. The security deposit will be repaid to the resident within 14 after the end of this agreement, less any amount necessary to cover:

- the reasonable cost of repairs to the boarding house or goods that come with it, as a result of damage (other than fair wear or tear) caused by the resident and their guest;
- any occupancy fee or other charges owing and payable under this Agreement or the Boarding Houses Act 2012;
- the reasonable cost of cleaning any part of the premises occupied by the resident and not left reasonably clean by the resident, having regard to the condition of the premises at the commencement of the occupancy; and
- the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor.

9. Dispute Resolution (refer to occupancy principle 11)

The proprietor and the resident agree to use their best endeavours to informally resolve any disputes between them that arise from this agreement. Either party may apply to the Consumer Trader and Tenancy Tribunal to resolve a dispute about the Occupancy Principles (see Annexure 1).

10. Written Receipts (refer to occupancy principle 12)

The proprietor agrees to provide the resident with a written receipt for all money paid to the proprietor, including money paid for occupancy fees, a security deposit and for any utility charges. The receipt should be provided within a reasonable time period after the payment is received.

11. Termination (refer to occupancy principles 9 and 10)

The resident is entitled to know why and how this Occupancy Agreement may be terminated, and how much notice will be given before termination. The resident may not be evicted without reasonable written notice from the proprietor.

This Agreement can also be terminated by the resident by written notice given to the proprietor. Agreed reasons for termination and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.

Reason for Termination by Proprietor	<i>Suggested Notice Period examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement (if different)
Violence or threats of violence towards anyone living, working or visiting the premises	<i>Immediate</i>	<i>Immediate*</i>
Wilfully causing damage to the premises, or using the premises for an illegal purpose	<i>1 day</i>	
Continued and serious breach of this Agreement or the house rules, following a written warning	<i>3 days</i>	
Continued minor breach of this Agreement or the house rules, following a written warning	<i>1 week</i>	
Non-payment of the occupation fee	<i>2 weeks</i>	
Any other reason, including vacant possession required and "no grounds" termination	<i>4 weeks</i>	

*Immediate termination is likely to be necessary in this situation in order to protect other residents and employees.

Reason for Termination by Resident	<i>Suggested Notice Period examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement (if different)
Serious breach of Agreement by proprietor	<i>1 day</i>	
Minor breach of agreement by proprietor	<i>1 week</i>	
No grounds/Any other reason	<i>1 week</i>	

12. Use of the Premises

The resident agrees not to wilfully or negligently cause damage to the premises or to use the premises for an illegal purpose and to respect other residents' rights to quiet enjoyment of the premises.

NOTE: Any term of this Agreement is not enforceable if it is inconsistent with the Occupancy Principles set out in Schedule 1 of the *Boarding Houses Act 2012*. The Occupancy Principles are attached at Annexure 1.

Signed: _____
(Proprietor)

Signed: _____
(Resident)

Date: _____

Date: _____

OPTIONAL INFORMATION

The resident may provide contact details to be used in an emergency

PERSONAL PHONE No/s: _____

EMERGENCY CONTACT PERSON

NAME: _____ RELATIONSHIP: _____

PHONE and/or ADDRESS: _____

Annexure 1**Occupancy principles**

NB: These principles are contained in Schedule 1 of the *Boarding Houses Act 2012* and apply to residents of NSW boarding houses which are covered by this Act.

1. State of premises

A resident is entitled to live in premises that are:

- (a) reasonably clean, and
- (b) in a reasonable state of repair, and
- (c) reasonably secure.

2. Rules of registrable boarding house

A resident is entitled to know the rules of the registrable boarding house before moving into the boarding house.

3. Penalties for breaches of agreement or house rules prohibited

A resident may not be required to pay a penalty for a breach of the occupancy agreement or the rules of the registrable boarding house.

4. Quiet enjoyment of premises

A resident is entitled to quiet enjoyment of the premises.

5. Inspections and repairs

A proprietor is entitled to enter the premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes.

6. Notice of increase of occupancy fee

A resident is entitled to 4 weeks written notice before the proprietor increases the occupancy fee.

7. Utility charges

(1) The proprietor is entitled to charge a resident an additional amount for the use of a utility if:

- (a) the resident has been notified before or at the time of entering the occupancy agreement of the use of utilities in respect of which the resident will be charged, and
- (b) the amount charged is based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

(2) A utility for the purposes of this clause is each of the following:

- (a) the supply of electricity,
- (b) the supply of gas,
- (c) the supply of oil,
- (d) the supply of water,
- (e) the supply of any other service prescribed by the regulations.

8. Payment of security deposits

(1) The proprietor may require and receive a security deposit from the resident or the resident's authorised representative only if:

- (a) the amount of the deposit does not exceed 2 weeks of occupancy fee under the occupancy agreement, and
- (b) the amount is payable on or after the day on which the resident (or the resident's authorised representative) enters the agreement.

(2) Within 14 days after the end of the occupancy agreement, the proprietor must repay to the resident (or the resident's authorised representative) the amount of the security deposit less the amount necessary to cover

the following:

- (a) the reasonable cost of repairs to, or the restoration of, the registrable boarding house or goods within the premises of the boarding house, as a result of damage (other than fair wear and tear) caused by the resident or an invitee of the resident,
- (b) any occupation fees or other charges owing and payable under the occupancy agreement or this Act,
- (c) the reasonable cost of cleaning any part of the premises occupied by the resident not left reasonably clean by the resident, having regard to the condition of that part of the premises at the commencement of the occupancy,
- (d) the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor,
- (e) any other amounts prescribed by the regulations.

(3) The proprietor may retain the whole of the security deposit after the end of the occupancy agreement if the costs, fees or charges referred to in subclause (2) (a)–(e) are equal to, or exceed, the amount of the security deposit.

(4) In this clause:

security deposit means an amount of money (however described) paid or payable by the resident of a registrable boarding house or another person as security against:

- (a) any failure by the resident to comply with the terms of an occupancy agreement, or
- (b) any damage to the boarding house caused by the resident or an invitee of the resident, or
- (c) any other matter or thing prescribed by the regulations.

9. Information about occupancy termination

A resident is entitled to know why and how the occupancy may be terminated, including how much notice will be given before eviction.

10. Notice of eviction

(1) A resident must not be evicted without reasonable written notice.

(2) In determining what is reasonable notice, the proprietor may take into account the safety of other residents, the proprietor and the manager of the registrable boarding house.

(3) Subclause (2) does not limit the circumstances that are relevant to the determination of what is reasonable notice.

11. Use of alternative dispute resolution

A proprietor and resident should try to resolve disputes using reasonable dispute resolution processes.

12. Provision of written receipts

A resident must be given a written receipt for any money paid to the proprietor or a person on behalf of the proprietor.

Annexure 2

SCHEDULE OF ADDITIONAL CHARGES

ITEM	AMOUNT	WHEN DUE TO BE PAID	HOW CALCULATED

NOTE:

- This schedule is only for use if there are fees or charges in addition to the occupancy fee.
- This schedule forms part of the Occupancy Agreement when signed and dated by both parties.
- A receipt is to be provided to the resident for all payments of additional fees or charges made by the resident, within a reasonable time after the payment is received.
- Charges for utilities must comply with Occupancy Principle 7.

Signed: _____
(Proprietor)

Signed: _____
(Resident)

Date: _____

Date: _____

Attachment B: Accommodation Register[illegible]

Attachment C: Complaints Register

Complaints Register		
Date:	Time:	Register Form No.:
Nature of Complaint:		
Name, Address and contact number of person / Police / Council reporting complaint:		
Name of staff on Duty:		
Action Taken:		
Outcome / Further Actions:		



STATEMENT OF ENVIRONMENTAL EFFECTS

Demolition of existing dwelling and ancillary structures and the construction of a ten (10) room boarding house.

Address: 4 Prospect Street, Carlton

Prepared for: Y & S Elmasri Pty Ltd

Date: 25 July 2018



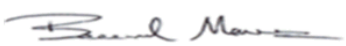
CONTACT			
Bernard Moroz	Managing Director	bernard@bmaurban.com	+61 2 80678644
This document has been prepared by:			
			
Bernard Moroz			
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1. Introduction

This Statement of Environmental Effects (SEE) has been prepared for Y & S Elmasri Pty Ltd by Bernard Moroz & Associates Pty Ltd – (hereafter referred to as BMA Planning).

This report is to accompany a development application to Bayside Council seeking consent for the demolition of the existing dwelling and ancillary structures and the construction of a two-storey boarding house containing ten (10) boarding rooms, one (1) common room and at grade car parking for five (5) vehicles and two (2) motorcycles at 4 Prospect Street, Carlton.

The boarding house will be a registrable general boarding house under the Boarding Houses Act 2012.

So that it is clear to neighbours and Council, the proposal does not include any regulated assisted boarding house component. It will not be seeking licencing to service age related frailty; a mental illness and/or any intellectual, psychiatric, sensory or physical disability, or need to support or supervise daily tasks or provide personal care such as showering, preparing meals or managing medication. There will be provision for accessible units but occupants will not be offered or provided with any formal assistance.

Note: In accordance with section 5(3) of the Boarding House Act 2012 a general boarding house does not include an of the following:

- (a) a regulated assisted boarding house,
- (b) premises that are used as a hotel, motel or bed and breakfast accommodation,
- (c) premises that are used as a backpackers hostel,
- (d) a serviced apartment (being a building or part of a building that is used to provide self-contained tourist or visitor accommodation that is regularly cleaned by or on behalf of the proprietor or manager),
- (e) premises that are used to provide accommodation for workers or employees in connection with their work or employment,
- (f) a government school or registered non-government school within the meaning of the **Education Act 1990** or any other premises that are used by an educational body to provide accommodation for its students,
- (g) a private health facility licensed under the **Private Health Facilities Act 2007**,
- (h) a nursing home within the meaning of the **Public Health Act 2010**,
- (i) a mental health facility within the meaning of the **Mental Health Act 2007**,
- (j) a public hospital within the meaning of the **Health Services Act 1997**,

(k) a residential care facility under the **Aged Care Act 1997** of the Commonwealth operated by an approved provider under that Act,

(l) a retirement village under the **Retirement Villages Act 1999**,

(m) premises that are the subject of a residential tenancy agreement to which the **Residential Parks Act 1998** applies,

(n) premises that are the subject of an occupation agreement to which the **Holiday Parks (Long-term Casual Occupation) Act 2002** applies,

(o) social housing premises within the meaning of Part 7 of the **Residential Tenancies Act 2010**,

(p) premises used for refuge or crisis accommodation, or accommodation for persons with additional needs, that is provided by a public authority, council or any other body or organisation and that is wholly or partly funded by the Commonwealth or the State (or an agency of the Commonwealth or the State),

(q) premises (or premises of a kind) prescribed by the regulations.

In our opinion, the proposed development satisfies the relevant objectives of the R2 Low Density Zone, complies with the relevant development standards outlined in the AHSEPP and is consistent with the local planning controls.

Furthermore, A Traffic and Parking Assessment report has been prepared by Stanbury Traffic Planning to examine the traffic, parking and access implications of the proposed development. As important, the proposal is unlikely to result in adverse impacts on surrounding development.

This document is divided into six sections. Section 2 contains a site analysis, Section 3 provides details of the proposal, Section 4 and 5 contains the detailed assessment of the application in accordance with Section 4.15 (1) of the Environmental Planning and Assessment (EP&A) Act 1979, and Section 6 concludes the report.

This application also includes an Operational Plan of Management (PoM) which aims to ensure that the boarding house will be operated in a manner that ensures the safety of residents, provides a comfortable and harmonious environment for residents, will not result in unacceptable impacts to neighbouring residents, and ensure that the building and site will be properly maintained.

The PoM confirms, amongst other matters, that the use of all outdoor communal areas will be restricted to between 8:00am and 10:00pm daily, that residents must not generate significant noise affecting surrounding residents (with expectations of reduced noise levels after 10:00pm), that the Manager, will ensure that the boarding house is properly managed (including enforcing house rules, cleaning common areas, attending to resident complaints, etc.), that all residents will be required to sign an occupancy agreement, and that all residents will be advised that they may be evicted if they breach the resident obligations.

The following documentation is relied upon for the preparation of this Statement.

Document:	Prepared by:	Dated:
Survey Plan	PS Pang Surveyors	28 May 2018
Architectural Plans	Benson McCormack Architecture	27 July 2018
Landscape Plans	Matthew Higginson Landscape Architecture Pty Ltd	20 July 2018
Hydraulic Plans	John Romanous & Associates	19 July 2018
Traffic Report	Stanbury Traffic Planning	18 July 2018
Access Report	Accessible Building Solutions	23 July 2018
BCA Report	INCODE Solutions	16 July 2018

This Statement has been divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.

2. Site Analysis and Context

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping and Existing Character and Context.

2.1 The Locality

The subject site is located within the Local Government Area (LGA) of Bayside. The subject site is located in reasonable proximity to the Sydney CBD (15.3km), Sydney Airport (7.3km) and Brighton Beach (4.1km).

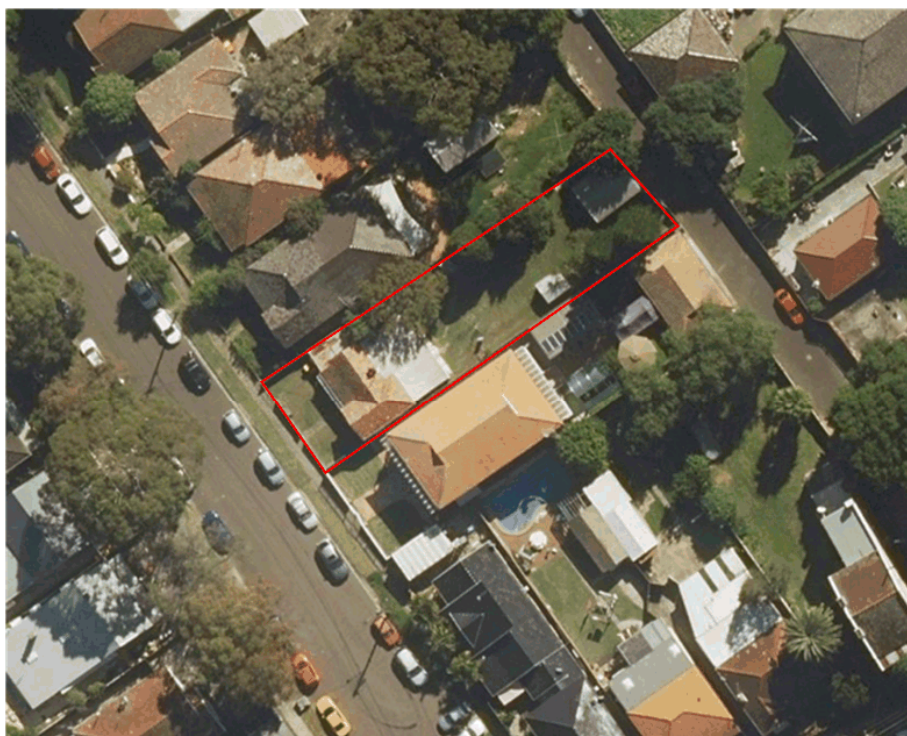


Figure 1: Location Plan
Source: Six Maps

Subject site 

2.2 Site Description

Located on the north-eastern side of Prospect Street, the subject site is identified Lot 5 in DP 8251. The location of the site is identified in Figure 1 above where it is outlined in red in the aerial image provided.

The site presents a primary frontage width of 12.19m (Prospect Street), respective north-western and south-eastern boundary lengths of 48.765m and a rear boundary width of 12.19m fronting

onto Union Lane. The site presents an area of 594.5m² while a minor slope is presented from Prospect Street towards the rear of the site along Union Lane. A detailed Land Survey has been submitted with the development application that indicates boundary lengths, site area and the location of existing structures on each allotment.

2.3 Existing Built Form and Landscaping

The site presently contains a single storey fibro dwelling with tile roof. Detached structures being a metal shed and detached garage with metal roof are located within the rear of the site while a number of trees are noted along the sites north-western and south-eastern perimeters. Figures 2 through to 3 below illustrate the nature of the current site conditions.



Figure 2: The subject site as viewed from Prospect Street



Figure 3: The subject site as viewed from Union Lane

2.4 Site Surrounds

The immediate area is presently characterised by a mixture of dwelling houses, dual occupancies and multi-dwelling housing. The site is located in close proximity to the Kogarah centre where it is provided with convenient access to a number of shops, services and facilities. The neighbourhood has a high level of amenity, good access to public transport and minimal environmental constraints. Adjoining the site to the north-west is 6 Prospect Street, a single storey brick dwelling with tile roof (Figure 4).



Figure 4: 6 Prospect Street, as viewed from Prospect Street

Adjoining the site to the south-east is 2 Prospect Street, a two-storey brick dwelling with tile roof (Figure 5). This property also contains a detached fibro shed located midway along the common boundary and a large detached garage that spans the majority of the site's width fronting onto Union Lane.



Figure 5: 2 Prospect Street, as viewed from Prospect Street

Across from the subject site along Prospect Street, single storey rendered dwellings are presented (Figure 6).



Figure 6: No's 3 and 5 Prospect Street, as viewed from Prospect Street

Along Union Lane at the rear of the site, prominent detached outbuildings associated with the dwelling's located at 2 Prospect Street and 11 Union Street are identified (Figures 7 and 8). Figure 9 depicts the rear of the multi-dwelling development located at 15 Union Street as visible from Union Lane.



Figure 7: Rear outbuilding associated with dwelling located at 2 Prospect Street



Figure 8: Rear outbuilding associated with dwelling located at 11 Union Street



Figure 9: Rear of multi-dwelling development associated with 15 Union Street

3. The Proposal

3.1 Description

This development application proposes the demolition of the existing structures and the subsequent construction of a two-storey boarding house with at grade parking, associated landscape and drainage works. The siting of the development is such that it has been arranged as two (2) independent building forms individually addressing both Prospect Street and Union Lane. The proposal is most accurately described within the architectural plan set prepared by Benson McCormack submitted as part of this application.

3.2 Demolition and Earthworks

The subject Development Application seeks consent for demolition of all existing structures on the site, which are works that are ancillary to the primary works for which consent is sought.

3.3 The Built Form

3.3.1. Gross Floor Area and Floor Space Ratio

The proposed development has a gross floor area (GFA) of 297.22m² which equates to a floor space ratio of 0.5:1 on the 594.5m² site.

The floor space ratio and gross floor area of the proposed development have been measured according to the definitions of those terms prescribed in the LEP dictionary.

3.3.2. Building Height

The proposed development is two (2) residential storeys in height, with a maximum building height of RL 31.240 or 8.16m.

3.3.3. Building Setbacks

Primary Street Setback

The proposed development observes a minimum setback to Prospect Street that ranges from 5.665m to 7.165m.

Rear Lane Setback

The proposed development observes a rear setback to Union Lane that ranges from 6.981m to 8.481m.

North-western side setback

The proposed development observes a minimum setback of 1.5m to the external face of the building along this elevation.

South-eastern side setback

The proposed development observes a minimum setback of 1.5m measured to the external face of the building along this elevation.

3.3.4. Photomontage



Figure 10: Photomontage
Source: Benson McCormack Architects

3.3.5. Dwelling Types

The proposal contains a total of ten (10) boarding rooms and one (1) common room. The boarding rooms comprise of a combination of single and double lodger rooms. Each boarding room is provided with an open plan kitchen, bathroom and laundry facilities. A breakdown of the boarding rooms (excluding the communal room) is as follows:

02 DEVELOPMENT DATA - ROOMS			
LEVEL	NUMBER OF ROOMS	TYPE OF ROOM	
		SINGLE	DOUBLE
GF	4	3	1
1	6	0	6
TOTALS	10	3	7

Figure 11: Boarding room breakdown
Source: Benson McCormack Architects

3.3.6. Pedestrian Access

The primary pedestrian access to the rooms are proposed from along Prospect Street. Access to the rooms is also made available from Union Lane adjoining the site at its rear.

3.3.7. Vehicular Access and Parking

Vehicular access to the site is proposed to be provided off both Prospect Street and Union Lane. A total of five (5) car parking spaces and two (2) motorbike parking spaces are provided.

3.3.8. Waste Management

A bin store room is proposed adjacent to the primary pedestrian access along Prospect Street.

3.3.9. Landscaping and Deep Soil

The proposed development provides landscaped areas throughout the site that have a total area measuring 149.66m² which equates to 25.1% of the 594.5m² site area.

4. Planning Controls

The following planning instruments are applicable to the proposed development:

- State Environmental Planning Policy No. 55 - Remediation of Land;
- State Environmental Planning Policy – Affordable Rental Housing 2009;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas);
- State Environmental Planning Policy (Basix) 2004;
- Rockdale Local Environmental Plan 2011;
- Rockdale Development Control Plan 2011.

The relevant provisions and controls of the above Instruments and Plans are summarised in the following sections of this SEE.

5. S4.15 Evaluation of the EP&A Act, 1979

5.1 S4.15(1)(a) of the EP&A ACT 1979

(i) Section 4.15(1)(a)(i)

The provisions of any Environmental Planning Instrument

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

The purpose of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development.

Clause 7 of SEPP 55 states:

(1) *A consent authority must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The site has long standing residential use and there are no known records of contaminating activity being conducted on the site. In view of the above and having regard to the provisions of SEPP No 55, the site is considered suitable for the proposed development.

State Environmental Planning Policy (Basix) 2004

In accordance with the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate has been provided. The proposed development satisfies the requirements of the Certificate in terms of water, thermal comfort and energy efficiency.

It is worth noting that the requirements for the provision of a Basix certificate for this form of development is only recent. Refer to SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66.

State Environmental Planning Policy (Vegetation in Non Rural Areas)

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

1. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
2. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the *Standard Instrument - Principal Local Environmental Plan* with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.

There are references in the applicable DCP to maximising tree retention in any development proposal and the issue is addressed through consideration of the proposed built form and the proposed landscaping works that are to be undertaken on site. This issue is addressed in more detail in the accompanying Landscape Plan prepared by Matthew Higginson Landscape Architecture.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The ARHSEPP came into force on 31 July 2009 and, in accordance with Clauses 25-28, the SEPP applies to the proposed development and the subject site. It contains a number of standards that apply to boarding houses, as well as matters that - if complied with - cannot be used as reasons for refusal. It is noted that the ARHSEPP relies on Standard Instrument template zonings and that the R2-Low Density Residential is a general residential zoning where boarding houses are a permissible form of development with consent.

The site is within an "accessible area" as defined by Clause 4 to the Policy which states:

"**accessible area**" means land that is within;

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

Division 3 of the SEPP relates to boarding houses and applies to Zone R2 Low Density Residential. The site fits the requirements of Clause 27 in that it is land that is located within an "accessible area".

The site is located 500m walking distance to Carlton Railway Station as diagrammatically depicted in the aerial image below.

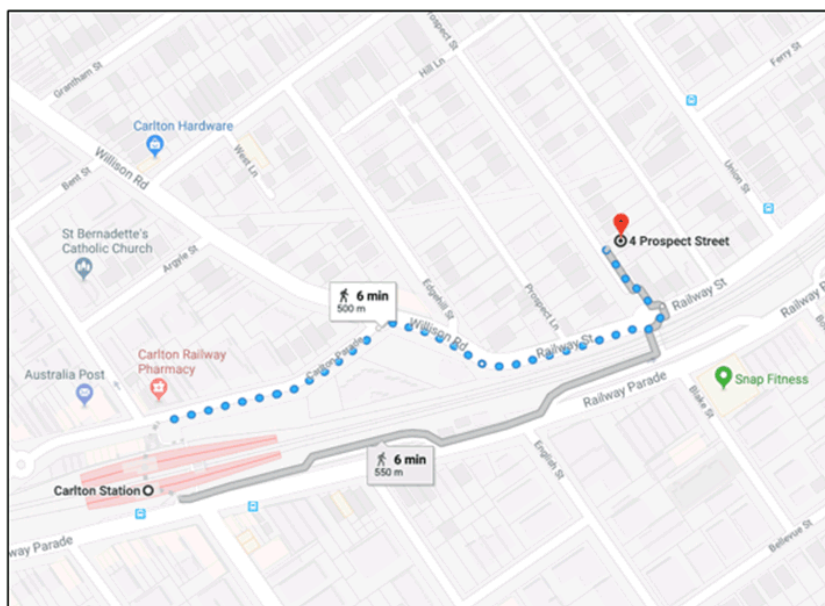


Figure 12: Subject site to Carlton Railway Station distance Map

Clause 27 of the SEPP confirms that Division 3 of the SEPP relates to boarding houses. Boarding houses are defined within the SEPP by reference to the definition under the Standard Instrument (LEP) Order 2006 which is as follows:

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The proposed development falls within this definition and as such the SEPP applies to the proposed development.

Clause 29 of the SEPP contains standards that cannot be used to refuse consent for 'boarding house' development. The performance of the proposal against these provisions are detailed in the table below.

SEPP Provisions		Complies/Comments ✓ /X
Cl.29 – STANDARDS THAT CANNOT BE USED TO REFUSE CONSENT		
Floor Space Ratio	<p>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land.</p> <p>The maximum floor space ratio permitted on the subject site is 0.5:1 or 297.25m²</p>	<p>✓</p> <p>Proposal has FSR of 0.5:1 and or 297.22m².</p>
Building Height	<p>(a) If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p> <p>The maximum building height under Rockdale LEP 2011 is 8.5m.</p>	<p>✓</p> <p>Proposal has height of 8.16m and complies with the height limit.</p>
Landscape Area	<p>(b) If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>✓</p> <p>The front setback is appropriately landscaped consistent with the existing and emerging streetscape character of Prospect Street where it will to provide an appropriate balance between built and landscaped elements along this frontage.</p>
Solar Access	<p>(c) Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>✓</p> <p>North/North-East facing common area receives more than 3 hours direct sunlight</p>
Private Open Space	<p>(d) If at least the following private open space areas are provided (other than the</p>	<p>✓</p> <p>Private open space will be available and accessed directly off the common</p>

	front setback area): (i) One area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers.	room. A 9.6m ² common terrace is located off the common room that adjoins a 104.77m ² open space area with a minimum dimension of 3m.
Parking (Not carried out by or on behalf of a social housing provider)	(e) If not more than: (i) in the case of development in an accessible area—at least 0.5 parking spaces are provided for each boarding room, and	✓ The proposal provides 5 spaces for the proposed 10 boarding rooms.
Accommodation Size	(f) If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or: (ii) 16 square metres in any other case.	✓ All single rooms have a minimum area (excl. kitchen and ensuite) of 16m ² while areas range from 16m ² –21.56m ² for the double lodger rooms.
CI.30 - STANDARDS FOR BOARDING HOUSES		
Internal Communal Area	(a) If more than 5 rooms, provide an internal communal area	✓ The proposal provides for an internal communal room of 12.39m ² that adjoins a 9.6m ² communal terrace.
Room Size	(b) Maximum room size (excl. kitchen and bathroom) of 25m ²	✓ The largest boarding room (excluding bathroom and kitchen) is 21.56m ² .
Number of Lodgers	(c) No more than 2 lodgers per room	✓ No more than 2 lodgers are proposed for any room.

Adequate bathroom and kitchen facilities	(d) Adequate bathroom and kitchen facilities to be provided	✓ Each boarding room is provided with its own private kitchenette and bathroom.
Manager	(e) If more than 20 lodgers, provide manager's room on site	N/A
	(f) (Repealed)	N/A
	(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes	N/A
Parking	(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms	✓ Proposal provides for 2 motorcycle and 3 bicycle spaces
CI.30A – CHARACTER OF LOCAL AREA		
The design of the development is compatible with the character of the local area		✓ The proposed boarding house is situated within a low density residential zone and presents as a residential building of a bulk and scale reflective of what is expected with the redevelopment of the site (see further discussion below this table)
CI 52 – NO SUBDIVISION OF BOARDING HOUSES		
A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.		✓ Neither Strata nor Community Title Subdivision have been sought as part of this application

Table 1: Affordable Rental Housing SEPP Standards

Clause 30- Character Assessment

"A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area."

There is no doubt neighbours will object, as is the case for most affordable housing proposals. There is a general public fear, or an assumption, that undesirable people will occupy such developments and ruin the "character" or "amenity" of the area.

There must be a careful consideration of "character". "Character" in the context of Clause 30A of *State Environmental Planning Policy (Affordable Rental Housing) 2009* deals specifically with built form character.

Unlike Clause 15 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* which requires the consideration of the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004, Part 2 Division 3, does not require the boarding house design, to be consistent with this Policy.

Nevertheless, applying the same principles:

The subject site is located within a low density residential zone while the locality consists of a mix of single dwellings, a number of more contemporary dual occupancy developments and multi-dwelling housing developments.

The scale of the proposed boarding house which has been designed as two Independent building structures with a notable visual break between the two, does result in a far less intrusive built form. This form is consistent with the siting of both dwellings and ancillary structures currently evident within the sites immediate context. In this instance, Building A presenting to Prospect Street will have a maximum building height of 8.16m while Building B presenting to Union Lane, will comprise of a maximum height of 7.49m. This is consistent with the planned character of the area, which does allow for 8.5m high developments of a two (2) storey scale.

The proposal complies with the permissible LEP building height and ARHSEPP FSR controls while the bulk and scale of the building is comparable to that permissible under the LEP and is considered suitable for the area.

The proposed boarding house is provided with generous setbacks, allowing for deep soil planting along the sites perimeters. This in addition to a combination of appropriate building materials, colours and articulated external walls reduces the perceived bulk and scale of the building and responds to the emerging character of the locality. It should also be noted that a transition to an R3 Zone occurs at the rear of the site on the opposite side of Union Lane which itself allows for a greater land use intensity than that proposed on the subject site again further ensuring contextual compatibility.

In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle:

"There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

The application of the character consideration in clause 30A of *State Environmental Planning Policy (Affordable Rental Housing) 2009* requires the assessing officer to consider, but not give sole determinative weight to, character in proper acknowledgement that affordable housing will not be the same as single dwellings, dual occupancy or even villa town house development. Compatibility with the existing character of the R2 Low Density Residential zone is desirable in this case given the surrounding context.

Consideration has therefore been given to the two key questions identified in the L&E Court Planning Principles:

(a) Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The impacts of the proposed development have been considered later in the report, primarily in the assessment against RLEP 2011, RDCP 2011 and Section 4.15(1)(b) of the EP&A Act. The proposal has been found to have minimal impacts on the amenity of surrounding properties and the locality. In addition, the proposal will not constrain the development potential of adjoining sites.

(b) Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Facades of the development have been articulated and modulated to avoid expanses of lengthy walls which is further enhanced by the notable break in the facade provided to Building A and the separation provided between both Building A and Building B. The building's adequately addresses both Prospect Street and Union Lane where they have been provided with contemporary building materials that are characteristic of the more modern developments slowly emerging in the area. A pitched roof has been provided to both Building A and B which is consistent with the predominant roofing form located both within the sites immediate and local context.

Appropriate landscaping has been provided within the front setback of the site to Prospect Street between the primary pedestrian entrance and the driveway which is proposed to be planted with a number of trees, shrubs and groundcovers. This design approach will enable the provision of a landscape setting to the street frontage that is not dissimilar to what is currently identified within the area.

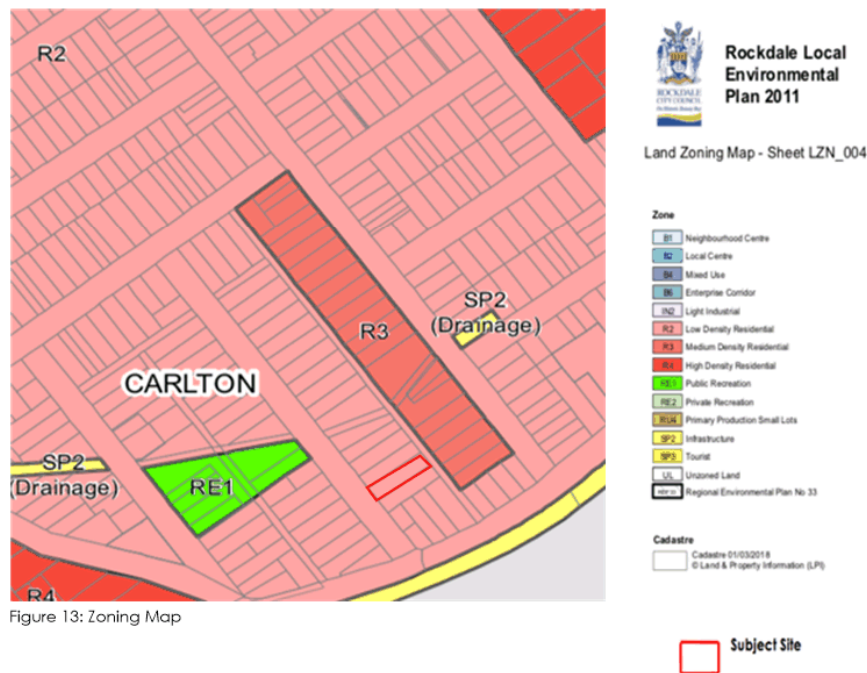
The provision of upper level balconies to both the Prospect Street and Union Lane elevations will allow for the ongoing passive surveillance of both the street and the lane.

The development is sympathetic in its overall siting, massing, height, bulk and scale to buildings within the context of the site and provides for continuity and character within the existing diverse residential streetscape that surrounds the site. In this instance, while the development is not entirely the same as a number of neighbouring single and two storey single dwelling houses, it does present a built form arrangement that is consistent with the proportions of a number of developments within its immediate context. This is evident upon review of No's 2, 14 and 18 Prospect Street and No's 9, 11, 16 and 23 Union Street.

Having regard to the above discussion it is considered that on balance, the proposal satisfactorily complements the character of the surrounding area.

Rockdale Local Environmental Plan 2011

The Rockdale Local Environmental Plan 2011 (LEP 2011) applies to the subject site which is identified as being within Zone R2 Low Density Residential. The proposed development is best characterised as a "boarding house" which is permissible with consent in Zone R2.



The objectives of the R2 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.

The proposal is considered to be consistent with the objectives of the Zone. In particular, the proposal will provide an alternative accommodation choice on a site with a high level of accessibility. The form of development is considered to be compatible with a low density residential environment in being limited to two storeys and comprising of a floor space ratio compliant with the standard.

The proposal does not provide other uses; however, these are provided within walking distance of the subject site.

The proposal complies with the relevant zone objectives.

A summary of our assessment of the proposed development against the LEP provisions is detailed below:

CL	Requirement	Proposed	✓/X
Part 2 - Permitted or Prohibited development			
2.3	Zoning and Objectives	The proposal will an alternative housing choice in a highly suitable locality that is compatible with the character of the low density residential environment in terms of built form and use.	✓
2.5	Additional permitted uses for particular land	The site is not afforded with additional permitted uses in Schedule 1 of the LEP.	✓
2.6	Subdivision – consent requirements	The application does not seek consent for subdivision of the land.	✓
2.7	Demolition requires development consent	This application proposes to demolish the existing dwelling and ancillary structures as shown on the accompanying Survey Plans.	✓
Part 4 – Principal Development Standards			
4.3	Height of Buildings The proposed development is subject to the provisions of Clause 4.3, which as indicated on the associated "Height of Buildings"	The proposed building will comprise of a maximum height of 8.16m complying with the standard.	✓

CL	Requirement	Proposed	✓/X
	Map, limits the height of buildings to 8.5m.		
4.4	Floor Space Ratio Clause 4.4 permits a maximum FSR of 0.5:1 for the subject site equating to 297.25m ² .	The proposal results in a floor space ratio of 0.5:1 equating to 297.22m ² .	✓
4.5	Calculation of floor space ratio and site area	The floor space ratio and site area have been calculated according to the provisions of this clause.	✓
Part 5 – Miscellaneous Provisions			
5.1	Relevant acquisition authority	The site is not identified as being reserved for acquisition on the Land Reserved for Acquisition Map.	✓
5.3	Development near zone boundaries	The proposed development does not rely on the provisions of this Clause.	✓
5.4	Controls relating to miscellaneous permissible uses	The proposed development is not for any of the development types listed in this Clause.	✓
5.6	Architectural roof features	The application does not seek consent for architectural roof features above the maximum permitted building height.	✓
5.10	Heritage Conservation	The site does not contain a heritage item and is not located in a heritage conservation area.	✓
Part 6 – Additional Local Provisions			
6.1	Acid sulfate soils	The site is identified as Class 5 and there are no other soil classes within a 500m radius and no excavation is proposed which would interrupt the ground water table. Therefore, no specific Management Plan is required.	✓

CL	Requirement	Proposed	✓/X
6.2	Earthworks	The proposal does not necessitate the need for extensive earthworks to take place. The overall level of earthwork proposed is not anticipated to result in any adverse impacts to surrounding properties, drainage patterns or soil stability.	✓
6.3	Development in areas subject to aircraft noise	The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 70 AHD. The building height is at 8.16m (RL 31.240) and in this regard, it is considered that the proposed building will have no adverse impact on the OLS.	✓
6.6	Stormwater	The proposal is accompanied by a detailed stormwater plan prepared by John Romanous & Associates.	✓
6.12	Essential Services	These services are already available to the site.	✓

Table 2: Rockdale Local Environmental Plan 2011 Compliance Table

(ii) Section 4.15(1)(a)(ii)

The provisions of any exhibited Draft Environmental Planning Instruments

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

(iii) Section 4.15(1)(a)(iii)

The Provisions of any Development Control Plan

There are no specific land use controls in the Rockdale DCP 2011 relating to boarding houses. It is noted however that compliance with the ARHSEPP is generally achieved and that this addresses many aspects of development otherwise covered in the DCP.

An assessment of the proposal against the relevant provisions of the DCP is outlined in Table 6 below:

Ref	Design Solution	Requirements	Proposed	✓/X
Section 4.1 Site Planning				
4.1.1	Views and Vistas	Development must consider any significant views to, from and across the site.	There are no significant views that are likely to be affected as a result of this development.	✓
4.1.3	Water Management	Development must comply with Council's Technical Specification – Stormwater Management which provides detail of drainage requirements for different development types. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on-site retention and detention and landscaping and in the design of development.	Refer to the stormwater management plan prepared by John Romanous & Associates that accompanies this application.	✓
4.1.4	Soil Management	A number of controls relating to soil loss, site disturbance and potential impacts to significant trees and vegetation.	Appropriate erosion and sediment control measures will be installed on the site during construction.	✓
4.1.5	Contaminated Land Controls	Development on land that is or has previously been used for a purpose which is likely to have contaminated the site is to follow procedures	From desktop investigations, use of the site has always been of a residential nature and as such, potential contamination issues are	✓

Ref	Design Solution	Requirements	Proposed	✓/X
		and guidelines contained in State Environmental Planning Policy 55 – Remediation of Land	considered to be non-existent.	
4.1.6	Development on Sloping Sites	<p>The building footprint is designed to minimize cut and fill by allowing the building mass to step in accordance with the slope of the land.</p> <p>to minimize cut and fill on sloping sites and to encourage good quality internal environments, any habitable room of a dwelling must have at least one external wall entirely above existing ground level</p>	The subject site does not present a slope that would necessitate the need for extensive cut or fill.	✓
4.1.7	Tree Preservation	A number of controls relating to Tree Preservation.	The proposal involves the removal of a number of trees from the site. Existing vegetation is considered to be of a domestic scale and nature. Suitable perimeter landscaping is proposed as part of this proposal and is identified in the accompanying landscape plans prepared by Matthew Higginson Landscape Architecture.	✓
4.1.9	Lot Size and Site Consolidation	A number of controls relating to site isolation, frontage width and site area.	There are no lot size or consolidation requirements associated with boarding house development.	✓
4.2	Streetscape and Site Context	A number of controls relating to site context, streetscape character, the pedestrian	The proposed development is more contemporary in design than the existing older housing in the area,	✓

Ref	Design Solution	Requirements	Proposed	✓/X
		environment and fencing.	<p>however having good streetscape character does not mean that development needs to be the same throughout the locality. The proposal is modern in appearance, through its design and proposed materials, and represents an evolution of architecturally designed buildings in the area.</p> <p>Setbacks are consistent with those that exist in the locality. The maximum height of the development complies with the height limit standard in the LEP while passive surveillance and security will be promoted through the provision of balconies overlooking both Prospect Street and Union Lane.</p> <p>Vehicular access is provided off both Prospect Street and Union Lane while the proposed fencing will be contemporary and consistent with Council requirements.</p>	
4.3.1	Open Space and Landscape Design	A number of controls relating to the provision of open space and landscaping across the site.	A comprehensive landscape plan prepared by Matthew Higginson Landscape Architecture accompanies this report and responds to the Council controls.	✓
4.3.2	Private Open Space	A number of controls relating to the provision of private open space.	Private open spaces are provided in accordance with the ARHSEPP provisions.	✓

Ref	Design Solution	Requirements	Proposed	✓/X
4.3.3	Communal Open Space	A number of controls relating to the provision of communal open space.	Communal open space has been provided as per the requirements of the ARHSEPP	✓
4.4.2	Solar Access	A number of controls relating to the minimisation of shadows being cast both upon the subject and neighbouring developments.	Solar access has been provided as per the requirements of the ARHSEPP. A detailed shadowing analysis has been prepared by Benson McCormack architects that accompanies the architectural plan set.	✓
4.4.3	Natural Lighting and Ventilation	A number of controls relating to minimum ceiling heights and the provision of cross ventilation.	The proposed building is provided with the minimum internal ceiling height while the design of the boarding house rooms allows for appropriate lighting and ventilation. These aspects of the development are considered acceptable.	✓
4.4.5	Visual and Acoustic Privacy	A number of controls relating to design of buildings in order to ensure acoustic and visual privacy for occupants and neighbours.	<p>The development provides for a good level of amenity and visual and acoustic privacy for adjoining properties.</p> <p>Appropriate building separation is provided between the proposed development and adjoining properties.</p> <p>Increased window sill heights and vertical louvers have been incorporated along the side elevations directly facing onto neighbouring development. This design outcome will ensure that any potential for direct overlooking into the adjoining neighbouring</p>	✓

Ref	Design Solution	Requirements	Proposed	✓/X
			properties to both the north-west and south-east will be minimised.	
4.4.6	Noise Impact	A number of controls relating to the provision of noise mitigation measures, minimisation of impacts from noise generating sources and the provision of an acceptable acoustic environment in habitable rooms.	<p>The subject site is not positioned between the ANEF contours & is therefore not deemed to be affected by aircraft noise.</p> <p>The proposal is accompanied by a Plan of Management, (POM) which seeks to manage the ongoing operation of the boarding house and the use of indoor / outdoor communal areas in order to avoid neighbour disturbances.</p> <p>The use of the site will remain residential. Any minor increase in noise from the use of the site as a boarding house will be residential in nature and not unlike that which could normally otherwise be expected within a residential zone.</p>	✓
4.5.2	Equitable Access	The siting, design and construction of premises available to the public are to ensure an appropriate level of accessibility, so that all people can enter and use the premises. Access is to meet the requirements of the Disability Discrimination Act, the relevant Australian standards and	An Access report prepared by Accessible Building Solutions accompanies this application.	✓

Ref	Design Solution	Requirements	Proposed	✓/X
		the Building Code of Australia. An Access Report may be required to be submitted with a development application for development other than single dwellings and dual occupancies.		
4.6	Car Parking, Access and Movement	A number of controls relating to the provision of adequate on-site parking that is safe while also encouraging alternate modes of transport.	Car and motorcycle parking has been provided at grade and its provision is split between the front and rear of the site with access provided off both Prospect Street and Union Lane. Parking numbers are provided in accordance with the requirements of the ARHSEPP. It is noted that the site satisfies the locational requirements of the ARHSEPP, providing access to transport options.	✓
4.7	Site Facilities	A number of controls relating to the provision of adequate waste, storage and recycling facilities.	A bin store room is proposed adjacent to the primary pedestrian access along Prospect Street.	✓

Table 3: Rockdale Development Control Plan 2011 Compliance Table

(iv) Section 4.15(1)(a)(iiiia)

Any Planning Agreement

There are no known Planning Agreements entered into under Section 93F and no draft Planning Agreements are proposed to be entered into under Section 93F for this proposed development.

(v) Section 4.15(1)(a)(iv)

Any matters prescribed by the Regulations

Clause 92(1)(b): Demolition

Clause 92(1)(b) of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) prescribes that the provisions of Australian Standard AS2601:2001 - The Demolition of Structures are to be taken into consideration, pursuant to Section 4.15(1A)(iv) of the Act, in the case of a development application for the demolition of a building. The application seeks consent for the demolition of all existing structures from the site. Council may impose suitable conditions on any consent granted for the proposal to ensure compliance with the provisions of Australian Standard AS2601:2001 - The Demolition of Structures.

(vi) Section 4.15(1)(a)(v)

Any Coastal Management Plan

There is no Coastal Zone Management Plan applicable to the site.

5.2 S4.15(1)(b) of the EP&A ACT 1979

The Likely Impacts of the Development

5.1.1 Topography & Scenic Impacts

The proposal is not likely to have an adverse topographic or scenic impact on the locality. The proposal will require the removal of vegetation within the site while adequate areas for deep soil planting are provided. Additional landscaping will be provided in accordance with the landscape plan prepared by Matthew Higginson Landscape Architecture. The proposal does not involve any significant excavation as the site only presents a slight slope while parking is provided at grade.

5.1.2 Micro-Climate Impacts

The proposed development is unlikely to result in any adverse effects to the micro- climate in the locality.

5.1.3 Water & Air Quality Impacts

The proposed development is considered unlikely to result in any adverse effects on the locality in terms of water and air quality. Appropriate measures are to be undertaken in respect of the stormwater and runoff and accordingly, the proposal is considered acceptable in this regard.

5.1.4 Impact on the Area's Character

The proposal complies with the 8.5m height controls and has been well articulated where it is not anticipated to result in a dominant built form when viewed from either Prospect Street or Union Lane. Importantly, the proposal is consistent with the objectives of the LEP, the R2 – Low Density Residential Zone and of the ARHSEPP.

The proposal is considered to be acceptable in terms of compatibility with both the existing and desired future character of the area. Importantly, the site is also located within an accessible area (as defined by the ARHSEPP). The built form of the proposed boarding house is considered to be appropriate in the context of the locality.

5.1.5 Aural and Visual Privacy Impact

The proposal is not likely to result in any adverse visual or acoustic privacy impacts. In terms of visual privacy, increased sill heights are proposed to the glazed areas along the north-west and south-east elevations. Vertical louvers have also been incorporated to the first floor circulation stairwell perimeters to both Buildings A and B in order to prevent any direct overlooking into the neighbouring properties.

Along the north-eastern side rear elevation, the proposed building is generously setback from the rear boundary in addition to being further separated from neighbouring developments fronting Union Street by Union Lane. Given the extent of overall separation from the rear of Building B fronting Union Lane and the nearest habitable areas of the dwellings fronting Union Street, no unreasonable opportunity for overlooking into these properties is anticipated to result.

It is also considered that there are not likely to be adverse acoustic privacy impacts on adjacent residential sites and within the development. The Plan of Management (POM) also contains provisions for control of possible noise impacting activity. The proposal is for a residential use, which is not high noise generating and similar in nature to any other residential development that could occur on the site.

Subject to the compliance with the POM, it is not anticipated that any unreasonable impact on the amenity of the adjoining development will result above what is deemed consistent with that for a residential setting.

5.1.6 Impact on Sunlight Access

The shadowing analysis prepared by Benson McCormack architects indicates that neighbouring properties will continue to receive the minimum amount of solar access. The location of the common room along the northern side of the building will ensure that adequate and compliant levels of solar access in line with the ARHSEPP provisions will be received.

5.1.7 Crime Prevention Through Environmental Design

Safer by Design principles of crime prevention through environmental design are incorporated into Rockdale's DCP and this aspect is considered in the assessment of this proposal. The

proposal has been designed as a secure development, with restricted access to private and communal areas. The proposed development includes a boundary fence to delineate public and private domain while also enabling passive surveillance to both Prospect Street and Union Lane a through the provision of windows and balconies overlooking the public domain.

5.3 S4.15(1)(c) of the EP&A ACT 1979

Suitability of the Site

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; the internal circulation and parking geometry; and hazards.

5.2.1 Proximity to Services and Infrastructure

The site is located within close proximity to a number of services. As the site is within an established area, electricity, telephone, water and sewerage are also readily available. The site is located within an accessible area (as defined by the ARHSEPP) and is within close proximity to both Carlton and Kogarah Railway Stations and a number of bus stops.

5.2.2 Traffic, Parking and Access

The proposal provides for at grade parking incorporating parking for five (5) vehicles and two (2) motorcycle parking spaces which comply with the requirements of the ARHSEPP. Vehicular access will be provided off both Prospect Street and Union Lane while the dimensions of the car parking spaces, the aisle width and the manoeuvring areas are compliant with the Australian Standards and appropriate in this instance.

5.2.3 Hazard

The site is not in an area identified by Council as being subject to any hazards.

In summary, it is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. The subject site has ready access to public transport, and is in close proximity to a range of services. The site lies within an established urban area and services such as electricity, telephone, water and sewerage are readily available. The site is therefore considered suitable for this form of development and satisfies an assessment of those matters under S4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.

5.4 S4.15(1)(d) of the EP&A ACT 1979

Any submissions made in accordance with this Act

The consideration of submissions cannot be made at the time of preparing this Statement.

5.5 S4.15(1)(e) of the EP&A ACT 1979

The Public Interest

The proposal will provide for additional affordable rental housing to cater for the needs of the community within an architecturally designed development. The provision of affordable housing within an accessible area, within reasonable distance to neighbourhood shops and in a building compatible with the locality is considered to be in the public interest. In addition, the proposal is consistent with the relevant objectives of the Rockdale LEP 2011, ARHSEPP and Rockdale DCP 2011.

The proposed development is of a scale and character that does not present any conflict with the public interest nor does it present an unacceptable precedent for development in the locality. This well serviced and accessible location is suited to increased residential accommodation and the development will not have any significant adverse impact on adjoining properties. The proposal, presenting as a modestly scaled two-storey building separated into two individual block components in an area subject to increasing demand for more affordable residential accommodation, satisfies an assessment of those matters under s4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 and is considered to be in the public interest.

6 Conclusion

The proposed development has been assessed in accordance with Section 4.15 (1) of the EP & A Act 1979 and Council's planning instruments. The proposal is identified as a permissible development pursuant to the zoning of the site as R2- Low Density Residential under the Rockdale LEP 2011.

An assessment of the proposal against the objectives of the zone has been undertaken and it is considered that the proposal is consistent with the objectives of both the ARHSEPP and the LEP. In addition, the development complies with the controls contained within the DCP where relevantly applicable.

The proposed new generation boarding house will have an FSR of 0.50:1, which is compliant with the maximum permissible 0.5:1 (permitted under the ARHSEPP) and is within the statutory height limit of 8.5m.

These controls are consistent with those which would apply to a compliant development on the subject site and the proposal is considered to present a similar envelope to such a development. On this basis, it is considered that the scale and form of the proposal is appropriate in this instance.

Compliance with the key controls outlined above ensures that the new building envelope is unlikely to result in a significant level of overshadowing or loss of privacy to nearby properties. The proposal is also unlikely to have a significant impact on outlook or views from surrounding properties and the public domain.

As discussed throughout the SEE, the proposal achieves the desired character of the locality by maintaining its relationship with surrounding development through consistency in scale, form, setbacks and materials and is compatible with the emerging character of both the immediate and local context. This design approach ensures that the new development will enhance the streetscape character of the locality. No significant adverse amenity impacts to adjoining property owners in terms of privacy, overshadowing or views are anticipated and, on this basis, it is considered that the development is an acceptable built form, scale and density and can be supported.



Annexure A: Plan of Management



BOARDING HOUSE PLAN OF MANAGEMENT

4 Prospect Street, Carlton

28 July 2018

1. Introduction

This plan of management is for the operation of the boarding house at 4 Prospect Street, Carlton. The boarding house contains 10 rooms with 5 parking spaces including motor cycle and bicycle parking. The boarding house shall operate in accordance with the terms of this plan and all conditions of the development consent.

2. Accommodation

The boarding house has the capacity to accommodate up to 17 people – within three (3) single and seven (7) double rooms which includes 1 x accessible room. All rooms contain internal kitchens, bathroom and laundry facilities.

The boarding house includes a communal area opening onto the common terrace.

3. Parking

The boarding house provides five (5) parking spaces which includes an accessible parking space located adjacent to the shared space. Lodgers must only park their vehicle in the space allocated to them. It is the responsibility of bicycle owners to secure their own bicycle.

4. Management

All boarders are to take responsibility for the cleanliness, fire safety and daily operation of the premises. The owners of the boarding house shall appoint commercial services to clean and maintain common interior and exterior spaces. The Owner's Agent will be responsible for lodger selection and administration relating to the building and its operation and maintenance. The contact details of the owner or the owner's representative will be displayed at the front of the building. Adjoining neighbours will be given a copy of these details. This will ensure ongoing communication with adjacent property owners and lodgers aimed at identifying and addressing matters of concerns. A notice board located in the ground floor lobby will notify lodgers of revisions to the House Rules, any matters of concern with neighbours, garbage & recycling collection and scheduled maintenance. All occupants will be given the owner's (or nominated agent's) contact details.

The responsibilities of the boarding house Owner's Agent are:

- I. Selection of tenants, assessment of tenant eligibility and administration of the tenancy agreements.
- II. A hard copy of this Plan is to be provided to each new boarder upon arrival. Failure to adhere may result in cessation of occupation.
- III. An accommodation register will be maintained by the Owners Agent providing details of all occupants, length of stay and payment details.
- IV. Each boarder is to sign an Occupancy Agreement and House Rules Agreement and the minimum term is 3 months.
- V. Upon arrival boarders are to be issued with an information sheet. The information sheet will provide information about the premises as well as a note that there is residential development adjoining the property and that boarders need to take the neighbours' interests into account when leaving and entering.
- VI. Ensure the maximum number of lodgers in each room/boarding house is not exceeded – 2 person/double room and 1 person/ single room.
- VII. Administration and distribution of the house rules.
- VIII. Ensure the house rules are fixed in each room and the communal room.
- IX. Ensure all lodgers are familiar with fire safety procedures including the location of fire extinguishers, evacuation procedures and assembly areas.
- X. Ensure fire safety inspections are undertaken annually and that the fire safety equipment is working.
- XI. Manage the cleaning of the common areas and rooms.
- XII. Manage waste collection including the provision of waste bins in each room and collection of waste from the waste storage area in the basement car park.
- XIII. Manage a Complaint's Register and Incident Report Register. The Owner's Agent is responsible for recording any complaints into either register which is to be available to surrounding neighbours and Council upon request. The Complaints Register shall detail how and when any complaints are dealt with. The Complaints Register will contain:
 - a. Complaint date and time;
 - b. Name of person/police/council making the complaint;
 - c. Contact details;
 - d. Nature of the complaint;
 - e. Action taken (by whom and when); and
 - f. Outcome and/or further action required.
 - g. Action will be taken by the manager within 24 hours of notification. The Complaints Register is to be made available to Police and Council upon request.
- XIV. The Owner's Agent will be contactable during business hours 9.00am to 6.00pm, Monday to Saturday, to deal with any complaints as to the operation and

management of the premises. An after-hours phone number is to be provided, with such phone number being publicly available.

5. Boarder Identification

The Owner's Agent requires photo ID (eg: typically either passport or driver's licence) from each boarder. Where the person is an Australian and does not hold a drivers licence then alternative ID which may not hold a photo can be accepted.

Use of Boarding Rooms

The boarding rooms shall be used for residential purposes only. The following management provisions apply to the rooms:

- I. No visitors are permitted on the premises after 10pm or before 7am. No keys are to be provided to visitors without permission of management.
- II. Lodgers shall not contribute to excessive noise or unruly behaviour. Unruly behaviour may result in termination of the occupancy agreement.
- III. Rooms and the common areas shall be kept clean and hygienic at all times. The bins are to be emptied by the lodgers within the provided garbage room area as required.
- IV. Illegal substances are not permitted on the premises. Any lodger found to be supplying or in the possession of illegal substance will have their occupancy agreement terminated.
- V. No pets are permitted on the premises or boarding rooms without written approval of management.
- VI. Rooms will be made available for inspection upon notice from the managing agent.

6. Room Furnishing

Rooms will be furnished with the following items:

- I. The rooms have been sized to accommodate either a sofa bed or separate beds.
- II. A lockable cupboard for each lodger with a minimum volume of 1 cubic metre per person.
- III. Mirror.
- IV. A desk (900mm x 600mm) and lamp for each lodger.
- V. Waste container.
- VI. Blinds or curtains on each window for privacy.
- VII. Telephone line and telephone.

Kitchenette facilities will include:

- I. A sink with running hot and cold water.
- II. 1 microwave.
- III. 1 refrigerator.
- IV. Overhead cupboards and below bench cupboards.
- V. Bench top space.

Bathrooms will include:

- I. Shower with running hot and cold running water.
- II. Washbasin with hot and cold running water.
- III. Mirror.
- IV. Toilet.

Common room facilities will include:

- I. Couch and coffee table.
- II. BBQ

7. Use of Communal Areas

The common room and laundry are to be kept clean and tidy at all times. The hanging of clothes, towels or any other personal item in the common areas will not be permitted. The use of the common room for social gatherings will require approval from the Owner's Agent. The lodgers wishing to use the five (5) car parking spaces and two (2) motorcycle parking spaces must register with the Owner's Agent. Use of all outdoor communal areas will be restricted to between 8:00am and 10:00pm daily

8. Safety and Security

Lodgers are responsible for ensuring the access from Prospect Street and Union Lane is locked at all times. A key/swipe card will be issued to all boarders with no additional keys/cards to be issued to visitors without approval from the manager.

9. Waste Management

Each room shall contain a waste bin. The lodger is responsible to ensure the bin is emptied in the waste storage area located adjacent to the parking area.

The waste storage area will include waste and recycling bins and the lodger is responsible for the separation of the waste and recycling materials.

The waste and recycling materials will be stored in 240 litre bins serviced from Prospect Street. The lodgers are responsible for taking the bins to and from the street on collection day.

10. Maintenance and Cleaning

Pest control by a professional contractor shall be carried out at least once a year. The rooms, common areas, communal room and communal courtyard are to be professionally cleaned by a contractor at least once per week.

11. Damage

Any damage to or the breakdown of any facility, fixture or equipment is to be reported to the managing agent.

12. Fire Safety/Certification

A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures are to comply with the Environmental Planning and Assessment Regulation 2000

Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.

An evacuation plan must be clearly displayed in each boarding room and common room. A floor plan must be permanently fixed to the inside of the door of each boarding room to indicate the available emergency egress routes from the respective sleeping room.

The Owner's Agent contact phone number must be clearly displayed at the entrance of the premises and in each boarding room. Other emergency contact details (police, fire ambulance) as well as utility information (gas, electricity, plumbing) are to also be clearly visible in each boarding room.

Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is to be overseen by the owner.

13. Tenancy Agreements

All tenants must enter into a residential agreement in accordance with the Rental Tenancies Act 2010. The boarding house managing agent will be responsible for the administration of the agreements. The minimum lease period will be three (3) months.

Bayside Local Planning Panel

27/11/2018

Item No	6.4
Application Type	Development Application
Application No	SF18/2190
Lodgement Date	18/09/2018
Property	DA-2012/226/03 - 1084-1088 Botany Road, Botany
Ward	Botany Bay
Owner	Australian Property Funding Development P/L
Applicant	CCS Property Holdings Group Pty Ltd
Proposal	Modification of the stormwater management design including the deletion of the onsite detention tank
No. of Submissions	1
Cost of Development	Nil
Report by	Andrew Ison, Senior Development Assessment Planner

Officer Recommendation

That the Section 4.55(1A) application for the Modification of the stormwater management design including the deletion of the onsite detention tank is **REFUSED** as insufficient justification has been provided by the applicant for its deletion.

Location Plan



Attachments

- 1 Planning report
- 2 SEE for S96- 1084-1088 Botany Road Botany

Application Details

Application Number:	DA-2012/226/03
Date of Receipt:	19 September 2018
Property:	1084-1088 Botany Road and 6 Bay Street, Botany (Lot 1 in DP 921261, Lot X and Y in DP 414558, Lot A in DP 363450 and Lot D in DP 366954)
Owner:	Australian Property Funding Development P/L
Applicant:	CCS Property Holdings Group Pty Ltd
Proposal:	Modification of the stormwater management design including the deletion of the onsite detention tank
Recommendation:	Refusal
Value:	Nil
Zoning:	B2 Local Centre under Botany Bay Local Environmental Plan 2013
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	27 November 2018

Key Issues

The key issues relate to the following:

- Modification of the stormwater management design including the deletion of the onsite detention tank

Recommendation

That the Section 4.55(1A) application for the Modification of the stormwater management design including the deletion of the onsite detention tank is **REFUSED** as insufficient justification has been provided by the applicant for its deletion.

Site Description

The subject site is commonly known as 1084-1088 Botany Road, Botany (Lot 1 in DP 921261, Lot X and Y in DP 414558, Lot A in DP 363450 and Lot D in DP 366954). The site is irregular in shape, an area of 2,147m², and the mixed use development is currently under construction. The surrounding area is characterised by a mixture of uses, including commercial, residential and recreation. The subject site is located on the northern edges of the Botany village centre, north of the Bay Street intersection.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

Description of approved development and proposed modifications

Approved Development DA-2012/226

Development Application No. 12/226 was refused under Delegated Authority on the 2 May 2014. The Applicant lodged an appeal in the NSW Land & Environment Court and on the 6 January 2015, the Court issued a Section 34 Agreement signed with a Deferred Commencement consent, subject to the Council approving a Remedial Action Plan (RAP). An operational consent was granted by Council on the 14 July 2015, for the redevelopment of the site for a mixed development in the following manner:

- Demolition of all existing structure on site and removal of vegetation;
- Excavation and remediation of the site to construct one (1) partial basement level comprising of parking, storage, lifts and stairs,
- Construction of a six storey mixed use development comprising of a second level of basement car parking, commercial floor space and 61 residential apartments on the upper levels.

Approved Modification DA-2012/226/02

A Section 96(AA) (now Section 4.56) application was approved under delegated authority by the former City of Botany Bay on 11 May 2016 relating to a range of modifications to the approved development.

Proposed Modifications DA-2012/226/03

The applicant seeks to modify the stormwater management design including the deletion of the onsite detention tank.

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 size or footprint of the approved development and relates to the operational stormwater system.

(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 size or footprint of the approved development and relates to the operational stormwater system.

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

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

It was determined that notification was not required as per Part 2 of the Botany Bay 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.*

One submission has 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)

The proposed amendments do not change the land use nor does it impact on any development standards as prescribed in Part 4 nor any miscellaneous provisions under Part 5.

Clause 6.3 – Stormwater management

This states that development consent must not be granted to development on land which this Clause applies unless it minimises the impacts of stormwater disposal on neighbouring properties.

This has been assessed by Council's development engineer, and it has been concluded that insufficient justification has been provided to satisfy Council in supporting the proposed amendments. This will be discussed later in the report.

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

3G.2 – Stormwater Management

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 applicant has justified the removal of the OSD as follows:

- The Stormwater Design for the building meets Council's Stormwater requirements for rates of discharge, location, etc, without the need for OSD tanks.
- The OSD tanks were included in the *preliminary* stormwater design to satisfy the more stringent requirements of the Roads and Maritime Services (RMS). Accordingly, the more stringent requirements of the RMS need not be met. As such, the removal of the OSD tanks can be justified while still meeting Council's Stormwater Requirements. Physically, the tanks were not removed from the stormwater design drawings because space planning of the building had already been locked in by the architect.

This has been reviewed by Council's development engineer, with the following comments provided:

- The Stormwater Management Technical Guidelines, under Part 10 of the DCP, requires a provision for On Site Detention System. It is also worth noting that the Council requirements differ from that of the RMS.
- Council requires OSD facilities be designed for all storm events up to 1% AEP, and the system discharge to be restricted to 20% AEP state of nature, regardless of existing impervious conditions.

Therefore the application to remove the OSD system is not supported.

It is to be noted that the RMS have indicated to the applicant that OSD is not required, however the RMS are not the consent authority.

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

As outlined in the above assessment, there are concerns that the proposed modifications will have impact on the ability of the site to properly dispose of its stormwater, and hence the approved system is to be retained.

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

Site suitability was assessed as part of the original Development Application, and the proposed modifications to the conditions will change the deemed acceptable suitability of the approved development on the subject site by way of stormwater disposal.

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

It was determined that notification was not required as per Part 2 of the Botany Bay DCP 2013. However, one submission was still received via the Planning Alerts website, and is addressed below:

By allowing for the removal of the OSD sets a poor precedent of not abiding by the current policy

Comment: As addressed previously in this report, Council is not supportive of the removal of the OSD.

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 the stormwater management design including the deletion of the onsite detention tank at 1084-1088 Botany Road, Botany has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for refusal, with all currently approved conditions to be retained.



STATEMENT OF ENVIRONMENTAL EFFECTS

**PROPOSED MIXED-USE DEVELOPMENT (61 RESIDENTIAL
APARTMENTS, 3 RETAIL SHOPS & ASSOCIATED
CARPARKING**

At

1084-1088 BOTANY ROAD, BOTANY

FOR

AUSTRALIAN PROPERTY FUNDING DEVELOPMENT PTY LTD

SEPTEMBER 2018

SWA GROUP
Suite 12, 16-18 Malvern Ave, Chatswood NSW 2067
P 02 8599 1988 -info@swagroup.com.au – www.swagroup.com.au

NSW Reg. No. 7099



The General Manager
Bayside Council
PO BOX 21
Rockdale NSW 2216

Dear Sir/Madam

**SECTION 4.55 (1a) MODIFICATION – PROPOSED MIXED-USE
DEVELOPMENT COMPRISING 61 APARTMENT UNITS, 3 RETAIL
SHOPS AND ASSOCIATED CAR PARKING
1084-1088 BOTANY ROAD, BOTANY
DA 12/226 & DA 12/226/02**

On behalf of the owners of the subject property application is hereby made pursuant to Section 4.55(1a) of the Environmental Planning & Assessment Act 1979, as amended, for the modification of the subject consent.

1. THE PROPOSED S96 MODIFICATION

The modifications sought by this application are:

1. Modification to the stormwater management design which includes the deletion of OSD tank.

All other aspects of the proposal will remain unchanged.

We seeking the following conditions of consent to be modified:

- Condition 1: Update referenced stormwater plans
- Condition 26: Remove reference to OSD tank
- Condition 27: Remove reference to OSD tank – calculations provided during CC to support no OSD required.
- Condition 72: Remove reference to OSD tank
- Condition 73: Not applicable. This condition to be removed.
- Condition 74: Not applicable. This condition to be removed.

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The proposed modifications are detailed on the following accompanying documentation:

Revised Stormwater Plans prepared by ACOR Consultants Pty Ltd,

- Drawing C1/REV 3 – Cover sheet, notes & legend
- Drawing C2/REV 3 – Stormwater Management Plan, Lower Ground Floor
- Drawing C3/REV 3 – Stormwater Management Plan, Upper Ground Floor (Part 1)
- Drawing C4/REV 3 – Stormwater Management Plan, Upper Ground Floor (Part 2)
- Drawing C5/REV 3 – Stormwater Management Plan, Upper Ground Floor (Part 3)
- Drawing C6/REV 3 – Stormwater Management Plan, Level 1 Floor Plan
- Drawing C7/REV 3 – Stormwater Management Plan, Level 2 Floor Plan
- Drawing C8/REV 3 – Stormwater Management Plan, Level 3 Floor Plan
- Drawing C9/REV 3 – Stormwater Management Plan, Level 4 Floor Plan
- Drawing C10/REV 3 – Stormwater Management Plan, Level 5 Floor Plan
- Drawing C11/REV 3 – Stormwater Management Plan, Roof Level
- Drawing C12/REV 3 – Stormwater Management Plan, Detail Sheet No.1

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2. SITE SUITABILITY

The site is suitable for the proposed development under Botany Bay LEP 2013 and Botany Bay DCP 2013 and SEEP. The objectives of the code have been achieved and the proposed S4.55 modification meets the design requirement of the code.

3. SCALE

The FSR of the proposal remain unchanged as per DA approval and complies with the requirement of Botany Bay LEP and DCP.

4. SETBACK

The front, side and rear setbacks of the proposal remain unchanged as per DA approval and complies with the requirement of Botany Bay LEP and DCP and ADG.

5. HEIGHT

The building height of the proposal remain unchanged as per DA approval and complies with the requirement of Botany Bay LEP and DCP.

6. PRIVACY

The proposed S4.55 modification has no impact on DA approved development, in other words, no privacy issue will be generated under the proposal.

7. SOLAR ACCESS

The solar access remain unchanged as DA approval and, hence it will not have overshadowing issues with its neighbouring properties.

8. STORMWATER

Modification of stormwater design which includes the deletion of OSD tank. The amended Stormwater design is in compliance with Botany Bay Stormwater Management Technical Guidelines, relevant Australian Standards and the RMS requirements for the development.

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9. VEHICLE ACCESS AND PARKING

The proposed S4.55 modification will not altered parking requirement and will remain unchanged as per DA approval.

10. CONCLUSION

The proposed S4.55 changes to stormwater management system does not alter the external appearance of the development and it will remain unchanged as per DA approval. Therefore, the proposed S4.55 application will have no impact to the neighbour and its surrounding environment.



APPENDIX

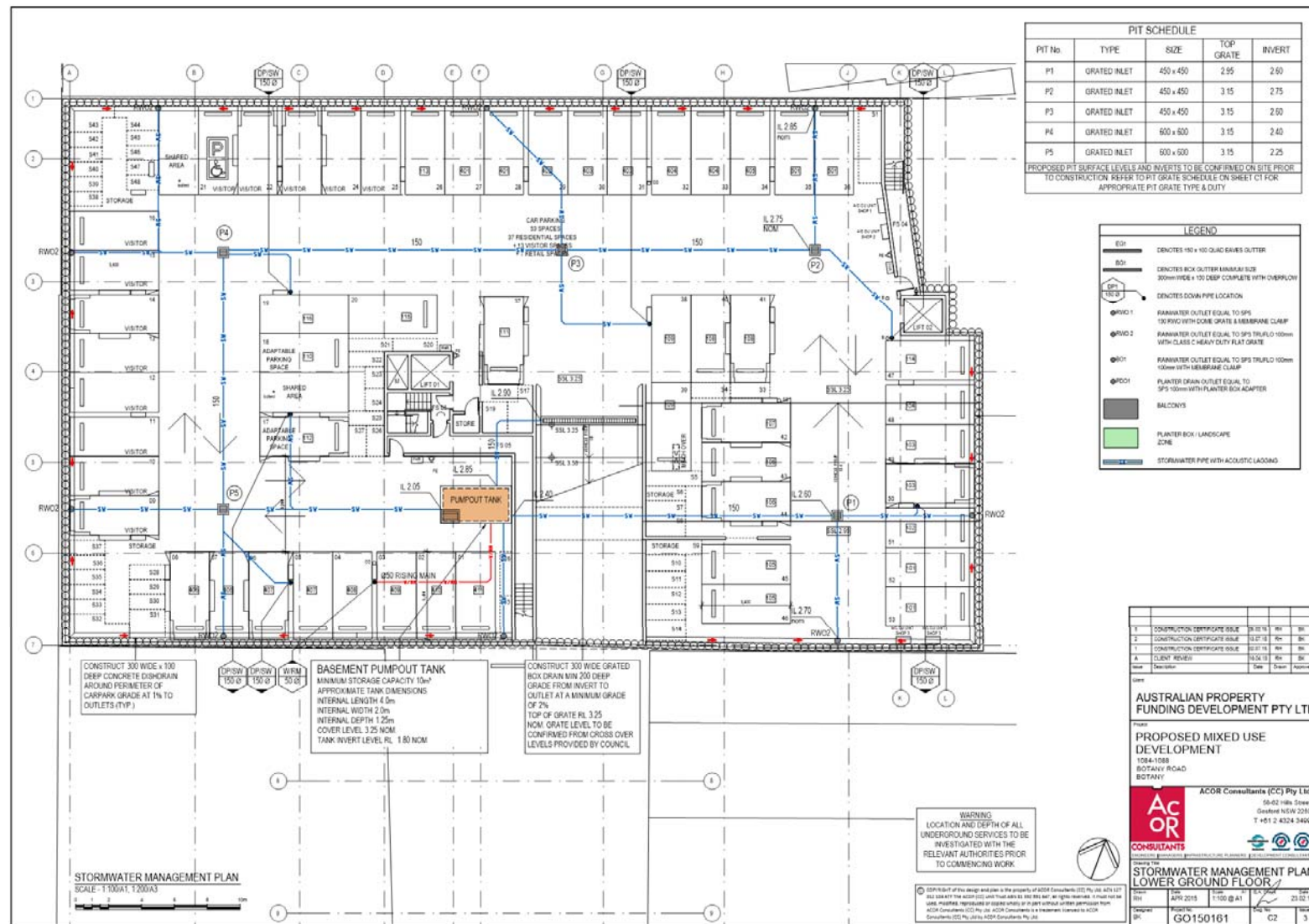
STORMWATER PLAN

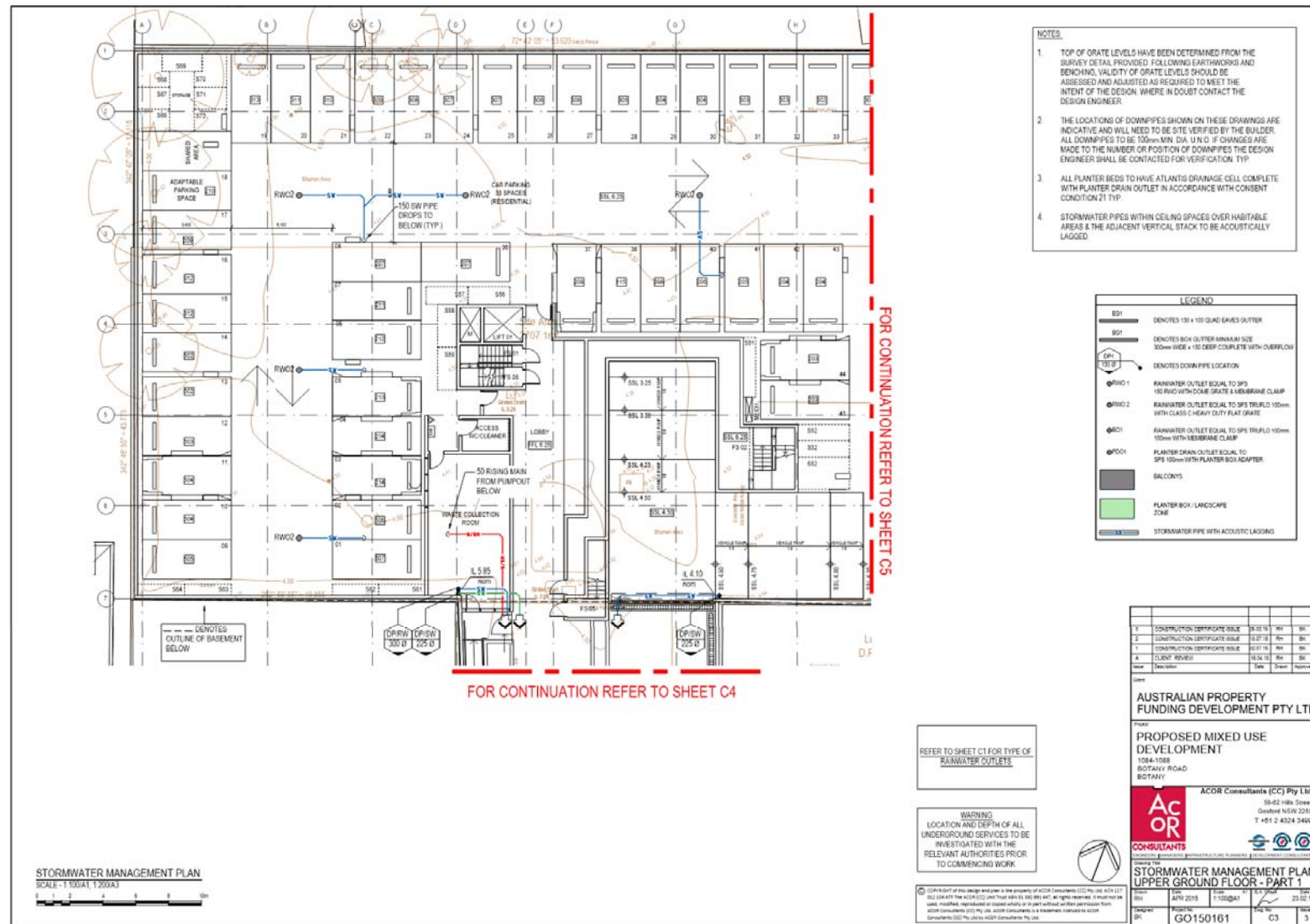
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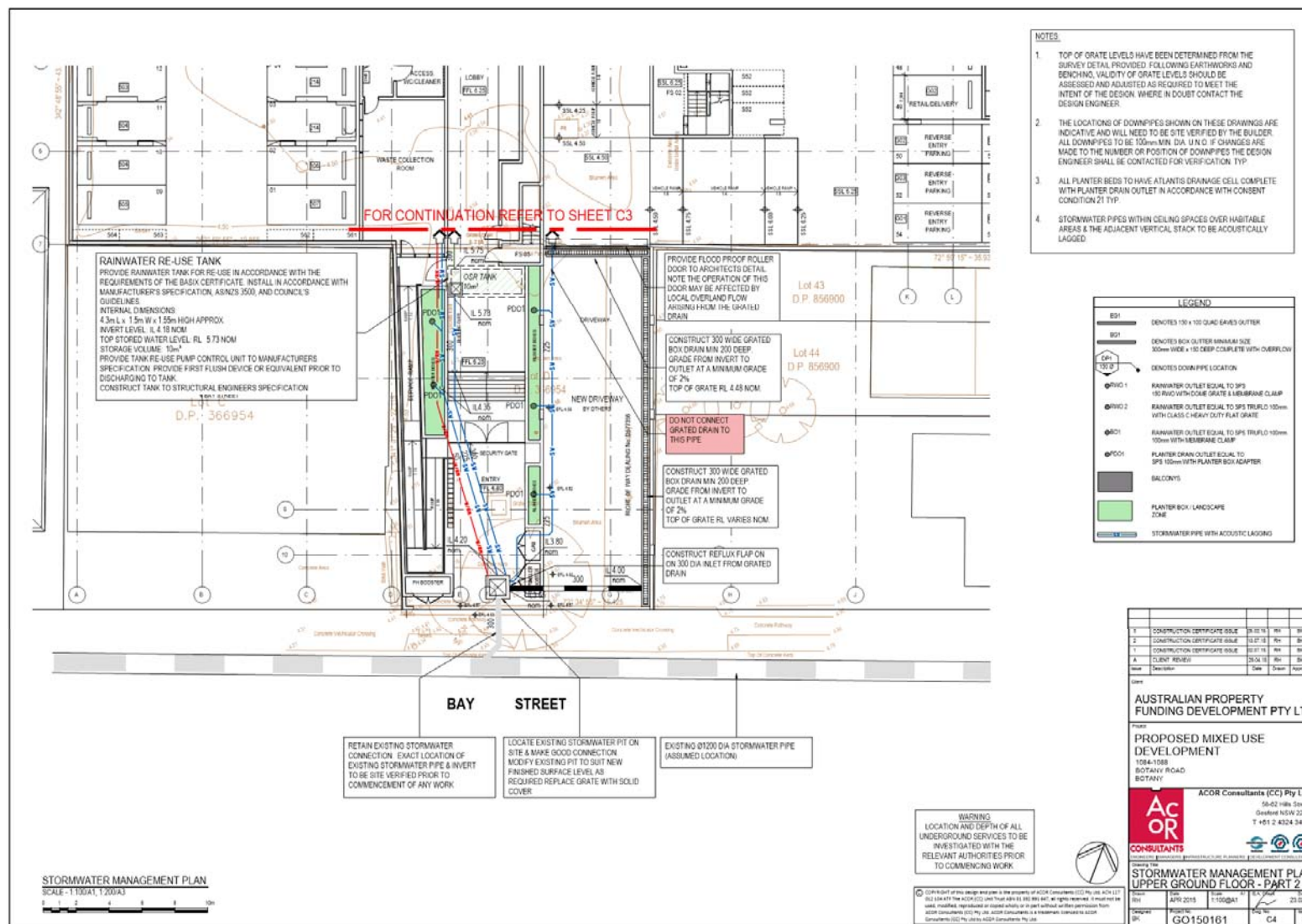
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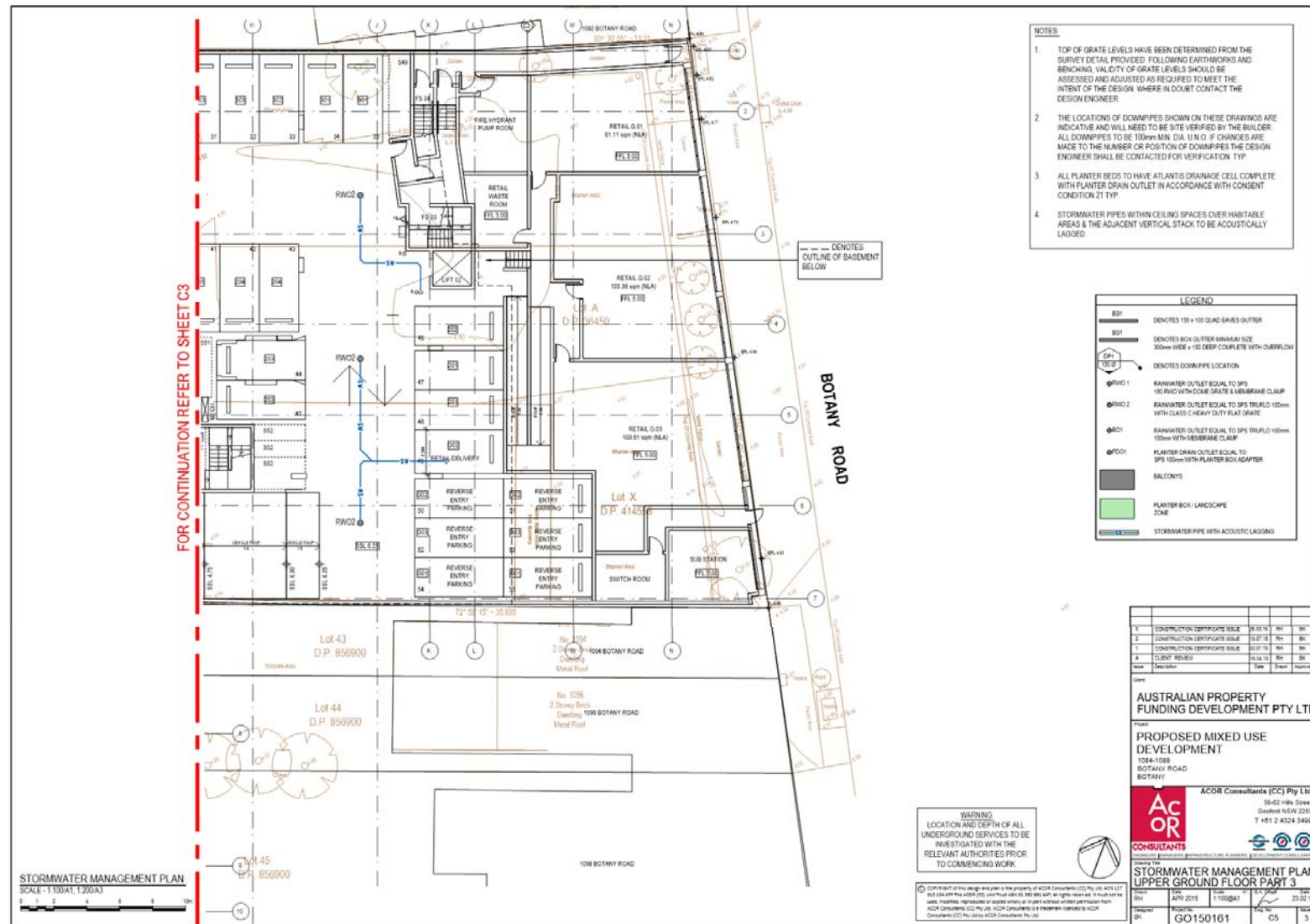
PROPOSED DEVELOPMENT (No.1084-1088) BOTANY ROAD, BOTANY STORMWATER MANAGEMENT PLANS

LEGEND	LEGEND	GENERAL NOTES	RAINWATER RE-USE SYSTEM NOTES	DESIGN CERTIFICATE																																																										
<p>GRD DENOTES ON-SITE DETENTION TANK</p> <p>OSR DENOTES ON-SITE RETENTION TANK</p> <p>SV DENOTES 100mm DIA. STORMWATER/SURFACE WATER SYSTEM PIPE AT 1% MIN. GRADE U.N.O.</p> <p>RV DENOTES 100mm DIA. FULLY SEALED RAINWATER SYSTEM PIPE U.N.O.</p> <p>150 DENOTES RAINWATER PIPE AND DIA. WHEN PIPE EXCEEDS 100mm DIA.</p> <p>150 DENOTES STORMWATER/SURFACE WATER PIPE AND DIA. WHEN PIPE EXCEEDS 100mm DIA.</p> <p>IS DENOTES RISING MAIN AND PIPE DIA. U.N.O.</p> <p>W/RH DENOTES SUBSOIL DRAINAGE LINE AND DIA. WRAPPED IN GEOTEXTILE U.N.O.</p> <p>100 DENOTES DOWNPIPE</p> <p>DP DENOTES INSPECTION OPENING WITH SCREW DOWN LID AT FINISHED SURFACE LEVEL</p> <p>CO DENOTES INSPECTION OPENING WITH SCREW DOWN LID AT FINISHED SURFACE LEVEL FOR SYSTEM FLUSHING PURPOSES</p> <p>STORMWATER PIT - SOLID COVER</p> <p>STORMWATER PIT - GRATED INLET</p> <p>DENOTES GRATED DRAIN</p> <p>DENOTES ABSORPTION TRENCH</p> <p>NON RETURN VALVE</p> <p>PUMP</p> <p>STOP VALVE (ISOLATION VALVE)</p> <p>24V REQUIRED</p> <p>DENOTES LEVEL OF INLET/OUTLET OF STORMWATER PIPE NOTE: UNLESS NOTED OTHERWISE, THE BASE OF THE PIT IS THE SAME AS THE PIPE INLET/OUTLET</p>	<p>EG1 DENOTES 150 x 150 QUAD EAVES OUTLET</p> <p>BG1 DENOTES BOX OUTLET MINIMUM SIZE 300mm WIDE x 150 DEEP COMPLETE WITH OVERFLOW</p> <p>DP1 DENOTES DOWN PIPE LOCATION</p> <p>RWD1 RAINWATER OUTLET EQUAL TO SPS 150 RWD WITH DOME GRATE & MEMBRANE CLAMP</p> <p>RWD2 RAINWATER OUTLET EQUAL TO SPS TRUFLO 100mm WITH CLASS C HEAVY DUTY FLAT GRATE</p> <p>BO1 RAINWATER OUTLET EQUAL TO SPS TRUFLO 100mm 100mm WITH MEMBRANE CLAMP</p> <p>PD01 PLANTER DRAIN OUTLET EQUAL TO SPS 100mm WITH PLANTER BOX ADAPTER</p> <p>FLOOR WASTE (BELOW DP)</p> <p>BALCONYS</p> <p>NON-TRAFFICABLE</p> <p>PLANTER BOX / LANDSCAPE ZONE</p> <p>STORMWATER PIPE WITH ACOUSTIC LAGGING</p>	<p>GENERAL NOTES</p> <ol style="list-style-type: none"> THESE PLANS SHALL BE READ IN CONJUNCTION WITH OTHER RELEVANT CONSULTANTS' PLANS, SPECIFICATIONS, CONDITIONS OF DEVELOPMENT CONSENT AND CONSTRUCTION CERTIFICATE REQUIREMENTS. WHERE DISCREPANCIES ARE FOUND ACOR CONSULTANTS (CC) MUST BE CONTACTED IMMEDIATELY FOR VERIFICATION WHERE THESE PLANS ARE NOTED FOR DEVELOPMENT APPLICATION PURPOSES ONLY, THEY SHALL NOT BE USED FOR OBTAINING A CONSTRUCTION CERTIFICATE NOR USED FOR CONSTRUCTION PURPOSES SUBSOIL DRAINAGE SHALL BE DESIGNED AND DETAILED BY THE STRUCTURAL ENGINEER. SUBSOIL DRAINAGE SHALL NOT BE CONNECTED INTO THE STORMWATER SYSTEM (IDENTIFIED ON THESE PLANS UNLESS APPROVED BY ACOR CONSULTANTS (CC)) <p>STORMWATER CONSTRUCTION NOTES</p> <ol style="list-style-type: none"> ALL WORK SHALL BE CARRIED OUT IN ACCORDANCE WITH AS/NZS 3500 (CURRENT EDITION) AND THE REQUIREMENTS OF THE LOCAL COUNCIL'S POLICIES AND CODES THE MINIMUM SIZES OF THE STORMWATER DRAINS SHALL NOT BE LESS THAN D80 FOR CLASS 1 BUILDINGS AND D100 FOR OTHER CLASSES OF BUILDING OR AS REQUIRED BY THE REGULATORY AUTHORITY THE MINIMUM GRADIENT OF STORMWATER DRAINS SHALL BE 1% UNLESS NOTED OTHERWISE COUNCIL'S TREE PRESERVATION ORDER IS TO BE STRICTLY ADHERED TO: NO TREES SHALL BE REMOVED UNTIL PERMIT IS OBTAINED PUBLIC UTILITY SERVICES ARE TO BE ADJUSTED AS NECESSARY AT THE CLIENT'S EXPENSE ALL PITS TO BE BENCHED AND STREAMLINED: PROVIDE STEP IRONS FOR ALL PITS OVER 1.2m DEEP MAKE SMOOTH JUNCTION WITH ALL EXISTING WORK VEHICULAR ACCESS AND ALL SERVICES TO BE MAINTAINED AT ALL TIMES TO ADJOINING PROPERTIES AFFECTED BY CONSTRUCTION SERVICES SHOWN ON THESE PLANS HAVE BEEN LOCATED FROM INFORMATION SUPPLIED BY THE RELEVANT AUTHORITIES AND FIELD INVESTIGATIONS AND ARE NOT GUARANTEED COMPLETE NOR CORRECT. IT IS THE CLIENT & CONTRACTOR'S RESPONSIBILITY TO LOCATE ALL PRIOR TO CONSTRUCTION ANY VARIATION TO THE WORKS AS SHOWN ON THE APPROVED DRAWINGS ARE TO BE CONFIRMED BY ACOR CONSULTANTS (CC) PRIOR TO THEIR COMMENCEMENT 	<p>RAINWATER RE-USE SYSTEM NOTES</p> <ol style="list-style-type: none"> RAINWATER SUPPLY PLUMBING TO BE CONNECTED TO OUTLETS WHERE REQUIRED BY BASIX CERTIFICATE (BY OTHERS) TOWN WATER CONNECTION TO RAINWATER TANK TO BE TO THE SATISFACTION OF THE REGULATORY AUTHORITY. THIS MAY REQUIRE PROVISION OF: 2.1 PERMANENT AIR GAP 2.2 BACKFLOW PREVENTION DEVICE NO DIRECT CONNECTION BETWEEN TOWN WATER SUPPLY AND THE RAINWATER SUPPLY AN APPROVED STOP VALVE AND/OR PRESSURE LIMITING VALVE AT THE RAINWATER TANK PROVIDE AT LEAST ONE EXTERNAL HOSE COCK ON THE TOWN WATER SUPPLY FOR FIRE FIGHTING PROVIDE APPROPRIATE FLOAT VALVES AND/OR SOLENOID VALVES TO CONTROL TOWN WATER SUPPLY INLET TO TANK IN ORDER TO ACHIEVE THE TOP-UP INDICATED ON THE TYPICAL DETAIL ALL PLUMBING WORKS ARE TO BE CARRIED OUT BY LICENSED PLUMBERS IN ACCORDANCE WITH AS/NZS3500.1 NATIONAL PLUMBING AND DRAINAGE CODE PRESSURE PUMP ELECTRICAL CONNECTION TO BE CARRIED OUT BY A LICENSED ELECTRICIAN ONLY ROOF RUN-OFF IS TO BE DIRECTED TO THE RAINWATER TANK. SURFACE WATER INLETS ARE NOT TO BE CONNECTED PIPE MATERIALS FOR RAINWATER SUPPLY PLUMBING ARE TO BE APPROVED MATERIALS TO AS/NZS3500 PART 1 SECTION 2 AND TO BE CLEARLY AND PERMANENTLY IDENTIFIED AS RAINWATER. THIS MAY BE ACHIEVED FOR BELOW GROUND PIPES USING IDENTIFICATION TAPE (MADE IN ACCORDANCE WITH AS2648) OR FOR ABOVE GROUND PIPES BY USING ADHESIVE PIPE MARKERS MADE IN ACCORDANCE WITH AS1365 EVERY RAINWATER SUPPLY OUTLET POINT AND THE RAINWATER TANK ARE TO BE LABELED RAINWATER ON A METALLIC SIGN IN ACCORDANCE WITH AS13103 ALL INLETS AND OUTLETS TO THE RAINWATER TANK ARE TO HAVE SUITABLE MEASURES PROVIDED TO PREVENT MOSQUITO AND VERMIN ENTRY 	<p>DESIGN CERTIFICATE</p> <p>THIS DESIGN HAS BEEN PREPARED HAVING REGARD FOR THE STORMWATER POLICIES OF BOTANY BAY COUNCIL'S STORMWATER MANAGEMENT TECHNICAL GUIDELINES AND FOR CONDITIONS 4 (b), 9 (a), 20 (a) & 27 OF DEVELOPMENT CONSENT DA12/205</p> <p>WE CERTIFY THAT OUR DESIGN COMPLIES WITH THE GENERAL REQUIREMENTS AND PERFORMANCE CRITERIA ESTABLISHED BY BOTANY BAY COUNCIL AND AS/NZS 3500.3 FOR A DEVELOPMENT OF THIS NATURE.</p> <p>IN REGARD TO CLAUSE 26 (c) RMS DOES NOT REQUIRE ON SITE DETENTION REFER TO EMAIL DATED 23 MARCH 2015. BASED ON THIS COUNCIL HAS INDICATED THAT OSD IS NOT REQUIRED HOWEVER, FORMAL ACCEPTANCE OF THIS HAS NOT YET BEEN RECEIVED.</p> <p>LD APPEYARD MIE Just CPEng Date: 26/02/18 Registered on the National Professional Engineers Register - Civil and Structural</p>																																																										
<p>DIAL BEFORE YOU DIG</p> <p>IMPORTANT: THE CONTRACTOR IS TO MAINTAIN A CURRENT SET OF "DIAL BEFORE YOU DIG" DRAWINGS ON SITE AT ALL TIMES.</p>	<p>PIT GRATE INLET TYPE</p> <table border="1"> <thead> <tr> <th>GRATE TYPE</th> <th>TRAFFIC CONDITIONS</th> </tr> </thead> <tbody> <tr> <td>A - EXTRA LIGHT DUTY</td> <td>FOOTWAYS AND AREAS ACCESSIBLE ONLY TO PEDESTRIANS AND PEDAL CYCLISTS</td> </tr> <tr> <td>B - LIGHT DUTY</td> <td>FOOTWAYS THAT CAN BE MOUNTED BY VEHICLE</td> </tr> <tr> <td>C - MEDIUM DUTY</td> <td>MALLS AND PEDESTRIAN AREAS OPEN TO SLOW MOVING COMMERCIAL VEHICLES</td> </tr> <tr> <td>D - HEAVY DUTY</td> <td>CARRIAGEWAYS OF ROADS AND AREAS OPEN TO COMMERCIAL VEHICLES</td> </tr> </tbody> </table> <p>TABLE AS PER AS2399-2005. ENGINEER TO BE NOTIFIED IF LOAD CONDITIONS LISTED ABOVE ARE EXCEEDED</p>	GRATE TYPE	TRAFFIC CONDITIONS	A - EXTRA LIGHT DUTY	FOOTWAYS AND AREAS ACCESSIBLE ONLY TO PEDESTRIANS AND PEDAL CYCLISTS	B - LIGHT DUTY	FOOTWAYS THAT CAN BE MOUNTED BY VEHICLE	C - MEDIUM DUTY	MALLS AND PEDESTRIAN AREAS OPEN TO SLOW MOVING COMMERCIAL VEHICLES	D - HEAVY DUTY	CARRIAGEWAYS OF ROADS AND AREAS OPEN TO COMMERCIAL VEHICLES	<p>SHEET INDEX</p> <table border="1"> <thead> <tr> <th>COVER SHEET, NOTES AND LEGEND</th> <th>SHEET C1</th> </tr> </thead> <tbody> <tr> <td>STORMWATER MANAGEMENT PLAN - LOWER GND FLOOR</td> <td>SHEET C2</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - UPPER GND PART 1</td> <td>SHEET C3</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - UPPER GND PART 2</td> <td>SHEET C4</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - UPPER GND PART 3</td> <td>SHEET C5</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - LEVEL 1</td> <td>SHEET C6</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - LEVEL 2</td> <td>SHEET C7</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - LEVEL 3</td> <td>SHEET C8</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - LEVEL 4</td> <td>SHEET C9</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - LEVEL 5</td> <td>SHEET C10</td> </tr> <tr> <td>STORMWATER MANAGEMENT PLAN - ROOF</td> <td>SHEET C11</td> </tr> <tr> <td>STORMWATER MANAGEMENT DETAIL SHEET NO 1</td> <td>SHEET C12</td> </tr> </tbody> </table>	COVER SHEET, NOTES AND LEGEND	SHEET C1	STORMWATER MANAGEMENT PLAN - LOWER GND FLOOR	SHEET C2	STORMWATER MANAGEMENT PLAN - UPPER GND PART 1	SHEET C3	STORMWATER MANAGEMENT PLAN - UPPER GND PART 2	SHEET C4	STORMWATER MANAGEMENT PLAN - UPPER GND PART 3	SHEET C5	STORMWATER MANAGEMENT PLAN - LEVEL 1	SHEET C6	STORMWATER MANAGEMENT PLAN - LEVEL 2	SHEET C7	STORMWATER MANAGEMENT PLAN - LEVEL 3	SHEET C8	STORMWATER MANAGEMENT PLAN - LEVEL 4	SHEET C9	STORMWATER MANAGEMENT PLAN - LEVEL 5	SHEET C10	STORMWATER MANAGEMENT PLAN - ROOF	SHEET C11	STORMWATER MANAGEMENT DETAIL SHEET NO 1	SHEET C12	<p>AUSTRALIAN PROPERTY FUNDING DEVELOPMENT PTY LTD</p> <p>PROPOSED MIXED USE DEVELOPMENT</p> <p>1084-1088 BOTANY ROAD BOTANY</p> <p>ACOR CONSULTANTS (CC) Pty Ltd 56-62 Mills Street Geelong NSW 3220 T +61 2 4324 3400</p> <p>COVER SHEET, NOTES & LEGEND</p> <table border="1"> <thead> <tr> <th>Rev</th> <th>Date</th> <th>By</th> <th>Check</th> <th>Appr</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>20/02/18</td> <td>RM</td> <td>RM</td> <td>RM</td> </tr> <tr> <td>2</td> <td>03/07/18</td> <td>RM</td> <td>RM</td> <td>RM</td> </tr> <tr> <td>3</td> <td>03/07/18</td> <td>RM</td> <td>RM</td> <td>RM</td> </tr> <tr> <td>4</td> <td>03/07/18</td> <td>RM</td> <td>RM</td> <td>RM</td> </tr> </tbody> </table> <p>Project: G0150161 Sheet: C1 of 3</p>	Rev	Date	By	Check	Appr	1	20/02/18	RM	RM	RM	2	03/07/18	RM	RM	RM	3	03/07/18	RM	RM	RM	4	03/07/18	RM	RM	RM
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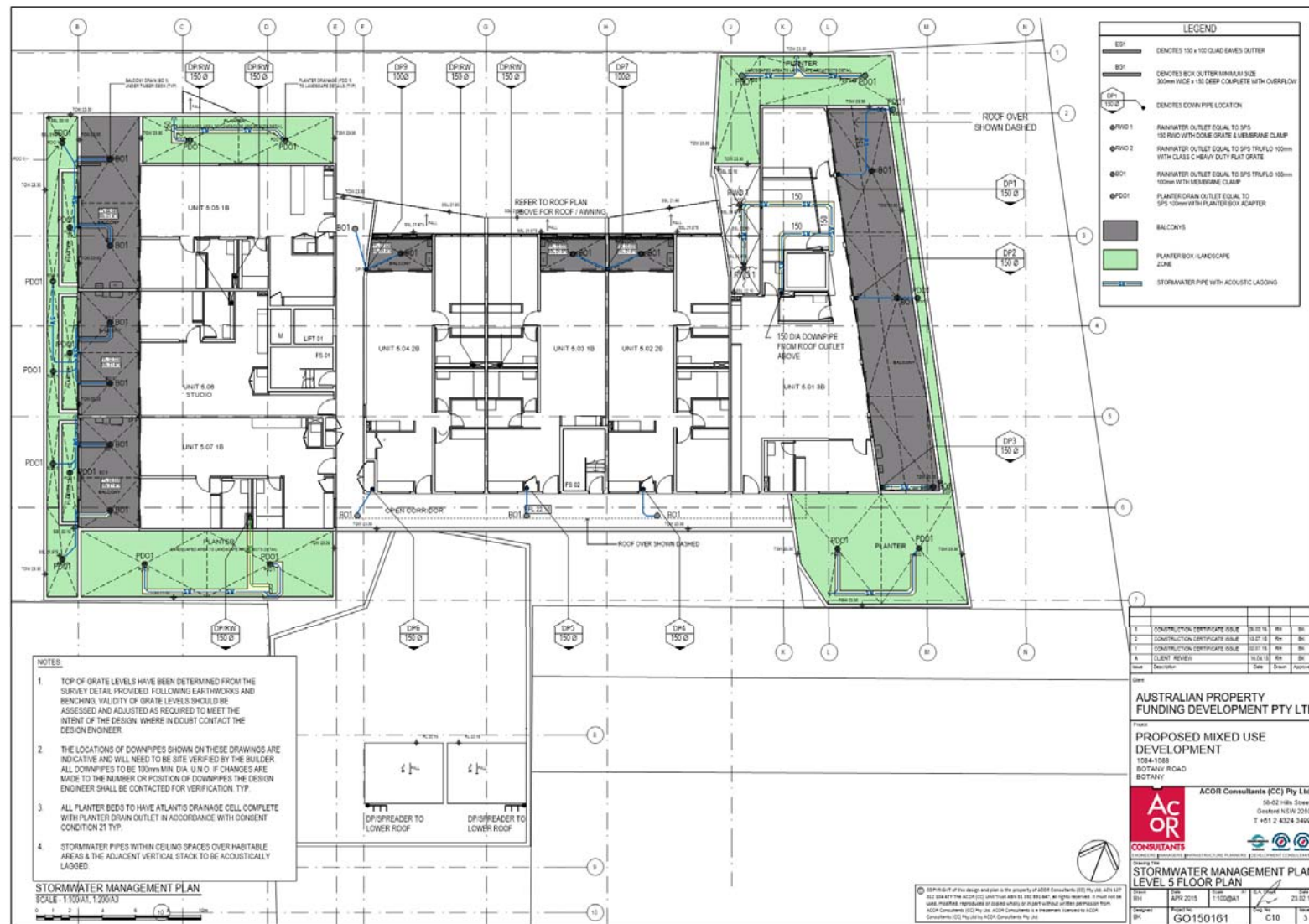


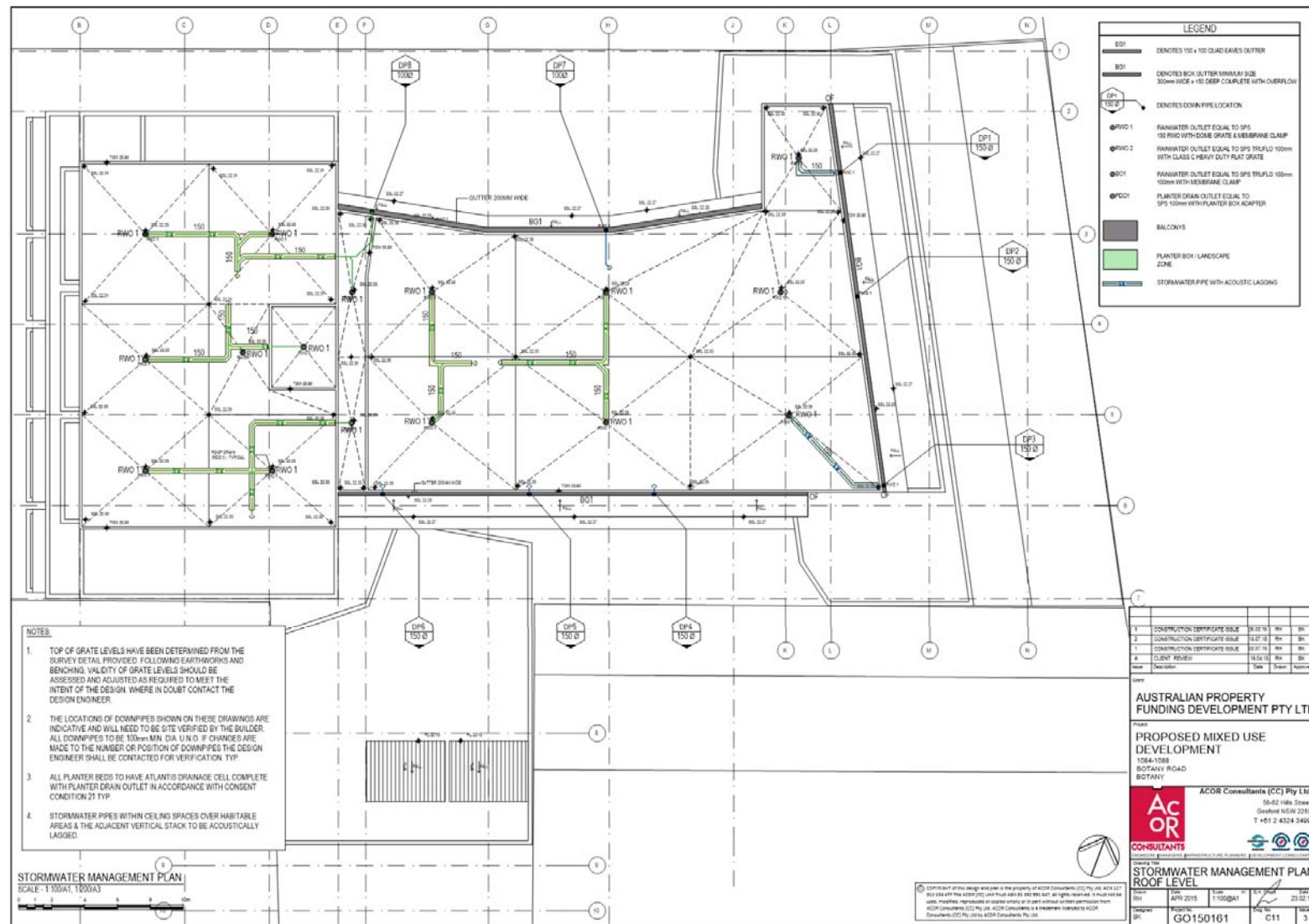


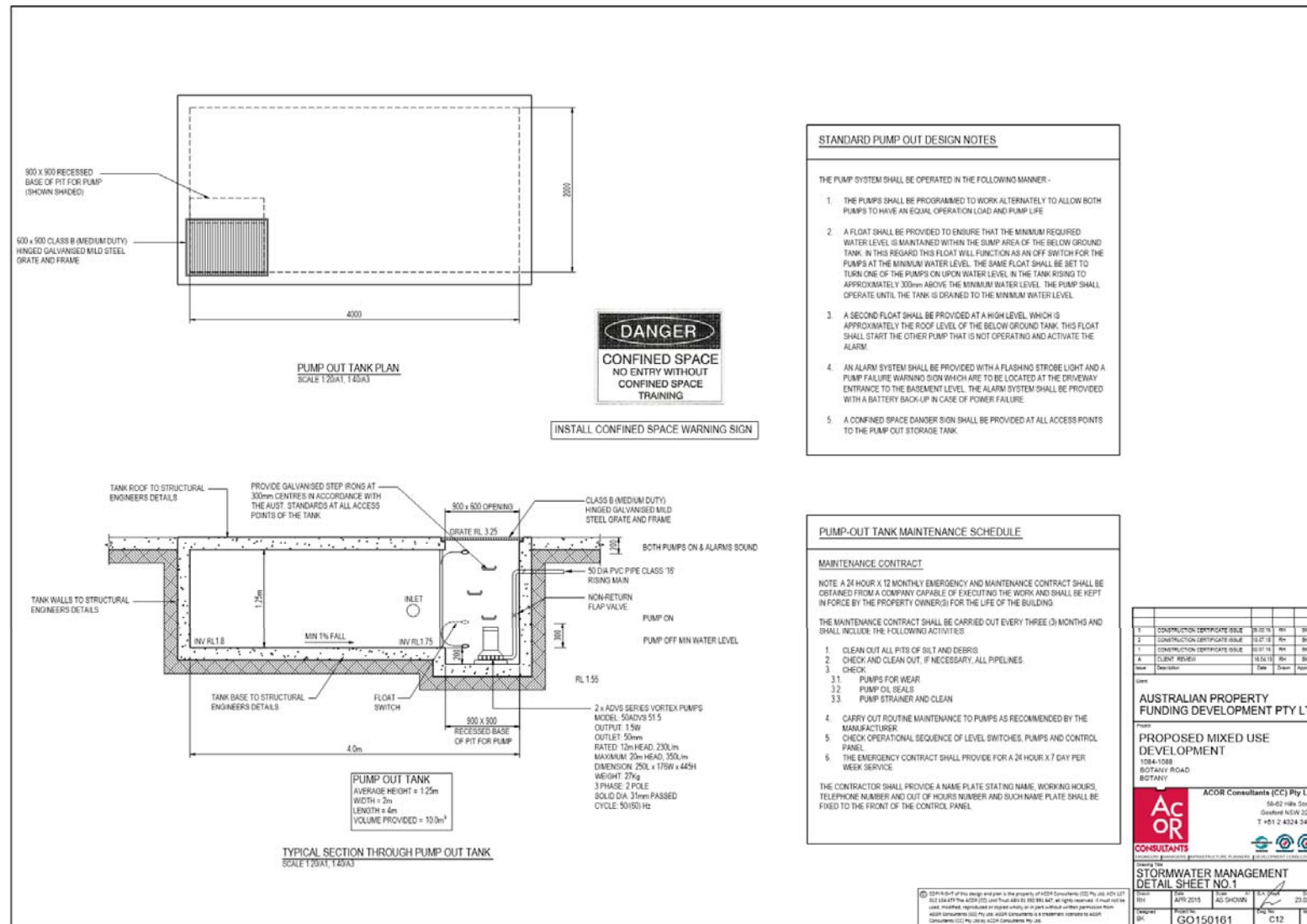












Bayside Local Planning Panel

27/11/2018

Item No	6.5
Application Type	Development Application
Application No	DA-2018/92
Lodgement Date	23/04/2018
Property	17/21-25 Bryant Street, Rockdale
Ward	Rockdale
Owner	Mrs F Hsu
Applicant	Mrs F Hsu
Proposal	Alterations and additions to Unit 17
No. of Submissions	Nil
Cost of Development	\$3,000
Report by	Michael Maloof, Senior Development Assessment Planner

Officer Recommendation

That the Development Application No.DA-2018/92 for alterations and additions to Unit 17 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Location Plan



Attachments

- 1 Assessment Report
- 2 Site Plan & Roof Plan
- 3 Existing Top Floor Plan
- 4 Existing Elevation Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/92
Date of Receipt:	23 April 2018
Property:	17 / 21 - 25 Bryant Street, ROCKDALE (Lot 17 SP 73839)
Owner:	Mrs Fang-Yu Hsu
Applicant:	Mrs Fang-Yu Hsu
Proposal:	Alterations and additions to Unit 17
Recommendation:	Approved
No. of submissions:	Nil
Author:	Michael Maloof
Date of Report:	6 November 2018

Key Issues

The key issues related to this application are:

- Unapproved building works
- Car parking

The above matters have been addressed later in this report.

Recommendation

1. That the Development Application No. DA-2018/92 for the alterations and additions to Unit 17 at 21-25 Bryant Street, Rockdale, be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

History

Council's records show that the following applications were previously lodged with Council that are related to the subject dwelling:

- DA-2002/660 - Mixed Use Development - 20 X 2 Bedroom Units, Two Commercial Suites and Associated Parking - Approved on 16 December 2002
- DA-2002/660/A, B and C - Several minor Section 96 Amendments made to the scheme all of

which were Approved by Council

- BC-2018/2, Unapproved Development - Internal partitioning at Level 6 - Lodged on 09/01/18 and still being assessed

On 4 October 2017 a complaint was received by Council which stated the roof top terrace had been enclosed (18m²) and converted to habitable floor space. The Building Information Certificate (BC) above was lodged on 9 January 2018 and it was found that the development was within the existing walls although development consent was required for the conversion to a bedroom with ensuite. The current application was submitted to Council on 23 April 2018 for Council's consideration.

Proposal

Council is in receipt of a development application DA-2018/92 at 17/21-25 Bryant Street, Rockdale, which seeks consent for alterations and additions to Unit 17 including the provision of a bedroom and ensuite on the upper level adjacent to the roof top terrace. This application seeks to legitimise the alterations and additions which have already been carried out on the site (i.e. they are unauthorised).

Specifically, the proposal consists of:

- The existing habitable room on the roof top terrace level being converted into a bedroom with ensuite being 18m² in area;
- The existing habitable room be provided with a door at the top of the stairs to the bedroom; and
- The building works includes one additional window opening in the southern external wall (measuring 0.8m x 0.8m) of the existing building for bathroom ventilation.

The above works are within the existing building envelope on the roof top terrace level and do not involve the addition of any new external walls. The works have already been completed and a Building Information Certificate has been submitted for these unauthorised works.

Site location and context

The subject site is known as Lot 17 in SP 73839, at unit 17/21-25 Bryant Street, Rockdale. The site is a rectangular shape with front and rear boundary widths of 24.38 metres and the side boundaries are 36.6m deep. The total site area is 891.9 sq.m and contains a seven storey mixed use development containing 18 residential apartments. The top floor of the building is the roof top terrace with direct access from units 17 and 18. The topography of the site is such that it is relatively flat.

The site is located on the southern side of Bryant Street between Market and George Streets. Adjoining development to the sides includes a ten storey multi unit development to the west on the corner with Market Street and a single storey dwelling house to the east which is soon to be redeveloped with the adjoining dwellings houses to the corner of George Street. A one storey dwelling house is situated on the adjoining property to the rear which also fronts George Street and is soon to be redeveloped. There is a mix of one storey dwelling houses and multi storey mixed use developments within close proximity to the subject property.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

Planning and Assessment Act, 1979.

S4.15 (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 is for minor alterations and additions to an existing mixed use development including the conversion of the existing room at level one of Unit 17 to a bedroom with ensuite. It does not involve any additional dwellings or an extension of the unit on the subject site. As such, the proposal does not require referral to the Design Review Panel and is acceptable in this regard.

The proposal will not increase the size of unit 17 but will involve the conversion of floor space on the roof top terrace level into a third bedroom with ensuite. In this regard, the proposal will not increase the size of the unit which has a gross floor area (GFA) of 75m² as previously approved. The existing apartment includes a ground floor of 58m² and upper level of 17m² having a total of 75m² which was a common size for a two bedroom unit at the time of the previous development approval. The unit also includes a 20m² balcony at the lower floor level and the generous roof terrace area at the upper floor level. The proposal will not reduce any setbacks for the upper floor of the existing building as it currently exists on the site, nor include any changes to the design of the unit apart from the addition of a window in the ensuite external wall.

The proposal will, however, result in a three (3) bedroom plus two bathroom unit which does not comply with the minimum 95m² required under the Apartment Design Guide (ADG). While the proposal does not comply with the minimum size required under the ADG, the unit has a high level of amenity as it benefits from cross-ventilation and a northerly aspect to the unit and its 20m² balcony at the lower level. Given that the modification relates to the upper level and does not detract from the existing internal amenity provided at the lower level, and given that the building was approved under previously controls, the proposed variation is acceptable in this regard.

With regards to car parking, the proposal provides one on site car parking space for the unit and does not comply with the relevant provision of the ADG (clause 3J) which refers to the RMS Guide for Traffic Generating Developments which requires 1.4 spaces to be provided for each 3 bedroom unit. The existing unit has been allocated one (1) car space and there is no ability to provide additional parking on site. The variation is supported for reasons discussed in response to clause 4.6 of the Rockdale DCP 2011 which relates to car parking.

Based on the above, the proposal is consistent with the objectives of the SEPP and ADG and is acceptable in this case.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B2 Local Centre	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
6.3 On 25 ANEF (2033) contour	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

2.3 Zone B2 Local Centre

The subject site is zoned B2 - Local Centre under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as alterations and additions to an existing mixed use development which constitutes a permissible development only with development consent. The objectives of the zone are:

- 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.
- To accommodate population growth through high density mixed use development that complements the role of retail, commercial, civic and cultural premises in the Rockdale town centre.
- To create a lively Rockdale town centre with an amenable and pedestrian focused public domain activated by building uses that engage with the street.

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

4.3 Height of buildings

The proposal will involve the conversion of a room into a bedroom within the existing building envelope and will not increase the height of the existing building on the site. As such, the proposal does not exceed the maximum 28m height shown for the land on the Height of Buildings Map. Further, the proposed development will not challenge the existing building, maintain satisfactory sky exposure and daylight to buildings and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

6.3 On 25 ANEF (2033) contour

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located on the 20 ANEF (2033) contour. In this regard, the development will not result in an increase in the number of dwellings or people affected by aircraft noise. Therefore, it is considered that the proposed development does not require additional noise mitigation measures.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 50 metres to Australian Height Datum (AHD). The proposed building works will retain the existing building height which is at 39.7 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves retaining the existing on site stormwater detention system to manage stormwater. The retention of the existing roof top structure and conversion to habitable floor space is not likely to increase the impervious area on the site. In this regard, the existing stormwater system which was previously approved by Council's development engineers is capable of servicing the site and therefore the proposal is consistent with the requirements of this clause.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion

4.1.1 Views and Vista

The conversion of the room on the roof top terrace will not involve any new walls and will not add any external structures to the existing roof top terrace. As such, the proposal will not result in any reduction of existing views out over or across the subject site. Accordingly, the proposal will retain the existing views and complies with the requirements of this clause in respect to views.

4.1.3 Water Management

The conversion of floor space to a bedroom with ensuite is located underneath an existing roof and will not increase the building footprint of the existing development on the site. As such, the proposal will not increase the requirement for stormwater drainage on the site or require additional water management on the site. Accordingly, the proposal complies with the requirements of this clause.

4.2 Streetscape and Site Context - General

The proposed development is located on the seventh floor of a mixed use development, underneath an

existing roof line, located behind a parapet wall and setback from the street. As such, the proposed enclosure and conversion to a bedroom with ensuite is not visible from the street and will not visually add to the bulk of the building. As such, the proposal is likely to have little or no impact on the existing streetscape along Bryant Street. In this regard, the proposal is not likely to result in any adverse impacts on the existing streetscape along Bryant Street and complies with the requirements of this clause.

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

The proposal provides adequate private open space on the roof top terrace in accordance with Council's DCP 2011. The proposal will retain this private open space and has not reduced it on the roof top terrace. The private open space is appropriate and is usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping. Accordingly, the proposal is acceptable in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The proposed development will involve conversion of existing floor space on the roof top terrace to a bedroom with ensuite. As such, the proposal will not increase the height of the building or reduce any existing setbacks. The proposal will not increase the level of overshadowing from the existing building and therefore will have minimal impact on the level of sunlight currently received by adjoining properties and within the development site. Accordingly, the proposal is acceptable in respect to the requirements of this clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating a minimum floor to ceiling height of 2.59m. While this is 11 mm less than the standard of 2.7m under Council's DCP, the existing roof form includes 100 mm for services and will allow substantial light and ventilation into the dwelling given the number of openings. As such, the proposal is consistent with the objectives of this clause and acceptable in this regard.

4.4.5 Visual privacy

The proposal will include the conversion of the existing enclosed room on the roof top level which is adjacent to the roof top terrace. This room was previously approved as an open floor area (habitable space) but was not a designated bedroom or water closet. The proposal includes one additional opening in an external wall for the bathroom. As such, the proposal will retain the same building setbacks as previously approved and will not result in any additional overlooking or privacy impacts than the previous approval on the site. As such, the proposal will retain adequate privacy for the existing dwelling and those adjoining it in the residential flat development. Accordingly, the proposal is consistent with the requirements of this clause.

4.4.5 Acoustic privacy

The proposal does not increase the size or dimensions of the existing roof top terrace or any balconies for the existing building. As such, it is not likely to increase the level of noise likely to be generated from the existing dwelling. The proposal will result in a bedroom being adjacent to the roof top terrace rather than a living area/room. Notwithstanding this, the proposal is not likely to result in any additional noise impacts on the dwelling and those adjoining it within the residential flat building on the site. Accordingly, the proposal is consistent with the requirements of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The previous approval granted development consent for the construction of 18 x 2 bedroom residential

units and two retail shops for the mixed use development on the site. The current proposal will improve the housing mix by making unit 17 a three bedroom unit instead of a 2 bedroom unit as previously approved on the site. While the current proposal will increase the number of three bedroom dwellings on the site, it will help in seeking to satisfy the requirements of this clause. The current proposal and the application for the adjoining unit 18 would both result in 2 x 3 bedroom units which would provide a minimum of 10% of the units. As such the proposal would satisfy the provisions of this clause being 10% of the total of all dwellings. Accordingly, the current proposal is acceptable in this regard.

4.6 Parking Rates Residential Flat Buildings

The existing mixed use development on the site was approved on 16 December 2002 and contained all two bedroom units each with one car parking space within the ground and basement car parking levels. Unit 17 was also approved with an open habitable floor area on the upper level which provides access to the roof top terrace. The current proposal converts this existing internal space into a third bedroom with an ensuite in the existing unit. Council's DCP 2011 ordinarily requires the provision of two on site car parking spaces for a three bedroom unit. The original development approval on the site (DA-2002/660) considered unit 17 to be a two bedroom unit despite the upper floor area as it did not have a separate door above the stairs and was open floor space.

The existing building on the site contains ground and basement parking levels containing one car parking space for each unit, commercial parking spaces and visitor car parking for the building. The design and layout of the basement levels do not make provision for any additional on site car parking for the current application. As such, an additional car parking space cannot be provided on the site and the proposal does not comply with the minimum car parking requirement.

Information has been submitted by the applicant which confirms the above scenario and requests the additional car parking space be waived in light of the limitation of the existing building. Notwithstanding this, the subject site is located within the Rockdale Town Centre and is approximately 300m away from Rockdale Railway Station. In respect to the provision of on site car parking requirements, the Apartment Design Guide refers to the Guide to Traffic Generating Development (Guide) or Council's DCP 2011 and states that the control to be used is that for which car parking is the lesser. In this regard, the Guide states the following requirement for high density residential flat buildings:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.

Based on the car parking rates above, the Guide would require less parking for the proposal which would amount to an increase in parking for the unit from 1 space to 1.4 spaces, that is 0.4 of a space to be provided on the site.

Council's Section 94 Contributions Plan is not applied to the provision of car parking spaces for residential units and as such, a levy under the Contribution Plan for a deficiency of on car parking space cannot be applied to the current proposal.

Strict compliance with the on site car parking requirement under section 4.6 of Council's DCP 2011 and the ADG is not possible on the subject site. The current proposal does not involve any changes to the existing ground and basement level car park. Notwithstanding this, the subject site has proximity to Rockdale Railway Station and the unauthorised building works are not visible from the street and do not result in any significant or detrimental adverse impacts on the amenity of the site or adjoining

properties.

In the circumstances of the case, the proposal is not considered likely to set an undesirable precedent and strict compliance with the standard is unreasonable and unnecessary.

Given the above, the application is recommended for approval subject to the imposition of conditions of development consent.

4.7 Laundry Facilities and Drying Areas

The proposal will not alter the existing provision of an internal laundry within the residential unit. Nor will the proposal affect the existing letterboxes, storage areas, air conditioning system or hot water system on the site. Accordingly, the provisions of this clause are satisfied.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard the building works have already been carried out and a condition of consent is not necessary to be imposed in this regard.

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

Fire Safety & Other Considerations - Clause 93 EP&A Regulation 2000

A Building Information Certificate is required to be submitted to Council to address all matters under the EP&A Regulation 2000 and ensure the building works complies with the requirements of the Building Code of Australia (BCA). This includes amending the plans to comply with the BCA in respect to the door at the top of the stairs and the fire safety measures used in the existing building. Accordingly, subject to the imposition of the recommended conditions of development consent, the proposal is acceptable in respect to the Regulations.

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

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

General

The building works have been assessed against relevant controls in regard to potential impacts on the environment and neighbouring properties. The development is satisfactory and not likely to result in any significant adverse amenity impacts on the site or adjoining dwellings. Appropriate conditions of consent have been included in the draft consent to further minimise impacts. Accordingly, the building works, as conditioned, are acceptable in this instance.

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

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

the site for the proposed development.

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

The proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

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

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

The application was referred to Council's Section 7.11 Planner who advised that a Section 7.11 Contribution Payment of \$4,653.50 is payable in accordance with Council's Policy. Accordingly, a condition has been imposed on the draft Notice of Determination in this regard.

Civil Aviation Act, 1988

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

Civil Aviation (Building Control) Regulations 1988

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

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

The proposed development is affected by the 15.24m Building Height Civil Aviation Regulations, however the proposal will not alter the existing building height (previously approved) at 20.2m which will have minimal impact upon the height requirement in the regulations.

Schedule 1 - Draft Conditions of consent

General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be maintained 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
Project No. 2174, Drawing No. A-04, Issue 01, Existing Top Floor Plan As Built,	IQ Homes	30/06/17	23/04/18
Project No. 2174, Drawing No. A-02, Issue 01, Existing Site & Roof Plan As Built,	IQ Homes	30/06/17	23/04/18
Project No. 2174, Drawing No. A-05, Issue 01, Existing Elevations As Built,	IQ Homes	30/06/17	23/04/18

3. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

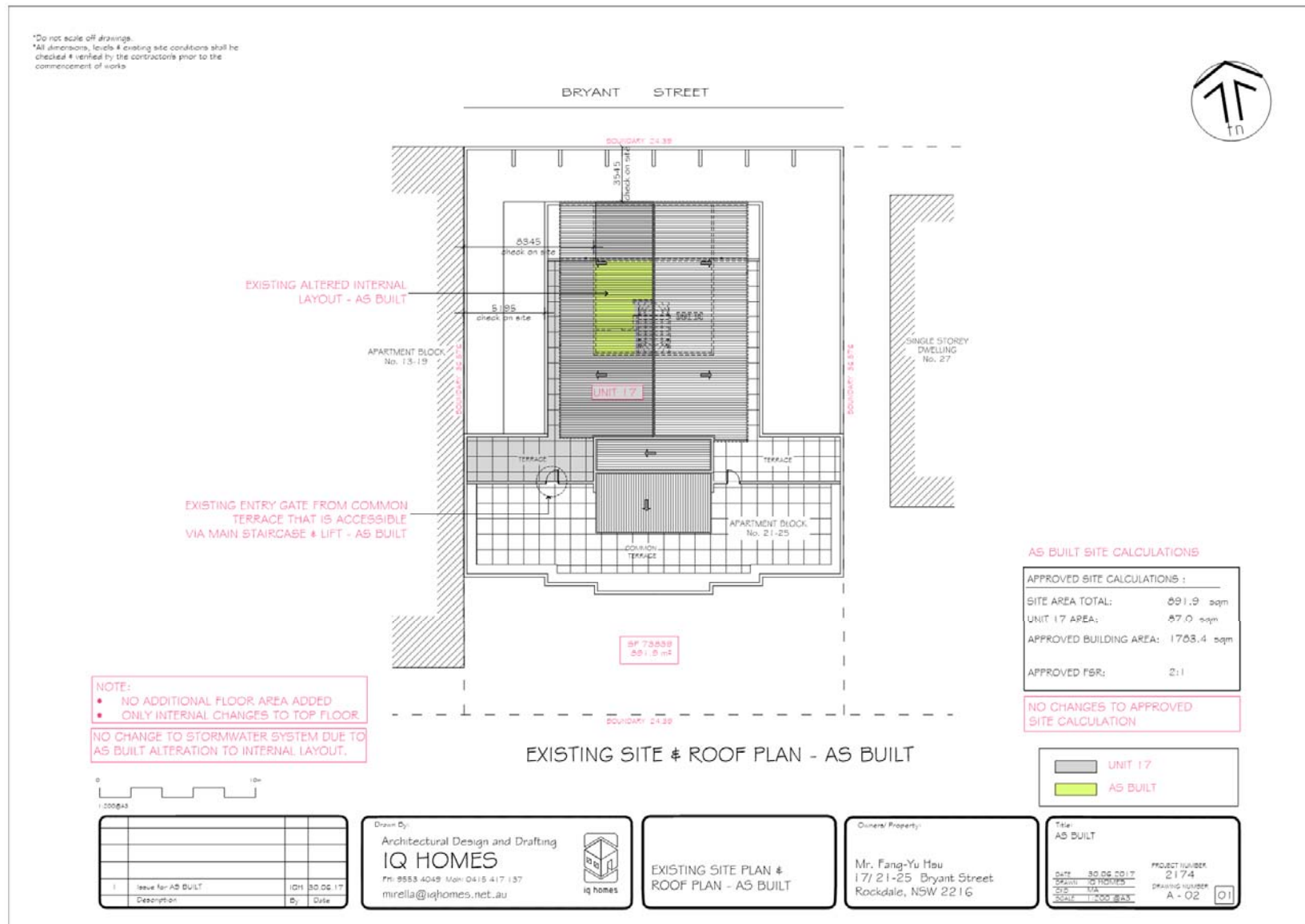
5. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
6. A Smoke Detector and Alarm being installed at level 6 of Unit 17 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.
7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

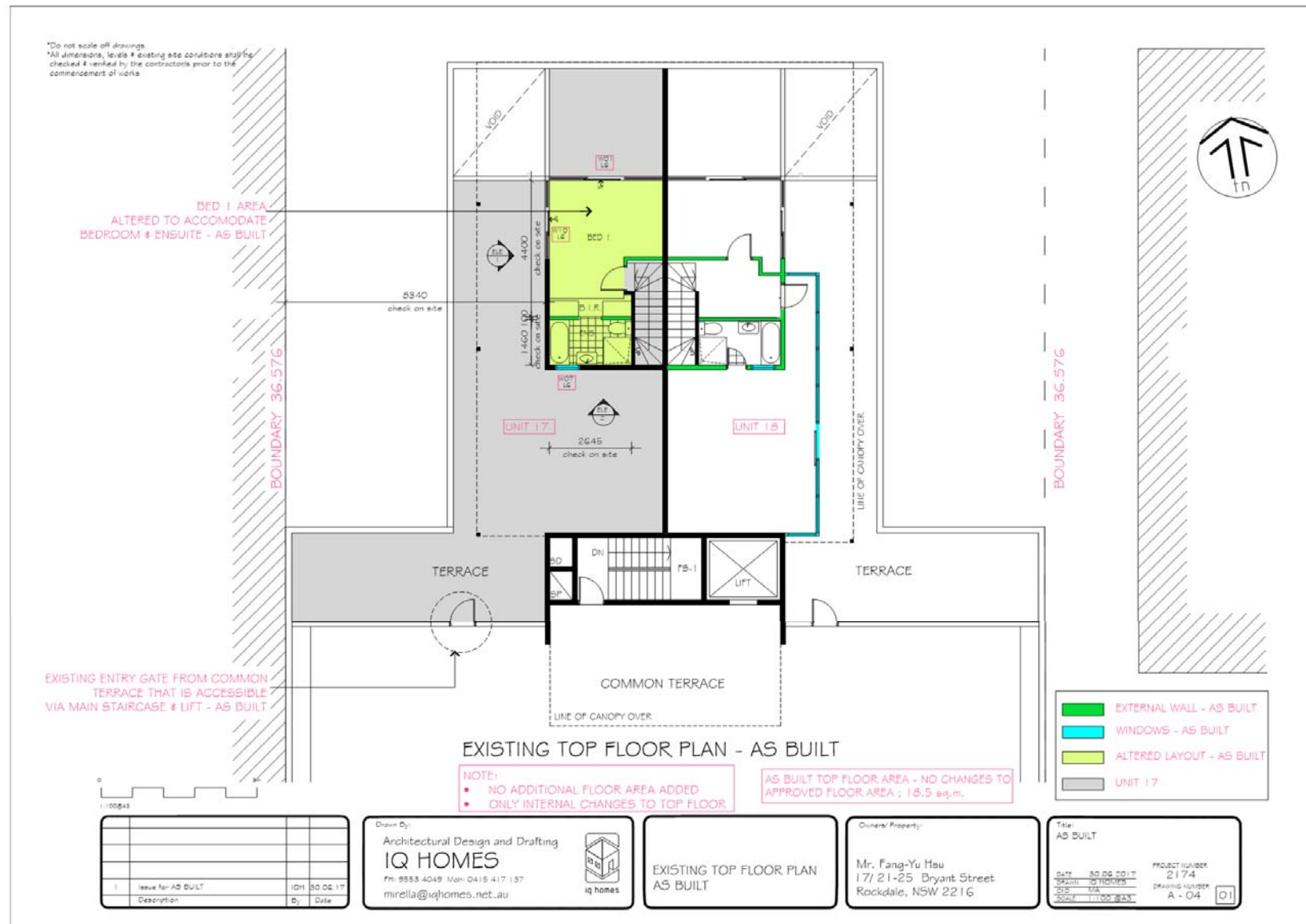
Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

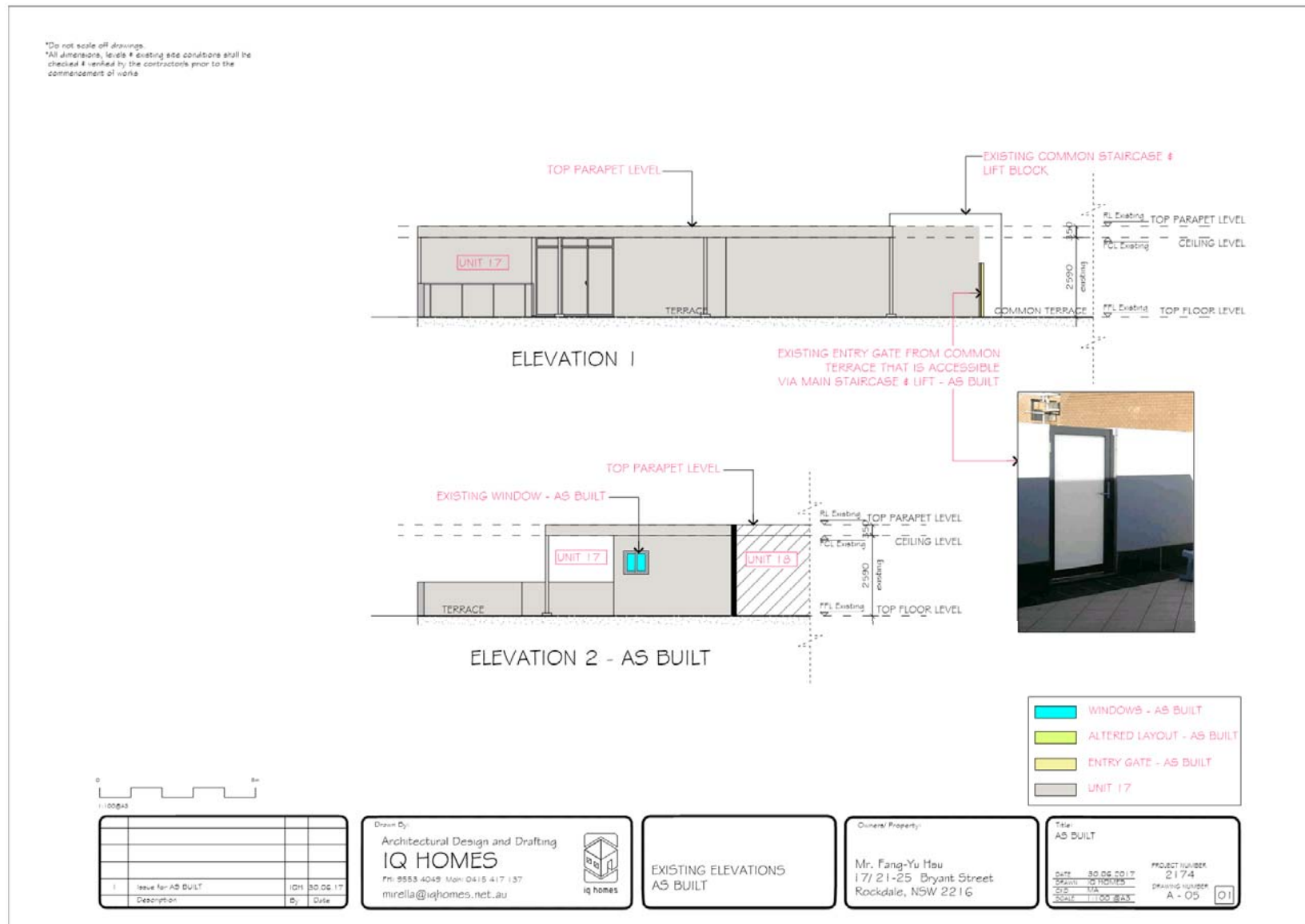
Development consent advice

- a. In the event of any inconsistency between conditions of this approval and the

drawings/documents referred to in condition 2, the conditions of this approval prevail.







Bayside Local Planning Panel

27/11/2018

Item No	6.6
Application Type	Development Application
Application No	DA-2018/111
Lodgement Date	08/05/2018
Property	18/21-25 Bryant Street Rockdale
Ward	Rockdale
Owner	Mr Roman Bicioc
Applicant	Mr Roman Bicioc
Proposal	Alterations and additions to Unit 18
No. of Submissions	One (1)
Cost of Development	\$9,000
Report by	Michael Maloof, Senior Development Assessment Planner

Officer Recommendation

- 1 That the Development Application No.DA2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 2 That the objector be advised of the Bayside Planning Panel's decision.
-

Location Plan



Attachments

- 1 Planning Assessment Report
- 2 Site & Roof Plan
- 3 Existing Top Floor Plan
- 4 Existing Elevation Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/111
Date of Receipt:	8 May 2018
Property:	18 / 21 - 25 Bryant Street, ROCKDALE (Lot 18 SP 73839)
Owner:	Mr Roman Bicioc
Applicant:	Mr Roman Bicioc
Proposal:	Alterations and additions to Unit 18
Recommendation:	Approved
No. of submissions:	One (1) submission
Author:	Michael Maloof
Date of Report:	6 November 2018

Key Issues

The key issues related to this application are:

- Unapproved building works
- Car parking

The above matters have been addressed later in this report.

Recommendation

1. That the Development Application No.DA-2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the objector be advised of the Bayside Planning Panel's decision.

Background

History

Council's records show that the following application was previously lodged with Council:

- DA-2002/660 - Mixed Use Development - 20 X 2 Bedroom Units, Two Commercial Suites and Associated Parking - Approved on 16 December 2002
- DA-2002/660/A, B and C - Several minor Section 96 Amendments made to the scheme all of which

were Approved by Council

- BC-2017/68, Unapproved Development - alterations to dividing wall and enclosure of awning to roof terrace of Unit 18 - Lodged on 15/12/17 and still being assessed

On 23 December 2015 a complaint was received by Council which stated the two bedroom unit had been converted into a three bedroom unit with additional floor space on the roof top terrace which had been enclosed (additional 26m²) and converted to habitable floor space. The compliance officer of Council had found that works had been carried out that ordinarily required a formal development application. Since that time discussions had been held with the then owner and the property was sold to a new owner. The current development application was submitted to Council on 8 May 2018 for Council's consideration.

Proposal

Council is in receipt of a development application DA-2018/111 at 18/21-25 Bryant Street, Rockdale, which seeks consent for alterations and additions to Unit 18 including the enclosure of the upper level adjacent to the roof top terrace and conversion into a bedroom and bathroom. This application seeks to legitimise the alterations and additions which have already been carried out on the site (i.e. they are unauthorised).

Specifically, the proposal consists of:

- The existing room on the roof top terrace level being converted into a bedroom resulting in 18m² of previously approved habitable floor space,
- Construction of a new attached room with an outer enclosing wall resulting in 26m² additional gross floor area,
- The enclosure includes one new bedroom with a new internal wall to a study and a bathroom, and,
- The enclosure also includes one additional internal window opening in the southern external wall (measuring 0.8m x 0.8m) of the existing building for bathroom ventilation and one new sliding door and windows facing east to the main bedroom area (26m²).

The above works include an extension with the addition of several walls on the roof top terrace increasing the floor space by 26m² resulting in a total unit size of 101m². The bedroom is marked as a storage room on the plans submitted with the application, however this is classified as a bedroom for future use. The building works remain under the existing roof and setback from the previously approved building envelope for the floors below. The works have already been completed and a Building Information Certificate has been submitted for these unauthorised works.

Site location and context

The subject site is known as Lot 18 in SP 73839, at unit 18/21-25 Bryant Street, Rockdale. The site is a rectangular shape with front and rear boundary widths of 24.38 metres and the side boundaries are 36.6m deep. The total site area is 891.9 sq.m and contains a seven storey mixed use development containing 18 residential apartments. The top floor of the building is the roof top terrace with direct access from units 17 and 18. The topography of the site is such that it is relatively flat.

The site is located on the southern side of Bryant Street between Market and George Streets. Adjoining development to the sides includes a ten storey multi unit development to the west on the corner with Market Street and a single storey dwelling house to the east which is soon to be redeveloped with the

adjoining dwellings houses to the corner of George Street. A one storey dwelling house is situated on the adjoining property to the rear which also fronts George Street and is soon to be redeveloped. There is a mix of one storey dwelling houses and multi storey mixed use developments within close proximity to the subject property.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.15 (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 is for minor alterations and additions to an existing mixed use development including one additional bedroom with ensuite and does not involve any additional dwellings on the subject site. The unit will be increased in size above 95m² and the private open space area on the roof level for the unit is 58m² (12m² + 46m²) which complies with the minimum private open space requirement of 12m² for a 3 bedroom unit in the Apartment Design Guide (ADG). However, the proposal provides one on site car parking space for the unit and does not comply with the relevant provision of the ADG (clause 3J) which refers to the RMS Guide for Traffic Generating Developments which requires 1.4 spaces to be provided for each 3 bedroom unit. The existing unit has been allocated one (1) car space and there is no ability to provide additional parking on site. The variation is supported for reasons discussed in response to clause 4.6 of the Rockdale DCP 2011 which relates to car parking.

The proposal will increase the size of unit 18 by 26m² resulting in a total unit size of 101m² with the additional floor space on the roof top terrace level as a third bedroom with ensuite. In this regard, the proposal will increase the size of the unit from 75m² to a total gross floor area (GFA) of 101m². The previously approved apartment included a ground floor of 58m² and upper level of 17m² having a total size of 75m² which was a common size for a two bedroom unit at the time of the previous development approval. Finally, the proposal includes changes to the design of the unit such as the addition of a window in the ensuite external wall and new enclosing wall on the roof top terrace level.

The proposal exceeds the minimum internal area required by the ADG for a 3 bedroom unit with two bathrooms being 95m². The proposal makes a better use of space within the existing unit and confirms that it is a 3 bedroom unit rather than a 2 bedroom with additional floor space on the roof top terrace level. In this regard, the proposal is not unreasonable given the 3 bedroom unit will have access to a large roof top terrace and affords increased amenity to the third bedroom. As such, the proposal is acceptable in relation to gross floor area in this instance. Accordingly, the proposal is acceptable in respect to unit size and consistent with the objectives of this control.

Based on the above, the proposal does not require referral to the Design Review Panel, is not inconsistent with any provisions of the SEPP and is acceptable in this regard.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B2 Local Centre	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Rockdale Town Centre	Yes - see discussion	Yes - see discussion
6.3 On 25 ANEF (2033) contour	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

2.3 Zone B2 Local Centre

The subject site is zoned B2 - Local Centre under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as alterations and additions to an existing mixed use development which constitutes a permissible development only with development consent. The objectives of the zone are:

- 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.
- To accommodate population growth through high density mixed use development that complements the role of retail, commercial, civic and cultural premises in the Rockdale town centre.
- To create a lively Rockdale town centre with an amenable and pedestrian focused public domain activated by building uses that engage with the street.

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

4.3 Height of buildings

The proposal will involve the extension of an existing room on the roof top terrace for use as a bedroom and ensuite. The proposal will not increase the height of the existing mixed use building on the site. As such, the proposal does not exceed the maximum 28m height shown for the land on the Height of Buildings Map. Further, the proposed development will not challenge the existing building, maintain satisfactory sky exposure and daylight to buildings and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Rockdale Town Centre

The gross floor area (GFA) of the proposed alterations and additions have been calculated as 26m². While this is a small increase in GFA, the site is located within the Rockdale Town Centre. In this regard, the floor space ratio (FSR) control no longer applies to the site as it has been removed from the Town Centre. In this regard, the Floor Space Ratio Map does not have any FSR control applying to the site. Accordingly, the development is acceptable in respect to FSR.

6.3 On 25 ANEF (2033) contour

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located on the 20 ANEF (2033) contour. In this regard, the development will not result in an increase in the number of dwellings or people affected by aircraft noise. Therefore, it is considered that the proposed development does not require noise mitigation measures.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 50 metres to Australian Height Datum (AHD). The proposed building works will retain the existing building height which is at 39.7 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves retaining the existing on site stormwater detention system to manage stormwater on the site. The retention of the existing roof top structure and addition of habitable floor space is not likely to increase the impervious area on the site. In this regard, the existing stormwater system which was previously approved by Council's development engineers is capable of servicing the site and therefore the proposal is consistent with the requirements of this clause.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	No - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion

4.1.1 Views and Vista

The extension of the gross floor area and conversion to a storage area (bedroom) on the roof top terrace involved a new wall which is limited to underneath the existing awning on the roof top terrace. As such, the new room will be located within the existing footprint and underneath an existing structure. As such, the proposal will not result in any reduction of existing views out over or across the subject site. Accordingly, the proposal will retain the existing views and complies with the requirements of this clause in respect to views.

4.1.3 Water Management

The construction of new floor space and use as a bedroom with ensuite is located underneath an existing roof and will not increase the building footprint of the existing development on the site. As such, the proposal will not increase the requirement for stormwater drainage on the site or require additional water management on the site. Accordingly, the proposal complies with the requirements of this clause.

4.2 Streetscape and Site Context - General

The proposed development is located on the seventh floor of a mixed use development, underneath an existing roof line, located behind a parapet wall and setback from the street. As such, the proposed enclosure and additional bedroom with ensuite is not visible from the street and will not visually add to the bulk of the building. As such, the proposal is likely to have little or no impact on the existing streetscape along Bryant Street.

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

Council's DCP refers to the Apartment Design Guide (ADG) which requires a minimum dimension of 2.4m in balcony width and minimum 12m² for a 3 bedroom dwelling. The proposal will provide a roof top terrace dedicated to unit 18 (exclusive use) which is in excess of these requirements. As such, the proposal complies with Council's DCP and the ADG and is acceptable in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The proposed development will involve additional floor space on the roof top terrace and use as a bedroom with ensuite underneath the existing awning. As such, the proposal will not increase the height of the building or reduce any existing setbacks to any significant degree. The proposal will not increase the level of overshadowing from the existing awning and building structures on the roof level and therefore will have minimal impact on the level of sunlight currently received by adjoining properties and within the development site. Accordingly, the proposal is acceptable in respect to the requirements of this clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating a minimum floor to ceiling height of 2.59m. While this is 11 mm less than the standard of 2.7m under Council's DCP, the existing roof form includes 100 mm for services and will allow substantial light and ventilation into the dwelling given the number of openings. As such, the proposal is consistent with the objectives of this clause and acceptable in this regard.

4.4.5 Visual privacy

The proposal includes the addition of a room on the roof top level which is adjacent to the roof top terrace and will be used as a bedroom with ensuite. Part of this room was previously approved as an open floor area (habitable space) but was not a designated bedroom or water closet. This previously approved area has been expanded upon to create a larger room with one additional opening in an external wall for the bathroom. The additional bedroom has reduced the southern and eastern setbacks

on the roof top terrace but does not extend beyond the previously approved for the level below and will not result in any additional overlooking or privacy impacts than the previous approval on the site. As such, the proposal will retain adequate privacy for the existing dwelling and those adjoining it in the residential flat development. Accordingly, the proposal is consistent with the requirements of this clause.

4.4.5 Acoustic privacy

The proposal will reduce the size of the existing roof top terrace as it replaces some of it with floor area however, there is ample private open space remaining for the existing dwelling. As such, the proposal is not likely to increase the level of noise generated from the existing dwelling or remaining roof top terrace. The proposal will result in a bedroom being adjacent to the roof top terrace rather than a living area/room as previously approved. Notwithstanding this, the proposal is not likely to result in any additional noise impacts on the dwelling and those adjoining it within the residential flat building on the site. Accordingly, the proposal is consistent with the requirements of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The previous approval granted development consent for the construction of 18 x 2 bedroom residential units and two retail shops for the mixed use development on the site. The current proposal will improve the housing mix by making unit 18 a three bedroom unit instead of a 2 bedroom unit as previously approved on the site. While the current proposal will increase the number of three bedroom dwellings on the site, it will help in seeking to satisfy the requirements of this clause. The current proposal and the application for the adjoining unit 17 would both result in 2 x 3 bedroom units which would provide a minimum of 10% of the units. As such the proposal would satisfy the provisions of this clause being 10% of the total number of dwellings. Accordingly, the proposal is acceptable in this regard.

4.6 Parking Rates Residential Flat Buildings

The existing mixed use development on the site was approved on 16 December 2002 and contained all two bedroom units each with one car parking space within the ground and basement car parking levels. Unit 18 was also approved with an open habitable floor area on the upper level which provides access to the roof top terrace. The current proposal converts this existing internal space into a study and the unit has been extended (unauthorised works) to include a third bedroom with an ensuite in the existing unit. The bedroom is marked as a storage room on the plans submitted with the application, however this is classified as a bedroom for future use. Council's DCP 2011 ordinarily requires the provision of two on site car parking spaces for a three bedroom unit. The original development approval on the site (DA-2002/660) considered unit 18 to be a two bedroom unit despite the upper floor area as it did not have a separate door above the stairs and was open floor space. The current proposal includes the additional floor area for unit 18 which is larger than unit 17 by 26m² resulting in a total unit size of 101m².

The existing building on the site contains ground and basement parking levels containing one car parking space for each unit, commercial parking spaces and visitor car parking for the building. The design and layout of the basement levels do not make provision for any additional on site car parking for the current application. As such, an additional car parking space cannot be provided on the site and the proposal does not comply with the minimum car parking requirement.

Information has been submitted by the applicant that confirms the above scenario and requests the additional car parking space be waived in light of the limitation of the existing building. Notwithstanding this, the subject site is located within the Rockdale Town Centre and is approximately 300m away from Rockdale Railway Station. In respect to the provision of on site car parking requirements, the

Apartment Design Guide refers to the Guide to Traffic Generating Development (Guide) or Council's DCP 2011 and states that the control to be used is that for which car parking is the lesser. In this regard, the Guide states the following requirement for high density residential flat buildings:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.

Based on the car parking rates above, the Guide would require less parking for the proposal which would amount to an increase in parking for the unit from 1 space to 1.4 spaces, that is 0.4 of a space to be provided on the site.

Council's Section 94 Contributions Plan is not applied to the provision of car parking spaces for residential units and as such, a levy under the Contribution Plan for a deficiency of on car parking space cannot be applied to the current proposal.

Strict compliance with the on site car parking requirement under section 4.6 of Council's DCP 2011 is not possible on the subject site. The current proposal does not involve any changes to the existing ground and basement level car park. Notwithstanding this, the subject site has proximity to Rockdale Railway Station and the unauthorised building works are not visible from the street and do not result in any significant or detrimental adverse impacts on the amenity of the site or adjoining properties.

In the circumstances of the case, the proposal is not considered likely to set an undesirable precedent and strict compliance with the standard is unreasonable and unnecessary.

Given the above, the application is recommended for approval subject to the imposition of conditions of development consent.

4.7 Laundry Facilities and Drying Areas

The proposal will not alter the existing provision of an internal laundry within the residential unit. Nor will the proposal affect the existing letterboxes, storage areas, air conditioning system or hot water system on the site. Accordingly, the proposal will satisfy the provisions of this clause.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard the works have already been carried out and a condition of consent is not necessary to ensure compliance with the standard.

The application was referred to Council's Building Surveyor who has assessed the fire safety considerations under the BCA and recommended conditions of development consent are imposed. In this regard, a Building Information Certificate is required to be submitted to Council and this has been addressed by way of a condition of development consent.

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

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

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

General

The building works have been assessed against relevant controls in regard to potential impacts on the environment and neighbouring properties. The development is satisfactory and not likely to result in any significant adverse amenity impacts on the site or adjoining dwellings. Appropriate conditions of consent have been included in the draft consent to further minimise impacts. Accordingly, the building works, as conditioned, are acceptable in this instance.

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

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

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and one submission has been received. The issues raised in the submission are discussed below:

Issue 1: The Common Seal of the Strata Plan 73839 has not been provided on the application form (i.e. Owner's Corp has not granted consent to lodge) and therefore Council cannot consider the application for approval

Comment: With the current application the applicant submitted a copy of the by law granted by the Owner's Corporation in relation to the unauthorised building works carried out for unit 18 on the subject site. The applicant submitted a form with the Building Certificate application for the same works on the site (BC-2017/68) which was signed by the secretary of the Owner's Corporation and included the common seal of "The Owners of Strata Plan No. 73839". As such, the common seal of the Strata Plan 73839 has been provided to Council in relation to the unauthorised building works which are the subject of this application. Accordingly, Council has received owners consent and can consider the current application under the Environmental Planning and Assessment Act 1979 (as amended).

Issue 2: Parking issues faced by the owners of the entire building involving some owners using visitor spaces on a permanent basis

Comment: This is a matter that involves the Owner's Corporation and is not within the purview of Local Government. Parking in relation to this application has been addressed previously in this report (please refer to section 4.6 for more information).

Issue 3: The proposal is for an additional bedroom not a storage area

Comment: This point is acknowledged. Under the current application, Council will be considering the use of the additional room as a bedroom.

Issue 4: The proposal has questionable fire safety compliance

Comment: As this point may be valid, a condition shall be imposed in the Draft Notice of Determination requiring submission of a Building Information Certificate with Council. As such, information shall be

submitted to Council in respect to all of the relevant building matters and inspections.

Issue 5: The unauthorised building works were carried out by unlicensed contractors and the works are not certified

Comment: As this point may be valid, a condition shall be imposed in the Draft Notice of Determination requiring submission of a Building Information Certificate with Council. As such, information shall be submitted to Council in respect to all of the relevant building matters and inspections.

Issue 6: Matters in relation to the operation of the Owner's Corporation (OC) Meetings and functions of the OC were raised including the AGM and voting protocols

Comment: These matters are not within the jurisdiction of Council but rather under the management of the Act carried out by the Civil and Administrative Tribunal and Department of Fair Trading NSW.

Issue 7: Prevent construction of a kitchenette in the storage area

Comment: An inspection of the property has revealed that the "storage area" does not contain a kitchenette. It is noted that there is no provision for such a facility within the storage area. Further, the plans the subject of this application do not contain any such kitchenette. In this regard, Council cannot preempt development and can only assess the plans currently before it.

Issue 8: Requirement for an additional on site car parking spaces as required for a 3 bedroom unit

Comment: This has been addressed previously in this report (please refer to section 4.6 of this assessment report).

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

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

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

The application was referred to Council's Section 7.11 Planner who advised that a Section 7.11 Contribution Payment of \$4,653.50 is payable in accordance with Council's Policy. Accordingly, a condition has been imposed on the draft Notice of Determination in this regard.

Civil Aviation Act, 1988

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

Civil Aviation (Building Control) Regulations 1988

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

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

The proposed development is affected by the 15.24m Building Height Civil Aviation Regulations, however the proposal will not alter the existing building height (previously approved) at 20.2m which will

have minimal impact upon the height requirement in the regulations.

Schedule 1 - Draft Conditions of consent

General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be maintained 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
Project No. 2174, Drawing No. A-04, Issue 01, Existing Top Floor Plan As Built,	IQ Homes	30/06/17	8/5/2018
Project No. 2174, Drawing No. A-02, Issue 01, Existing Site & Roof Plan As Built,	IQ Homes	30/06/17	8/5/2018
Project No. 2174, Drawing No. A-05, Issue 01, Existing Elevations As Built,	IQ Homes	30/06/17	8/5/2018

3. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. 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.
6. A smoke detection and alarm being installed at level 6 of Unit 18 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.

7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

9. The Strata Plan applying to the subject site shall be amended in accordance with the approved changes detailed in Development Consent No. DA-2018/111 and any subsequent Section 4.55 modifications.

Prior to issue of subdivision certificate

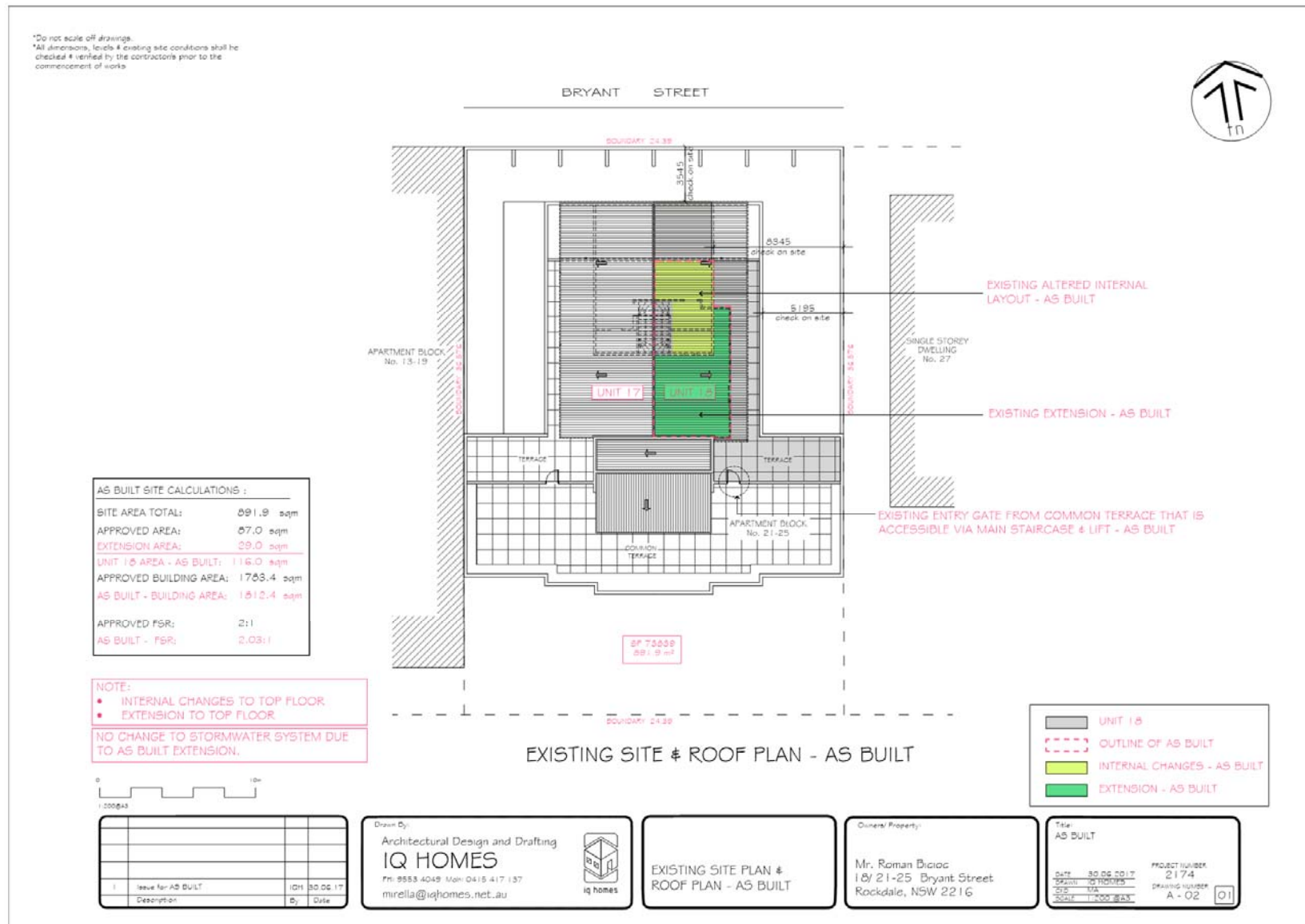
The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

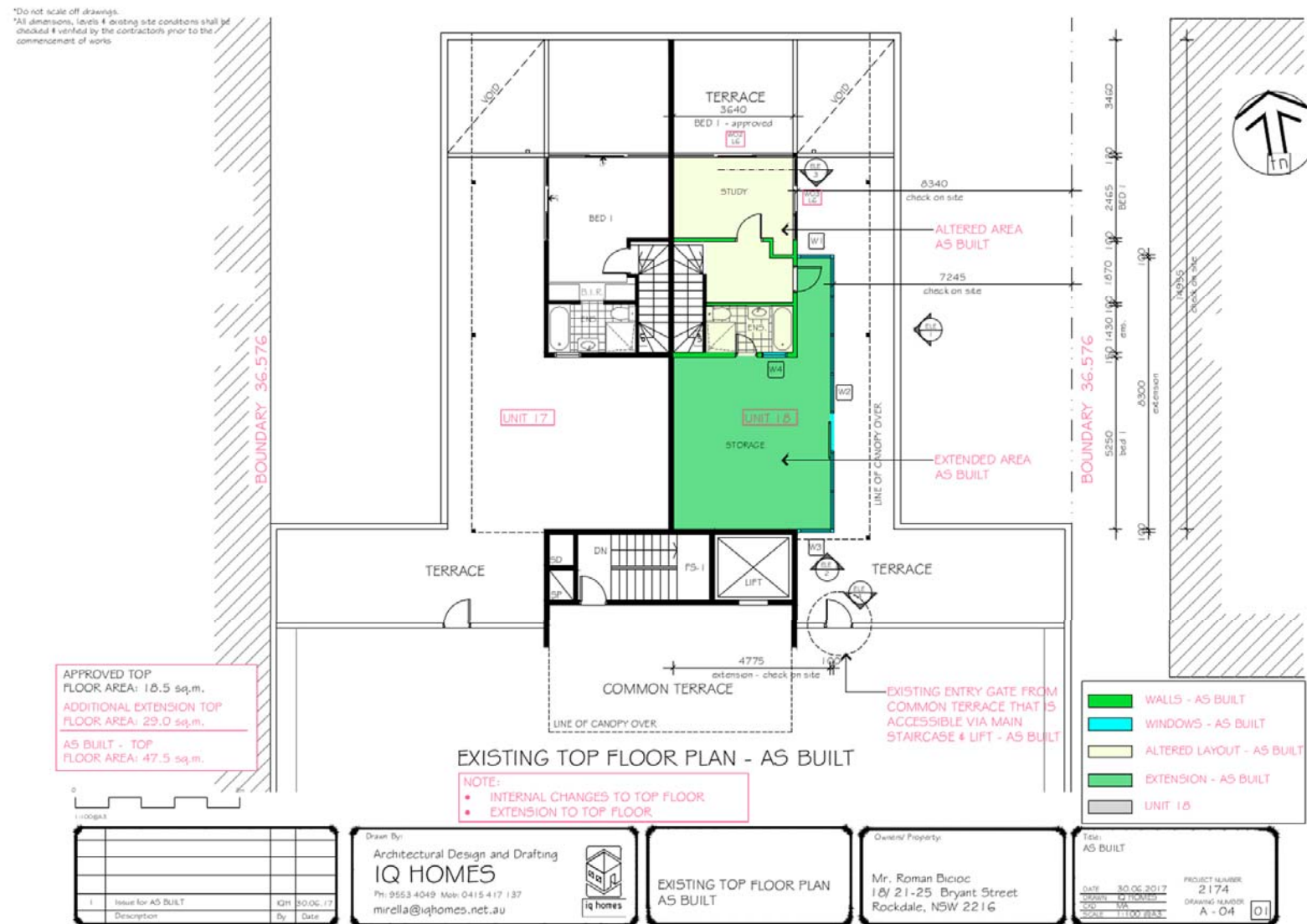
10. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
11. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the revised Strata Plan, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.

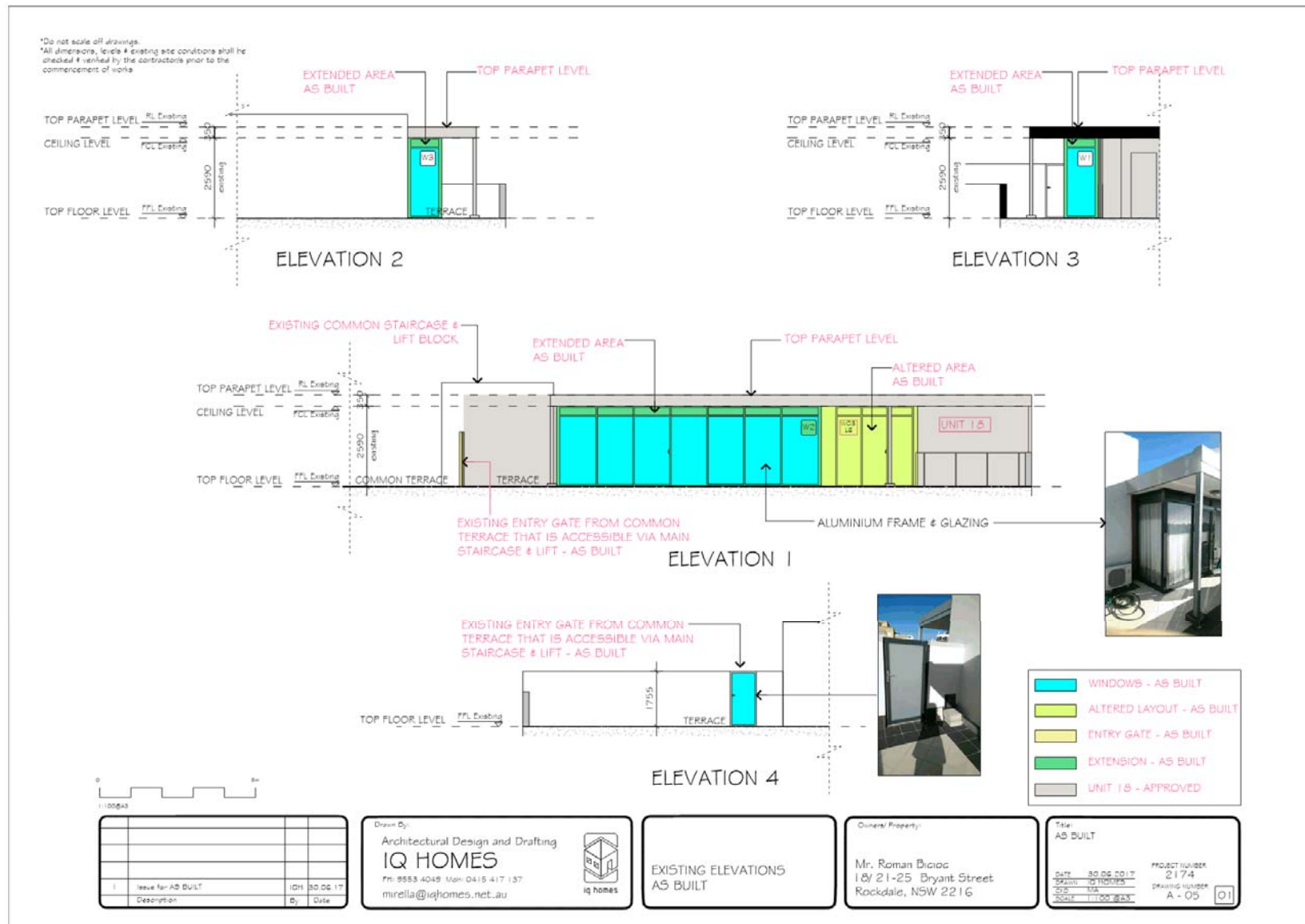
The revised Strata Plan shall be registered with the Land and Property Information Office within six (6) months from the date of this development approval. Details of the registration are to be submitted to Council.

Development consent advice

- a. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.







Bayside Local Planning Panel

27/11/2018

Item No	6.7
Application Type	S4.55(1A) Modification
Application No	DA-2017/168/A
Lodgement Date	26/10/2018
Property	DA-2017/168/A - 356-368 Forest Road, Bexley
Ward	Bexley
Owner	Mr Peter Ribar Mrs Suzanna Ribar Ribar Catering Equipment Pty Ltd Mr Ilo Ribarovski Mrs Katina Ribarovski
Applicant	AR Design
Proposal	Modification to extend the deferred commencement period for a further six months.
No. of Submissions	N/A
Cost of Development	N/A
Report by	Fiona Prodromou, Senior Assessment Planner

Officer Recommendation

That Development Application No 2017/168/A, being a Section 4.55(1A) application to amend Development Consent Number 2017/168, for the construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision at 356-368 Forest Road Bexley be APPROVED and the consent amended in the following manner:

- A. By amending the deferred commencement condition to read as follows:

The period of the Deferred Commencement is twelve (12) months from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

[Amendment A S4.55(1A) amended on 27/11/2018].

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/168/A
Date of Receipt:	26 October 2018
Property:	356 Forest Road, BEXLEY (Lot A DP 356310) 358 - 368 Forest Road, BEXLEY (Lot 1 DP 500135)
Owner(s):	Mr Peter Ribar Mrs Suzanna Ribar Ribar Catering Equipment Pty Ltd Mr Ilo Ribarovski Mrs Katina Ribarovski
Applicant:	AR Design
Proposal:	356 & 358-368 Forest Road BEXLEY NSW 2207 - Modification to extend the deferred commencement period for a further six months
Recommendation:	Approved
No. of submissions:	N/A
Author:	Fiona Prodromou
Date of Report:	6 November 2018

Key Issues

The applicant seeks to extend the deferred commencement timeframe originally granted, from 6 to 12 months.

Recommendation

That Development Application No 2017/168/A, being a Section 4.55(1A) application to amend Development Consent Number 2017/168, for the construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision at 356-368 Forest Road Bexley be APPROVED and the consent amended in the following manner:

A. By amending the deferred commencement condition to read as follows;

The period of the Deferred Commencement is twelve (12) months from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

[Amendment A - S4.55(1A) amended on 27/11/2018]

Background

History

26 June 2018 DA-2017/168 - Approved as Deferred Commencement
Construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision.

26 October 2018

s4.55(1A) application submitted to Council to extend deferred commencement period from 6 - 12 months.

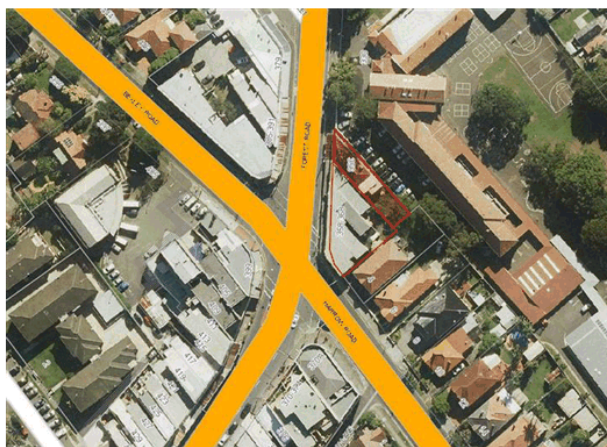
Proposal

The proposal as modified seeks to extend the deferred commencement period from 6 - 12 months.

Site location and context

The site is located in the B4 Mixed Use zone, and also within the "Bexley Special Precinct" under Council's Development Control Plan 2011. The subject site is located on the corner of Forest Road and Harrow Road, a busy intersection of two Classified (RMS) roads. A bus stop is located immediately in front of the site on Forest Road.

The site is generally triangular in shape, with its primary frontage to Forest Road (33.86m), and only a small secondary frontage of 9.805m to Harrow Road. The site has an area of approximately 815sq/m. The site is generally flat and contains some grass and one tree in the rear of No. 356 Forest Road (see aerial photo). Some mature trees are also located nearby the site within the rear yard of No. 2-4 Harrow Road & the Bexley Public School site. Existing development on the site includes two storey buildings containing a range of retail premises at ground floor level.

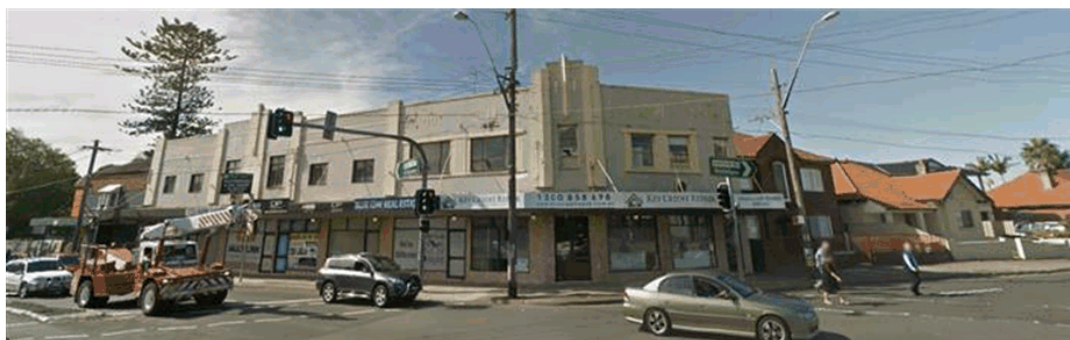


Aerial Context

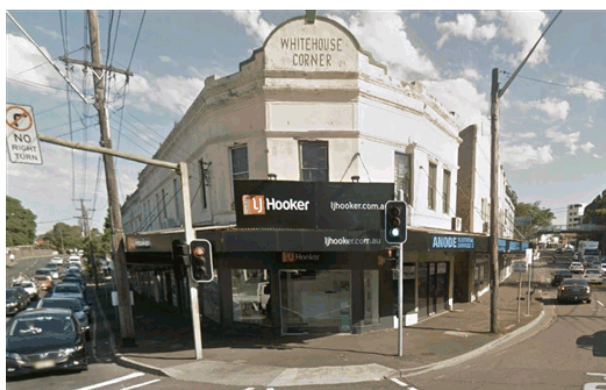
The surrounding area is characterized by older two storey shop top housing style developments in Bexley Town Centre, however a number of more recent mixed use and multi-storey developments have

been recently completed in the locality. To the south of the site on Forest Road are a mix of two storey flat buildings, dual occupancy and detached residential dwellings.

The site is not a heritage item, however it was located in a Conservation Area under the previous LEP. The site adjoins Item 130 (Bexley Primary School at 330 Forest Road) and is located opposite Item 131 (Original Bexley School Buildings at 339-377 Forest Road).



Subject site viewed from intersection Harrow / Forest Roads



Two storey commercial / shop top housing opposite the site



View south to Bexley Town Centre



View further to the north up Forest Road (School on right)

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.55 (1A) - Modification

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

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

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

Comment: The proposed modification does not alter the previously approved development and is of minimal environmental impact.

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

Comment: The application is for a minor modification to the development consent, in order to enable additional time for the applicant to satisfy the deferred commencement conditions. The proposal remains as previously approved, namely a mixed use development. The proposed modification does 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 did not require public notification as per the provisions of Council's DCP 2011.

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

Comment: N/A.

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:

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
Rockdale Local Environmental Plan 2011	Yes	Yes - see discussion

Rockdale Local Environmental Plan 2011

The proposal as modified remains generally consistent with the relevant objectives and requirements of RLEP 2011.

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

No relevant proposed instruments are applicable to this 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
Rockdale Development Control Plan 2011	Yes	Yes - see discussion

Rockdale Development Control Plan 2011

The proposal as modified remains generally consistent with the relevant objectives and requirements of RDCP 2011.

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

The applicant requests an additional 6 month time frame be granted to the original deferred commencement period (i.e. 6 months) in order to provide a total 12 month period in which to satisfy the original deferred commencement condition requirements.

The applicant requests this additional period, in order to enable their client sufficient time to obtain the necessary wind report and undertake the required plan amendments, in order to satisfy the deferred commencement conditions.

The applicant further requests this additional time in order to enable their client *"sufficient time to research the current financial viability of the development, obtain construction quotations and achieve financial support"*.

Given the above, the proposal as modified is not deemed to be unreasonable and the provision of an additional 6 month period is supported.

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

The proposal as modified does not alter the suitability of the site for the approved development. The site remains suitable as originally determined as part of the original application.

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 and deemed to be 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
Site Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 4 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 3 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 2 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 1 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Ground Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 1 & 2 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 3 & 4 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 5 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Roof Plan Issue 22	ardesign	20/09/2017	26/09/2017
North / South Elevation Issue 22	ardesign	20/09/2017	26/09/2017
Streetscape Elevations Issue 22	ardesign	20/09/2017	26/09/2017
Sections Issue 22	ardesign	20/09/2017	26/09/2017
Schedule Colours & Finishes	ardesign	-	26/09/2017

3. Department of Infrastructure, Regional Development and Cities

A) The building must not exceed a maximum height of 68.65m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods and any rooftop garden plantings, exhaust flues etc.

B) The Proponent must advise Airservices Australia at least three (3) days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting SY-CA-545 P2.

C) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. The Department notes that the proponent has proposed a self erecting crane of 68m AHD maximum height, which is below the final height of the building, in order to avoid any impact on the Runway 07/25 Approach and Take Off Surface.

D) At the completion of construction of the building, a certified surveyor is to notify (in

writing) Sydney Airports Corporation Limited (SACL) of the finished height of the building.

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
6. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 771235M_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>.
7. A separate development application shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.
Note: Parking and loading provisions in a mixed use development may preclude certain uses.
8. Balconies, car spaces and the loading / unloading bay shall not be enclosed at any future time without prior development consent.
9. 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.
10. 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.
11. 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.
12. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
13. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

Studio, 1 bedroom and 2 bedroom apartments 1 space per apartment
 3 bedroom apartments 2 spaces per apartment
 Commercial Units 1 space per 40m² gross floor area

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 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. Pumps attached to the development must be housed in a soundproof enclosure.

15. 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.

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) 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.

- (ix) 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.

Development specific conditions

The following conditions are specific to the Development Application proposal.

16. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
 - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
 - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - d) Graffiti resistant materials shall be used to ground level external surfaces.
 - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
17. Approval for the footpath dining is not expressed or implied and a separate approval is required for the footpath dining. In this regard you are advised to contact Council to obtain a copy of the licensing agreement entitled *Outdoor Dining Licensing Agreement*.
18. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- (i) permit stormwater to be temporarily detained by the system;

- (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
23. The use of 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.
24. 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.
25. 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.

26. Temporary dewatering of the site to construct the subsurface structure is not permitted.
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. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
29. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
31. (b) In order to ensure the design quality excellence of the development is retained:
 - i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.(c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
32. All plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
34. All hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
35. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.

Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.
36. Landscaping

- a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
- b) Tree planting which does not conflict with the on site detention system shall be provided within the eastern side setback.
- c) 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.
- d) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
- 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) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

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

38. Landscape Maintenance

The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.

The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction. On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans

39. 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.
40. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the Principal Certifying Authority in relation to

the awning over the Forest and Harrow Road street frontages of the site:

- i. Detailed design plans and specifications, including structural details and,
- ii. Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural). Awning design shall comply with following requirement of Rockdale Development Control Plan section 5.3:

- a) minimum soffit height of 3.3m;
- b) maximum fascia height of 600mm;
- c) minimum setback from edge of kerb of 600 mm;
- d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.

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

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

41. The following details shall be illustrated upon the Landscape Plan prior to the issue of the CC.

Planter boxes constructed on slab

Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :

- Ensure soil depths in accordance with Council's Landscape DCP and SEPP65. 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.
- 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.
- 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.
- 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.
- Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

Installation

a) Establishing Subgrade Levels

Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. soil conditioner). The following subgrade levels shall apply:

- Mass Planting Beds - 300mm below existing levels with specified imported soil mix.

Note that all subgrades shall consist of a relatively free draining natural material, consisting of site topsoil placed previously by the Civil Contractor. No builder's waste material shall be acceptable.

b) Subgrade Cultivation

Cultivate all subgrades to a minimum depth of 100mm in all planting beds and all turf areas, ensuring a thorough breakup of the subgrade into a reasonably coarse tilth. Grade subgrades to provide falls to surface and subsurface drains, prior to the placement of the final specified soil mix.

c) Drainage Works

Install surface and subsurface drainage where required and as detailed on the drawing. Drain subsurface drains to outlets provided, with a minimum fall of 1:100 to outlets and / or service pits.

d) Placement and Preparation of Specified Soil Conditioner & Mixes.

- Trees in turf & beds - Holes shall be twice as wide as root ball and minimum 100mm deeper - backfill hole
- Mass Planting Beds - Install specified soil conditioner to a compacted depth of 100mm

Place the specified soil conditioner to the required compacted depth and use a rotary hoe to thoroughly mix the conditioner into the top 300mm of garden bed soil. Ensure thorough mixing and the preparation of a reasonably fine tilth and good growing medium in preparation for planting.

Planting

All trees over 300mm pot size must be follow council requirements and be inspected prior to planting. Tubestock not permitted, smallest pot size is 140mm.

a) Quality and Size of Plant Material

All trees supplied above a 25L container size must be grown and planted in accordance with Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality. Natspec Guide No. 2. Certification that trees have been grown to Natspec guidelines is to be provided upon request of Council's Tree Management Officer.

42. Waste & Recycling Collection / Removalist Drop-offs & Pick-ups - Operational Requirements

1. Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.
 2. Waste & recycling collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Forest Roads and Harrow Road or elsewhere within the site.
 3. Waste and recycling may 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.
 4. Waste & recycling collection must be undertaken during off-peak times.
 5. The maximum size truck permitted to access the site is a Small Rigid Vehicle (SRV).
 6. The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
43. The design and construction of the off-street parking facilities shall comply with Australian Standards, as follows:
- Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
 - One (1) loading bay shall be provided at Ground level to accommodate SRV - removalist trucks as shown in the approved plans. The SRV space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2 and the swept path analysis for the RCV 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.
 - Any vehicular path of travel to or from loading bay for RCV shall have minimum headroom clearance of 3.5m.
 - Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 - The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
 - Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
 - Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
 - All waste collection and deliveries to / from the site (including removalist trucks) must take place from within the approved loading bay.
 - 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.
 - The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
 - The car parking spaces shall not be enclosed at any time.
 - For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
 - Allocate all off-street visitor parking, loading bays and car wash bay as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

44. Traffic Signs / Signal, loop detector

1. A traffic signals/signs, convex mirrors and loop detector are to be designed and installed to manage vehicular movement in driveways that provide safe vehicle access to the site and all basement levels. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
2. 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 signals/signs (including traffic signal heads, 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.

The access driveway shall be controlled by traffic signals with the following operational mode:

- After a pre-set clearance time signals revert to red for outgoing and green for Incoming.
45. A total of 24 residential, 4 visitor, 4 commercial / retails car spaces, a minimum of 3 motorcycle parking spaces, a minimum of 4 bicycle parking spaces and 1 car wash bay shared with visitors, 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 (20 units)	20 spaces
3 bedroom dwellings (2 units)	4 spaces
Total Residential Spaces	24 (including 2 accessible spaces)
Visitor	5 spaces (including 1 accessible space)
Com. / Retail	4 spaces
Bicycle (Res. + Com.)	4 spaces
Motorcycle	3 spaces
Car Wash Bay	1 (shared with visitor space) 3.5m wide
SRV Loading Bay	1 dedicated space (3.5m headroom)

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.

Prior to issue of the construction certificate

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

46. 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 \$18,475.00. 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.
47. 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.
48. Required Infrastructure Works –Roads Act 1993

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.

The implementation of this Consent generates a need for works to be completed in a public place owned by Council and / or Crown Lands, with such works being at no cost to Council or Crown Lands.

Works includes but is not limited to the following:

- i) Relocation of existing street lighting / power poles along Forest Road frontage of the site;

- ii) Construction of a driveway (vehicular entrance)
- iii) Relocation of existing STA bus stop
- iv) Relocation of existing red light camera
- v) Addition of directional signage
- vi) Construction of new kerb, gutter, footpath and streetscape works
- vii) Removal of redundant power pole(s) and proposal for undergrounding of power along Forest Road and Harrow Road frontages.
- viii) Public domain and drainage works.

A. Design

The scope of works is to be confirmed 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 Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed 'Public Domain Frontage Works Construction Application Form' 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 confirmed and alignment levels issued. If payment is made after the end of the financial year, the fee amount shall be adjusted in accordance with Council's adopted fees and charges.

49. A Section 94 contribution of \$2,178,38.01 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
50. Prior to the issue of the Construction Certificate for the development, an application for address allocation for all lots (units) within the strata subdivision shall be submitted to Council in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard, Section 5.2 of the NSW Address Policy and Ch.6.5.5 " Multi-level Sub-Address Allocation" of the NSW Address User Manual.
51. Acoustic
Flooring within the development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
 - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
 - 4 Star for timber flooring in any area.
 - 5 Star for carpet in any area.

Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

A report shall be submitted to the Principal Certifying authority for approval prior to the issue of any Construction Certificate for each of the building stages. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for each of the building stages.

52. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with relevant Australian Standards must be provided to and within nominated adaptable residential units, and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building.

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.

53. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
54.
 - (i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.
 - (ii) All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

55. 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 the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney->

[water-tap-in/index.htm](#)

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. Adjoining buildings founded on loose foundation materials

As the basement levels 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) All recommendations contained in the report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017 shall be implemented.
- (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) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.
NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development
(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.
(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).
- (f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

59. 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.

60. Any sub-surface structure within the highest known groundwater table + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected

to the internal drainage system. The design of the 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.

- 61. Prior to the issue of a Construction Certificate for *building works*, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals comply with the conditions of consent.
- 62. Prior to issue of Construction Certificate, swept path analysis shall be submitted to Certifying Authority for assessment and approval.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and an 'SRV' sized vehicle entering/exiting of the driveway/loading bay in accordance with section 7.2 of Councils Technical Specification – Traffic, Parking and Access.

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

- 63. 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.

- 64. The low-level driveway must be designed to prevent the inflow of water from the road reserve. The assessment of Gutter 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.
- 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. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The dimensions of the car wash bay and any runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
- 67. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

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 take into consideration of geotechnical recommendations.

Note:

- a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management.
- b. The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.
- c. Implement all recommendations contained in the preliminary geotechnical investigation report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017.
- d. Since the site is subject to MFL, the design of the basement carpark access ramp crest level is to be 500mm above the 1 in 100-year flow level.
- e. The low-level driveway shall be protected from street gutter flows. The driveway crest shall be in accordance with the Gutter Flow Analysis prepared by Wehbe Consulting Engineers, dated August 2017.
- f. To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.

68. The developer is to contact Telstra and organise relocation works to Telstra Assets. Detailed documentation confirming Telstra acceptance of the aforementioned is to be submitted to Council prior to the issue of a Construction Certificate.

69. State Transit Authority

All works associated with the relocation of the existing bus stop along the frontage of the site within Forest Road are to be at no cost to the STA.

The applicant is to contact the STA's Service Delivery Manager - Southern Region on 9582 5965 in writing, a minimum of 4 weeks prior to the commencement of works, to confirm all necessary STA requirements prior to the commencement of relocation works.

The applicant is to ensure that relocation and reinstatement works for the bus stop are in accordance with the STA '*Bus Way Finding - Bus stop flag pole layout - Typical*' design guidelines' produced by the STA.

Relocation works are to be undertaken in a manner which will not affect existing bus services.

Confirmation of the STA acceptance of the applicants design and relocation works is to be submitted to Council prior to the issue of the Construction Certificate.

70. Prior to the issue of the Construction Certificate the following shall be submitted to and approved by Council:

- a) Details and location of proposed mechanical plant.
- b) Submission of a revised Acoustic Report confirming compliance with relevant standards from a suitably qualified acoustic consultant.

Prior to commencement of works

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

71. A dilapidation survey shall be undertaken of all properties and/or Council

infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

72. 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.

73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
 - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
 - iii. building work carried out inside an existing building or
 - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

75. 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.
- 79. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
- 80. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

- 81. 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.

82. 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.
83. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

84. 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.
85. 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.
86. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
87. 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.

88. 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.

89. 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.
90. 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.

91. 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.

92. 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.
- 93. 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.
- 94. All existing trees located within the site may be removed.

Prior to issue of occupation certificate or commencement of use

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

- 95. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 96. The STA is to provide written confirmation clarifying that bus stop relocation works have been appropriately completed, prior to the issue of any Occupation Certificate. A copy of the aforementioned confirmation is to be submitted to Council prior to the issue of any Occupation Certificate.
- 97. 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.
- 98. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
- 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. 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.

Acoustic recommendations in relation to traffic and aircraft emissions contained in the acoustic report prepared by Acoustic Logic ref: 20161319.1/1210A/R0/EC dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

101. 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.
102. Lot A DP 356310 and Lot 1 DP 500135 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
103. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
104. 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.
105. 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 requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate and implemented prior to issue of any Occupation Certificate.
106. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
107. 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".

108. 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.
109. Mirrors at key locations (outside of bends in the car park), give way signs entering vehicles and entry sign recommending drivers turn on their headlights.
110. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
111. Bollard(s) shall be installed by the Developer on adaptable shared spaces.
112. 33 off-street car spaces and 1 loading / unloading bay shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
113. 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.

114. 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.
115. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
116. The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
117. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
118. 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.
119. 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.

120. Prior to occupation, a chartered professional engineer shall certify that the Basement structure 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.
121. 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.
122. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
123. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the following facilities to provide for the maintenance of the facilities.
 - i. The stormwater detention facility to provide for the maintenance of the system.
 - ii. Waste management is undertaken by a private contractor
 - iii. Traffic control system – stop line, loop detector & traffic signal
124. 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.
125. 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.

126. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
127. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on

- residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

Prior to issue of subdivision certificate

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

128. Lot 1 DP 500135 and Lot A DP 356310 shall be consolidated into one allotment. A copy of the plan of consolidation shall be submitted to Council prior to release of Strata Certificate.
129. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
130. As construction of the building nears completion, or after it has been completed, council or an accredited certifier shall inspect the building, and the common property areas around the building so as to be satisfied that:
 - The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed.
 - The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building.
 - Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
131. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.
132. 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.

133. All visitor car parking spaces are to be clearly shown as common property on the Strata Certificate for the strata subdivision.
134. The parking spaces on site are to be allocated to each unit as per the approved

plans and conditions of this development consent.

135. Positive covenants shall be provided over the on-site detention system, Waste management undertaken by a private contractor and Traffic control system. Section 88B Instruments and four copies shall be lodged with the Subdivision/Strata Certificate.

Integrated development/external authorities

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

136. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 68.65metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

137. Roads and Maritime Service

All buildings and structures (other than pedestrian footpath awnings and footpath and road dedication works) together with any improvements integral to the future use of the site shall be wholly within the existing freehold property.

(A) All redundant driveways are to be removed and replaced with kerb and gutter to Roads and Maritime requirements. The design and construction of the new gutter crossing on Forest 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, State-wide Delivery, Parramatta (telephone 9598 7798). Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

(B) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

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.

(C) 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.

Details should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

(D) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Road during construction activities.

(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 for approval prior to the issue of a Construction Certificate.

(F) All vehicles must enter and exit the site in a forward direction.

(G) 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.

(H) All works and signposting (including any utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

Roads Act

138. 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.

139. 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.
140. 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.
141. 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.
142. 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.
143. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Forest and Harrow Roads:
- i) Detailed design plans and specifications, including structural details; and
 - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to comply with the requirements under Rockdale Development Control Plan 2011. Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 3.3 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to PCA stating that the awning

has been constructed in accordance with the design plans and specifications.

Copies of the approved documents and certificates shall be submitted to Council.

144. 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.
145. All works associated with the proposed development shall be at no cost to the 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. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- d. If the development is not subject to BASIX, a mandatory rainwater tank may be required. Rainwater tank requirements for development not subject to BASIX are specified in Council's DCP 78.
- e. Council will not issue the Subdivision Certificate unless the following has been provided to Council:
 - Works-As-Executed Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor

2017/168/A

ardesign

ARCHITECTURAL RESPONSIVE DESIGN + URBAN REFORM

19th October, 2018

Ref: 854.

brief statement of environmental effects

Bayside Council
444-446 Princes Highway,
Rockdale NSW 2216

reference - proposed mixed use development at
no.356 + 358-364 forest road, bexley – lot a in dp number 356310 & 1 in dp number 500135
DA: 2017/168

With respect to the above property and the deferred commencement 'notice of determination' consent issued by council on the 26th June 2018 we submit the following application under section 4.55 of the Environmental Planning and Assessment Act 1979.

This application is an opportunity to assess the development approval and allow for minor modifications only that have been deemed necessary in providing a suitable amount of time to evaluate the approval and obtain suitable financial arrangements. This minor change is the essence of this application for a Section 4.55 modification to the original consent.

We believe that the amendments address these issues and will have a minimal impact on the intent of the original approval.

We further believe that this modified application is substantially the same development as the development for which the consent was originally granted.

the proposal:

The proposed modifications require the following changes to deferred commencement conditions:

Condition A:

Submission of a wind report:

It is requested from council that an additional six months' timeframe be provided against the deferred commencement due date. This will enable the client sufficient time to research the current financial viability of the development, obtain construction quotations and to achieve financial support.

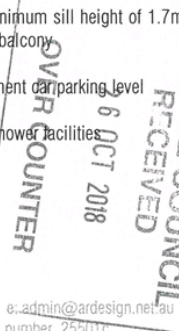
Condition B:

Submission of revised architectural plans:

Please refer to our enclosed amended architectural drawings, which have been updated to include + illustrate the following additional information, in accordance with the deferred commencement conditions b, item no:

- b) highlighted or fixed obscure windows to the living room, with a minimum sill height of 1.7m and both Unit 5 bedrooms + provision of a fixed 1.8m high, angled privacy screen to the eastern end of balcony.
- c) highlighted or fixed obscure windows to units 4, 9, 14 + 19 living rooms, with a minimum sill height of 1.7m and provision of a fixed 1.8m high, angled privacy screen to the eastern ends of each units balcony.
- d) integration of the fire booster and hydrant within the building's envelope
- e) provision of security access details to the driveway, loading/unloading areas and basement car parking level
- f) air conditioning details for all residential units
- g) amenities provided to all ground floor, commercial tenancies to include for toilet and shower facilities

design studio: suite 3 / 1183 the horsley drive, wetherill park NSW 2164 p: 02 9604 9944 f: 02 9725 5477 e: admin@ardesign.net.au
www.ardesign.net.au chartered member bdansw no. 970-08 abn. 73 152 807 899 builders lic. number. 255010



Condition C:

Submission of a revised landscaping plan:

Provision of updated drawings in line with the amended architectural documentation to ensure consistency of documentation. The enclosed updated landscape plan includes the following amendments in accordance with condition c, item no:

- a) additional screen planting along with common boundary with 4 Harrow Road in lieu of a pedestrian walkway
- b) relocation of accessible ramp away from the common boundary with 4 Harrow Road
- c) details of fencing to delineate between communal open space and the adjoining outdoor area to retail space 1 at ground level

The requested changes will not affect the streetscape elevation and will have negligible impact on the neighbouring properties

This section 4.55 modification does not substantially alter the architectural integrity of the approved development by:

- Retaining the same site planning as approved
- Retaining the same development mix – residential / commercial
- Retaining the same building footprint
- Retaining the same built upon area
- Retaining the same deep soil planting and landscaped areas
- Retaining the same setbacks

A comparison of the approved and proposed modifications with the evaluation of the environmental impacts of the modified design will confirm that the application submitted is substantially the same development in terms of scale, design and site planning.

Consequently, it is considered that the amended plans are substantially the same development as the development for which the consent was originally granted.

Accordingly, this Section 4.55 Modification should be supported.

We hope that the above information submitted satisfies council's concerns and look forward to receiving council's favourable reply as soon as possible.

If additional information is required, please do not hesitate to contact the undersigned.

Yours Faithfully

ardesign



Ronald Azzopardi

CC. Ilo Ribarovski + Peter Ribar of Ribar Superannuation Fund

C/- Ribar Catering Equipment Pty Ltd

5 Clements Avenue,

Bankstown NSW 2200

Bayside Planning Panel**26/06/2018**

Item No	6.3
Application Type	Development Application
Application No	DA-2017/168
Lodgement Date	08/11/2016
Property	356-368 Forest Road, Bexley
Ward	Bexley
Owner	Mr & Mrs Ribar and Ribar Catering Equipment Pty Ltd
Applicant	AR Design
Proposal	Construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision
No. of Submissions	Fifteen (15)
Cost of Development	\$8,067,886.86
Report by	Senior Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.3 – Height of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.
- 2 That the Bayside Planning Panel support the variation to the FSR development standard, as contained in Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.
- 3 That development application DA-2017/168 for the construction of a six (6) storey mixed use development comprising 22 residential units, 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision be subject to a DEFERRED COMMENCEMENT consent, pursuant to Section 4.15(1)(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and satisfaction of the following matters;
 - i Submission of a Wind Report confirming wind amelioration measures required on site.
 - ii Submission of revised architectural plans, which illustrate:
 - a All required wind amelioration measures for the development.
 - b Unit 5 - Highlight or fixed obscure windows (not film) to both bedrooms and the living room with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screen to the eastern end of the balcony.

Bayside Planning Panel

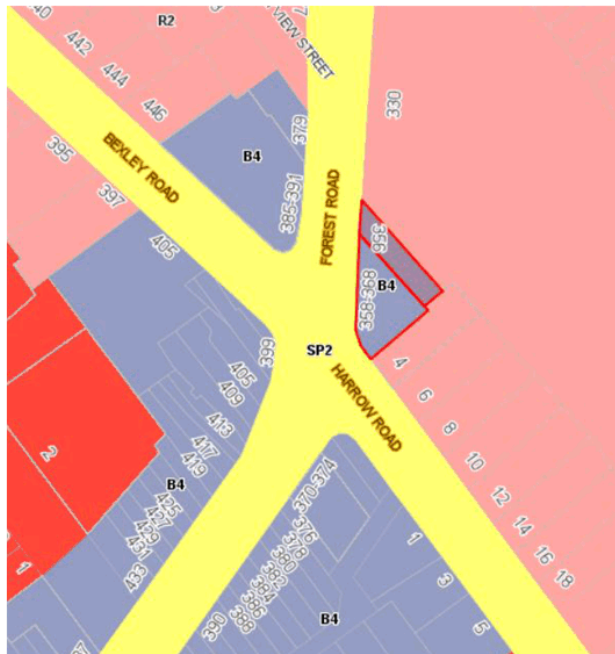
26/06/2018

- c Units 4 / 9 / 14 / 19 - Highlight or fixed obscure windows (not film) to living rooms with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screens to the eastern end of balconies.
 - d Integration of fire booster / hydrant within the building envelope.
 - e Provision of security access details to the driveway, loading / unloading area and basement level.
 - f Details of air conditioning units to residential units.
 - g Toilet and shower facilities provided to commercial tenancies.
- iii Submission of a revised Landscape Plan which illustrates:
- a Additional screen planting along the common boundary with 4 Harrow Road in lieu of a pedestrian walkway.
 - b Relocation of accessible ramp away from the common boundary with 4 Harrow Road.
 - c Details of fencing to delineate between communal open space and the adjoining outdoor area to retail space 1 at ground level.
 - d Productive gardens shall be incorporated into the deep soil area on site.
 - e Vegetation and proposed landscaping/fencing must not hinder driver sightlines to/from the driveway to road users on Forest Road.

The period of the Deferred Commencement is six (6) months from the date of determination.

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

Location Plan



Attachments

- 1 Planning Assessment Report
- 2 Site Plan
- 3 Roof Plan
- 4 Landscape Plan
- 5 Streetscape Elevations
- 6 North and South Elevations
- 7 Sections and Schedules
- 8 Existing Shadow Diagrams
- 9 Proposed Shadow Impact
- 10 Clause 4.6 Height of Buildings
- 11 Clause 4.6 FSR [↓↓↓↓↓↓↓↓↓↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/168
Date of Receipt:	8 November 2016
Property:	356 Forest Road, BEXLEY (Lot A DP 356310) 358 - 368 Forest Road, BEXLEY (Lot 1 DP 500135)
Owner(s):	Mr Peter Ribar Mrs Suzanna Ribar Ribar Catering Equipment Pty Ltd Mr Ilo Ribarovski Mrs Katina Ribarovski
Applicant:	AR Design
Proposal:	356 & 358-368 Forest Road BEXLEY NSW 2207 - Construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision
Recommendation:	Deferred commencement
No. of submissions:	15
Author:	Fiona Prodromou
Date of Report:	8 June 2018

Key Issues

The subject site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed commercial and shop top housing development is permissible with consent.

The proposed development seeks to vary the maximum 16m height standard on site. The proposal comprises a height of 18.3m - 18.8m to the rooftop and 19.65m to the top of the lift and stair over run. This is a variation of 14.3% - 22.8%. The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The proposed development seeks to vary the maximum 2:1 FSR standard on site. The proposal comprises an FSR of 2.05:1, which equates to a surplus floor area of 48.1sq/m on site, being a 2.9% variation. The FSR variation as proposed, is supported in this instance for the reasons outlined within this report.

The proposal indicates a variation to the building separation requirements of the Apartment Design Guide, whereby the ADG stipulates that at the boundary between a change in zone to a low density area, the building setback is to be increased a further 3m. The proposal illustrates a 6m setback up to level 5, with a 6m - 9m setback at level 6. This is therefore not strictly in accordance with the

1 of 67

requirements of the Design Criteria of the ADG, however is deemed suitable for the reasons detailed within this report.

The proposal illustrates variations to the provisions of DCP 2011 with regard to wind amelioration, unit mix, location of air conditioning units and hot water systems, car wash dimensions and percentage of commercial floor space within the development. These matters have been discussed within this report and are worthy of support.

The development application was notified in accordance with Council's Development Control Plan 2011. A total of fifteen (15) submissions were received in relation to the proposed development.

The proposal is recommended for Deferred Commencement Approval subject to the conditions attached to this report.

Recommendation

(A) That the Bayside Planning Panel support the variation to the height development standard, as contained in Clause 4.3 – Height of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.

(B) That the Bayside Planning Panel support the variation to the FSR development standard, as contained in Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011, in accordance with the request under clause 4.6 of RLEP 2011 submitted by the applicant.

(C) That development application DA-2017/168 for the construction of a six (6) storey mixed use development comprising 22 residential units, 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision be subject to a DEFERRED COMMENCEMENT consent, pursuant to Section 4.15(1)(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and satisfaction of the following matters;

i) Submission of a Wind Report confirming wind amelioration measures required on site.

ii) Submission of revised architectural plans, which illustrate:

- a) All required wind amelioration measures for the development.
- b) Unit 5 - Highlight or fixed obscure windows (not film) to both bedrooms and the living room with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screen to the eastern end of the balcony.
- c) Units 4 / 9 / 14 / 19 - Highlight or fixed obscure windows (not film) to living rooms with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screens to the eastern end of balconies.
- d) Integration of fire booster / hydrant within the building envelope.
- e) Provision of security access details to the driveway, loading / unloading area and basement level.
- f) Details of air conditioning units to residential units.
- g) Toilet and shower facilities provided to commercial tenancies.

iii) Submission of a revised Landscape Plan which illustrates:

- a) Additional screen planting along the common boundary with 4 Harrow Road in lieu of a pedestrian walkway.
- b) Relocation of accessible ramp away from the common boundary with 4 Harrow Road.
- c) Details of fencing to delineate between communal open space and the adjoining outdoor area to retail space 1 at ground level.
- d) Productive gardens shall be incorporated into the deep soil area on site.
- e) Vegetation and proposed landscaping/fencing must not hinder driver sightlines to/from the driveway to road users on Forest Road.

The period of the Deferred Commencement is six (6) months from the date of determination.

(D) That objectors be notified of the Bayside Planning Panel's decision.

Background

History

The applicant presented their initial scheme comprising a 7 storey building with 29 units and 2 retail tenancies to the Design Review Panel (DRP) in February of 2016, prior to the lodgement of the DA. The DRP at this meeting raised concerns in relation to the constraints of the site, building form proposed, excessive density, height, insufficient communal areas, lack of deep soil zones, poor amenity and aesthetics.

In March 2016, the applicant presented 4 built form options to the DRP. The DRP reviewed the options and noted non compliances with these schemes in relation to height, FSR and setbacks. The applicant was advised that any height / fsr variation sought would need to be justified. The DRP noted that two options should be developed further and resubmitted to the panel for review.

8 November 2016

DA submitted to Council proposal sought approval for the demolition of existing structures and construction of a 7 storey development incorporating 2 retail tenancies at ground level, 30 residential units (18 x 1 bed / 12 x 2 bed), basement car parking, amalgamation of 2 lots and strata subdivision.

10 November 2016

Additional information requested of applicant, including Geotechnical report, clarification of RL's, car parking numbers, potential impact on services within public domain i.e. red light camera and bus stop on Forest Road, schedule of colours / finishes, location of boosters, clarification of gross floor area etc. The applicant was further advised to contact Telstra in relation to the proposed Telstra pits along the frontage of the site.

21 November - 7 December 2016

Public notification of DA. Nine (9) submissions opposing the proposal were submitted.

16 November 2016

DA reviewed by the DRP. The DRP noted that the built form had been improved yet a number of issues remained in relation to proposed height / fsr variations, solar access impacts, residential amenity, architectural expression, poor communal open space provision, poor housing mix, safety and security.

21 December 2016

Applicant submits revised architectural and landscape plans to Council for review following receipt of DRP comments.

9 and 24 January 2017

Detail sought of applicant on 10 November 2016 once again requested to enable a thorough assessment of the proposal. Applicant response provided on 24th January, with revised plans submitted on 27 January 2017.

10 April 2017

Letter sent to applicant raising concerns in relation to revised plans, specifically noting that DRP concerns have not been addressed, height and FSR remain excessive, heritage considerations have not been taken into account i.e. school building adjoining site to the north, deficient car parking provision, lack of on site loading / unloading / waste collection bay, lack of car wash bay, visual privacy and overshadowing impacts, unacceptable unit mix, poor storage / laundry provision to units, tight corridor width, lack of detail with respect of services, engineering / stormwater issues, lack of detail and inconsistencies in plans.

23 June 2017

Lodgement of amended plans and information to Council. Plans resulted in various modifications, those most noticeable were the deletion of the 7th floor, recessed the sixth level, reduced units from 30 to 22 and modification to the architectural design, expression and layouts.

20 July 2017

Review of final revised plans by the DRP. The DRP noted the revised scheme is generally supported by the panel subject to recommendations to improve design / architectural expression, amenity and improvements to landscape design.

26 September 2017

Final revised plans were submitted to Council in response to DRP comments. These plans are the subject of this assessment.

25 January 2018

Applicant submission of revised Clause 4.6 statement for FSR & Height, and shadow analysis.

Proposal

Construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision.

Given the triangular dimensions of the subject site, the proposal comprises a triangular building on site and incorporates as follows:

Basement 4

Vehicular / pedestrian circulation, residential wire mesh storage cages, 10 residential car spaces, lift and fire stair access.

Basement 2 / 3 (per floor)

Vehicular / pedestrian circulation, residential wire mesh storage cages, 9 residential car spaces (including 1 accessible), lift and fire stair access.

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Basement 1

Vehicular / pedestrian circulation, two retail storage rooms, water tank, 5 car spaces (1 car wash bay / 1 accessible retail space), garbage rooms, 3 motorbike spaces, lift and fire stair access.

Ground Floor

Two retail spaces (49.6sq.m / 95.8sq.m), residential lobby entrance from Forest Road, 8 bicycle spaces, lift / fire stairs and pedestrian circulation spaces, open communal area comprising a deep soil zone adjoining common boundary of site with 4 Harrow Road, incorporating stepping stones, groundcovers, shrubs, ferns, 1 x tree (Eumundii Quandong) and timber bench seating. The outdoor communal area in the north eastern corner of the site incorporates an artificially turfed area, communal seating and a bbq facility. An awning is proposed to the Forest and Harrow Road frontages.

A loading / unloading & waste collection bay, bin presentation area, bulk waste store and plant rooms are also located at ground level.

Levels 1 / 2 (5 units per floor)

Lift / fire stair, pedestrian circulation and lobby, services duct, garbage chute, 2 x 2 bed / 1 x studio / 2 x 1 bed with associated balconies. Planter box proposed adjoining units 4/9 on the south eastern façade comprising ground covers (pigface) with 0.2m height.

Levels 3/4 (5 units per floor)

Lift / fire stair, pedestrian circulation and lobby, services duct, garbage chute, 2 x 2 bed / 1 x studio / 2 x 1 bed with associated balconies. Planter box proposed adjoining units 4/19/24/29 on the south eastern façade comprising ground covers (pigface) with 0.2m height.

Level 5 (2 units)

2 x 3 bedroom units with associated lift and stair access, lobby and waste chutes. Planters are proposed along the periphery of this level adjoining the building walls and private open space areas. Planters incorporate a range of climbers, grasses, ground covers, shrubs and 1 x Dragon Blood Tree.

Vehicular access is proposed via Forest Road adjoining the northern common boundary of the site with Bexley Primary School. Associated storm water and landscape works are proposed on site. The building elevation fronting Forest Road incorporates laser cut decorative screens and associated louvres for weather protection.



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**Site location and context**

The site is located in the B4 Mixed Use zone, and also within the "Bexley Special Precinct" under Council's Development Control Plan 2011. The subject site is located on the corner of Forest Road and Harrow Road, a busy intersection of two Classified (RMS) roads. A bus stop is located immediately in front of the site on Forest Road.

The site is generally triangular in shape, with its primary frontage to Forest Road (33.86m), and only a small secondary frontage of 9.805m to Harrow Road. The site has an area of approximately 815sq/m. The site is generally flat and contains some grass and one tree in the rear of No. 356 Forest Road (see aerial photo). Some mature trees are also located nearby the site within the rear yard of No. 2-4 Harrow Road & the Bexley Public School site. Existing development on the site includes two storey buildings containing a range of retail premises at ground floor level.



Aerial Context

The surrounding area is characterized by older two storey shop top housing style developments in Bexley Town Centre, however a number of more recent mixed use and multi-storey developments have been recently completed in the locality. To the south of the site on Forest Road are a mix of two storey flat buildings, dual occupancy and detached residential dwellings.

The site is not a heritage item, however it was located in a Conservation Area under the previous LEP.

The site adjoins Item 130 (Bexley Primary School at 330 Forest Road) and is located opposite Item 131 (Original Bexley School Buildings at 339-377 Forest Road).



Subject site viewed from intersection Harrow / Forest Roads



Two storey commercial / shop top housing opposite the site



View south to Bexley Town Centre



View further to the north up Forest Road (School on right)

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 (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 771235M_02 and the commitments made result in the following reductions in energy and water consumption:

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

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

The subject site is located at the junction of Harrow and Forest Roads in Bexley. Both the aforementioned roads are classified roads and are under the control of the Roads and Maritime Service. As the site has direct frontage to a classified road, the provisions of this clause apply and must be considered before consent can be granted.

At present the site comprises nil vehicular access from either street frontage and thus nil parking for the existing ground level shops and first floor dwellings.

The proposed development involves access to and from the site via a 15m wide angled driveway crossing to Forest Road. The proposed driveway adjoins the northern boundary of the site with Bexley Public School. Nil secondary access to the site exists. The proposed driveway access narrows to 5.1m at the roller shutter, then widens to beyond the shutter to enable two way entry to the basement.

Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The RMS seeks to impose conditions of consent in order to avoid right hand turns into and out of the site from Forest Road. The RMS has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. Conditions include the addition of signage within the public domain i.e. No Right Turn, Left Turn Only & relocation of the existing red light camera, which will be subject to further approval under the Roads Act following the determination of the DA.

The application is consistent with the provisions of the SEPP and is acceptable in this regard.

Clause 102 - Impact of road noise or vibration on non-road development

The proposed development is for shop top housing, that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

for residential use:

The consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the 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.*

The proposal was accompanied by an Acoustic Report, prepared by Acoustic Logic and dated 12/10/2016, which considered the potential impact of road noise on the proposed development.

The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the draft Notice of Determination.

Clause 45 - Works within the vicinity of electricity infrastructure

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Accordingly, the proposal was referred to Ausgrid. The authority did not respond in due course and as

such concurrence has been assumed. Standard conditions of consent have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the proposal.

The submitted survey plan indicates an existing tree within the rear north eastern corner of the site. This tree is proposed to be removed as part of the proposed works on site. Councils Tree Management Officer noted that the subject tree is insignificant in the landscape and may be removed.

Plans illustrate the provision of a 6m wide deep soil zone adjoining the common side boundary with the two storey block of flats upon 4 Harrow Road. This area is intended to be planted with a range of groundcovers, shrubs and trees i.e. jacaranda, smooth barked apple, capable of growing to a substantial height.

In this regard, the amenity of the area will be preserved and accordingly, the proposed development is satisfactory in regards to the provisions and objectives of the SEPP.

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

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

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

The proposal was referred to the Design Review Panel on several occasions, 4 February, 16 March and 16 November 2016. Following numerous revisions, the panel reviewed the final scheme on 20th July 2017. The DRP supported the scheme subject to additional revisions. The proposal has been assessed below.

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

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighbourhood Character

The subject site is zoned B4 Mixed Use and located to the north of the identified Bexley Town Centre, of which a large number of similarly zoned properties remain undeveloped to their full potential. Current planning controls permit shop top housing developments of a greater height and density than existing building forms. Properties directly adjoining the site to the east are zoned R2 low density residential and can facilitate redevelopment up to a maximum height of 8.5m.

The proposed development is setback a minimum of 6m from common property boundaries with eastern and northern neighbouring properties and has been designed to present as a 5 storey building form, with the 6th level recessed. Recessing the top floor of the development reduces the visual

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prominence, bulk and scale of the development and minimises adverse impacts to eastern neighbours.

The proposal in its current form has been designed to respond to the constraints and opportunities of the site. The proposal is deemed contextually appropriate as it does not result in unreasonable adverse impacts to neighbours as discussed in this report, provides an appropriate streetscape response and interface with the R2 zone to the east and is consistent with the future desired character of the adjoining Bexley Town Centre.

The DRP raised no objection to the proposal with respect of context and neighbourhood character. The proposal is satisfactory with regards to this principle.

Principle 2 – Built Form and Scale

The revised design was generally supported by the Panel. The Panel recommends:

- *Slightly increasing the curvature of the balconies at each end of the Forest Road elevation to be tangential to the adjoining facades.*
- *Removing the lower windows on each floor of the elevation facing the school.*
- *Increasing the proportion of solid (or translucent/frosted) in the curtain wall part of the south elevation to reduce the potential for overlooking of the adjacent site.*
- *There are a number of inconsistencies between plans and elevations that should be corrected.*

With respect of the DRP comments, it is noted:

- Curvature of balconies has been addressed.
- Lower windows have since been deleted.
- Modifications have been made to the south eastern elevation. Notwithstanding concerns remain with respect of overlooking, these have been discussed below in 3F - Visual Privacy and the proposal conditioned further.
- Inconsistencies in plans have been resolved.

Whilst the proposal seeks a variation to the FSR and height standards for the site, the bulk, scale and massing of the development fits appropriately within the anticipated future desired character of the area, including the Bexley Town Centre, as is permitted by the current planning controls.

The development incorporates a height of 5 storeys, positioned a minimum of 6m from common boundaries, with the 6th level recessed further. Recessing the top floor and utilising various materials and dark tones to this level will reduce the perceived bulk, scale and height of the development when viewed from the public domain and neighbouring properties.

The proposed development is not dissimilar to recent approvals in context of the site, specifically, 1-3 Harrow Road which was recently approved by the Land and Environment Court. The overall height, mass and bulk of the development does not generate adverse impacts which cannot be managed via appropriate conditions of consent referred to below.

Given the above, the proposal is satisfactory with regards to this principle.

Principle 3 – Density

The DRP confirmed that the density of the proposal was acceptable. The proposal has been designed with appropriate modulation and building depth which allows for proposed residential units to obtain appropriate solar access and ventilation. The proposed density is capable of being accommodated upon the subject site and as conditioned, the proposal will not result in adverse environmental impacts on site or to neighbours. The proposal satisfies this principle.

Principle 4 - Sustainability

The Panel noted that the design achieves acceptable sustainability taking into account BASIX and the ADG however there were still significant opportunities for further sustainability above and beyond those minimums (e.g. PV Solar generation, rainwater harvesting, productive gardens etc.)

The proposed development provides optimal solar access and cross ventilation to units, with generous landscaped areas on site. The proposal was accompanied by a BASIX certificate which confirms energy efficiency measures proposed to be implemented on site. Additionally plans illustrate the provision of a 20 000 litre rainwater tank on site. The landscape plan can be further improved via the incorporation of productive gardens and as such the proposal will be conditioned accordingly. The proposal as conditioned is satisfactory with respect to this principle.

Principle 5 – Landscape

The DRP stated that landscaping on site should:

- a) Provide vegetative screening to boundaries.*
- b) Relocate the ramp on the southern boundary away from the boundary.*
- c) Resolve the public domain design of the public outdoor space at the corner of Forest Road and Harrow Road within the site used by the café/retail space.*

With respect to the above it is noted:

- a) Screen vegetation and planting has been provided along the communal open space area in the north eastern corner of the site. Planting includes a range of ground covers and trees (Lilypilly / Rush Like Strelitzia) with a mature height of 1.5m - 2m and spread of 1m - 2m. Notwithstanding, the provision of screen planting along the common boundary with 4 Harrow Road could be further improved via the deletion of proposed stepping pads adjoining the boundary and provision of further planting. The proposal will be conditioned accordingly.
- b) The landscape plan has not relocated the ramp away from the common boundary with 4 Harrow Road. The proposal will be conditioned accordingly to ensure this occurs.
- c) Plans illustrate the provision of a tiled outdoor area adjoining retail space 1, with a hydrant and booster, at the junction of Forest and Harrow Road. Proposed tiled finish to the ground level within the boundary is acceptable, however the proposal will be further conditioned to ensure the booster / hydrant is relocated and integrated into the building envelope.

Finally, plans illustrate the provision of a 125.2sq/m deep soil zone adjoining the common side boundary with the two storey block of flats upon 4 Harrow Road. This area is to be planted with a range of groundcovers, shrubs and trees i.e. jacaranda, smooth barked apple, capable of growing to a substantial height. The proposal provides more than double the minimum deep soil zone required by the Apartment Design Guide and this area is designed appropriately so as to accommodate a range of landscaping which will provide amenity to both future occupants and visual outlook to the existing

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neighbouring building upon 4 Harrow Road.

As conditioned, the proposal is deemed satisfactory with respect of this Principle.

Principle 6 – Amenity

The DRP noted that the proposal provides acceptable amenity.

The proposed development satisfies the solar access and cross ventilation requirements of the ADG. Units, habitable rooms and balconies are of adequate size and dimensions and appropriate storage has been provided within dwellings. An appropriately oriented and dimensioned communal open space area is provided on site, at ground level with an adjoining open communal area with a kitchenette and bbq facilities which will encourage social interaction between future occupants.



Rendering of proposed COS area

The proposal as designed will ensure that a satisfactory level of amenity is afforded to future residents, without adversely compromising the amenity of neighbouring properties.

Principle 7 - Safety

The DRP noted that the driveway and loading / unloading areas should be secured, so as to maximise safety and minimise areas of concealment.

Plans do not clarify whether vehicular access gates or an intercom is proposed and as such the proposal is unclear in this regard. Notwithstanding, the proposal is subject to conditions which require the provision of further information to clarify this matter, as part of a deferred commencement approval.

Further to the above, the proposal will be conditioned to require the provision of CCTV security cameras at the residential entry and basement levels, with clear directional signage to be provided on site to advise users of security measures in place. As conditioned, the proposal is satisfactory in regards to the requirements of this principle.

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Principle 8 - Housing Diversity and Social Interaction

The DRP noted that the proposal provides an acceptable mix of residential dwellings on site.

The design of the development and proposed unit mix provides for varied housing choice for a variety of household types including multigenerational families. The development is designed to provide an appropriately sized and designed communal area at ground level with various spaces including an artificially turfed area, naturally landscaped space and open communal area with bbq and kitchenette facilities which will encourage different uses of these spaces and provide opportunities for social interaction between future occupants.

Principle 9 – Aesthetics

The DRP noted that the proposed aesthetic of the development is acceptable.

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to face brick, laser cut screens, marine plywood, glass balustrades and dark materials and tones to the top recessed level. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

c. Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Clause	Design Criteria	Comments	Complies
3B - Orientation	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	See discussion below.	Yes
3D - Communal and public open space	Min 25% (203.75sq/m) of site 50% (101.8sq/m) direct sunlight to principal useable part for 2 hours in midwinter between 9am - 3pm	230sq/m communal area at ground level. Direct sunlight to 50% or greater of COS area provided from 10am - 3pm given north easterly orientation.	Yes

3E - Deep Soil Zones	7% (57sq/m) site with minimum 3m dimensions			125.2sq/m deep soil zone adjoining common boundary with 4 Harrow Road. Dimensions of this area exceed 3m	Yes
3F - Visual Privacy	Height	Habitable / Habitable	Non habitable	6m - 9.6m eastern and northern side boundaries	No See discussion below.
	12m (4 storey)	6m	3m		
	25m (5-8 storey)	9m	4.5m		
	Further to the above, the ADG stipulates that at the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.				
4A – Solar and daylight access	Living rooms + POS of at least 70% (16 of 22) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			16 of 22 units (72.7%) receive min 2 hours solar access in midwinter	Yes
	Max 15% (4 of 22) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			Nil units receive no direct sunlight in midwinter	Yes
4B – Natural ventilation	Min 60% (14 of 22) of apartments are naturally cross ventilated in the first nine storeys of the building.			18 of 22 (81.8%) cross ventilated	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.			<18m glass line to glass line	Yes

4C – Ceiling heights	Min ceiling heights:		2.7m floor to ceiling to all residential levels including Level 1. This is deemed to be satisfactory at level 1, given the provision of appropriate commercial floor space at ground level and the unlikely use of the first floor for commercial purposes following any strata subdivision of the development.	Partial
	Habitable	2.7m		
	Non-habitable	2.4m		
	Mixed use	3.3m ground & first floor		
4D – Apartment size and layout	Unit	Min Area	Unit sizes compliant	Yes
	Studio	35M ²		
	1 bed	50M ²		
	2 bed	70m ²		
	3 bed	90m ²		
4E – Private open space and balconies	Unit	Min area	Satisfactory balcony sizes	Yes
	1 bed	8m ²		
	2 bed	10m ²		
	3+ bed	12m ²		
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.		Maximum 5 units off circulation core	Yes
4G – Storage	Unit	Volume	Appropriate inter unit storage provision, supplementary in basement	Yes
	1 bed	6M ²		
	2 bed	8m ²		
	3 bed	10m ²		

Non Compliance3B - Orientation

The provisions of this clause state that where an adjoining property i.e. 4 Harrow Road, does not currently receive the required hours of solar access (2 hours in midwinter to habitable rooms / private and communal open spaces) , the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.

Consideration has been given to the existing and proposed levels of solar access afforded to neighbouring sites and the zoning and redevelopment potential of these properties.

It is important to note that the existing buildings on the subject site are 2 storeys in height and positioned 1.2m - 1.5m from the common south eastern boundary with 4 Harrow Road. The proposed development will be positioned a minimum of 6m from the common boundary with 4 Harrow Road.

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4 Harrow Road, Bexley

This property comprises as follows;

- a) Two storey residential flat building, 1.2m from common boundary with the site site. This building comprises 4 residential dwellings, with two at ground level and two at level 1. Units run the length of the building with a central stairwell core.

Existing shadow diagrams illustrate that the rear communal open space and windows upon the north western façade are in full sunlight at 9am and 10.30am. By 11am, a portion of the north western façade of this flat building is overshadowed by existing buildings upon the subject site. From 12pm onwards, the entire north western façade of 4 Harrow Road is overshadowed. As a result it is evident that as existing the north western façade of this building currently receives 1.5 hours of solar access in midwinter.

The rear communal open space of 4 Harrow Road, as existing, retains more than 3 hours of solar access in midwinter. Being in substantial to full sun from at 11am - 2.30pm in midwinter.

Proposed shadow diagrams illustrate that between 9am - 10.30am the north western façade of 4 Harrow Road receives full sun. From 11am onwards the NW façade of 4 Harrow Road is overshadowed by the proposed development. The rear communal open space of this property receives substantial to full sunlight from 11am - 2.30pm in midwinter.

As demonstrated above, with the setbacks as proposed, there is no adverse net decrease to the level of solar access currently afforded to residential dwellings or their rear ground level communal open space, upon 4 Harrow Road. Furthermore, an additional 3m increase to the setback with this common boundary, i.e. provision of a 9m setback, would severely impact the redevelopment potential of the site and this would not likely result in a substantial increase in solar access to this neighbour, greater than that currently obtained.

Given the above, the proposal is deemed satisfactory with regards to the objectives of 3B of the ADG.

6 - 8 Harrow Road Bexley

These properties comprise as follows:

- a) 6 Harrow Road - Single storey residential building with what appears to be 2-3 dwellings
b) 8 Harrow Road - Two storey attached dual occupancy

Existing shadow diagrams illustrate that from 11am - 3pm the rear private open spaces of these properties receive substantial to full sunlight. The proposed development does not alter the aforementioned.

3F - Visual Privacy

The existing 2 storey residential flat building upon 4 Harrow Road is setback 1.2m from the common boundary with the subject site. The proposal illustrates a 6m setback up to level 5, with a 6m - 9m setback at level 6 and is therefore not in accordance with the requirements of the Design Criteria of the

ADG.

With respect to visual privacy, concern is raised in relation to unit 5 at level 1, which has habitable windows and a balcony with direct outlook onto the north western façade of the adjoining residential neighbour. Further to the above, units 4, 9, 14, 19 have living room windows (6m from common boundary) and a balcony, which is positioned 5.2m from the common boundary with this adjoining site.

Given the above, in order to resolve potential adverse privacy impacts, the proposal has been conditioned as part of the Deferred Commencement to require as follows:

- a) Unit 5 - Highlight or fixed obscure windows (not film) to both bedrooms and the living room with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screen to the eastern end of the balcony.
- c) Units 4 / 9 / 14 / 19 - Highlight or fixed obscure windows (not film) to living rooms with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screens to the eastern end of balconies.

The above is deemed satisfactory in order to resolve potential privacy issues with the eastern neighbour at 4 Harrow Road.

With respect of overshadowing impacts and building separation, a detailed assessment has been undertaken above. For the reasons noted above, proposed setbacks are deemed satisfactory with respect of visual privacy, building separation and transition.

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
4.6 Exceptions to development standards	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
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as commercial premises and shop top housing, which constitutes a permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

4.3 Height of buildings

A maximum height limit of 16m applies to the subject site. The proposed development comprises a

maximum height as follows:

- a) 18.3m - 18.8m to the roof
- b) 19.65m to the top of the lift overrun.

As can be seen above, the proposed development has a surplus height of 2.3m - 3.65m to the recessed rooftop of the proposed top level and to the top of the lift overrun, equating to a 14.3% to 22.8% variation to the height limit.

The applicant has requested a variation to the maximum building height requirement. This has been discussed within Clause 4.6 - Exception to Development Standards, within this report. The proposal is considered to be satisfactory with regards to the objectives of this clause for the reasons outlined within Clause 4.6 of this report.

4.4 Floor space ratio

A maximum 2:1 FSR applies to the subject site. This is equivalent to a maximum permitted overall gross floor area of 1630sq/m.

The applicants calculations indicate a gross floor area of 1651.21sq/m, being an FSR of 2.03:1. This equates to a surplus floor area of 21.1sq/m.

The assessing officer has undertaken a manual calculation of plans, inclusive of the bulk waste store room at ground level (27sq/m) which should not be excluded from gross floor area calculations. Given the aforementioned, the proposal comprises a total gross floor area of 1678.2sq/m which equates to an FSR of 2.05:1. This illustrates a surplus floor area of 48.1sq/m.

Given the above, the proposal does not comply with the relevant FSR standard for the site. The proposed FSR variation has been accompanied by a clause 4.6 – Exception to development standards. The applicants 4.6 is supported for the reasons outlined further within this report. The proposal is considered to satisfy the objectives of this clause.

4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

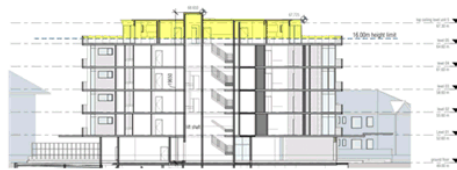
In considering the applicant's submission, the consent authority must be satisfied that:

- (i) *the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*
- 5(a) *The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
 5(b) *the public benefit of maintaining the development standard.*

Variations to height and FSR have been assessed below. The proposal has further been assessed against the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90. The judgement established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular circumstances of the site and development.

HEIGHT

As noted within Clause 4.3 - Height of Buildings, a maximum height limit of 16m applies to the subject site. The proposed development comprises a maximum height of 18.3m - 18.8m to the rooftop of the recessed top floor and 19.65m to the top of the lift overrun. This is a surplus height of 2.3m - 3.65m, equating to a 14.3% to 22.8% variation to the height limit to a portion of the development.



Yellow denotes additional height

Applicants Height Justification

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the height development standard are as follows;

- *The breach to the building height control, will not impact on the amenity of the development or adjoining properties, nor will the variation compromise the architecture of the building or the bulk and scale of the development. A degree of flexibility is considered reasonable in this instance.*
- *The subject site is located at the corner of Forest and Harrow Roads just outside of the Bexley Town Centre. Development within the Bexley Town Centre, located immediately opposite the subject site, are awarded a bonus height and FSR provisions enabling a maximum building height of 19m (16m + 3m) and maximum floor space ratio of 2.5:1 (2.0:1 + 0.5:1). It is unclear why the subject site has been excluded from this area given its proximity and similarly zoned B4 land use.*
- *In view of the prominent corner location of the subject site, its relationship to the Bexley Town Centre and the availability of local infrastructure and public transport services, the proposed building height would reinforce the corner position of the subject site creating a landmark/gateway development to the town centre.*
- *The proposed development is of a high architectural design and responds to the constraints of the site and feedback received from the Design Review Panel.*
- *The proposed development provides for a free standing building which is triangular in its shape to reflect the irregularity of the site. The proposed building provides for consistent 6m setbacks to the side and rear boundaries enabling a clearly defined, modern form that acts as a gateway to the Bexley Town Centre.*
- *To the upper residential levels, the proposed dark tones of the concrete blockwork will be broken up by acrylic panels, glass balustrading and steel feature cladding providing for visual interest and creating a balance to the perceived bulk and scale of the development.*
- *The proposal will result in additional overshadowing to the adjoining flat building, particularly in the afternoon period though it is considered that this is a consequence of both the orientation of the site*

(given the flat building is located to the south of the subject site) and the higher land use zoning afforded to the subject site (being B4 Mixed Use adjacent to R2 Low Density Residential).
- Deep soil planting is maintained along the eastern side boundary and wraps around to the rear of the building where the site adjoins Bexley Public School and enables a transition between the B4 zoning of the site and residential zoning of the neighbouring properties.
- While the standard has not been abandoned or destroyed, Rockdale Council has varied LEP standards in the past.

Height Discussion

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the height variation as proposed is acceptable for the following reasons:

a) The 3m height bonus, applies to sites greater than 600sq/m in area within the Bexley Town Centre, further to the south, directly opposite to the west and further to the south west, yet does not apply to the subject site. Notwithstanding, the subject site, given its location at a key intersection and its extent of frontage to Forest Road, visually forms and reads as a part of the Bexley Town Centre.

Whilst the height bonus does not apply to the subject site, it applies to commercially zoned properties directly opposite and within close proximity to the site along Forest Road. The proposed development has been designed to be of a height, bulk and scale which is commensurate with the anticipated future desired character of the Bexley Town Centre and commercially zoned properties fronting Forest Road. It is noted that 385-391 Forest Road Bexley, located directly opposite the site to the west comprises a site area of 1365sq/m. Whilst 385-391 is currently strata subdivided, this site is eligible for the height bonus should redevelopment be considered by the current / future owners.

Given the above, the proposal would provide an appropriate built form and streetscape response in this location and is considered to be satisfactory in this regard.

b) The subject site benefits from good access to public transportation, amenities and services, located further to the south within the town centre i.e. bus stops, supermarket, banks, bakeries etc. The proposed building height, form and scale would be generally consistent with potential future redevelopment of similar sized lots within the Bexley Town Centre which benefit from the bonus height control discussed in (a) above.

c) The subject site is triangular in nature and the proposed building form has been designed to respond to the constraints of the site. The additional building height is recessed into the design of the development, minimizing the visual bulk and prominence of the top level of the development. The top level will not be clearly visible from the public domain of the top at pedestrian level, will not affect the visual perception of the overall built form, nor adversely impact upon the land use intensity of the site.

d) The proposed area of height non compliance is not considered to result in a size or scale of development that is incompatible with the desired future character of Bexley Town Centre.

e) The height of the proposal is not inconsistent with the aims of the Building Height control as referred to within the Apartment Design Guide.

f) The proposed development provides appropriate building separation and transition in height to the

adjoining raised two storey school buildings to the north and two storey residential flat building to the south east. The proposal as designed recesses the top floor of the development 6.7m - 9m from the common northern boundary with the school and 7m - 9.6m to the two storey residential flat building at 4 Harrow Road.

f) The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011 as it maintains satisfactory sky exposure to nearby buildings and the public domain and does not contribute to adverse overshadowing of living / private open space areas of neighbouring properties.

g) The proposal is consistent with the objectives of the B4 Mixed Use zone.

h) The proposal is consistent with objectives of SEPP 65 and is considered to be in the public interest.

Given the site and development circumstances as discussed above, the proposed additional height sought by the applicant is not considered to be unreasonable and is supported in this instance.

FSR

The proposal further seeks to vary the FSR standard for the site as noted in Clause 4.4 FSR. A maximum 2:1 FSR applies to the subject site. This is equivalent to a maximum permitted overall gross floor area of 1630sq/m. The proposal comprises a total gross floor area of 1678.2sq/m which equates to an FSR of 2.05:1. This illustrates a surplus floor area of 48.1sq/m.

Applicants FSR Justification

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the FSR development standard are as follows;

- *The breach to the FSR control, will not impact on the amenity of the development or adjoining properties, nor will the variation compromise the architecture of the building or the bulk and scale of the development.*
- *The proposed development has made specific regard to the form and scale of adjoining properties particularly in view of the differing land use zones. My client has notably acquired all properties within this stretch of the B4 Mixed Use Zone to ensure a holistic redevelopment of the land.*
- *With regards to visual privacy, to the north the proposal provides for a 6m side setback to the shared boundary and adjoins the school's staff car parking area. In this respect, there is no adverse impact to the adjoining site.*
- *To the south, a 6m setback is also proposed to the residential flat building with this area provided as deep soil planting. The residential flat building is notably two storeys in height and accordingly Levels 3 – 7 of the proposed development will overlook the roof of this development rather than any habitable windows. In terms of the two lower levels, the proposed ground floor has been designed as non-residential in its use comprising of retail spaces that are predominantly orientated to the street minimising the potential for any overlooking. The existing side boundary fence will also obstruct sight lines at this level. At Level 1, where windows are proposed off living rooms or bedrooms, they have been designed as either highlight windows or are narrow in their design minimising sight lines. Privacy screens may also be fitted to the balconies of these units further restricting sight lines.*
- *The proposal does not result in adverse additional overshadowing to the adjoining flat building*
- *The proposed development provides for a free standing building which is triangular in its shape to reflect the irregularity of the site. The proposed building provides for consistent 6m setbacks to the*

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side and rear boundaries enabling a clearly defined, modern form that acts as a gateway to the Bexley Town Centre.

- The ground floor of the development promotes an active street frontage with large commercial spaces and glazed shopfronts addressing both the Forest and Harrow Road street frontages. The residential lobby is clearly defined to the street and reinforced through a strong vertical element which spans across all of the proposed seven storeys.

- To the upper residential levels, the proposed dark tones of the concrete blockwork will be broken up by acrylic panels, glass balustrading and steel feature cladding providing for visual interest and creating a balance to the perceived bulk and scale of the development.

- Deep soil planting is maintained along the eastern side boundary and wraps around to the rear of the building where the site adjoins Bexley Public School and enables a transition between the B4 zoning of the site and residential zoning of the neighbouring properties.

- The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in any unreasonable amenity or environmental impacts.

- Given the prominent corner location of the subject site, its proximity to the Bexley Town Centre and the availability of local infrastructure and public transport services, the floor space ratio would be read consistently with development to the south, where bonus FSR controls apply.

FSR Discussion

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the FSR variation as proposed is acceptable for the following reasons:

a) Whilst the proposal exceeds the maximum density permitted on the subject site the resulting bulk, scale, mass and form of the development as proposed is entirely consistent with the future desired character of the area. It is noted that sites within the identified Bexley Town Centre may benefit from a 2.5:1 FSR whereby they are amalgamated or greater than 600sq/m in overall area. The subject site can facilitate and accommodate the proposed development, and as designed the proposal is consistent with the future desired character of the locale without resulting in adverse amenity impacts on site or to neighbouring properties.

b) The extent of the proposed FSR variation is minimal (48.1sq/m) and is not of a scale or extent, that if removed, would significantly alter the overall mass, scale or building footprint of the proposed development. The proposed development has been designed to be of a bulk and scale which is commensurate with the anticipated future desired character of the area, including commercially zoned properties within the Bexley Town Centre, fronting Forest Road. The proposal would provide an appropriate built form and streetscape response in this location and is considered to be satisfactory in this regard.

c) The subject site benefits from good access to public transportation, amenities and services, located further to the south within the Bexley Town Centre i.e. bus stops, supermarket, banks, bakeries etc. The proposed building form and scale would be less than the potential size of building forms permitted on similar, if not smaller, sized sites within the Bexley Town Centre which benefit from the bonus FSR provisions, permitting a 2.5:1 FSR.

d) The proposal recesses the development a minimum of 6m from its common northern and south eastern boundaries, complying with the building separation requirements of the ADG. As discussed

earlier in this report, the proposal has been conditioned to require the provision of privacy screens and obscure / highlight windows to units 4, 5, 9, 14 and 19, in order to minimise sightlines and overlooking of the rear communal open space of 4 Harrow Road. Accordingly the proposal does not give rise to adverse privacy impacts and provides appropriate building separation to neighbouring properties.

e) The proposed development will not set an undue precedent given the circumstances of the site and development as noted above.

f) Apartment layouts as designed maximize solar access, cross ventilation and outlook to optimize internal amenity for future occupants.

g) The proposal is consistent with the objectives of Clause 4.4 - FSR.

h) The proposal is consistent with the objectives of the B4 Mixed Use zone.

i) The proposal is consistent with objectives of SEPP 65 and is considered to be in the public interest.

Given the site and development circumstances as discussed above, the proposed additional height and FSR as sought by the applicant in this instance are not considered to be unreasonable. Given the above, the proposal provides for a development that facilitates the orderly economic development of the site in an appropriate manner. The particular circumstances of the site are considered to outweigh strict adherence to the numeric standards presented by the Height and FSR standards within RLEP 2011. It is considered that in this instance, there are sufficient environmental planning grounds and site circumstances in which to justify flexibility of the standard and permit the contravention of the height and FSR standards for the site.

5.10 Heritage conservation

The subject site shares a common boundary with a heritage listed site, known as Bexley Primary School, located at 330 Forest Road. The heritage item is a two storey Inter-War red brick building with steep hipped roof, clad in Marseille patterned tiles. Large double hung timber windows are divided into small panes. The original front façade is oriented at an oblique angle to Forest Road. The school was historically part of the earlier school development across the road.

The school provides physical evidence of the rapid development growth in the area in the early twentieth century. The school has broader significance in that it is representative of State education in Rockdale in the mid twentieth century.

The aforementioned school building is positioned 13.5m from the common boundary with the subject site and is adjoined by an asphalt car parking area. The proposed development is positioned 6m from the common boundary with the adjoining heritage site to the north.



Separation distance to common boundary



Heritage school building

A Statement of Heritage Impact (SoHI) prepared by a suitably qualified heritage consultant has been submitted to Council given the proximity of the heritage item. The SoHI identifies one building on the school site as the heritage item, however the whole of the school site is listed in Schedule 5 of Rockdale Local Environmental Plan. The buildings facing the development site are not the earliest buildings on the school site but they are part of the development history of the site. The development site boundary adjoins the school; there is a car park on the school site next to the boundary which provides a setback of approximately 13.5 metres to the two storey school building.

Councils Heritage Advisor has reviewed the proposed and noted that the proposal will be higher than the school buildings however the 13.5 metre setback and the driveway together make a reasonable separation between the new building and the school. The proposed building has rounded corners which will assist views from Forest Road to the school buildings. Views to the school from Forest Road will not be impacted by the development.

The visibility of the school from Forest Road is limited due to the setbacks and angles of the buildings as well as the sound mitigation barriers. This will not be impacted by the development. The proposed

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development has a neutral colour scheme and a modern design which retains the historic pattern of shopfronts with an awning at street level. The development will have an acceptable level of heritage impact.

Given the above the proposal is satisfactory with respect to the provisions of this clause.

6.1 Acid Sulfate Soil - Class 5

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

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the 51AHD Obstacle Limitation Surface (OLS). The proposed building height at 19.65m (68.650RL) breaches the OLS by 17.65m and as such the proposal was referred to Sydney Airport Corporation Limited (SACL) and the Department of Infrastructure, Regional Development and Cities (DIRDC) for review and comment.

On 8th March 2018, Council received correspondence from DIRDC confirming the above and granting consent for the breach to the OLS, subject to specific conditions of consent, of which have been incorporated into the draft Notice of Determination.

Given the above, the proposal is satisfactory with respect of the objectives of this clause.

6.7 Stormwater

The proposal involves the construction of an above ground on site detention system to manage stormwater in addition to rainwater tanks with overflow directed to the existing street pits in Forest Road. Drainage from the basement carpark and driveway is to be pumped to the OSD system. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

6.11 Active Street Frontages

The subject site is land identified as Active Street Frontage in RLEP 2011 Active Street Frontage Map, and accordingly is subject to clause 6.11. The proposed ground floor of the development incorporates extensive commercial frontage, with direct access to both Harrow and Forest Roads. The proposal is considered to satisfy the requirements of clause 6.11.

6.12 Essential services

Services will generally be available on the site. The proposal is satisfactory in this regard.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.4 Glazing - Commercial	Yes	Yes
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes
4.4.6 Noise Impact - Non-residential	Yes	Yes
4.4.7 Wind Impact	Yes	No - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	No - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	No - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	No - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes

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Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	No - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	No - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Front Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Side Setbacks	Yes	Yes
5.3 Mixed Use - Ground Level Uses	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	No - see discussion
5.3 Mixed Use - Commercial	Yes	No - see discussion
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes

4.1.1 Views and Vista

Existing two storey buildings surrounding the site do not benefit from landmark views. Increased setbacks of 6m to common side boundaries with neighbouring properties as proposed, assist in retaining a future view corridor when viewed from the north and east. The proposal is satisfactory in regards to the requirements and objectives of this clause.

4.1.9 Lot size and Site Consolidation - Mixed use

The subject site comprises a frontage of 33.86m to Forest Road and thus complies with the minimum 18m frontage requirement as per the provisions of this clause.

4.1.9 Lot size and Site Consolidation - isolated sites

The proposed development does not result in the isolation of adjoining lots. The proposal is satisfactory in regards to the objectives of this clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.7m and 2.4m to habitable and non habitable areas respectively.

4.4.4 Glazing - General Controls

Plans illustrate the provision of appropriately located and designed shading devices to elevations. The proposal is satisfactory in this regard.

4.4.5 Acoustic privacy

The application was accompanied by an Acoustic Report prepared by Acoustic Logic dated 12/10/2016 which considered potential traffic, aircraft and inter dwelling acoustic impacts. The report did not consider mechanical plant given nil detail was available at DA stage. The report noted '*detailed plant selection has not been undertaken at this stage, as plant selections have not been determined. Detailed acoustic review should be undertaken at CC stage to determine acoustic treatments to control noise emissions to satisfactory levels. Satisfactory levels will be achievable through appropriate plant selection and location and, if necessary, standard acoustic treatments*

such as duct lining, acoustic silencers and enclosures."

The report concludes that provided the treatments outlined within the report are implemented the acoustic amenity of future occupants will be maximised. With respect to potential mechanical plant emissions, the proposal will be conditioned to ensure compliance with relevant Australian Standards.

As conditioned the proposal is satisfactory with respect of the provisions and objectives of this clause.

4.4.7 Wind Impact

A wind report confirming that the proposed development has been designed and proportioned to consider wind generation effects has not been submitted with the application. Notwithstanding the proposal can be conditioned to ensure consideration is given and appropriate wind amelioration measures can be incorporated. In this regard, the proposal is subject to a Deferred Commencement Approval, to ensure appropriate wind amelioration measures are considered and implemented on final approved drawings.

As conditioned the proposal satisfies the objectives of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The development is required to comply with the following unit mix:

DCP Requirement	Proposed	Complies
1 bedroom / Studio	4 x studio	No - 54%
10% (3) - 20% (5)	8 x 1 bed	
2 bedroom	8 x 2 bedroom	No - 36%
50% (11) - 75% (17)		
3 bedroom	2 x 3 bedroom	No - 9%
10% (3) - 30% (7)		

As can be seen above the proposal does not comply with the required unit mix on site. Notwithstanding, the proposal provides a range of housing options within the proposed development which will enable changing lifestyle needs and cater to different household types and income groups. The proposal incorporates a number of smaller unit types which will provide more affordable housing choices within the local government area. The proposal is considered to be consistent with the objectives of this clause and as such a variation in this instance is deemed satisfactory.

4.5.2 Social Equity - Equitable Access

As per the provisions of this clause, a minimum of 2 adaptable dwellings are required within the proposed development. The 8 x 2 bedroom units with the proposed development are capable of appropriate adaptation so as to be accommodated as adaptable units. The proposal thus complies with the provisions and objectives of this clause.

4.6 Parking Rates - Shop-top Housing

As per the provisions of this clause, the following parking rates apply to the proposed development.

DCP Rate	Required	Proposed	Complies
Residential 1 space per studio - 2 bed unit	20 spaces	20 spaces	Yes
2 spaces per 3 bed unit	4 spaces	4 spaces	Yes
Visitor 1 space per 5 units	5 spaces	5 spaces (including car wash bay)	Yes
Commercial 1 space per 40sq.m	4 spaces	4 spaces	Yes
1 x car wash bay	1 space	1 spaces (shared with visitor)	Yes
1 x loading / unloading bay	1 x SRV space	1 space	Yes
Motorbike 1 space per 15 units	2 spaces	3 spaces	Yes
Bicycle 1 space per 10 units	3 spaces	8 spaces	Yes

The proposal satisfies the provisions of this clause.

4.6 Design of Loading Facilities

Plans illustrate the provision of an appropriately dimensioned and located loading, unloading and waste collection area on site. The proposal is thus satisfactory in this regard.

4.6 Car Wash Facilities

The proposal illustrates the provision of a dedicated car wash bay within basement level 1. This proposed space does not comprise sufficient overall dimensions as required by Councils Rockdale Technical Specification Stormwater Management. Plans indicate sufficient area within the vicinity of this space to enable the car wash bay to be appropriately provided. In this regard the proposal has been conditioned to ensure a compliant car wash bay is provided on site. As conditioned the proposal satisfies the requirements of this clause.

4.7 Air Conditioning and Communication Structures

Plans do not illustrate the proposed location of air conditioning units for the development. The proposal will be conditioned to ensure that this detail is provided prior to the issue of the Construction Certificate. The proposal will further be conditioned to require obscure glazing to balconies to ensure that should air conditioning units be located upon balconies that they are obscured from view from the public domain. As conditioned the proposal satisfies the provisions of this clause.

4.7 Waste Storage and Recycling Facilities

Appropriate and separated waste storage provision areas have been provided within the basement levels of the development. The proposal facilitates on site waste collection given its constrained location adjoining two busy roads. The proposal further incorporates garbage chutes for ease of future occupants and users. The proposal is satisfactory in this regard.

4.7 Service Lines/Cables

Plans illustrate the provision of an exposed fire hydrant / booster valve adjoining the side boundary with

4 Harrow Road, within the front of the site. The proposal has been conditioned to require that these services be screened appropriately from view of the public domain. This detail is to be provided to Council for endorsement prior to the issue of the Construction Certificate. As conditioned the proposal satisfies the objective and provisions of this clause.

4.7 Letterboxes

The proposal incorporates a communal letter box location adjoining the main residential entry from Forest Road. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Nil detail in relation to proposed hot water systems has been provided. As such the proposal has been conditioned to require that all hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed. As conditioned the proposal complies with the requirements and objectives of this clause.

5.2 RFB - Side Setbacks

As per the provisions of this clause, the following side setbacks are required.

- a) minimum 3m for buildings up to three storeys
- b) minimum 4.5m for all levels above three storeys.

The proposal provides 6m setbacks to common boundaries with both adjoining side neighbouring properties and complies with the provisions of this clause.

5.2 RFB - Rear Setbacks

As per the provisions of this clause, as minimum rear setback of 12m is required.

Given the triangular nature of the site, it is difficult to ascertain the true 'rear' boundary. Furthermore, given the design of the proposed development, the two common boundaries with adjoining neighbours i.e. School and 4 Harrow Road are more akin to side boundaries.

Given the aforementioned a merit assessment has been undertaken, taking into account the building separation requirements of the Apartment Design Guide. Setbacks as proposed, are deemed to be sufficient.

5.2 RFB - Building Entry

The proposed residential building entry to Forest Road is a clearly identifiable element of the building in the street and provides a direct physical and visual connection between the development and public domain. The proposal is satisfactory in regards to the provisions and objectives of this clause.

5.2 RFB - Lift Size and Access

As per the provisions of this clause, corridors require a minimum width of 2m, with lifts within a building to have minimal internal dimensions of 2.1m x 1.5m. Plans illustrate the provision of a lift with internal dimensions of 2.1m x 2.3m and corridors with a minimum width of 2m. The proposal complies with the requirements of this clause.

5.3 Mixed Use - Front Setbacks

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The provisions of this clause require that development is to be built to the street alignment with a zero setback, with the uppermost floor level set back.

The proposal has been designed to align with street frontage boundaries to Harrow and Forest Road, providing for a street wall periphery development. The proposal further recesses the top level (level 6) of the development in order to minimise the bulk and scale of the proposal when viewed from the public domain.

The proposal satisfies the objectives and requirements of this clause.

5.3 Mixed Use - Ground Level Uses

Plans indicate the provision of active uses fronting the public domain at ground level, with a residential entry to Forest Road providing access to residential units at upper levels. The proposal is satisfactory with regards to the requirements and objectives of this clause.

5.3 Mixed Use - Retail

As per the provisions of this clause 10% (163sq/m) of the permitted gross floor area of the development shall be provided as retail floor space. The proposal provides two commercial premises at ground level, activating the street frontage of the site. A total of 145.48sq/m of retail spaces is provided on site. This illustrates a deficiency of 17.52sq/m of retail space.

The proposed variation is relatively minor and as designed, the proposed development provides an appropriate active retail frontage which is continuous and akin to existing retail tenancies on site and those within the Bexley Town Centre.

A minor variation is not deemed unreasonable in this instance and the proposed development is considered to satisfy the objectives of this clause.

5.3 Mixed Use - Commercial

As per the provisions of this clause, commercial premises under 200sqm must have internal access to staff toilets and showering facilities and such facilities may be shared with other tenancies. Whilst plans do not illustrate provision of these facilities, the proposal has been conditioned to require the addition of the aforementioned. As conditioned the proposal complies with the requirements of this clause.

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

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

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

Relocation of Bus Stop

The proposal was referred to the State Transit Authority of NSW, given the proposed relocation of the existing public bus stop on Forest Road 15m further to the north in order to accommodate the proposed vehicular crossing on site.

The STA provided a response to Council on 17th October 2017 confirming nil objection to the proposed bus stop relocation subject to conditions of consent to ensure all works are at the applicants expense, works are undertaken in accordance with relevant STA design guidelines and that the STA

are appropriately notified of works a minimum of 4 weeks prior to the commencement of works to relocate the bus stop. The proposal has been conditioned accordingly.

Roads Act 1993

As a result of the location of the proposed development on a classified road, with obstructions in the location of the proposed driveway, including a telegraph pole, red light camera and the bus stop as noted above, the proposal has been conditioned to require that further approval be required under the Roads Act, to facilitate the relocation of the aforementioned in line with relevant requirements and the addition of relevant signage to ensure the functionality of the classified road is not adversely impacted by future occupants and users of the site.

Safety & Security

The development provides a clearly identifiable and legible residential building entry from Forest Road. The residential lobby comprises direct pedestrian access and is glazed to provide a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are proposed to be well lit with clearly defined pathways. The proposal is satisfactory in this regard.

Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport and the proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking. The proposal further provides a well designed and located communal area with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

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

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

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

The proposal was publicly notified in accordance with DCP 2011. A total of 14 submissions opposing the proposed development were originally received. Following a subsequent reduction in the height and density of the development and resultant design improvements, amended plans and information were not publicly renotified, however have at all times been publicly available online for viewing by the general public. Following the aforementioned, an additional submission was received in relation to revised plans.

Accordingly a total of 15 submissions were received, the following issues were raised.

Excessive height is inappropriate / height is out of character with rest of the street / Proposal is an eyesore / 5 storeys is still too high

Comment: The matter of height and streetscape character and context has been previously discussed within this report. The proposal is satisfactory in this regard.

Excessive FSR and site coverage / overdevelopment of site / Bulk and scale inappropriate / Too many units proposed

Comment: The matter of FSR, density, bulk and scale has been previously discussed within this report. The proposal is satisfactory in this regard.

Impact of noise and construction on students learning to school next door

Comment: Construction noise is temporary and classrooms are positioned in excess of 13m away from the common boundary with the subject site.

Privacy of children in adjoining school

Comment: The proposed development is positioned in excess of 19.5m from the closest school building within Bexley Public School and in excess of 25m away from the playground. The proposal is unlikely to result in adverse privacy impacts onto the school.

Traffic report is inaccurate and misleading / Traffic and car parking impacts / Vehicular conflict with future vehicles turning in and out of proposed driveway / dangerous location of proposed driveway / driveway conflicts with existing bus stop and will cause extra congestion to Forest Road / insufficient parking proposed on site

Comment: The proposal was reviewed by Councils Development Engineer and the Roads and Maritime Service. The proposed vehicular access, is deemed to be satisfactory and the proposal has been conditioned to minimise any vehicular conflicts or queuing onto Forest Road. The proposal complies with the parking requirements of DCP 2011 and accommodates all necessary parking for the development on site within basement car parking levels. The proposal will not generate a level of traffic which is unable to be accommodated within the surrounding road network.

Stormwater impacts to adjoining properties

Comment: The proposal has been designed to appropriately manage stormwater on site.

Location of site at intersection is dangerous

Comment: The site is suitable for the proposed development and the zoning of the property permits an increase in density. The proposal has been designed to maximise safety for future occupants, particularly in relation to vehicular entry and exit from the site.

Insufficient infrastructure to accommodate proposed development

Comment: The subject site is located adjoining the Bexley Town Centre, of which a number of retail premises and local public transport options are available. The site adjoins a local public school and is

also within close proximity to a second private school. The site is suitably located and there is sufficient infrastructure to accommodate the proposed development.

Unacceptable overshadowing from proposed development onto 4 Harrow Road

Comment: The matter of overshadowing has been previously discussed within this report. The proposal does not result in greater overshadowing onto 4 Harrow Road given the 6m setback to the common boundary with this property.

Privacy impacts to 4 Harrow Road and its communal areas

Comment: The matter of privacy has been previously addressed in this report. The proposal has been further conditioned to require screening to balconies and windows of units closest to 4 Harrow Road to further maximise privacy between neighbours.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

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

The proposal has been conditioned to ensure the payment of S94 Contributions as required for the increase in residential density on site.

Schedule 1 - Draft Conditions of consent

General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of 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
Site Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 4 Plan Issue 22	ardesign	20/09/2017	26/09/2017

Basement 3 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 2 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 1 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Ground Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 1 & 2 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 3 & 4 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 5 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Roof Plan Issue 22	ardesign	20/09/2017	26/09/2017
North / South Elevation Issue 22	ardesign	20/09/2017	26/09/2017
Streetscape Elevations Issue 22	ardesign	20/09/2017	26/09/2017
Sections Issue 22	ardesign	20/09/2017	26/09/2017
Schedule Colours & Finishes	ardesign	-	26/09/2017

3. Department of Infrastructure, Regional Development and Cities

A) The building must not exceed a maximum height of 68.65m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods and any rooftop garden plantings, exhaust flues etc.

B) The Proponent must advise Airservices Australia at least three (3) days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting SY-CA-545 P2.

C) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. The Department notes that the proponent has proposed a self erecting crane of 68m AHD maximum height, which is below the final height of the building, in order to avoid any impact on the Runway 07/25 Approach and Take Off Surface.

D) At the completion of construction of the building, a certified surveyor is to notify (in writing) Sydney Airports Corporation Limited (SACL) of the finished height of the building.

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
6. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 771235M_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

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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>.

7. A separate development application shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

8. Balconies, car spaces and the loading / unloading bay shall not be enclosed at any future time without prior development consent.
9. 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.
10. 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.
11. 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.
12. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
13. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

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

3 bedroom apartments 2 spaces per apartment

Commercial Units 1 space per 40m² gross floor area

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 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. Pumps attached to the development must be housed in a soundproof enclosure.
15. 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.

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) 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.
- (ix) 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.

Development specific conditions

The following conditions are specific to the Development Application proposal.

16. A total of 24 residential, 4 visitor, 4 commercial / retail car spaces, a minimum of 3 motorcycle parking spaces, a minimum of 4 bicycle parking spaces and 1 car wash bay shared with visitors, 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.

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Dwelling Size (Proposed No. of units)	Required
Studio / 1 / 2 bed dwellings (20 units)	20 spaces
3 bedroom dwellings (2 units)	4 spaces
Total Residential Spaces	24 (including 2 accessible spaces)
Visitor	5 spaces (including 1 accessible space)
Com. / Retail	4 spaces
Bicycle (Res. + Com.)	4 spaces
Motorcycle	3 spaces
Car Wash Bay	1 (shared with visitor space) 3.5m wide
SRV Loading Bay	1 dedicated space (3.5m headroom)

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.

17. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- 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.
- 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.
- Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- Graffiti resistant materials shall be used to ground level external surfaces.
- Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to

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- admitting them to the development.
- f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
 18. Approval for the footpath dining is not expressed or implied and a separate approval is required for the footpath dining. In this regard you are advised to contact Council to obtain a copy of the licensing agreement entitled *Outdoor Dining Licensing Agreement*.
 19. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
 20. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
 21. 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.
 22. 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.
23. 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.
 24. 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.
 25. 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.
 26. 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. Temporary dewatering of the site to construct the subsurface structure is not permitted.
 28. 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.
 29. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 30. 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.
 31. 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.
 32. (b) In order to ensure the design quality excellence of the development is retained:
 - i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.

- (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
33. All plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
34. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
35. All hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
36. Landscaping
- a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
- b) Tree planting which does not conflict with the on site detention system shall be provided within the eastern side setback.
- c) 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.
- d) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
- 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) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
37. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
38. Landscape Maintenance
- The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction. On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans
39. 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

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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.
40. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the Principal Certifying Authority in relation to the awning over the Forest and Harrow Road street frontages of the site:
- i. Detailed design plans and specifications, including structural details and,
 - ii. Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural). Awning design shall comply with following requirement of Rockdale Development Control Plan section 5.3:

- a) minimum soffit height of 3.3m;
- b) maximum fascia height of 600mm;
- c) minimum setback from edge of kerb of 600 mm;
- d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.

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

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

41. The following details shall be illustrated upon the Landscape Plan prior to the issue of the CC.

Planter boxes constructed on slab

Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :

- Ensure soil depths in accordance with Council's Landscape DCP and SEPP65. 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.
- 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.
- 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.

- 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.
- Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

Installation

a) Establishing Subgrade Levels

Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. soil conditioner). The following subgrade levels shall apply:

- Mass Planting Beds - 300mm below existing levels with specified imported soil mix.

Note that all subgrades shall consist of a relatively free draining natural material, consisting of site topsoil placed previously by the Civil Contractor. No builder's waste material shall be acceptable.

b) Subgrade Cultivation

Cultivate all subgrades to a minimum depth of 100mm in all planting beds and all turf areas, ensuring a thorough breakup of the subgrade into a reasonably coarse tilth. Grade subgrades to provide falls to surface and subsurface drains, prior to the placement of the final specified soil mix.

c) Drainage Works

Install surface and subsurface drainage where required and as detailed on the drawing. Drain subsurface drains to outlets provided, with a minimum fall of 1:100 to outlets and / or service pits.

d) Placement and Preparation of Specified Soil Conditioner & Mixes.

- Trees in turf & beds - Holes shall be twice as wide as root ball and minimum 100mm deeper - backfill hole
- Mass Planting Beds - Install specified soil conditioner to a compacted depth of 100mm

Place the specified soil conditioner to the required compacted depth and use a rotary hoe to thoroughly mix the conditioner into the top 300mm of garden bed soil. Ensure thorough mixing and the preparation of a reasonably fine tilth and good growing medium in preparation for planting.

Planting

All trees over 300mm pot size must be follow council requirements and be inspected

prior to planting. Tubestock not permitted, smallest pot size is 140mm.

a) Quality and Size of Plant Material

All trees supplied above a 25L container size must be grown and planted in accordance with Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality. Natspec Guide No. 2. Certification that trees have been grown to Natspec guidelines is to be provided upon request of Council's Tree Management Officer.

42. Waste & Recycling Collection / Removalist Drop-offs & Pick-ups - Operational Requirements
 1. Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.
 2. Waste & recycling collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Forest Roads and Harrow Road or elsewhere within the site.
 3. Waste and recycling may 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.
 4. Waste & recycling collection must be undertaken during off-peak times.
 5. The maximum size truck permitted to access the site is a Small Rigid Vehicle (SRV).
 6. The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
43. The design and construction of the off-street parking facilities shall comply with Australian Standards, as follows:
 - Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
 - One (1) loading bay shall be provided at Ground level to accommodate SRV - removalist trucks as shown in the approved plans. The SRV space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2 and the swept path analysis for the RCV 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.
 - Any vehicular path of travel to or from loading bay for RCV shall have minimum headroom clearance of 3.5m.
 - Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 - The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
 - Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
 - Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
 - All waste collection and deliveries to / from the site (including removalist trucks) must take place from within the approved loading bay.

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- 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.
- The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- The car parking spaces shall not be enclosed at any time.
- For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- Allocate all off-street visitor parking, loading bays and car wash bay as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

44. Traffic Signs / Signal, loop detector

1. A traffic signals/signs, convex mirrors and loop detector are to be designed and installed to manage vehicular movement in driveways that provide safe vehicle access to the site and all basement levels. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
2. 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 signals/signs (including traffic signal heads, 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.

The access driveway shall be controlled by traffic signals with the following operational mode:

- After a pre-set clearance time signals revert to red for outgoing and green for Incoming.
45. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.

Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.

Prior to issue of the construction certificate

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

46. 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.
47. Required Infrastructure Works –Roads Act 1993

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.

The implementation of this Consent generates a need for works to be completed in a public place owned by Council and / or Crown Lands, with such works being at no cost to Council or Crown Lands.

Works includes but is not limited to the following:

- i) Relocation of existing street lighting / power poles along Forest Road frontage of the site;
- ii) Construction of a driveway (vehicular entrance)
- iii) Relocation of existing STA bus stop
- iv) Relocation of existing red light camera
- v) Addition of directional signage
- vi) Construction of new kerb, gutter, footpath and streetscape works
- vii) Removal of redundant power pole(s) and proposal for undergrounding of power along Forest Road and Harrow Road frontages.
- viii) Public domain and drainage works.

A. Design

The scope of works is to be confirmed 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 Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed 'Public Domain Frontage Works Construction Application Form' 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 confirmed and alignment levels issued. If payment is made after the end of the financial year, the fee amount shall be adjusted in accordance with Council's adopted fees and charges.

- 48. A Section 94 contribution of \$2,178,38.01 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
- 49. Prior to the issue of the Construction Certificate for the development, an application for address allocation for all lots (units) within the strata subdivision shall be submitted to Council in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard, Section 5.2 of the NSW Address Policy and Ch.6.5.5 " Multi-

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level Sub-Address Allocation" of the NSW Address User Manual.

50. Acoustic

Flooring within the development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

A report shall be submitted to the Principal Certifying authority for approval prior to the issue of any Construction Certificate for each of the building stages. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for each of the building stages.

51. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with relevant Australian Standards must be provided to and within nominated adaptable residential units, and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building.

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.

52. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
53. (i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.
- (ii) All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

54. 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

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requirements are to be submitted to Council prior to issuing a Construction Certificate.

55. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
57. 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.

58. Adjoining buildings founded on loose foundation materials

As the basement levels 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

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must;

- (a) All recommendations contained in the report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017 shall be implemented.
- (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) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.
NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development
(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.
(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).
- (f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

- 59. 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.

60. Any sub-surface structure within the highest known groundwater table + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the 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.

- 61. Prior to the issue of a Construction Certificate for *building works*, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals comply with the conditions of consent.
- 62. Prior to issue of Construction Certificate, swept path analysis shall be submitted to Certifying Authority for assessment and approval.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and an 'SRV' sized vehicle entering/exiting of the driveway/loading bay in accordance with section 7.2 of Councils Technical Specification – Traffic, Parking and Access.

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

- 63. The low-level driveway must be designed to prevent the inflow of water from the road reserve. The assessment of Gutter 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 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.
- 65. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The dimensions of the car wash bay and any runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
- 66. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent.

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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 take into consideration of geotechnical recommendations.

Note:

- a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management.
 - b. The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.
 - c. Implement all recommendations contained in the preliminary geotechnical investigation report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017.
 - d. Since the site is subject to MFL, the design of the basement carpark access ramp crest level is to be 500mm above the 1 in 100-year flow level.
 - e. The low-level driveway shall be protected from street gutter flows. The driveway crest shall be in accordance with the Gutter Flow Analysis prepared by Wehbe Consulting Engineers, dated August 2017.
 - f. To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.
67. The developer is to contact Telstra and organise relocation works to Telstra Assets. Detailed documentation confirming Telstra acceptance of the aforementioned is to be submitted to Council prior to the issue of a Construction Certificate.
68. State Transit Authority

All works associated with the relocation of the existing bus stop along the frontage of the site within Forest Road are to be at no cost to the STA.

The applicant is to contact the STA's Service Delivery Manager - Southern Region on 9582 5965 in writing, a minimum of 4 weeks prior to the commencement of works, to confirm all necessary STA requirements prior to the commencement of relocation works.

The applicant is to ensure that relocation and reinstatement works for the bus stop are in accordance with the STA '*Bus Way Finding - Bus stop flag pole layout - Typical*' design guidelines' produced by the STA.

Relocation works are to be undertaken in a manner which will not affect existing bus services.

Confirmation of the STA acceptance of the applicants design and relocation works is to be submitted to Council prior to the issue of the Construction Certificate.

69. Prior to the issue of the Construction Certificate the following shall be submitted to and approved by Council:
- a) Details and location of proposed mechanical plant.
 - b) Submission of a revised Acoustic Report confirming compliance with relevant standards from a suitably qualified acoustic consultant.

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 \$10 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. 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.
75. 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.
76. (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,

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(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.

- 77. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- 78. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
- 79. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

- 80. 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.
81. 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.
 82. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.
 83. 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.
 84. 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.
 85. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
 86. 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.

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- 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.
87. 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.

88. 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.
89. 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

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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.
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. 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

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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. All existing trees located within the site may be removed.

Prior to issue of occupation certificate or commencement of use

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

- 94. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 95. The STA is to provide written confirmation clarifying that bus stop relocation works have been appropriately completed, prior to the issue of any Occupation Certificate. A copy of the aforementioned confirmation is to be submitted to Council prior to the issue of any Occupation Certificate.
- 96. 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.
- 97. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
- 98. 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

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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.

99. 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.

Acoustic recommendations in relation to traffic and aircraft emissions contained in the acoustic report prepared by Acoustic Logic ref: 20161319.1/1210A/R0/EC dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

100. 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.
101. Lot A DP 356310 and Lot 1 DP 500135 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
102. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
103. 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.
104. 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 requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate and implemented prior to issue of any Occupation Certificate.
105. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
106. 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

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- site in a forward direction at all times".
107. 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.
 108. Mirrors at key locations (outside of bends in the car park), give way signs entering vehicles and entry sign recommending drivers turn on their headlights.
 109. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
 110. Bollard(s) shall be installed by the Developer on adaptable shared spaces.
 111. 33 off-street car spaces and 1 loading / unloading bay shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
 112. 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.
 113. 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.
 114. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
 115. The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
 116. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
 117. 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.
 118. 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.
 119. Prior to occupation, a chartered professional engineer shall certify that the Basement

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- structure 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.
120. 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.
 121. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
 122. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the following facilities to provide for the maintenance of the facilities.
 - i. The stormwater detention facility to provide for the maintenance of the system.
 - ii. Waste management is undertaken by a private contractor
 - iii. Traffic control system – stop line, loop detector & traffic signal
 123. 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.
 124. 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.
125. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
 126. 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,

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leaves and other matter entering the rainwater tank.

Prior to issue of subdivision certificate

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

127. Lot 1 DP 500135 and Lot A DP 356310 shall be consolidated into one allotment. A copy of the plan of consolidation shall be submitted to Council prior to release of Strata Certificate.
128. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
129. As construction of the building nears completion, or after it has been completed, council or an accredited certifier shall inspect the building, and the common property areas around the building so as to be satisfied that:
 - The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed.
 - The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building.
 - Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
130. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.
131. 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.
132. All visitor car parking spaces are to be clearly shown as common property on the Strata Certificate for the strata subdivision.
133. The parking spaces on site are to be allocated to each unit as per the approved plans and conditions of this development consent.
134. Positive covenants shall be provided over the on-site detention system, Waste

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management undertaken by a private contractor and Traffic control system. Section 88B Instruments and four copies shall be lodged with the Subdivision/Strata Certificate.

Integrated development/external authorities

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

135. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 68.65metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

136. Roads and Maritime Service

All buildings and structures (other than pedestrian footpath awnings and footpath and road dedication works) together with any improvements integral to the future use of the site shall be wholly within the existing freehold property.

(A) All redundant driveways are to be removed and replaced with kerb and gutter to Roads and Maritime requirements. The design and construction of the new gutter crossing on Forest 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, State-wide Delivery, Parramatta (telephone 9598 7798). Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

(B) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:
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.

(C) 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.

Details should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

(D) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Road during construction activities.

(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 for approval prior to the issue of a Construction Certificate.

(F) All vehicles must enter and exit the site in a forward direction.

(G) 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.

(H) All works and signposting (including any utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

Roads Act

137. 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.

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

138. 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.
139. 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.
140. 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.
141. 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.
142. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Forest and Harrow Roads:
- i) Detailed design plans and specifications, including structural details; and
 - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to comply with the requirements under Rockdale Development Control Plan 2011. Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 3.3 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

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

Copies of the approved documents and certificates shall be submitted to Council.

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143. 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.
144. All works associated with the proposed development shall be at no cost to the 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. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- d. If the development is not subject to BASIX, a mandatory rainwater tank may be required. Rainwater tank requirements for development not subject to BASIX are specified in Council's DCP 78.
- e. Council will not issue the Subdivision Certificate unless the following has been provided to Council:
 - Works-As-Executed Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor

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26 June 2018

Our Ref: DA-2017/168
Contact: Fiona Prodromou 9562 1666



AR Design
Suite 3 1183 The Horsley Drv
WETHERILL PARK NSW 2164

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number:	DA-2017/168
Property:	356 Forest Road, BEXLEY (Lot A DP 356310) 358 - 368 Forest Road, BEXLEY (Lot 1 DP 500135)
Proposal:	356 & 358-368 Forest Road BEXLEY NSW 2207 - Construction of a six (6) storey mixed use development comprising 22 residential units and 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision
Authority:	Delegated to Bayside Planning Panel
Determination:	Deferred commencement
Date of determination:	26 June 2018
Date consent commences:	
Date consent lapses:	

Your Development Application has been approved under Section 4.15(3) of the Environmental Planning and Assessment Act, 1979 as a **Deferred Commencement** consent.

The consent shall not operate until you satisfy Council about the following matters:

A) Submission of a Wind Report confirming wind amelioration measures required on site.

B) Submission of revised architectural plans, which illustrate:

- a) All required wind amelioration measures for the development.
- b) Unit 5 - Highlight or fixed obscure windows (not film) to both bedrooms and the living room with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screen to the eastern end of the balcony.

Eastgardens Customer Service Centre
Westfield Eastgardens
152 Bunnerong Road
Eastgardens NSW 2036, Australia
ABN 80 690 785 443 Branch 004

Rockdale Customer Service Centre
444-446 Princes Highway
Rockdale NSW 2216, Australia
ABN 80 690 785 443 Branch 003
DX 25308 Rockdale

Phone 1300 581 299
T (02) 9562 1666 F 9562 1777
E council@bayside.nsw.gov.au
W www.bayside.nsw.gov.au

Postal address: PO Box 21, Rockdale NSW 2216



Telephone Interpreter Services - 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمه الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

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- c) Units 4 / 9 / 14 / 19 - Highlight or fixed obscure windows (not film) to living rooms with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screens to the eastern end of balconies.
- d) Integration of fire booster / hydrant within the building envelope.
- e) Provision of security access details to the driveway, loading / unloading area and basement level.
- f) Details of air conditioning units to residential units.
- g) Toilet and shower facilities provided to commercial tenancies.

C) Submission of a revised Landscape Plan which illustrates:

- a) Additional screen planting along the common boundary with 4 Harrow Road in lieu of a pedestrian walkway.
- b) Relocation of accessible ramp away from the common boundary with 4 Harrow Road.
- c) Details of fencing to delineate between communal open space and the adjoining outdoor area to retail space 1 at ground level.
- d) Productive gardens shall be incorporated into the deep soil area on site.
- e) Vegetation and proposed landscaping/fencing must not hinder driver sightlines to/from the driveway to road users on Forest Road.

The period of the Deferred Commencement is **six** months from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

Upon receiving written notification from Council that the above requirements have been satisfied, your consent will become operable and will be subject to the following conditions.

General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of 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
Site Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 4 Plan Issue 22	ardesign	20/09/2017	26/09/2017

Basement 3 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 2 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Basement 1 Plan Issue 22	ardesign	20/09/2017	26/09/2017
Ground Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 1 & 2 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 3 & 4 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Level 5 Floor Plan Issue 22	ardesign	20/09/2017	26/09/2017
Roof Plan Issue 22	ardesign	20/09/2017	26/09/2017
North / South Elevation Issue 22	ardesign	20/09/2017	26/09/2017
Streetscape Elevations Issue 22	ardesign	20/09/2017	26/09/2017
Sections Issue 22	ardesign	20/09/2017	26/09/2017
Schedule Colours & Finishes	ardesign	-	26/09/2017

3. Department of Infrastructure, Regional Development and Cities

A) The building must not exceed a maximum height of 68.65m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods and any rooftop garden plantings, exhaust flues etc.

B) The Proponent must advise Airservices Australia at least three (3) days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting SY-CA-545 P2.

C) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. The Department notes that the proponent has proposed a self erecting crane of 68m AHD maximum height, which is below the final height of the building, in order to avoid any impact on the Runway 07/25 Approach and Take Off Surface.

D) At the completion of construction of the building, a certified surveyor is to notify (in writing) Sydney Airports Corporation Limited (SACL) of the finished height of the building.

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
5. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
6. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 771235M_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>.

7. A separate development application shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

8. Balconies, car spaces and the loading / unloading bay shall not be enclosed at any future time without prior development consent.
9. 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.
10. 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.
11. 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.
12. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
13. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

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

3 bedroom apartments 2 spaces per apartment

Commercial Units 1 space per 40m² gross floor area

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 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. Pumps attached to the development must be housed in a soundproof enclosure.
15. 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.

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) 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.
- (ix) 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.

Development specific conditions

The following conditions are specific to the Development Application proposal.

- 16. A total of 24 residential, 4 visitor, 4 commercial / retail car spaces, a minimum of 3 motorcycle parking spaces, a minimum of 4 bicycle parking spaces and 1 car wash bay shared with visitors, 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 (20 units)	20 spaces
3 bedroom dwellings (2 units)	4 spaces
Total Residential Spaces	24 (including 2 accessible spaces)
Visitor	5 spaces (including 1 accessible space)
Com. / Retail	4 spaces
Bicycle (Res. + Com.)	4 spaces
Motorcycle	3 spaces
Car Wash Bay	1 (shared with visitor space) 3.5m wide
SRV Loading Bay	1 dedicated space (3.5m headroom)

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.

17. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- 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.
- 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.
- Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- Graffiti resistant materials shall be used to ground level external surfaces.
- 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.

- f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
18. Approval for the footpath dining is not expressed or implied and a separate approval is required for the footpath dining. In this regard you are advised to contact Council to obtain a copy of the licensing agreement entitled *Outdoor Dining Licensing Agreement*.
19. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
20. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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. Temporary dewatering of the site to construct the subsurface structure is not permitted.
28. 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.
29. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
30. 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.
31. 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.
32. (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 Bayside Council prior to issue of the Construction Certificate.

- (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
33. All plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
34. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
35. All hot water systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
36. Landscaping
- a) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
- b) Tree planting which does not conflict with the on site detention system shall be provided within the eastern side setback.
- c) 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.
- d) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
- 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) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
37. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
38. Landscape Maintenance
- The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 52 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction. On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans
39. 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.
40. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the Principal Certifying Authority in relation to the awning over the Forest and Harrow Road street frontages of the site:
- i. Detailed design plans and specifications, including structural details and,
 - ii. Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural). Awning design shall comply with following requirement of Rockdale Development Control Plan section 5.3:

- a) minimum soffit height of 3.3m;
- b) maximum fascia height of 600mm;
- c) minimum setback from edge of kerb of 600 mm;
- d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.

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

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

41. The following details shall be illustrated upon the Landscape Plan prior to the issue of the CC.

Planter boxes constructed on slab

Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :

- Ensure soil depths in accordance with Council's Landscape DCP and SEPP65. 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.
- 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.
- 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.

- 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.
- Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

Installation

a) Establishing Subgrade Levels

Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. soil conditioner). The following subgrade levels shall apply:

- Mass Planting Beds - 300mm below existing levels with specified imported soil mix.

Note that all subgrades shall consist of a relatively free draining natural material, consisting of site topsoil placed previously by the Civil Contractor. No builder's waste material shall be acceptable.

b) Subgrade Cultivation

Cultivate all subgrades to a minimum depth of 100mm in all planting beds and all turf areas, ensuring a thorough breakup of the subgrade into a reasonably coarse tilth. Grade subgrades to provide falls to surface and subsurface drains, prior to the placement of the final specified soil mix.

c) Drainage Works

Install surface and subsurface drainage where required and as detailed on the drawing. Drain subsurface drains to outlets provided, with a minimum fall of 1:100 to outlets and / or service pits.

d) Placement and Preparation of Specified Soil Conditioner & Mixes.

- Trees in turf & beds - Holes shall be twice as wide as root ball and minimum 100mm deeper - backfill hole
- Mass Planting Beds - Install specified soil conditioner to a compacted depth of 100mm

Place the specified soil conditioner to the required compacted depth and use a rotary hoe to thoroughly mix the conditioner into the top 300mm of garden bed soil. Ensure thorough mixing and the preparation of a reasonably fine tilth and good growing medium in preparation for planting.

Planting

All trees over 300mm pot size must be follow council requirements and be inspected

prior to planting. Tubestock not permitted, smallest pot size is 140mm.

a) Quality and Size of Plant Material

All trees supplied above a 25L container size must be grown and planted in accordance with Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality. Natspec Guide No. 2. Certification that trees have been grown to Natspec guidelines is to be provided upon request of Council's Tree Management Officer.

42. Waste & Recycling Collection / Removalist Drop-offs & Pick-ups - Operational Requirements

1. Waste & recycling collection and servicing, including removalist trucks, must be carried out entirely within the approved loading bay at all times.
2. Waste & recycling collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Forest Roads and Harrow Road or elsewhere within the site.
3. Waste and recycling may 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.
4. Waste & recycling collection must be undertaken during off-peak times.
5. The maximum size truck permitted to access the site is a Small Rigid Vehicle (SRV).
6. The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

43. The design and construction of the off-street parking facilities shall comply with Australian Standards, as follows:

- Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
- One (1) loading bay shall be provided at Ground level to accommodate SRV - removalist trucks as shown in the approved plans. The SRV space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2 and the swept path analysis for the RCV 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.
- Any vehicular path of travel to or from loading bay for RCV shall have minimum headroom clearance of 3.5m.
- Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- All waste collection and deliveries to / from the site (including removalist trucks) must take place from within the approved loading bay.

- 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.
- The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- The car parking spaces shall not be enclosed at any time.
- For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- Allocate all off-street visitor parking, loading bays and car wash bay as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

44. Traffic Signs / Signal, loop detector

1. A traffic signals/signs, convex mirrors and loop detector are to be designed and installed to manage vehicular movement in driveways that provide safe vehicle access to the site and all basement levels. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
2. 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 signals/signs (including traffic signal heads, 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.

The access driveway shall be controlled by traffic signals with the following operational mode:

- After a pre-set clearance time signals revert to red for outgoing and green for Incoming.

45. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling.

Ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling.

Prior to issue of the construction certificate

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

46. 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 \$18,475.00. 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.

47. 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.

48. Required Infrastructure Works –Roads Act 1993

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.

The implementation of this Consent generates a need for works to be completed in a public place owned by Council and / or Crown Lands, with such works being at no cost to Council or Crown Lands.

Works includes but is not limited to the following:

- i) Relocation of existing street lighting / power poles along Forest Road frontage of the site;
- ii) Construction of a driveway (vehicular entrance)
- iii) Relocation of existing STA bus stop
- iv) Relocation of existing red light camera
- v) Addition of directional signage
- vi) Construction of new kerb, gutter, footpath and streetscape works
- vii) Removal of redundant power pole(s) and proposal for undergrounding of power along Forest Road and Harrow Road frontages.
- viii) Public domain and drainage works.

A. Design

The scope of works is to be confirmed 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 Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed 'Public Domain Frontage Works Construction Application Form' 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 confirmed and alignment levels issued. If payment is made after the end of the financial year, the fee amount shall be adjusted in accordance with Council's adopted fees and charges.

49. A Section 94 contribution of \$2,178,38.01 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
50. Prior to the issue of the Construction Certificate for the development, an application for address allocation for all lots (units) within the strata subdivision shall be submitted to Council in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard, Section 5.2 of the NSW Address Policy and Ch.6.5.5 " Multi-level Sub-Address Allocation" of the NSW Address User Manual.
51. Acoustic
- Flooring within the development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
 - 4 Star for timber flooring in any area.
 - 5 Star for carpet in any area.
- Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
- A report shall be submitted to the Principal Certifying authority for approval prior to the issue of any Construction Certificate for each of the building stages. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.
- A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for each of the building stages.
52. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with relevant Australian Standards must be provided to and within nominated adaptable residential units, and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building.
- 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.
53. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's

requirements shall be obtained prior to issue Construction Certificate.

54. (i) The applicant shall confer with Ausgrid to determine if an electricity distribution substation and/or the installation of electricity conduits in the footway is required. The applicant shall confer with Ausgrid to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected.
- (ii) All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

55. 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 the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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. 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.

59. Adjoining buildings founded on loose foundation materials

As the basement levels 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) All recommendations contained in the report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017 shall be implemented.
- (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) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.
NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development
(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.
(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).
- (f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

60. Vibration monitoring 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. Any sub-surface structure within the highest known groundwater table + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and

"flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the 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.

- 62. Prior to the issue of a Construction Certificate for *building works*, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities including ramp control traffic signals comply with the conditions of consent.
- 63. Prior to issue of Construction Certificate, swept path analysis shall be submitted to Certifying Authority for assessment and approval.

The swept path drawings shall include the entry/exit of the internal ramps within the basement levels and an 'SRV' sized vehicle entering/exiting of the driveway/loading bay in accordance with section 7.2 of Councils Technical Specification – Traffic, Parking and Access.

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

- 64. The low-level driveway must be designed to prevent the inflow of water from the road reserve. The assessment of Gutter 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.
- 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. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The dimensions of the car wash bay and any runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
67. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

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 take into consideration of geotechnical recommendations.

Note:

- a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management.
 - b. The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.
 - c. Implement all recommendations contained in the preliminary geotechnical investigation report prepared by STS GeoEnvironmental Pty Ltd. Ref: Report No: 17/0750, Project No: 21370/7991C, dated March 2017.
 - d. Since the site is subject to MFL, the design of the basement carpark access ramp crest level is to be 500mm above the 1 in 100-year flow level.
 - e. The low-level driveway shall be protected from street gutter flows. The driveway crest shall be in accordance with the Gutter Flow Analysis prepared by Wehbe Consulting Engineers, dated August 2017.
 - f. To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.
68. The developer is to contact Telstra and organise relocation works to Telstra Assets. Detailed documentation confirming Telstra acceptance of the aforementioned is to be submitted to Council prior to the issue of a Construction Certificate.
 69. State Transit Authority

All works associated with the relocation of the existing bus stop along the frontage of the site within Forest Road are to be at no cost to the STA.

The applicant is to contact the STA's Service Delivery Manager - Southern Region on 9582 5965 in writing, a minimum of 4 weeks prior to the commencement of works, to confirm all necessary STA requirements prior to the commencement of relocation works.

The applicant is to ensure that relocation and reinstatement works for the bus stop are in accordance with the STA 'Bus Way Finding - Bus stop flag pole layout - Typical' design guidelines' produced by the STA.

Relocation works are to be undertaken in a manner which will not affect existing bus services.

Confirmation of the STA acceptance of the applicants design and relocation works is to be submitted to Council prior to the issue of the Construction Certificate.

70. Prior to the issue of the Construction Certificate the following shall be submitted to and approved by Council:

- a) Details and location of proposed mechanical plant.
- b) Submission of a revised Acoustic Report confirming compliance with relevant standards from a suitably qualified acoustic consultant.

Prior to commencement of works

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

71. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

72. 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.

73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
 - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- Any such sign is to be removed when the work has been completed.

This condition does not apply to:

- iii. building work carried out inside an existing building or
- iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

75. 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.

79. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
80. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

81. 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.
82. 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.
83. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.
84. 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.
85. 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.

86. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
87. 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.
88. 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.

89. 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.
90. 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.

91. 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.
92. 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.
 - 93. 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.
 - 94. All existing trees located within the site may be removed.

Prior to issue of occupation certificate or commencement of use

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

- 95. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 96. The STA is to provide written confirmation clarifying that bus stop relocation works have been appropriately completed, prior to the issue of any Occupation Certificate. A copy of the aforementioned confirmation is to be submitted to Council prior to the issue of any Occupation Certificate.
- 97. 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.

98. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
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. 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.

Acoustic recommendations in relation to traffic and aircraft emissions contained in the acoustic report prepared by Acoustic Logic ref: 20161319.1/1210A/R0/EC dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
101. 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.
102. Lot A DP 356310 and Lot 1 DP 500135 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
103. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
104. 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.

105. 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 requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate and implemented prior to issue of any Occupation Certificate.
106. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
107. 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".
108. 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.
109. Mirrors at key locations (outside of bends in the car park), give way signs entering vehicles and entry sign recommending drivers turn on their headlights.
110. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
111. Bollard(s) shall be installed by the Developer on adaptable shared spaces.
112. 33 off-street car spaces and 1 loading / unloading bay shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
113. 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.

114. 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.
115. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.

116. The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 12/10/2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
117. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
118. 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.
119. 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.
120. Prior to occupation, a chartered professional engineer shall certify that the Basement structure 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.
121. 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.
122. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
123. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the following facilities to provide for the maintenance of the facilities.
 - i. The stormwater detention facility to provide for the maintenance of the system.
 - ii. Waste management is undertaken by a private contractor
 - iii. Traffic control system – stop line, loop detector & traffic signal
124. 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.
125. 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.

126. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
127. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

Prior to issue of subdivision certificate

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

128. Lot 1 DP 500135 and Lot A DP 356310 shall be consolidated into one allotment. A copy of the plan of consolidation shall be submitted to Council prior to release of Strata Certificate.
129. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
130. As construction of the building nears completion, or after it has been completed, council or an accredited certifier shall inspect the building, and the common property areas around the building so as to be satisfied that:
 - The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed.
 - The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building.
 - Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
131. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.
132. 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.

133. All visitor car parking spaces are to be clearly shown as common property on the Strata Certificate for the strata subdivision.
134. The parking spaces on site are to be allocated to each unit as per the approved plans and conditions of this development consent.
135. Positive covenants shall be provided over the on-site detention system, Waste management undertaken by a private contractor and Traffic control system. Section 88B Instruments and four copies shall be lodged with the Subdivision/Strata Certificate.

Integrated development/external authorities

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

136. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 68.65metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

137. Roads and Maritime Service

All buildings and structures (other than pedestrian footpath awnings and footpath and road dedication works) together with any improvements integral to the future use of the site shall be wholly within the existing freehold property.

(A) All redundant driveways are to be removed and replaced with kerb and gutter to Roads and Maritime requirements. The design and construction of the new gutter crossing on Forest 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, State-wide Delivery, Parramatta (telephone 9598 7798). Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

(B) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:
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.

(C) 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.

Details should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

(D) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Road during construction activities.

(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 for approval prior to the issue of a Construction Certificate.

(F) All vehicles must enter and exit the site in a forward direction.

(G) 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.

(H) All works and signposting (including any utility adjustment/relocation works) shall

be at no cost to Roads and Maritime.

Roads Act

138. 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.
139. 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.
140. 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.
141. 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.
142. 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.
143. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Forest

and Harrow Roads:

- i) Detailed design plans and specifications, including structural details; and
- ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to comply with the requirements under Rockdale Development Control Plan 2011. Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 3.3 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

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

Copies of the approved documents and certificates shall be submitted to Council.

- 144. 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.
- 145. All works associated with the proposed development shall be at no cost to the 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. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- d. If the development is not subject to BASIX, a mandatory rainwater tank may be required. Rainwater tank requirements for development not subject to BASIX are specified in Council's DCP 78.
- e. Council will not issue the Subdivision Certificate unless the following has been provided to Council:
 - Works-As-Executed Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Under Section 8.7 and 8.10 of the Act, applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Fiona Prodromou on 9562 1666



Luis Melim
Manager Development Services