

MEETING NOTICE

A meeting of the
Bayside Local Planning Panel
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 11 December 2018 at 6.00 pm**

ON-SITE INSPECTIONS

On-site inspection/s will precede the meeting.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

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5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1	DA-2018/1083 - 921-925 Botany Road and 28 Lever Street, Rosebery	25
6.2	DA-2015/94/05 - 1559-1563 Botany Road, Botany	145
6.3	DA-2017/199/A - 205-207 President Avenue, Monterey	196
6.4	DA-2017/1022/04 - 130-150 Bunnerong Road, Eastgardens	299
6.5	DA-2016/150 - 42 Church Avenue, Mascot.....	357
6.6	DA-2018/1044 - 21 Bay Street, Botany	436
6.7	DA-2016/68 - 19 Dowling Street, Arncliffe.....	467
6.8	DA-2007/23/2/F - 30-32 Guess Avenue & 4 Lusty Street, Wolli Creek	630

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

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

Meredith Wallace
General Manager

Bayside Local Planning Panel

11/12/2018

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 13 November 2018
Report by	Michael McCabe, Director City Futures
File	SC17/821

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-2017/1238/03 - 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 has determined that the Section 4.55(1A) Application lodged on 27 August 2018 to modify Development Consent No. 2017/1238/03 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-2017/1238/02 - 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 **APPROVES** the Section 4.55(1A) Application lodged 8 May 2018 to modify Development Consent No. 2017/1238/02 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.

- I. 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

- 1 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.
- 2 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

1. That the Bayside Local 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>	-	<i>11/10/2018</i>
<i>East Elevation A1021-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>South Elevation A1022-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>West Elevation A1023-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>North Elevation A2022-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>

<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/P1, HDA07/P1, HDA08/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
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[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

11/12/2018

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 27 November 2018
Report by	Michael McCabe, Director City Futures
File	SC17/821

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 27 November 2018 be confirmed as a true record of proceedings.

Present

Robert Montgomery, Chairperson and Independent Expert Member
Marcia Doheny, Independent Expert Member
Helen Deegan, Independent Expert Member
Amber O'Connell, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Ben Latta, Coordinator Development Assessment
Christopher Mackey, Coordinator Development Assessment
Michael Maloof, Senior Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Sumeet Badhesha, Development Assessment Planner
Ben Tesoriero, Director – Creative Planning Solutions
Brendon Clendenning, Principal Planner – Creative Planning Solutions
Ian Vong, IT Officer
Lauren Thomas, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:03 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 - 13 November 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 13 November 2018 be deferred until the next meeting of the Panel.

5 Reports – Planning Proposals

There were no planning proposals.

6 Reports – Development Applications

6.1 DA-2017/107 - DA-2017/107 - 1-3 Oriental Street, Bexley

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

The following person spoke:

- Mr Carlos Hafouri, Architect, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

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* subject to the conditions set out in the Council report.
2. An additional condition be included requiring the applicant to remove their interest in the right-of-way over the rear laneway which is redundant for this development. This condition is to be satisfied prior to the issue of occupation certificate.
2. That the objectors be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- While the proposal still presents some shortfalls in terms of best practice for setbacks and solar access, the application now complies with the maximum building height and maximum floor space ratio for the site.
- The proposed development is a reasonable response to what is a fairly constrained small site within the zone, which adjoins an existing development to the south which is built to the boundary.

6.2 DA-2018/89 - DA-2017/50 - 43 Crawford Road, Brighton Le Sands (Brighton Memorial Playing Field)

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

The following people spoke:

- Mr Rod McGoogan, President of Dolls Point Football Club, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Sal Torrisi, Secretary of Dolls Point Football Club, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That Development Application (DA-2017/50) is **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions attached to this report with the deletion of conditions 7 and 28.
2. That the objectors be advised of Council's determination.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel acknowledges that the applicant is prepared to work with Council to ensure that any future impacts in relation to the use of the fields are minimised. The conditions which have not been imposed i.e. conditions 7 and 28, relate to the use of the playing fields as distinct from the approval of two additional lights.
- The matters relating to the use of the playing fields are best dealt with through a licensing agreement entered to between the Council and any user of the sporting fields.

6.3 DA-2018/209 - DA-2018/209 - 4 Prospect Street, Carlton

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

The following people spoke:

- Mr Simon Wilson, affected neighbour, spoke against the officer's recommendation.
- Ms Anne Qin, affected neighbour, spoke against the officer's recommendation.
- Ms Liz Barlow, Councillor for this Ward and interested resident, spoke against the officer's recommendation.
- Mr Joseph Rinaldi, affected neighbour, spoke against the officer's recommendation.
- Mr Howell Chen, affected neighbour, spoke against the officer's recommendation.
- Mr David Benson, Director of Benson McCormack Architecture, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Hassan, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 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 an additional condition be included requiring the provision of an accessible path of travel from the adaptable unit at the rear to Prospect Street. Alternatively, if this provision has already been made, the applicant is required to provide a report from an accredited access consultant which confirms that the access is provided.
- 3 That the objectors be advised of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The application is compliant with all relevant requirements of the Rockdale LEP and the affordable housing SEPP.
- The Panel considers that the design of the buildings is an appropriate response to the low density residential zone. In particular, the building presents as a two storey building to Prospect Street and single storey to the rear lane which is consistent with the established character in the locality.
- The site is considered to be particularly well suited to the development due to the close proximity to public transport, town centre facilities and medical facilities.

6.4 DA-2012/226/03 - 1084-1088 Botany Road, Botany

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

Determination

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.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The applicant has failed to demonstrate the need for the modification to the consent.
- Council officers have confirmed that on-site stormwater detention is required for this development.

6.5 DA-2018/92 - 17/21-25 Bryant Street, Rockdale

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

The following person spoke:

- Mr Darko Vojkovic, affected neighbour, spoke against the officer's recommendation.

Determination

That Development Application No.DA-2018/92 for alterations and additions to Unit 17 be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Deferral

- Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

6.6 DA-2018/111 - 18/21-25 Bryant Street Rockdale

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

The following people spoke:

- Mr Darko Vojkovic, affected neighbour, spoke against the officer's recommendation.
- Mr Roman Bicioc, owner, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Development Application No.DA2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.
- 2 That the objector be advised of the Bayside Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Deferral

- Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

6.7 DA-2017/168/A - DA-2017/168/A - 356-368 Forest Road, Bexley

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

Determination

- 1 That development application DA-2017/168/A - 356-368 Forest Road, Bexley 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 4.55(1)(A) 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.
- 2 The period of the Deferred Commencement is twelve (12) months from the date of determination.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The applicant has indicated that they are not able to satisfy all the deferred commencement matters within six months
- The Panel is satisfied that the development, as modified, is substantially the same as that originally approved.

- The Panel considers that the extension from six months to twelve months is reasonable in the circumstances.

The Chairperson closed the meeting at 8:01 pm.

Certified as true and correct.

Robert Montgomery
Chairperson

Bayside Local Planning Panel

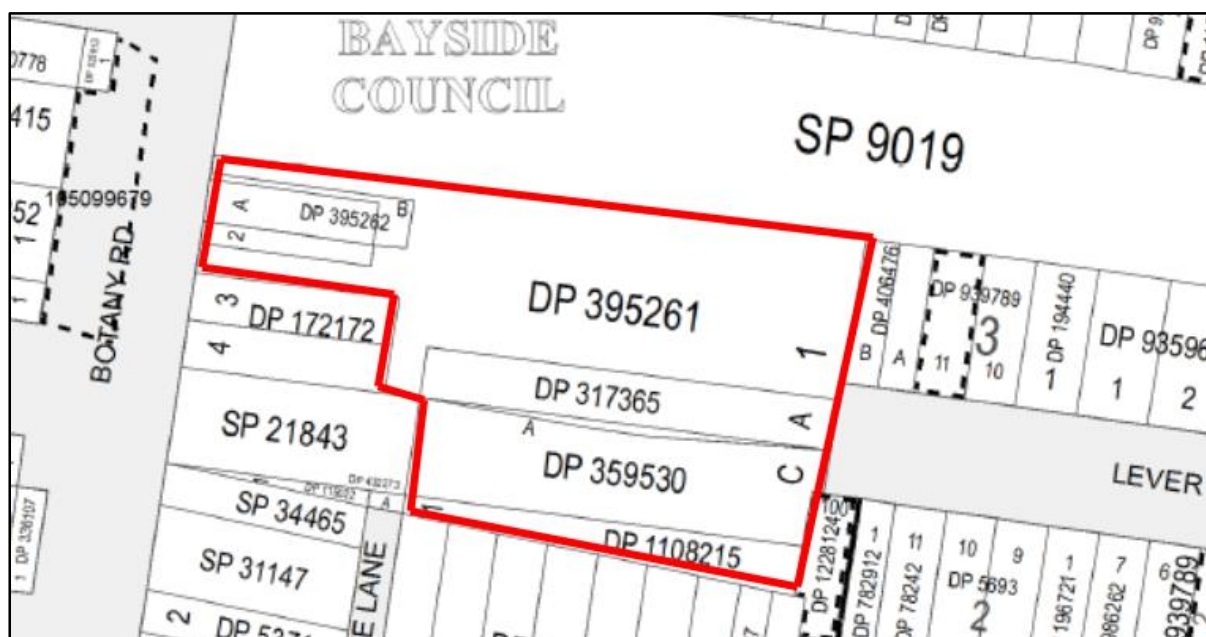
11/12/2018

Item No	6.1
Application Type	Development Application
Application No	SF18/1908
Lodgement Date	18/05/2018
Property	DA-2018/1083 - 921-925 Botany Road and 28 Lever Street, Rosebery
Ward	Mascot
Owner	Bayside Council
Applicant	Bayside Council
Proposal	Demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve.
No. of Submissions	Three (3)
Cost of Development	\$200,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That development application DA-2018/1083 for the demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve at 921 and 925 Botany Road and 28 Lever Street, Rosebery be APPROVED subject to conditions and pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979.
 - 2 That the objectors be advised of the Panel's decision.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Site Analysis Plan [↓](#)
- 4 Site & Demolition Plan [↓](#)
- 5 Survey Plan [↓](#)
- 6 Traffic and Pedestrian Management Plan [↓](#)
- 7 Waste Management Plan [↓](#)
- 8 Lever Street Reserve Masterplan [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Author:	James Arnold – Consultant Planner from Arnold Urban
Report Date:	29 November 2018
DA Number:	DA-2018/1083
DA Lodgement Date:	18 May 2018
Property:	921 and 925 Botany Road and 28 Lever Street, Rosebery
Owners:	Land partly owned by Bayside Council and partly by The Planning Ministerial Corporation (Minister)
Applicant:	Bayside Council
Proposal:	Demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve.
Recommendation:	Approval, subject to conditions
Submissions:	Three (3) submissions

Key Issues

There are no key issues with the proposal. The proposal is consistent with the key planning provisions contained within the Infrastructure SEPP, SEPP 55, BBLEP 2013 and the BBDCP 2013. The proposed demolition will allow for the expansion and enhancement of Lever Street Reserve which is consistent with the objectives of the RE1 and B2 zoning of the site and is in the public interest.

Recommendation

That development application DA-2018/1083 for the demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve at 921 and 925 Botany Road and 28 Lever Street, Rosebery be **APPROVED** subject to conditions and pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*.

Background

- There are no known previous applications on the site that are of relevance to the assessment of the subject proposal.
- The proposed demolition works under the subject DA are to allow for the expansion and improvement of Lever Street Reserve. There is a masterplan for the park (see **Figure 1**) which includes the following works:
 - New decorative garden bed to Botany Road frontage;
 - New feature plaza zone;
 - New informal passive open space with seating;
 - Scout Hall area converted to informal picnic area with grassed areas and furniture;
 - New garden bed at Rolfe Lane entry to the park;
 - Screen planting;
 - New primary park path; and,
 - Formalise the existing vehicle entry off Lever Street.



Figure 1. Lever Street Reserve Landscape Masterplan (Source: Bayside Council, January 2018)

- On 18 May 2018, the subject DA-2018/1083 was lodged with Council. The application was referred to various internal Council officers.
- On 9 July 2018, Council engaged Arnold Urban (external planning consultancy) to independently assess the development application.
- On 3 August 2018, a site inspection was undertaken by the consultant planner.
- Between 25 May 2018 and 8 June 2018, the application was publicly advertised and notified in accordance with the Botany Bay Development Control Plan 2013. In response, three submissions were received, which were generally supportive of the proposal and included comments on the future works under the Lever Street Reserve Masterplan. The submissions have been considered in the assessment as detailed under the submissions section of this report.

- In August 2018, the applicant was requested to prepare and submit a preliminary site investigation report.
- In November 2018, as requested, a preliminary site investigation report was submitted.

Proposal

The development application seeks consent for the demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve at 921 and 925 Botany Road and 28 Lever Street, Rosebery.

Details of the proposal are as follows:

- Demolish the two-storey commercial building located to the immediate west of Lever Street Reserve and fronting to Botany Road addressed as 925 Botany Road;
- Demolish the single storey metal clad building formerly used as a Scout Hall located in the southern portion of Lever Street Reserve; and,
- Demolish five light poles at various locations around Lever Street Reserve.

The purpose of the demolition is to allow Lever Street Reserve to be expanded and improved, however these works do not form part of this application. The proposal does not include the removal of any trees.

The proposal is illustrated in **Figure 2** below.

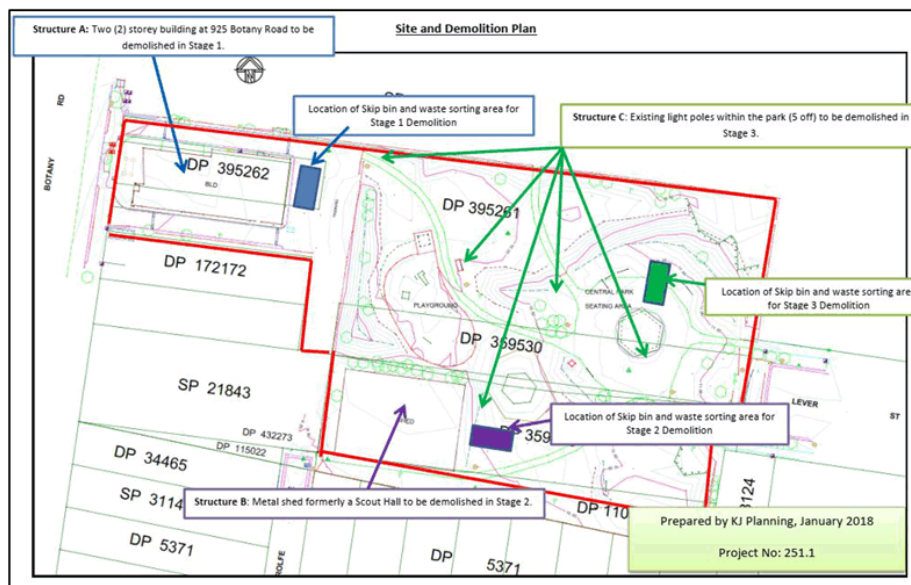


Figure 2. Site and Demolition Plan (Source: KJ Planning, January 2018)

Site and Locality Description

The subject site is comprised of Lever Street Reserve and the land adjoining to the west, 925 Botany Road, which contains a commercial building. A total of eight allotments form the subject site which are detailed in the table below. The site is located within the suburb of Rosebery, approximately 6km south of the Sydney CBD. The site is generally located to the rear a range of residential and commercial properties, with the park having a narrow street frontage to Lever Street (east) and Rolfe Lane (south), and the commercial building portion of the site has a frontage to Botany Road (west). Refer to **Figure 4 and 5** for aerial images of the site.

The park is generally square in shape with dimensions of approximately 65m by 65m. The commercial building portion of the site at 925 Botany Road adjoins the north-western corner of the park and contains a two-storey commercial building with a hardstand car parking area at the rear accessed via two driveways traversing either side of the building. The commercial building previously contained an electricity substation at the front which has recently been removed under a separate approval pathway. The park is comprised of open grassed areas, trees, pedestrian paths, a children's playground, seating, and a single storey metal clad building formerly used as a Scout Hall located in the south-western corner.

Development surrounding the site comprises commercial development along Botany Road and a mixture of low and medium density residential development surrounding Lever Street Reserve.

Refer to **Figure 6 to 8** for recent photographs of the buildings to be demolished and the park.

Address	Legal Description	Owner
921 Botany Road, Rosebery	Lot 1 DP 395261	The Planning Ministerial Corporation (Minister)
921 Botany Road, Rosebery	Lot B DP 395262	The Planning Ministerial Corporation (Minister)
925 Botany Road, Rosebery	Lot A DP 395262	Bayside Council
925 Botany Road, Rosebery	Lot 2 DP 395261	Bayside Council
28 Lever Street, Rosebery	Lot A DP 317365	Bayside Council
28 Lever Street, Rosebery	Lot A DP 359530	Bayside Council
28 Lever Street, Rosebery	Lot C DP 359530	Bayside Council
28 Lever Street, Rosebery	Lot 1 DP 1108215	Bayside Council

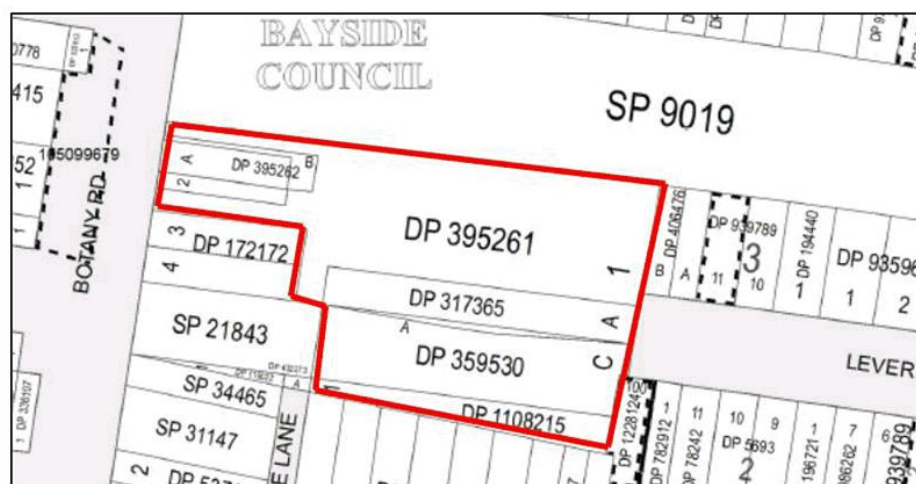


Figure 3. Allotments comprising the subject site (Extracted: Statement of Environmental Effects, KJ Planning, 2018 / Sourced: Land and Property Information, 22/09/2017)



Figure 4. Aerial image of the site and surrounding area (Source: maps.six.nsw.gov.au / Marked: Arnold Urban, 2018)



Figure 5. Close aerial image of the site showing the location of the commercial building and scout hall to be demolished (Source: maps.six.nsw.gov.au / Marked: Arnold Urban, 2018)



Figure 6. Former Scout Hall building proposed to be demolished (Source: Arnold Urban, August 2018)

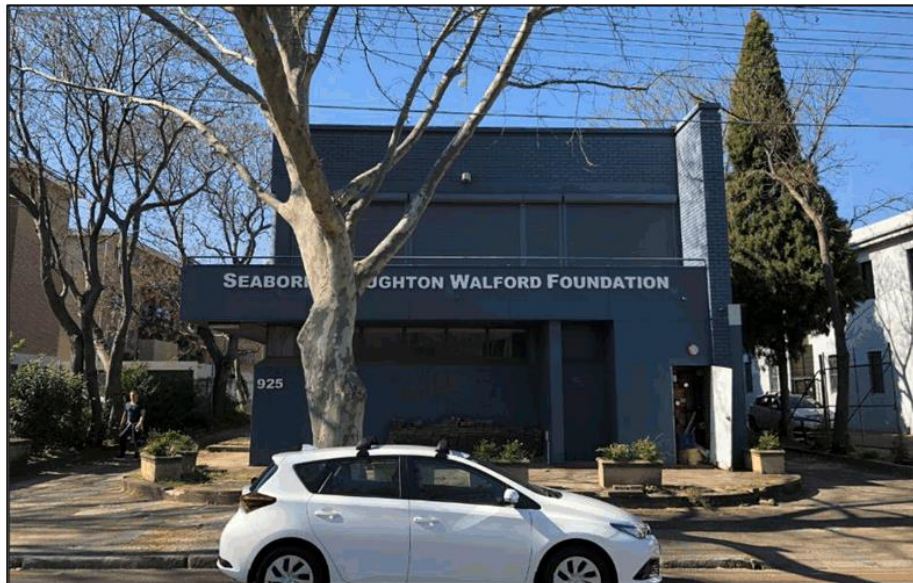


Figure 7. Commercial building frontage to Botany Road proposed to be demolished (Source: Arnold Urban, August 2018)



Figure 8. Lever Street Reserve looking north-west (Source: Arnold Urban, August 2018)

Referrals

Internal

The development application was referred to Council's Development Engineer, Environmental Scientist, Tree Management Officer, and Strategic Planner. No objections were raised to the proposal subject to conditions of consent which have been imposed.

External

No external referrals were required.

Statutory Considerations

An assessment of the application has been undertaken in accordance with the matters for consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

S4.15(1) – Matters for Consideration – General

S4.15C(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Infrastructure) 2007

The site has a frontage to a classified road (Botany Road) and therefore various provisions of the Infrastructure SEPP have been taken into consideration as follows:

- Clause 101 Development with a frontage to a classified road – The proposal has a frontage to a classified road being Botany Road. The proposal is for demolition only and does not involve any change to the two existing driveways to Botany Road. Accordingly, the proposal will have no impact on the functioning of Botany Road.
- Clause 102 Impact of road noise or vibration on non-road development – This clause is not applicable as the proposal is for demolition only and does not propose any land use that is sensitive to road noise.
- Clause 104 Traffic-generating development – This clause is not applicable as the proposal is for demolition only and does not propose any form of traffic generating development. Accordingly, a referral to the RMS is not required.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55), along with the requirements of Part 3K Contamination of the BBDCP 2013, have been considered in the assessment of the development application.

Clause 7 requires the consent authority (ie. Council) to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application was referred to Council's Environmental Scientist who in a response dated 28 August 2018, raised no objections and made the following comments:

An application has been lodged for the demolition of structures on Lever Street Reserve and the existing commercial building and electrical substation at 925 Botany Road, Botany. This DA does not include the embellishment works outlined below.

Following the demolition of structures proposed in this application, the subject site will be embellished for additional public open space through the following:

- *New decorative garden bed to Botany Road frontage;*
- *New feature plaza zone;*
- *New informal passive open space with seating;*
- *Scout hall site converted to new informal picnic area with turf and furniture near playground*
- *New garden bed at Rolfe Lane park entry;*
- *Mixed inactive screen planting*
- *New primary park path; and*
- *Formalise existing vehicle entry off Lever Street.*

The proposed works do not involve excavation and therefore soil and groundwater will not be disturbing soil.

For the demolition of the structures appropriate removal of waste is required and this has been addressed in the Hazardous Materials Study.

Further assessment through a Stage 1 Preliminary Site Assessment and a Phase 2 Detailed Site Investigation of the commercial portion of the property and associated electrical substation for contamination will be required prior to park works and access by the public. This is to ensure that the commercial/industrial portion of the site, which includes an electrical substation for removal, can be converted to recreational use or whether remediation and removal of contaminated soil is required.

Recommendation

As such I have no objection to the proposed demolition of buildings on the site. Given the works proposed involve minimal disturbance of soil no conditions are required for contaminated land, acid sulfate soils or groundwater management.

Despite the above referral comments, the applicant was requested to prepare and submit a preliminary site investigation (PSI) report. A PSI prepared by SESL Australia (dated 20 November 2018) was submitted and contained the following recommendations and conclusions:

Based on the site observations and desktop review discussed in this report, SESL recommends that the site is suitable for the proposed demolition, subject to the following:

- *A hazardous materials assessment must be conducted by a suitably qualified hygienist or asbestos assessor prior to demolition to ensure the appropriate handling of any potentially hazardous materials within the existing structures.*
- *Following the demolition of the existing structures, additional assessment is required to determine if the AECs identified during this preliminary investigation have resulted in actual contamination at the site. Following demolition, hardstand materials will have been removed from the site, allowing for access to previously inaccessible soils.*

Based on the findings of this investigation, SESL considers the site to present a number of actual and potential environmental risks from the AECs identified on-site and nearby

land. SESL recommends that the site may be suitable for the proposed redevelopment and land use subject to the following:

- Detailed Site Investigation (DSI) to be conducted to investigate the AECs identified in this investigation. The DSI should at a minimum include a soil assessment to determine fill quality and potential impact of historical site uses, and sampling of the existing groundwater monitoring well at the site (assuming it's suitability) to provide an indication as to whether groundwater has been impacted by on or off site uses.
- Should contamination be identified in the DSI, a remedial action plan (RAP) shall be prepared to prescribe suitable remediation strategies to render the site suitable for the proposed use. If required, the RAP must outline activities to be implemented during construction to reduce contaminant levels to acceptable levels.

Council's Environmental Scientist reviewed the PSI and provided the following comments:

There are no changes to my memo attached [dated 28 August 2018 provided above], as they are only demolishing the site. The suitability of this has been confirmed in the Preliminary Site Investigation.

Any further works require a Detailed Site Investigation. This could be noted on the demolition DA if required. Otherwise need to be done for the park works DA/Part5, especially given the industrial history on Lever Street Reserve until the 1980's. The only issue I have with the PSI is that it has not undertaken a Dangerous Goods Licence search with SafeWork NSW, and this would need to be done to pick up any licences for storage of chemicals including underground petroleum. Given the historical industrial uses this is essential. This needs to be done prior to any DSI to inform sampling sites and depth.

Having regards to the recommendations and conclusions of the PSI and Council's Environmental Scientist comments, it is considered that the site is suitable for the proposed demolition works only. The future use of the areas where the buildings are to be demolished for public open space will be subject to a separate application. Given this consent is only for demolition, a condition of consent has been imposed that clarifies that the consent does not approve the use of the areas where the buildings are to be demolished and that as part of a future application a detailed site investigation will be required. The condition reads as follows:

Condition No. 2 –

This consent is for demolition works only. The use of the areas where the buildings are proposed to be demolished for future public open space is not approved under this consent. As part of any future application for the use as public open space, the recommendations of the Preliminary Site Investigation (PSI) prepared by SESL Australia (dated 20 November 2018) are to be complied with. This will include, but not limited to, the preparation of a Detailed Site Investigation (DSI) after the buildings have been demolished. Furthermore, the PSI has not undertaken a Dangerous Goods Licence search with SafeWork NSW and this must be undertaken as part of the future application and prior to any DSI. Upon completion of demolition works, those areas of the site previously accommodating buildings and hardstand areas must remain suitably fenced and Lever Street Reserve is to remain inaccessible to the public until such time as the Director of City Futures is satisfied that those parts of the site are suitable for public access.

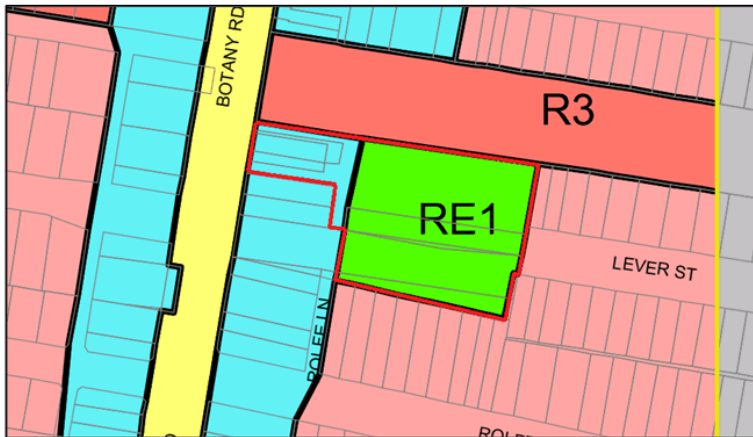
In regards to potential contamination within the buildings to be demolished, a Pre-Demolition Hazardous Materials Survey (prepared by JBS&G, dated 7 February 2018) was submitted

with the application. The report revealed that the buildings to be demolished include a range of hazardous materials including Asbestos Containing Material (ACM) and lead based paints. The report contains recommendations for the removal of the identified hazardous materials to potentially mitigate harmful effects as a result of the proposed demolition works. Council's Environmental Scientist has reviewed this report and raised no objections.

Given the above, the proposal is satisfactory in regards to the provisions of SEPP 55.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 (BBLEP 2013) has been considered in the assessment of the proposal as detailed in the table below.

Botany Bay Local Environmental Plan 2013 – Relevant Clauses	Assessment of Proposal	Complies?
Land use Zone (CI 2.2)	Partly zoned RE1 Public Recreation (Lever Street Reserve portion) and partly B2 Local Centre (925 Botany Road).	-
 <p>Figure 9. BBLEP2013 Zoning Map – subject site outlined in red (Source: legislation.nsw.gov.au / Marked: Arnold Urban, 2018)</p>		
Is the proposed use/works permitted with development consent? (CI 2.3)	The proposed development is for demolition only which is not considered to be a land use, and therefore the land use permissibility provisions are not applicable.	N/A
Does the proposed use/works meet the objectives of the zone? (CI 2.3)	<p>The proposed demolition is consistent with the objectives of the RE1 and B2 zones which are:</p> <p>RE1 Public Recreation – Objectives</p> <ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes. <p><u>Comment:</u> The proposed demolition works will allow for Lever Street Reserve to be expanded and</p>	Yes

Botany Bay Local Environmental Plan 2013 – Relevant Clauses	Assessment of Proposal	Complies?
	<p>enhanced for public open space and recreational purposes.</p> <ul style="list-style-type: none"> <i>To provide a range of recreational settings and activities and compatible land uses.</i> <p><u>Comment:</u> The proposed demolition works will enable Lever Street Reserve to be expanded and enhanced recreational purposes.</p> <ul style="list-style-type: none"> <i>To protect and enhance the natural environment for recreational purposes.</i> <p><u>Comment:</u> The proposed demolition works do not involve any tree removal or any other adverse impacts on the natural environment. Appropriate tree protection conditions have been included on the consent.</p> <p>B2 Local Centre – Objectives</p> <ul style="list-style-type: none"> <i>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.</i> <p><u>Comment:</u> The proposed demolition works will allow for the expansion and improvement of Lever Street Reserve which will provide improved public open space supporting the business zone.</p> <ul style="list-style-type: none"> <i>To encourage employment opportunities in accessible locations.</i> <p><u>Comment:</u> The proposed demolition works will allow for the expansion and improvement of Lever Street Reserve which will provide improved public open space that will support local workers and encourage employment in this accessible location along Botany Road.</p> <ul style="list-style-type: none"> <i>To maximise public transport patronage and encourage walking and cycling.</i> <p><u>Comment:</u> The proposed demolition works will allow for the expansion and improvement of Lever Street Reserve which is in a highly accessible location by public transport and active transport modes.</p>	
<p>Does Schedule 1 – Additional Permitted Uses apply to the site? (CI 2.5)</p> <p>If so what additional uses are permitted on the site?</p>	<p>N/A – Not nominated on the 'additional permitted uses' map and therefore this clause does not apply.</p>	<p>N/A</p>
<p>Is demolition proposed? (CI 2.7)</p>	<p>The proposal is for demolition and consent is appropriately sought under this development application.</p>	<p>Yes</p>

Botany Bay Local Environmental Plan 2013 – Relevant Clauses	Assessment of Proposal	Complies?
What is the height of the building? (Cl 4.3) Does the height of the building comply with the maximum building height?	N/A – No buildings proposed.	N/A
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m ² min and maximum height of 22 metres and maximum Floor Space Ratio of 1.5:1? (Cl 4.3(2A))	N/A – Not located within the R3 or R4 zones.	N/A
What is the proposed Floor Space Ratio? (Cl 4.4) Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	N/A – No floor space is proposed.	N/A
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A – Not nominated within 'Area 3'.	N/A
Is the land affected by road widening or any land acquisition? (Cl 5.1)	N/A – Not nominated on the 'land reservation acquisition' map.	N/A
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	The site does not contain a heritage item and is not within a Heritage Conservation Area. Heritage item No. 28, which is a row of traditional two storey shop top houses, is located approximately 50m north of the site along Botany Road. The proposal is for demolition only which will improve views lines to the heritage item and will not adversely impact its heritage significance.	Yes
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– • 6.1 – Acid Sulfate Soils	Site is nominated as Class 4 Acid Sulfate Soils. The proposal is for demolition only and will not involve any works more than 2m below ground or works which would affect the watertable. Accordingly, ASS management measures are not required.	Yes

Botany Bay Local Environmental Plan 2013 – Relevant Clauses	Assessment of Proposal	Complies?
<ul style="list-style-type: none"> 6.2 – Earthworks 	N/A – No earthworks proposed.	N/A
<ul style="list-style-type: none"> 6.3 – Stormwater Management 	<p>The proposed demolition works will not adversely impact existing stormwater management on the subject site and there will be no increase in impervious areas. Future landscaping embellishment of the areas of the proposed buildings to be demolished will result in increased pervious areas and will improve stormwater infiltration on site.</p> <p>Given the above, the proposal is considered to satisfy this clause.</p>	Yes
<ul style="list-style-type: none"> 6.4 – Terrestrial Biodiversity 	N/A – Not nominated on the 'Terrestrial Biodiversity' map.	N/A
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	N/A – Proposed demolition works are not sensitive to aircraft noise.	N/A
<ul style="list-style-type: none"> 6.15 – Active Street frontage 	<p>The frontage of the site to Botany Road, where the existing commercial building to be demolished is located, is nominated on the 'active street frontages' map. The clause states that:</p> <p><i>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</i></p> <p>The proposed development is for the demolition of an existing commercial building that fronts to Botany Road to allow for the future expansion of Lever Street Reserve. The proposal does not involve the erection of a building or a change of use of a building, and therefore consent may be granted.</p> <p>The proposal is consistent with the objective of the clause <i>to promote uses that attract pedestrian traffic along certain ground floor street frontages</i>, as the future expanded park into this area will attract pedestrian activity to the Botany Road frontage of this future public open space area.</p>	Yes

S4.15(1)(a)(ii) – Provisions of any Draft EPI's

No draft environmental planning instruments are of relevance in the assessment of the proposed development.

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

The following development control plan is relevant to this application:

Botany Bay Development Control Plan 2013

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

Part 3 – General Provisions

Part 3 of BBDCP 2013 contains a range of general provisions for development. The proposal is for demolition only and as such the only directly relevant provisions relate to Waste Management and Tree Management. A Waste Management Plan was submitted with the application which is consistent with the relevant requirements and forms part of the conditions of consent.

The proposal does not include the removal of any trees, however it is noted that there is a tree located immediately adjacent to the north-eastern corner of the former scout hall (**Figure 10**). Council's Tree Management Officer has reviewed the proposal and raised no objections subject to conditions which include measures to ensure this tree is not damaged during works.



Figure 10. Existing tree located immediately adjacent to the former Scout Hall proposed to be demolished
(Source: Arnold Urban, August 2018)

Part 5 – Business Centres

Part 5 of the BBDCP 2013 is applicable to the portion of the site which contains the commercial building to be demolished at 925 Botany Road, which is located within the Rosebery Neighbourhood Centre. Part 5 contains controls for the built form which are not relevant to the proposed demolition works and controls for the desired future character. The proposal is consistent with these controls as it will allow for the expansion and improvement of Lever Street Reserve and enable pedestrian connectivity from the neighbourhood centre into the park directly from Botany Road.

Part 8 – Character Precincts

The subject site is located within the Rosebery Character Precinct. The proposed demolition works to facilitate the expansion and improvement of Lever Street Reserve is consistent with the Desired Future Character of the Precinct as it will provide a pedestrian link from Botany Road, will retain existing vegetation, and will allow for the enhancement of amenity and functionality of the park.

S4.15C(1)(a)(iv) – Provisions of the Regulations

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* (the Regulations), stipulates that for development applications for the demolition of a building, the consent authority must take into consideration the provisions of AS 2601. The proposed development is for demolition of buildings and a condition of consent has been imposed requiring the demolition to comply with AS 2601.

Accordingly, the proposal is consistent with the relevant provisions of the Regulations.

S4.15C(1)(b) – Likely Impacts of Development

The likely impacts of the development have been considered throughout the preceding assessment against the relevant Environmental Planning Instruments and Development Control Plans. No significant adverse impacts have been identified. Potential impacts during construction will be appropriately mitigated and managed through standard conditions of consent and relevant standards.

S4.15C(1)(c) – Suitability of the Site

The proposed demolition works to facilitate the expansion and enhancement of Lever Street Reserve is consistent with the objectives of the RE1 and B2 zones and will not result in any unreasonable impacts on adjoining properties. The site is considered suitable for the future use for public recreational purposes.

S4.15C(1)(d) – Submissions

The development application was notified and advertised between 25 May 2018 and 8 June 2018 in accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising. In response, three submissions were received, which were generally supportive of the proposal and included comments on the future works under the Lever Street Reserve Masterplan.

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

Issue 1: Position of proposed lighting – do not place lighting in front of 26 Lever Street due to difficulty accessing garage.

Comment: The proposed development is for demolition works only and does not include any new lighting. Any concerns relating to future works under the Lever Street Reserve Masterplan should be directed to the relevant Council department.

Issue 2: Inadequate sunlight due to very large trees where the community garden is proposed.

Comment: The proposed development is for demolition works only and does not include any embellishment of the park. Any concerns relating to future works under the Lever Street Reserve Masterplan should be directed to the relevant Council department.

Issue 3: Fully support the proposed demolition works and masterplan for Lever Street Reserve.

Comment: This supportive comment has been noted.

S4.15C(1)(e) – Public Interest

The proposed development is considered to be in the public interest as it will allow for the expansion and enhancement of a public recreational area.

Conclusion

The proposal is for demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve at 921 and 925 Botany Road and 28 Lever Street, Rosebery.

The proposal is consistent with the key planning provisions contained within the Infrastructure SEPP, SEPP 55, BBLEP 2013 and the BBDCP 2013. The proposed demolition will allow for the expansion and enhancement of Lever Street Reserve which is consistent with the objectives of the RE1 and B2 zoning of the site and is in the public interest.

For these reasons, the development application is recommended for approval subject to the attached conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Address: 921 and 925 Botany Road and 28 Lever Street, Rosebery DA No: 18/1083

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Plan	Reference	Author	Dated
Site Analysis Plan	Project No. 251.1	KJ Planning	January 2018
Site and Demolition Plan	Project No. 251.1	KJ Planning	January 2018
Soil and Water Management Plan	Project No. 251.1	KJ Planning	January 2018

Document	Reference	Author	Dated
Statement of Environmental Effects	Project No. 251-1	KJ Planning	May 2018
Pre-Demolition Hazardous Materials Survey	54500/113503 (Rev A)	JBS&G	07/02/18
Traffic and Pedestrian Management Statement	Project No. 251-1	KJ Planning	January 2018
Waste Management Plan	Project No. 251-1	KJ Planning	January 2018
Preliminary Site Investigation	Report: J001350	SESL Australia	November 2018

2. This consent is for demolition works only. The use of the areas where the buildings are proposed to be demolished for future public open space is not approved under this consent. As part of any future application for the use as public open space, the recommendations of the Preliminary Site Investigation (PSI) prepared by SESL Australia (dated 20 November 2018) are to be complied with. This will include, but not limited to, the preparation of a Detailed Site Investigation (DSI) after the buildings have been demolished. Furthermore, the PSI has not undertaken a Dangerous Goods Licence search with SafeWork NSW and this must be undertaken as part of the future application and prior to any DSI. Upon completion of demolition works, those areas of the site previously accommodating buildings and hardstand areas must remain suitably fenced and Lever Street Reserve is to remain inaccessible to the public until such time as the Director of City Futures is satisfied that those parts of the site are suitable for public access.
3. This Consent relates to land in Lot 1 in DP 395261, Lot B in DP 395262, Lot A in DP 317365, Lot A in DP 359530, Lot C in DP 359530, Lot 1 in DP 1108215, Lot A in DP 395262, and Lot 2 in DP 395261 and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.

PRIOR TO COMMENCEMENT OF DEMOLITION WORKS OR ANY DEVELOPMENT OR WORK

4. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;

- d) the name of the Principal Certifying Authority including an after hours contact telephone number; and

Any such sign is to remain on site during works and removed when the work has been completed.

- 5. Prior to commencement of any work on site, in order to ensure that the existing site trees are protected during demolition, and the health and structural stability ensured, a Tree Protection Zone shall be established as follows:
 - a) In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height 1.8m shall be erected outside the drip-line. The fence panels must be securely mounted and braced to prevent movement. The area within the fencing must be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken;
 - b) Protective fences at least 1.5 metres high erected, at the greater of the drip lines, around each tree or group of trees which are to be retained. The protective fences shall consist of parawebbing or chain wire mesh mounted on star pickets or similar metal posts, shall be in place prior to the commencement of any work on site and shall remain until the completion of all demolition works building and hard landscape construction;
 - c) Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, wrap the trunk with hessian or carpet underlay to a height of 2.5m or to the trees first lateral branch, whichever is greater, and affix timber pailings around the tree with strapping or wire (not nails).
 - d) The applicant is required to contact Council for an inspection and/or provide photographic evidence of the fence tree protection zones. Council approval is required prior to commencement of any works;
 - e) All TPZ's are a 'No-Go' zone. Excavations for services / utilities / fences, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access, concrete / chemical mixing/disposal, or washing down of tools and equipment are not permitted within the TPZ's at any time;
 - f) Any unavoidable work within the TPZ may only be undertaken under the direction of Council's Tree Management Officer (or Consultant Arborist);
 - g) Where unavoidable foot access is required in the TPZ, provide timber sheets to minimise soil compaction, spillage or root damage;
 - h) Where unavoidable excavation is required within the canopy dripline and/or TPZ of any tree, works shall be carried out manually using hand tools to minimise root damage or disturbance, and only with agreement in writing from Council's Tree Management Officer;
 - i) Existing soil levels within the dripline of trees to be retained and shall not be altered without written agreement from Council's Tree Management Officer;
 - j) Any pruning of branches or tree roots 40mm in diameter or greater requires prior written consent from Council in the form of a permit. The work must be carried out in accordance with AS4373-2007 and the Code of Practice Amenity Tree Industry

(Safe Work NSW) by an experienced arborist with minimum AQF Level 3 Qualifications in Arboriculture;

- k) Where demolition occurs in the area below the dripline of trees, the proposed works methods shall not damage the tree. If major roots are encountered Council's Tree Management Officer is required to inspect and provide advice prior to works continuing. In such cases, alternative construction methods (e.g. raft slab) may be required;
- l) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work.

The above listed requirements and tree protection measures must be complied with at all times until completion of all building and hard landscape construction.

- 6. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

The provisions of toilet facilities in accordance with this condition must be in place before work commences.

- 7. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if:
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
- 8. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
 - a) Written notice, indicating the date when demolition of the building is to commence;
 - b) This persons full name and address;

- c) Details of Public Liability Insurance.
9. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
10. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
11. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
12. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993*:
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit to install temporary ground anchors in public land;
 - d) Permit to discharge ground water to Council's stormwater drainage system;
 - e) Permit for roads and footways occupancy (long term/ short term);
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
 - h) Permit to place skip/waste bin on footpath and/or nature strip; and
 - i) Permit to use any part of Council's road reserve or other Council lands.
13. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

14. The applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

CONDITIONS TO BE SATISFIED DURING WORKS

15. Prior to the commencement of demolition work a licensed demolisher who is registered with SafeWork NSW must prepared a Work Method Statement to the satisfaction of the Council and a copy shall be sent to Council. A copy of the Statement shall also be submitted to SafeWork NSW.

The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of SafeWork NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
- n) Sewer – common sewerage system ad08.

16. All vehicles and pedestrians accessing the works site are to comply with the approved Traffic and Pedestrian Management Plan listed in Condition 1 at all times.
17. Demolition work shall be carried out in accordance with Australian Standards *AS 2601-1991 Demolition of Structures* and the requirements of the SafeWork NSW.
18. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
19. Precautions to be taken shall include compliance with the requirements of the SafeWork NSW, including but not limited to:
 - a) Protection of site workers and the general public;
 - b) Erection of hoardings where appropriate;
 - c) Asbestos handling and disposal where applicable;
 - d) Any disused service connections shall be capped off;
 - e) The disposal of refuse is to be to an approved waste disposal depot.
20. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
 - a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
21. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
 - a) AS2601-2001 - Demolition of structure; and
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings.
22. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
 - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;

- d) DECC Waste Classification Guidelines 2008.
 - e) No demolition materials shall be burnt or buried on the site.
23. Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
24. Throughout the demolition period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
25. During demolition works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
26. The Applicant shall conduct all demolition and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
27. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
28. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
29. If the development involves an excavation that extends below the level of the base of the footings of a building or road on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) Protect and support the adjoining premises from possible damage from the excavation; and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage;
 - c) Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of his intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures;
 - e) If the soil conditions required it:
 - i. Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided; and

- ii. Adequate provision must be made for drainage.
30. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
31. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.
- a) Level Restrictions

Construction period of 4 weeks and under:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - b) Time Restrictions

Construction/demolition work shall be limited to the following hours:
Monday to Friday: 07:00 am to 05:00 pm
Saturday: 08:00 am to 01:00 pm
No Construction to take place on Sundays or Public Holidays.
 - c) Silencing

All possible steps should be taken to silence construction site equipment.
32. During demolition, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
33. During demolition and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
34. During work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction

work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.



Lever Street Reserve and 921 & 925 Botany Road, Rosebery

Statement of Environmental Effects

Demolition of Existing Structures

Prepared on behalf of Bayside Council

May 2018

Project No: 251-1

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Caringbah NSW 2229

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1. INTRODUCTION

1.1 OUTLINE

This Statement of Environmental Effects has been prepared on behalf of Bayside Council (“the applicant”) to consider the environmental effects of a development application for the demolition of existing structures at 921 and 925 Botany Road and 28 Lever Street Rosebery, on land known as the Lever Street Reserve in Rosebery (“the subject site”).

This statement has been prepared under Section 4.12 of the *Environmental Planning and Assessment Act 1979* (NSW) (“the EP&A Act”) and Clause 50 of the *Environmental Planning and Assessment Regulation 2000* (“the Regulation”).

This proposal is for the demolition of an existing commercial building fronting Botany Road, an unused metal building, which was formerly used as a Scout Hall, and the removal of several existing park lighting poles.

This demolition is required to allow for embellishment of the Lever Street Reserve in the immediate future including improving accessibility to the park, providing greater connectivity to surrounding areas, providing greater landscaping opportunities and improvements in pathways, additional park furniture and lighting throughout the park and to increase the size of the park. Such embellishments will provide greater amenity and improved recreational benefit for the community.

Supporting this Statement are the following plans and reports to be read in conjunction with this Statement, provided appended to this report:

- Survey Plan prepared by Shire Infrastructure – Survey Services (Sutherland Shire Council), Ref No S17-090 dated 18 October 2017 (**Annexure A**);
- Site/Demolition prepared by KJ Planning dated January 2018, Project No 251-1 (**Annexure B**);
- Site Analysis prepared by KJ Planning dated January 2018, Project No 251-1 (**Annexure C**);
- Hazardous Materials Survey prepared by JBS&G dated 7 February 2018 Project No 54500/113503 (Rev A) (**Annexure D**);
- Waste Management Plan (**Annexure E**);

STATEMENT OF ENVIRONMENTAL EFFECTS



- Soil and Water Management Plan prepared by KJ Planning dated January 2018, Project No 251-1 (**Annexure F**);
- Traffic and Pedestrian Management Statement prepared by KJ Planning dated January 2018, Project No 251-1(**Annexure G**);
- Lever Street Reserve Masterplan prepared by Bayside Council, dated 22 January 2018, Drawing No SK/MP.01 (Rev B) (**Annexure H**).

The purpose of this statement is to:

- Describe the subject site in terms of its location, context and any site constraints;
- Provide a detailed description of the proposal;
- Provide an assessment of the proposal in relation to relevant environmental planning controls; and
- Assess any potential impacts against the requirements of Section 4.15 of the EP&A Act.

2. THE SITE AND LOCALITY

2.1 THE SITE

The subject site is comprised of a number of separate allotments, which are legally described as follows and illustrated in **Figure 1**:

- Lot 1 DP 395261 - 921 Botany Road Rosebery;
- Lot B DP 395262 - 921 Botany Road Rosebery;
- Lot A DP 317365 – 28 Lever Street Rosebery;
- Lot A DP 359530 - 28 Lever Street Rosebery;
- Lot C DP 359530 - 28 Lever Street Rosebery;
- Lot 1 DP 1108215 - 28 Lever Street Rosebery;
- Lot A DP 395262 – 925 Botany Road Rosebery; and
- Lot 2 DP 395261 - 925 Botany Road Rosebery.

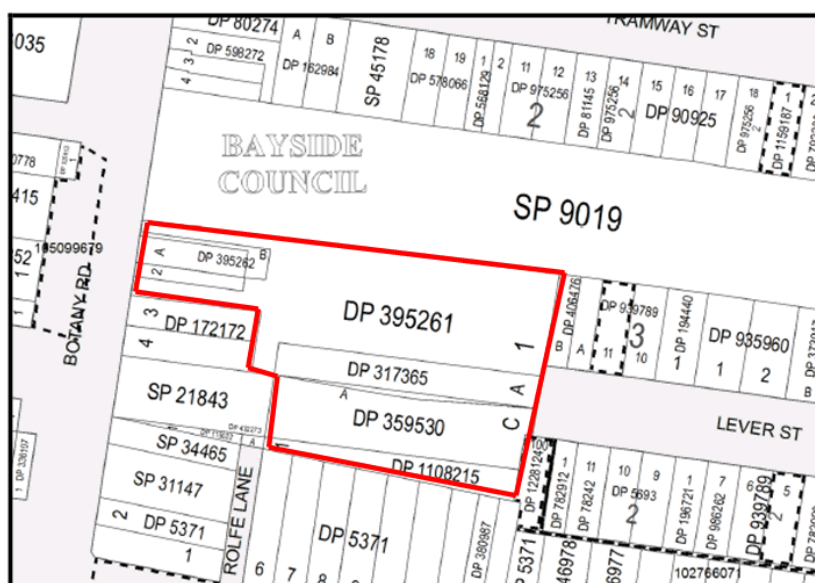


Figure 1: Allotments Comprising the Subject Site

(Source: Land and Property Information, 22/09/2017)

The subject site is generally known as Lever Street Reserve ('the subject site') and is located between Lever Street to the east and Botany Road to the west. The subject site is accessed via a pedestrian pathway from Lever Street while there is also existing vehicle access to No 925 Botany Road from Botany Road. The location of the site is illustrated in **Figure 2**.

The Mascot town centre is a short distance to the south while Botany Road to the west is the major arterial road in the vicinity of the site.

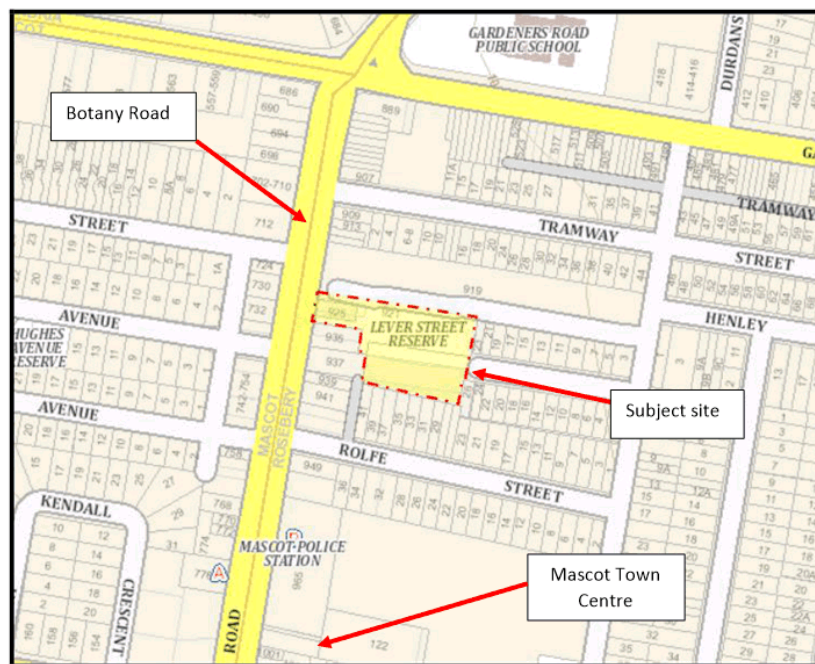


Figure 2: Location of the Site (Source: Six Maps)

The subject site has three street frontages, with a 21 metre frontage to Botany Road, a 19 metre front to Lever Street and a corner to Rolfe Lane. The total site area is approximately 5,480m².

The site falls generally to the side boundaries with the high point being located centrally within the site. There are some small shrubs and several trees located throughout the site, which are proposed to be retained under the current proposal. There are no other natural site features which currently exist on the site. The natural characteristics of the site are shown on the survey plan in **Annexure A**.

2.2 EXISTING DEVELOPMENT

The subject site currently contains a number of structures, which reflects both its current use as an area of public open space as well as its previous use for commercial development.

The subject site contains the following development:

- Two (2) storey commercial building with adjoining hardstand area for car parking at the rear and a driveway along the Botany Road frontage (within No 925 Botany Road);
- Electrical substation adjoining this commercial building along the Botany Road frontage of the subject site (within No 925 Botany Road). This substation will be removed, however, does not require development consent and therefore is not part of this application;
- A metal clad building in the central portion of the site, previously used as a Scout Hall (within Lot C DP 359530);
- Park lighting poles currently existing within the public open space area fronting Lever Street;
- Park furniture comprising seating, rubbish bins and pathways; and
- Playground equipment comprising a climbing structure and swings.

The larger part of the subject site consists of the public open space area of Lever Street Reserve which comprises a playground, park seating, lighting and a pedestrian pathway. Embellishment of this area of public open space will occur in the immediate future, following the demolition proposed in this application, however, does not form part of this development application.

The view of the subject site from the various road and pedestrian frontages is illustrated below in **Figures 3 to 8**.



Figure 3: Subject Site from Lever Street



Figure 4: Looking back towards Lever Street (Service vehicle and pedestrian access)



Figure 5: Subject Site from Botany Road - northern vehicle access point (No 925)



Figure 6: Subject Site from Botany Road - southern vehicle access point (No 925)



Figure 7: Looking West towards Botany Road



Figure 8: Pedestrian Access from Rolfe Lane

2.3 THE SURROUNDING DEVELOPMENT & LOCALITY

The site is located on the eastern side of Botany Road, the major arterial road in the vicinity of the site, with the nearest cross street being Tramway Street, approximately 75 metres to the north. The immediate area has a variety of uses including commercial uses along this portion of Botany Road adjoining the site.

The adjoining development to the north along Botany Road and the northern boundary of the park comprises four (4) storey walk-up residential apartment buildings (**Figure 9**). Lever Street exists to the east which comprises low density detached housing (**Figure 10**) while the adjoining development to the south-east comprises a two storey detached dwelling which addresses Lever Street (**Figure 11**).

The adjoining development to the south comprises the rear fences of low density residential development which addresses Rolfe Street. Development adjoining to the west comprises two storey commercial and residential developments which addresses Botany Road (**Figure 12**). Vehicle access to these adjoining properties is from Rolfe Lane.

The area is located close to the retail services of Mascot with public transport including a bus service.



Figure 9: Adjoining Development to the North



Figure 10: Low Density housing in Lever Street



Figure 11: Adjoining Development to the South-East



Figure 12: Adjoining Development to the West Facing Botany Road



2.4 SITE CONSTRAINTS

Following a thorough review of the relevant Planning Certificates (now Section 10.7 of the EP&A Act) for the various allotments, the subject site is not known to be affected by any significant constraints. The subject site is not known to be affected by any land acquisition, flooding risk, or bushfire, land contamination, acid sulphate soils, Property Vegetation Plans under the *Native Vegetation Act 2003*, threatened species, populations or ecological communities and is not critical habitat.

The site is also not located within a wilderness area and is not affected by any heritage, coastal protection, mine subsidence or biodiversity constraints.

3. THE PROPOSAL

3.1 BACKGROUND

There is no development application history which is relevant to the current proposal and a formal Pre-DA meeting was not held. An informal discussion was held with Gary, the Duty Planner, on 16 January 2018 in relation to information requirements for this Development Application.

Following the demolition of structures proposed in this application, the subject site will be embellished for additional public open space through the following:

- New decorative garden bed to Botany Road frontage;
- New feature plaza zone;
- New informal passive open space with seating;
- Scout hall site converted to new informal picnic area with turf and furniture near playground
- New garden bed at Rolfe Lane park entry;
- Mixed inactive screen planting
- New primary park path; and
- Formalise existing vehicle entry off Lever Street.

These works do not form part of this application and are illustrated in **Annexure H** for information and to support this development application for demolition.

3.2 THE PROPOSAL

The development application involves the demolition of the existing structures within the subject site, which is outlined on the Site/Demolition Plan (**Annexure B**). The demolition will allow for the future embellishment of the subject site for an improved public open space area.

Specifically, the proposal involves the demolition of the following structures, outlined on the accompanying Site/Demolition plan in **Annexure B** and in **Figures 13 to 17**:-

- Two storey commercial building adjoining the Botany Road frontage of the subject site at No 925 Botany Road (**Structure A**);

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- Metal clad building formerly used as a Scout Hall (**Structure B**); and
- Five (5) park light poles (**Structure C**).

The potential hazardous materials present within the structures are considered in the Hazardous Materials Study contained at **Annexure D**.



Figure 13: Structure A - Two Storey Former Commercial Building at No 925 Botany Road



Figure 14: Structure B - Metal Building (Former Scout Hall)



Figure 15: Structure B- Scout Hall



Figure 16: Structure C - Existing Light Poles

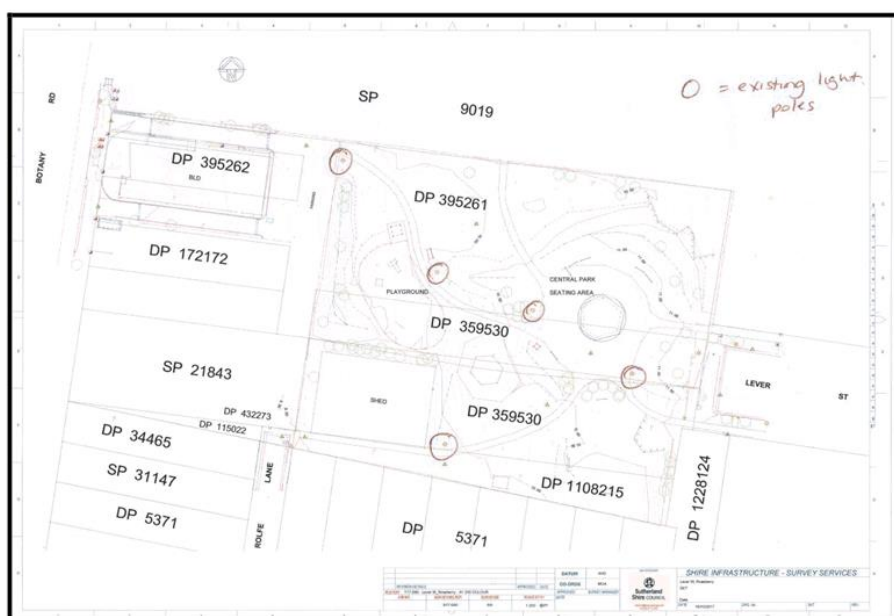


Figure 17: Survey of Existing Light Poles to be demolished (Structure C)

4. STATUTORY CONTROLS

The relevant environmental planning instruments and development control plans applying to the site pursuant to Section 4.15(1) (a) (i), (ii) and (iii) of the Act for the proposal include:-

- *Botany Bay Local Environmental Plan 2013* ("BBLEP 2013");
- *Botany Bay Development Control Plan 2013* ("BBDCP 2013");
- *State Environmental Planning Policy No 55 – Remediation of Contaminated Land* ("SEPP 55");
- *State Environmental Planning Policy (Infrastructure) 2007*; and
- *State Environmental Planning Policy No 19 – Bushland in Urban Areas* ("SEPP 19").

There are no Regional Environmental Plans that are relevant to the current proposal and there are no draft instruments which are relevant to the proposal. These instruments and policies are considered in detail below.

4.1 BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013

The principal environmental planning instrument applying to the subject site is the *Botany Bay Local Environmental Plan 2013* ("BBLEP 2013"), which was gazetted and came into force on 21 June 2013.

The particular aims of this Plan are as follows:

- a) *to recognise the importance of Botany Bay as a gateway to Sydney, given its proximity to Sydney (Kingsford Smith) Airport and Port Botany,*
- b) *to encourage sustainable economic growth and development,*
- c) *to provide direction concerning growth and change in Botany Bay,*
- d) *to identify and conserve those items and localities that contribute to the local built form and the environmental and cultural heritage of Botany Bay,*
- e) *to protect and enhance the natural and cultural landscapes in Botany Bay,*
- f) *to create a highly liveable urban place through the promotion of design excellence in all elements of the built environment and public domain,*
- g) *to protect residential amenity.*

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The proposal is considered to be consistent with these aims given the proposal aims to provide additional areas of public open space and will provide additional opportunities for landscaping and preservation of trees, in an area close to residents and other services.

The proposal also does not result in the removal or disturbance to any significant natural site features, given the existing trees are to be retained. The proposal will also not adversely affect the amenity of adjoining properties. The proposal is therefore considered to be consistent with these planning objectives.

4.1.1 ZONING AND PERMISSIBILITY

Pursuant to Clause 2.2 of the BBLEP 2013, the subject site is located within two (2) zones, comprising RE1 Public Recreation zone (the larger part of the site, being the existing Lever Street Reserve) and the B2 Local Centre zone (portion fronting Botany Road), as illustrated in **Figure 18**. The proposed demolition is permissible with consent pursuant to Clause 2.7 (Demolition).

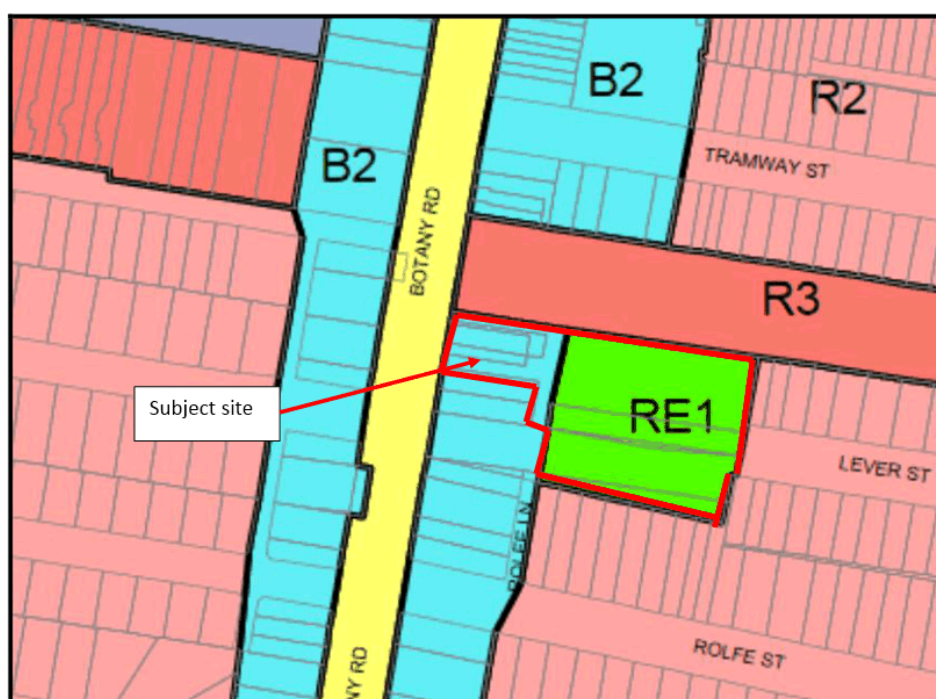


Figure 18: Zoning under Botany Bay Local Environmental Plan 2013

The objectives of the B2 zone (Clause 2.3) 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.*

The objectives of the RE1 zone are:

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

The proposal is considered to be consistent with these zone objectives given the proposal provides for the demolition of redundant buildings which will allow for a greater area of public open space. This will also allow for greater opportunities for additional landscaping within the public open space of the Lever Street Reserve.

The proposal will also not result in any significant adverse impacts on the environment and the proposal is of a scale and nature that maintains the predominantly natural landscape setting of the locality. The proposal will protect and conserve existing vegetation and other natural features of the locality. The proposal does not result in the loss of any significant views for surrounding properties.

4.1.2 GENERAL CONTROLS

Compliance with the relevant clauses of the BBLEP 2013 with respect to the current proposal is outlined in **Table 1** below. The proposal is considered to be generally consistent with these controls.

The subject site is not affected by any land acquisition, does not involve a reclassification of land, does not rely on the adjoining uses clause and does not propose any miscellaneous permissible uses. The subject site does not propose any works which would be considered to be a controlled activity and is not affected by aircraft noise. The site is also not affected by any biodiversity, wetlands or a foreshore building line. Accordingly, various provisions of the BBLEP 2013 are not relevant to the current development application.

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TABLE 1: CONSIDERATION OF BBLEP 2013

Control	Proposal	Comply
Part 2: Permitted or prohibited development		
Additional permitted uses for particular land (CI 2.5)		
Development on particular land that is described or referred to in Schedule 1 may be carried out with development consent, or if the Schedule so provides—without development consent.	The site is not listed in Schedule 1.	N/A
Subdivision (CI 2.6)		
Land to which this Plan applies may be subdivided, but only with development consent.	Subdivision is not proposed.	N/A
Demolition requires development consent (CI 2.7)		
Demolition requires consent.	Demolition is proposed as outlined in this Statement.	✓
Part 4: Principal development standards		
Height of buildings (CI 4.3)		
2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map – 14m (for B2 zoned portion of the site).	There are no building works proposed.	N/A
Floor space ratio (CI 4.4)		
Max floor space ratio on the land on FSR Map – 2:1 (for B2 zoned portion of the site).	There are no building works proposed.	N/A
Part 5: Miscellaneous provisions		
Relevant acquisition authority (CI 5.1)		
The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions).	The subject site is not known to be affected by any land acquisition.	N/A
Classification and reclassification of public land (CI 5.2)		
The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the Local Government Act 1993.	There is no change to the classification of the land under the <i>Local Government Act 1993</i> proposed in this application.	N/A
Controls relating to miscellaneous permissible uses (CI 5.4)		
Relevant miscellaneous permissible uses.	There are no miscellaneous permissible uses proposed in this application.	N/A

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Heritage conservation (CI 5.10(5))		
Before granting consent to any development, among other things, on land that is within the vicinity of a heritage item or heritage conservation area, a heritage management document may be required that assesses the extent to which the carrying out of the proposal would affect the heritage significance of that item or area concerned.	There are no heritage items located on the subject site or in the vicinity of the subject site.	✓
Part 6: Local Provisions		
Acid Sulphate Soils (CI 6.1)		
The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is affected by Class 4 and Class 5 acid sulphate soils, however, there is minimal excavation proposed and therefore any ASS located on the site is unlikely to be disturbed.	✓
Earthworks (CI 6.2)		
1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	There are minimal earthworks proposed, with the only excavation being for the removal of the foundations for the existing buildings being demolished.	✓
Stormwater Management (CI 6.4)		
3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: <ul style="list-style-type: none"> (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact. 	There are no changes proposed to the existing stormwater management regime on the subject site.	✓

4.2 BOTANY BAY DEVELOPMENT CONTROL PLAN 2013

The *Botany Bay Development Control Plan 2013 (BBDCP 2013)* was adopted by Council on 11 December 2013 and came into effect on 17 December 2013. The plan provides objectives and development controls that establish clear guidelines for development, protection of the environment and maintenance of resident amenity.

The proposal has been assessed against the relevant controls contained in BBDCP 2013 including the following:

- Part 3 - General Provisions;
- Part 5 - Business Centres; and
- Part 8 - Character Precincts.

4.2.1 PART 3: GENERAL PROVISIONS

The relevant provisions of Part 3 of BBDCP 2013 include Part 3N - Waste Minimisation and Management, in particular Part 3N.2 – Demolition and Construction. These controls have been considered in detail in the accompanying Waste Management Plan provided in **Annexure E**, prepared by KJ Planning dated January 2018.

4.2.2 PART 5: BUSINESS CENTRES

Part 5 of the BBDCP 2013 contains controls relating to the business centres within the Bayside local government area. These controls contain Character Statements for the Business Centres (Part 5.2) as well as general controls for the built form (Part 5.3). The built form controls in Part 5.3 are not applicable as the proposal does not involve any building works.

Pursuant to Part 5.2.2.6, the front portion of the site along Botany Road (No 925) is located within the Rosebery Neighbourhood Centre, while the greater portion of the site, currently known as Lever Street Reserve, is located outside of this centre.

The relevant desired future character controls and the proposal's response to such controls, is outlined below in **Table 2**.

TABLE 2: CONSIDERATION OF PART 5 OF BBDCP 2013

Control/Requirement	Proposal	Comply
<p><u>Public Domain/Streetscape</u></p> <p>C1 Development must provide landscaping, street trees, decorative fencing, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 22.</p> <p>C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development. Through site links and arcades to the rear are encouraged with redevelopment to provide improved access and safety for pedestrians. The creation of street closures in the side streets and the provision of decorative fencing and planting will assist in encouraging active street retail uses such outdoor dining.</p>	<p>The proposed demolition is to allow for the augmentation and enhancement of the Lever Street Reserve public open space area. Following the proposed demolition of the relevant buildings on the site, there will be a greater area of public open space and the linkages between Botany Road, Lever Street and Rolfe Lane would be enhanced.</p> <p>There are no building works proposed.</p>	✓
<p><u>Site Amalgamation</u></p> <p>C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict development on a single lot</p>	<p>There is no lot consolidation proposed, however, all of the allotments will become part of the Lever Street Reserve in the future.</p>	✓
<p><u>Parking and Access</u></p> <p>C17 Vehicular access from Gardeners Road and Botany Road must be avoided where access is available from a side street or rear laneway.</p> <p>C18 Where a rear laneway exists loading and unloading must occur from the laneway and be occur within the site.</p> <p>C19 Development must comply with Part 3A - Car Parking.</p> <p>C20 The provision of through site pedestrian links or arcades from Gardeners Road to the rear and from Botany Road to the Lever Street Reserve is encouraged to improve pedestrian access, amenity and safety.</p>	<p>The potential impact of the proposed demolition activity has been considered in the Traffic and Pedestrian Management Statement, prepared by KJ Planning, at Annexure G.</p> <p>There are likely to be minimal impacts on traffic and access in the area. Through-site access from Botany Road to Lever Street will be maintained in the long term, notwithstanding that some short-term disruption during demolition may occur.</p>	✓



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4.2.3 PART 8: CHARACTER PRECINCTS

Part 8 contains controls relating to the various character precincts throughout the local government area. The subject site is located within the Rosebery Character Precinct, pursuant to Part 8.6 of the Plan. The desired future character controls, pursuant to Part 8.6.2 of BBDPC 2013, are considered below in **Table 3** in the context of the proposal:

TABLE 3: CONSIDERATION OF PART 8 OF BBDPC 2013

Control/Requirement	Proposal	Comply
<u>Function and Diversity</u> <ul style="list-style-type: none"> Enhance the public domain and streetscapes within the Precinct. Encourage and enhance connections of public domain and open space areas with recreational facilities. Maintain the Rosebery Precinct as a residential area that is characterised by the distinct housing styles of dwelling houses. Encourage and focus retail activity and shop top housing within Rosebery Neighbourhood Centre Promote development which increases neighbourhood amenity and enhances pedestrian comfort. Encourage site layout, building styles and designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles. Encourage dwelling styles that maintain and complement existing development patterns. Encourage an increased height and density in the form of terrace style housing in Special Area H1 	<p>The proposed demolition is to allow for the augmentation and enhancement of the Lever Street Reserve public open space area. Following the proposed demolition of the relevant buildings on the site, there will be a greater area of public open space and the linkages between Botany Road, Lever Street and Rolfe Lane would be enhanced.</p> <p>There are no building works proposed.</p>	✓
<u>Form, Massing, Scale & Streetscape</u> <ul style="list-style-type: none"> Encourage predominantly low density residential accommodation in the form of detached/attached dwellings throughout the Precinct with a maximum height of 2 storeys (9 metres height limit), unless the site is zoned R3 – Medium Density Residential and has a site area is over 2000m² which then permits a FSR of 1.5:1 and 2 storeys (at the street) to 6 storeys (a maximum height of 22 metres). Encourage development to follow the topography of the land. Promote site access and parking facilities that do not dominate the streetscape. Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character. 	<p>There are no building works proposed.</p>	N/A



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<ul style="list-style-type: none"> • Maintain roof forms which are characteristic of the prevailing designs within the street. • Development of 4 storeys or more in height, adjacent to a school, are to consider the following: <ul style="list-style-type: none"> – Mitigation of overshadowing impacts on the school and its grounds through setbacks and controlled bulking and scaling of buildings; – Orientating internal spaces so that low occupancy rooms face school property; and – Windows and balconies are to be designed to reduce opportunities for overlooking school grounds. 		
<p><u>Setbacks</u></p> <ul style="list-style-type: none"> • Retain front setbacks which are consistent within a street and promote landscaping to soften the built form. • Retain side setbacks, where they are consistent within a street. 	There are no building works proposed.	✓
<p><u>Landscaping</u></p> <ul style="list-style-type: none"> • Encourage landscaping within the front and side setback to soften the built form particularly in high density terrace, unit and residential flat buildings. • Promote landscaping in rear private open space as to provide privacy to adjoining properties. • Maintain street trees. 	There are no building works proposed. The proposed demolition works will enhance landscaping opportunities within the site.	✓
<p><u>Heritage</u></p> <ul style="list-style-type: none"> • Promote sympathetic urban design and uses that protect and enhance the character and the significance of Heritage Items. • Conserve and enhance Heritage Items within the Precinct. 	There are no heritage items located on the site or in the vicinity of the site.	N/A
<p><u>Fencing</u></p> <ul style="list-style-type: none"> • Encourage and retain a low scale fencing height. 	There is no new fencing proposed.	N/A
<p><u>Noise</u></p> <ul style="list-style-type: none"> • Ensure development along Gardeners Road and Botany Road is designed to minimise traffic noise transmission. • Ensure that development affected by aircraft noise is designed to minimise aircraft noise transmission in accordance with AS2021. • Where the height of the proposed development is higher than the existing height of the localised building stock (and the proposed development has a direct line of sight to the seaport and/or the airport) an acoustical assessment by an accredited acoustical consultant is required which takes into account noise from the operations of Port Botany and Sydney Kingsford Smith Airport. 	There are no building works proposed.	N/A



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<u>Subdivision</u> <ul style="list-style-type: none"> Retain the existing rectilinear grid pattern in the Precinct; with a minimum of 5 metre wide frontage subdivision permitted in Special Area H1 Encourage increased height and density in the form of terrace style housing (maximum height of 9 metres) in Special Area H1. 	There is no subdivision proposed.	N/A
<u>Public Domain and Environment</u> <ul style="list-style-type: none"> Promote pedestrian links, linking the pocket park open space system and street system within the Precinct. Preserve and maintain open space areas within the precinct to cater for a variety of recreational needs. Encourage landscaping and vegetation planting within both the public and private domain of the precinct. Encourage landscaping and street planting to complement the built form and provide cohesiveness throughout the Precinct. Enhance the aesthetics of the neighbourhood through landscaping within a site to soften the built form and promote pedestrian comfort. 	The proposed demolition is to allow for the augmentation and enhancement of the Lever Street Reserve public open space area. Following the proposed demolition of the relevant buildings on the site, there will be a greater area of public open space and the linkages between Botany Road, Lever Street and Rolfe Lane would be enhanced.	✓
<u>Solar Access</u> <ul style="list-style-type: none"> Encourage buildings to maximise solar access to surrounding residential properties and to public and private open spaces. Preserve solar access to adjoining properties. 	There are no building works proposed and therefore there will be no adverse impacts on solar access for adjoining properties.	✓
<u>Traffic and Access</u> <ul style="list-style-type: none"> Encourage new development to have a minimal impact on traffic flow and demand for on street parking spaces. Encourage development to provide adequate on-site parking to assist in reducing traffic congestion on local road networks. Discourage through traffic throughout the Precinct by the means of traffic calming measures. 	The potential impact of the proposed demolition activity has been considered in the Traffic and Pedestrian Management Statement, prepared by KJ Planning, at Annexure G . There are likely to be minimal impacts on traffic and access in the area.	✓
<u>Views</u> <ul style="list-style-type: none"> Retain existing views 	There is no obstruction of views resulting from the proposal.	✓

The proposal is generally consistent with the controls of BBDCP 2013.



4.3 STATE ENVIRONMENTAL PLANNING POLICY NO.55 – REMEDIATION OF LAND

Under Clause 7 of *State Environmental Planning Policy No.55 – Remediation of Land*, a consent authority is required to consider whether a proposed development site is affected by soil or other contaminants before granting consent. The subject site is currently zoned, and used, for commercial development and public open space.

The likelihood of encountering contaminated soils on the subject site is considered to be low given the following:

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

Furthermore, the Section 149 Certificate did not reveal any potential for land contamination. A Hazardous Materials Survey (**Annexure D**) has also been completed which revealed that the site contains some hazardous materials which will require careful removal during the demolition process.

On this basis, the site is considered suitable in its present state for the proposed demolition. No further investigations of land contamination are considered necessary. The proposal is generally consistent with SEPP 55.

4.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

Clause 45 - Determination of development applications—other development (Subdivision 2 Development likely to affect an electricity transmission or distribution network)

This clause applies to the proposal as it constitutes development that is to be carried out immediately adjacent to an electricity substation (Cl 45(1)(b)(ii)). Before determining a development application for development to which this clause applies, the consent authority must consider the following matters:

- a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

Ausgrid has provided written advice that the electrical substation has been decommissioned (refer to **Annexure B**). The proposal is therefore consistent with Clause 45(2)(a) and (b).

Clause 65 - Development permitted without consent (Division 12 Parks and other public reserves)

Pursuant to Clause 65(3)(c), demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area) may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council as long as the footprint of the building covers an area no greater than 250m². Consent is sought for the demolition and there are no relevant matters which need to be considered in this regard. The proposal is therefore consistent with Clause 65(3).

Clause 101 – Development with frontage to a Classified Road

Pursuant to Clause 101(2) of the Infrastructure SEPP, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) The design of the vehicular access to the land, or*

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- (ii) *The emission of smoke or dust from the development, or*
- (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (iv) *The development is of a type that is not sensitive to traffic noise or vehicle emissions or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Botany Road is a State classified road and vehicular access to the site is proposed to be retained from Botany Road for Stage 1 of the demolition. Vehicle access will be from Lever Street for Stages 2 and 3. While there will be some vehicle access from the classified road, this vehicle access already exists on the site and will be left in and left out in separate vehicle crossings thereby ensuring that the arterial road network will not be disrupted for the short duration of Stage 1 demolition works.

There is neither proposed additional long term vehicle access proposed from Botany Road nor any new vehicle access proposed to Botany Road. This is further outlined in the accompanying Traffic and pedestrian Management Statement provided in **Annexure G**. The proposal is considered to satisfy Clause 101(a).

The proposal will not result in any significant smoke or dust which would impact on the classified road and the traffic generation from the proposal is unlikely to adversely impact on Botany Road. The proposal is therefore consistent with Clause 101(b).

The proposed development is for demolition only which will not be sensitive to traffic noise or vehicle emissions and accordingly, the proposal is considered to be consistent with Clause 101(c). The proposal is consistent with the provisions of Clause 101 of the Infrastructure SEPP.

Clause 102 – Impact of road noise or vibration on non-road development

Pursuant to Clause 102 of Infrastructure SEPP, development on land in or adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles must take appropriate measures to ensure that nominated LAeq levels are not exceeded, while roads with between 20,000 and 40,000 are recommended to include such an assessment. Botany Road is included in the “recommended” category for this assessment.

STATEMENT OF ENVIRONMENTAL EFFECTS



The Development Application is not required to be accompanied by an Acoustic Report, as the proposed development, being for demolition, will not be adversely affected by road noise or vibration.

Clause 104 – Traffic-generating development

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance, the proposal does not meet these criteria and accordingly, a referral to the RMS is not required.

The proposal is consistent with the Infrastructure SEPP.

4.5 STATE ENVIRONMENTAL PLANNING POLICY NO 19—BUSHLAND IN URBAN AREAS

State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) aims to protect and preserve bushland within urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource.

Pursuant to Clause 6 of SEPP 19, consent is required to disturb bushland zoned or reserved for public open space purposes, with the consent authority required to consider the followings matters:

- a) it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Policy,*
- b) it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and*
- c) it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.*

In this case, there is no bushland proposed to be disturbed by the proposed demolition of the two (2) buildings, the electrical substation and the light poles. Accordingly, it is considered that the proposal is consistent with the aims and intention of this Policy.



5. SECTION 4.15 ASSESSMENT

5.1 PROVISIONS OF ANY EPI, EXHIBITED DRAFT EPI, DCP & REGULATION - (1)(A)

An assessment of the proposal against the relevant development standards of BBLEP 2013 and BBDCP 2013 was outlined in Section 4 of this Statement and found to generally satisfy these requirements.

The proposed development is permissible and generally satisfies the objectives and controls of the relevant development standards and development control provisions. An assessment of the proposed development against the zone objectives in Clause 2.2 of the BBLEP 2013 indicates that the proposed development will have minimal impact on the amenity of surrounding development thereby satisfying the zone objectives.

The NSW Coastal Policy and the *Australian Standard for Demolition of Structures* (AS 2601) are required to be considered by the consent authority (Clause 92 of the Regulation). The subject site is not located in the coastal zone and the demolition will be undertaken in accordance with the relevant Australian Standards and conditions imposed by the consent authority. Accordingly, the proposal is consistent with this Clause.

5.2 THE LIKELY IMPACTS OF THE DEVELOPMENT - (1)(B)

The consideration of impacts on the natural and built environments includes:

Context and setting – The proposed development satisfies the requirements and objectives of the development standards and controls. The development has been designed to be compatible with the locality will allow for more public open space in the locality.

Access and traffic – The potential impacts on traffic and access are considered in the Traffic and Pedestrian Management Statement prepared by KJ Planning in **Annexure G**. The proposed vehicle access and egress from the site is satisfactory. The proposal will not generate excessive traffic in the area, which cannot be accommodated in the existing local road network.

STATEMENT OF ENVIRONMENTAL EFFECTS



Public Domain – The proposed development is compatible with the existing streetscape and will allow for an enhanced area of public open space. The proposal will not impede pedestrian access in the area and will not impinge on any public areas.

Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.

Heritage – The proposed development will not adversely affect any items of environmental heritage.

Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned for development and there are no significant trees or other vegetation being removed under the current proposal. Further landscaping opportunities will be created following the proposed demolition of the redundant structures on the site. There are also no changes to the natural contours of the site.

Social and economic impact – The proposed development will improve the social and economic environment of the locality through better utilisation of the existing site and will provide additional public open space opportunities in the area.

Site design and internal design – The proposal will, in the future, allow for an enhanced area of public open space, is appropriately set out on the site to allow for manoeuvring of vehicles on and off the site and minimises adverse impacts on adjoining properties.

Construction – There are no construction works proposed, while the demolition works will be undertaken in accordance with best practice industry standards, Australian Standards and any conditions of consent imposed by the consent authority. Potential impacts on the natural environment will be minimised.

Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the development complies with the planning controls.

5.3 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT - (1)(C)

The proposed development is considered to be suitable for the subject site as follows:-

STATEMENT OF ENVIRONMENTAL EFFECTS



Compatibility with locality – The proposal will be compatible with existing development as there is no adjacent land use, which is prohibitive of the proposal. There will be minimal adverse impacts on adjoining properties or the streetscape.

Environmental hazards – There are no known environmental hazards identified in the relevant planning controls or from an inspection of the subject site which have not been addressed by the proposal. The proposed development will not create additional risks to the future occupants or users of the site.

Soils and contamination – The subject site has been zoned and used for commercial and open space purposes, and as outlined above in Section 4 in relation to SEPP 55, there are no known soil contamination risks. The proposal is unlikely to result in any adverse impacts with respect to acid sulphate soils.

5.4 SUBMISSIONS - (1)(D)

Submissions cannot be assessed at this time.

5.5 THE PUBLIC INTEREST - (1)(E)

The proposal seeks the demolition of redundant buildings at the subject site to allow for future augmentation of the public open space reserve. This will create additional public open space opportunities and satisfies the objectives of the zone and the relevant planning controls. The proposed development has been designed to comply with the objectives of the relevant development controls. In these ways, the proposal is in the public interest.

6. CONCLUSION

The proposed development will allow an efficient use of the site for future augmentation of public open space. The demolition of the relevant buildings is required as the building are no longer required in their current form and the more efficient use of the land is to augment and embellish the existing adjoining public open space. The proposal is compatible with the adjoining development which generally comprises commercial and residential uses.

This statement has been prepared in support of a development application which proposes to demolish various structures as outlined in this Statement, which will in turn allow for the future augmentation and enhancement of the existing adjoining public open space area, which is generally compatible with the surrounding residential area.

The proposed development is permissible pursuant to Clause 2.7 of BBLEP 2013 and has been designed to comply with the objectives of the planning controls applying to the site and the objectives of the zone. The proposal will have minimal impact on the amenity of adjoining developments. The subject site is free of environmental constraints that would preclude the granting of development consent.

It is considered that the proposed development will have a positive impact on the area and is suitable for its location, generally complying with the planning controls of BBLEP 2013 and BBDCP 2013.

It is considered that the proposal has been adequately justified and is considered warranted given the compliant proposal with respect to the relevant development standards.

On this basis, it is recommended that development consent be granted for the proposed development.

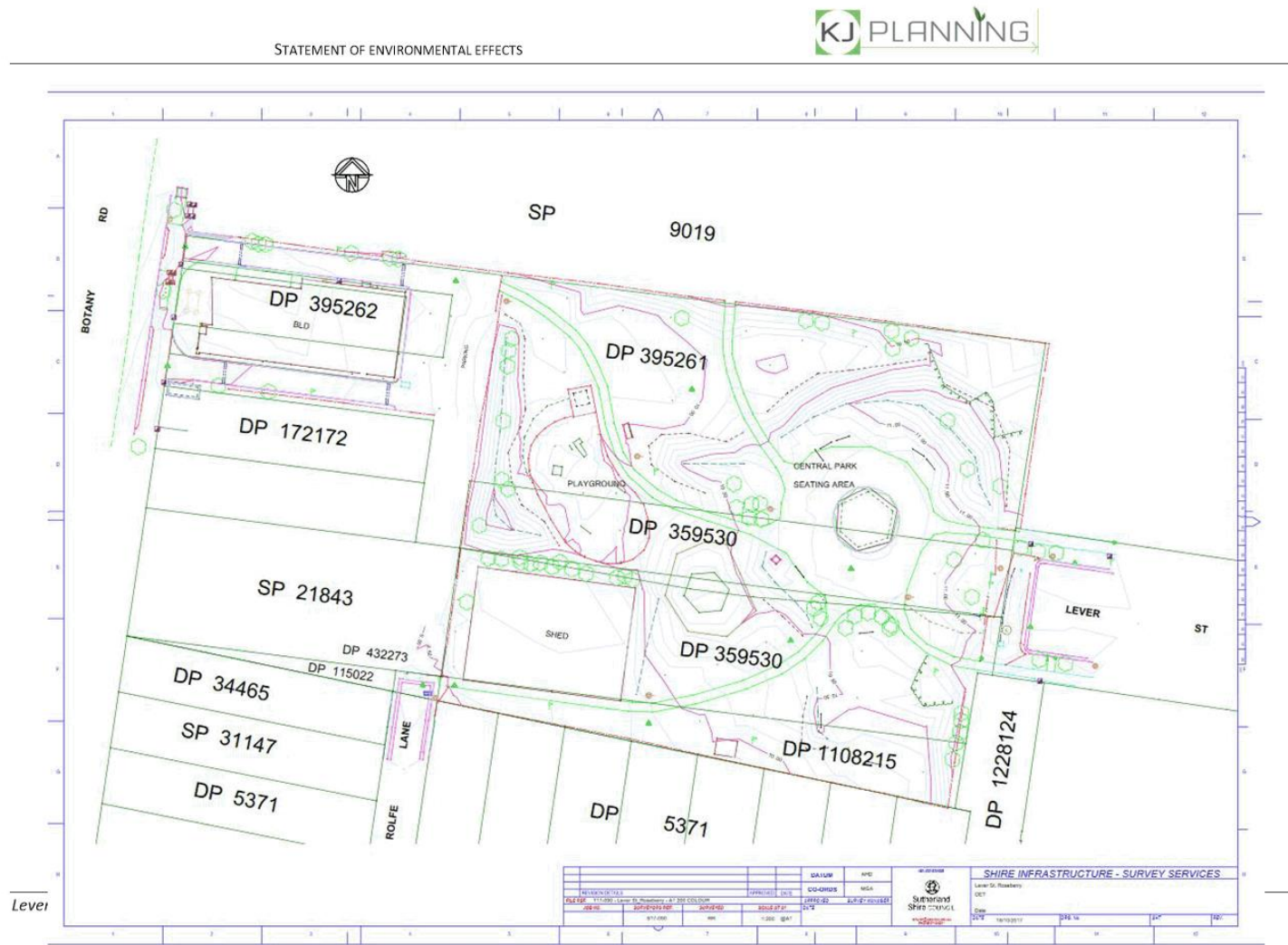
A handwritten signature in black ink, appearing to read 'Kim Johnston'.

Kim Johnston

STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE A: Site Survey Plan



STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE B: Site/Demolition Plan

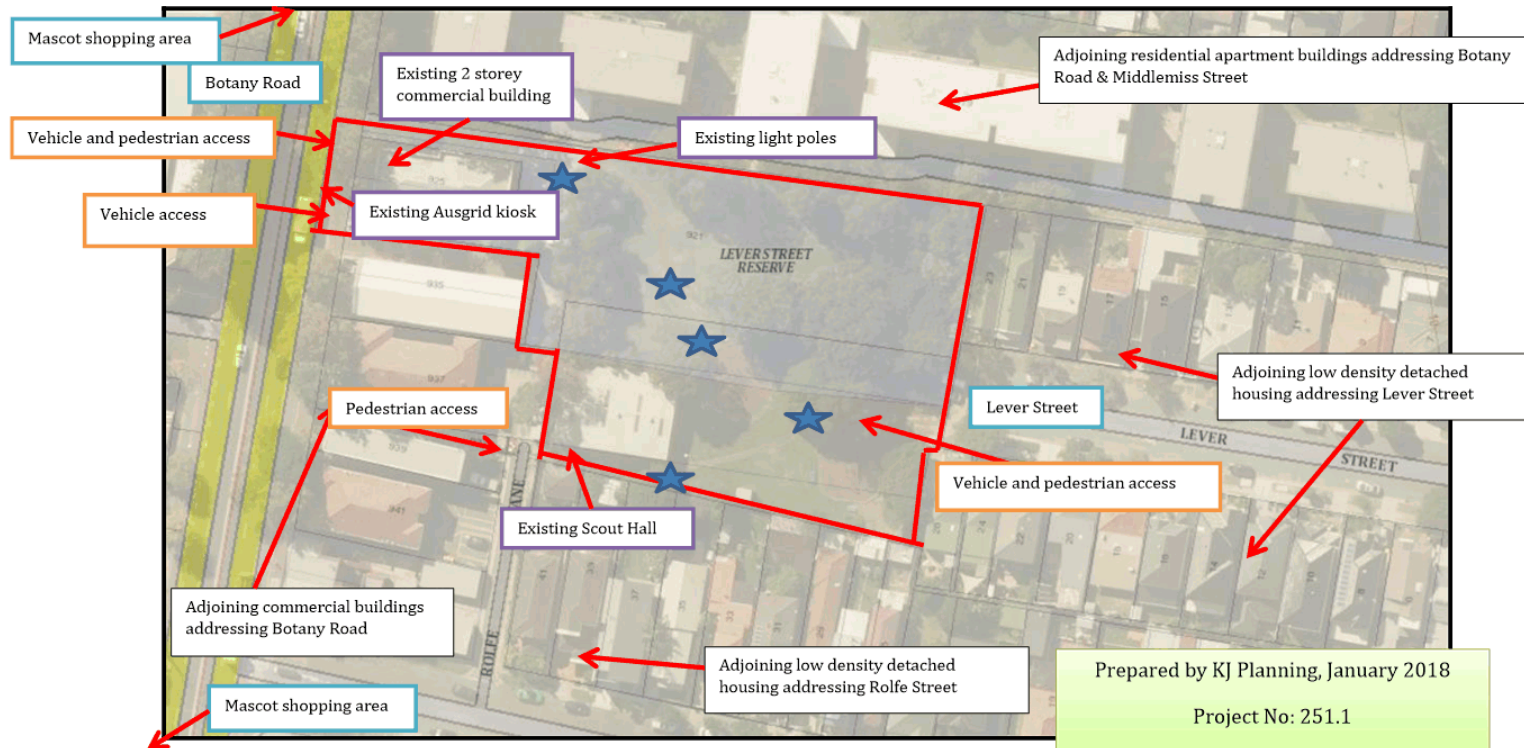


STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE C: Site Analysis

STATEMENT OF ENVIRONMENTAL EFFECTS

Site Analysis Plan

Lever Street Reserve

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STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE D: Hazardous Materials Survey

STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE E: Waste Management

STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE F: Soil and Water Management Plan

STATEMENT OF ENVIRONMENTAL EFFECTS

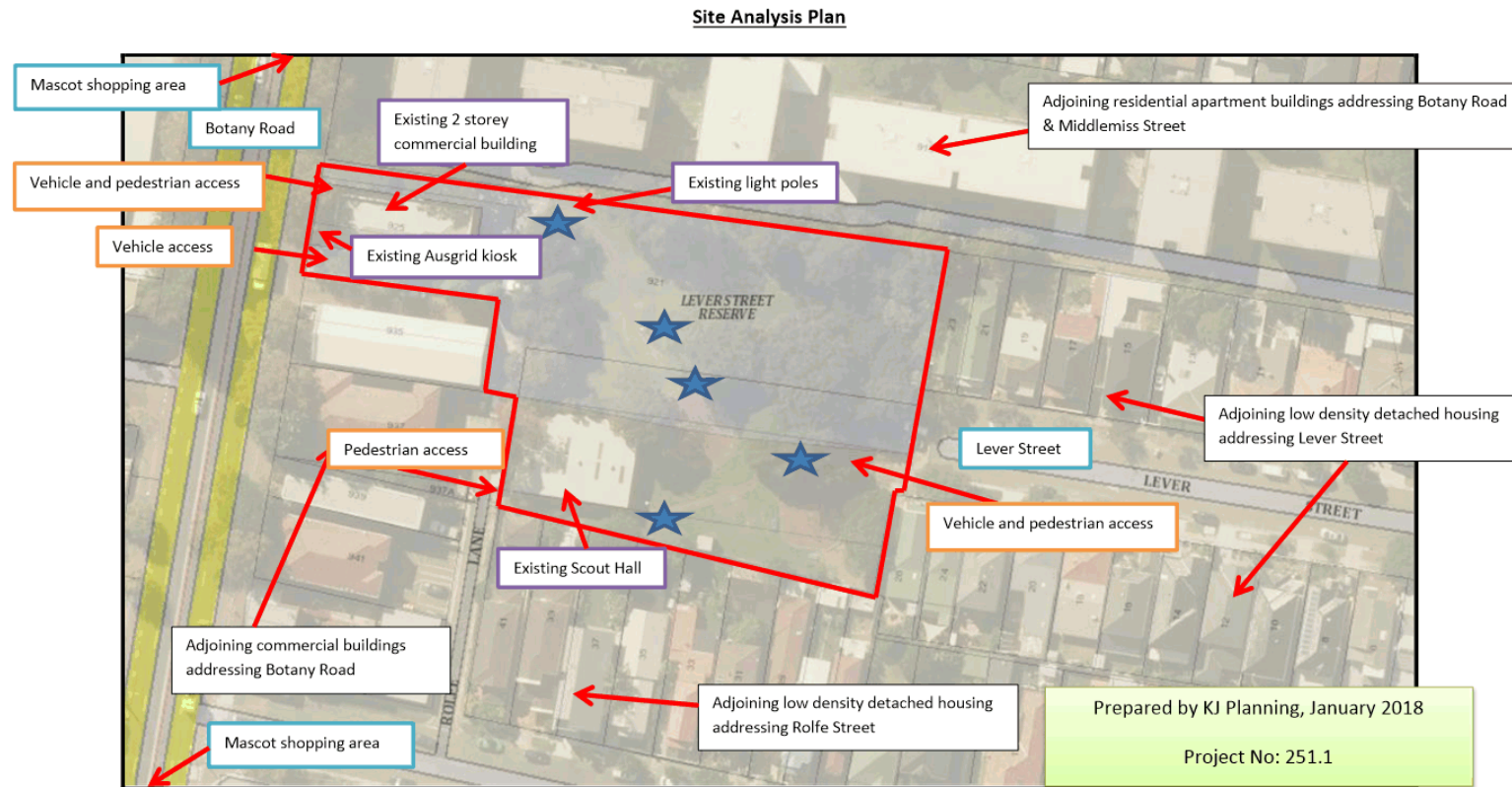


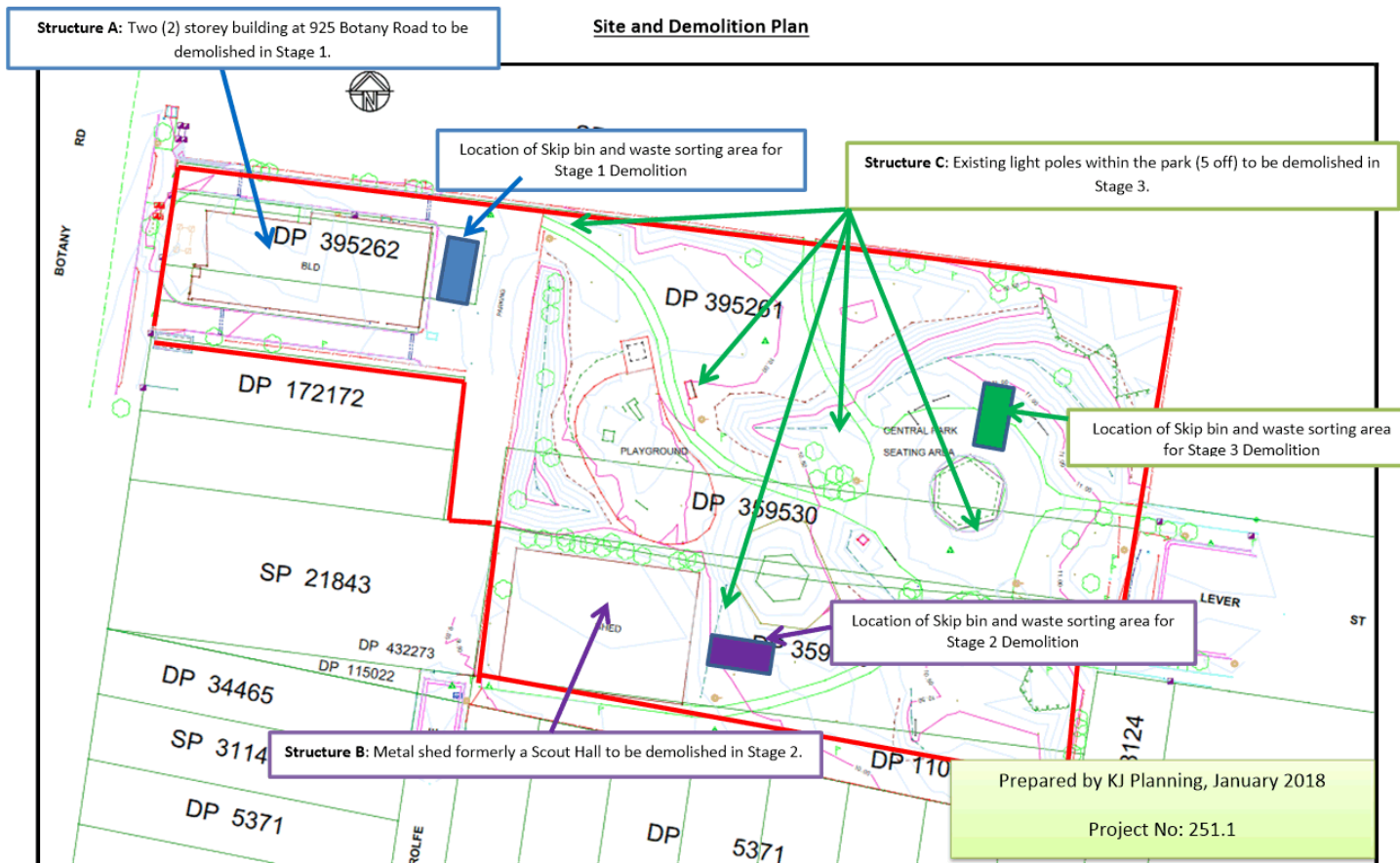
ANNEXURE G: Traffic and Pedestrian Management Statement

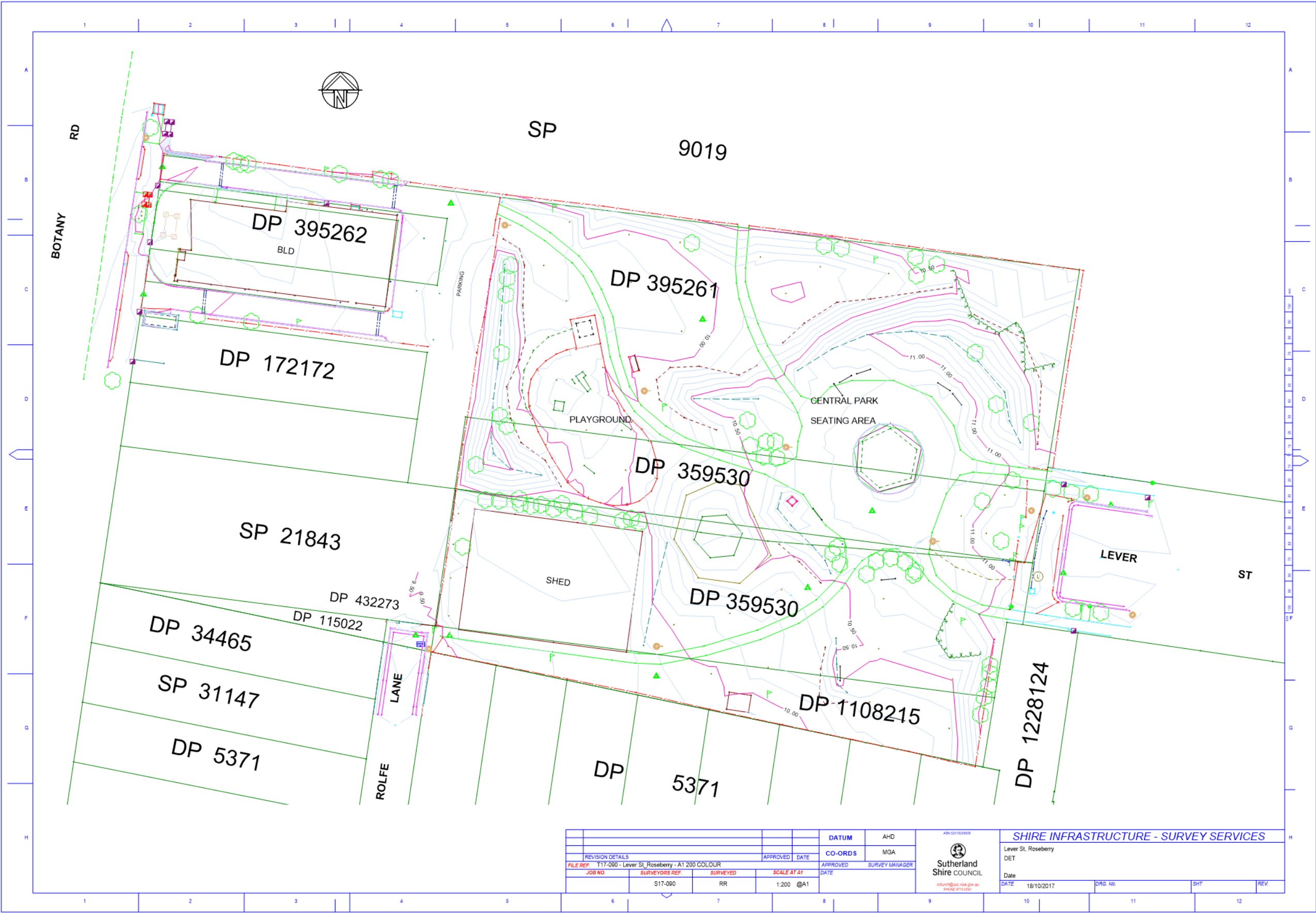
STATEMENT OF ENVIRONMENTAL EFFECTS



ANNEXURE H: Lever Street Reserve Masterplan









Lever Street Reserve and 921 & 925 Botany Road, Rosebery

Traffic and Pedestrian Management Statement

Demolition of Existing Structures

Prepared on behalf of Bayside Council

January 2018

Project No 251-1

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1. INTRODUCTION

1.1 OUTLINE

This Traffic and Pedestrian Management Statement has been prepared on behalf of Bayside Council ("the applicant") to consider the traffic impacts of the development application for the demolition of existing structures at 921 & 925 Botany Road and land known as the Lever Street Reserve in Rosebery ("the subject site").

This statement has been prepared under the requirements of Bayside Council for demolition as outlined in the *Development Application Lodgement Checklist* dated April 2017.

This proposal is for the demolition of an existing commercial building fronting Botany Road, an unused metal building which was formerly used as a Scout Hall, and the existing park lighting poles located within the park.

At this stage, a demolition contractor has not been appointed. However, to facilitate an efficient program, this Statement presents the principles of traffic and pedestrian management to be undertaken during the demolition. A final Statement will be prepared as part of the Demolition documentation prior to the commencement of demolition work on the site.

Supporting this Statement are the following plans and reports to be read in conjunction with this Statement, provided appended to this report:

- Survey Plan prepared by Shire Infrastructure – Survey Services (Sutherland Shire Council), Ref No S17-090 dated 18 October 2017 (**Annexure A**);
- Site/Demolition Plan prepared by KJ Planning dated January 2018 (**Annexure B**);
- Traffic Management Plan for the proposed demolition work (**Annexure C**); and
- Pedestrian Management Plan for the proposed demolition work (**Annexure D**);

The purpose of this statement is to describe the subject site in terms of its location and context and to provide an outline of the likely traffic arrangements for the proposal. This is outlined in the following chapters.

2. THE SITE AND LOCALITY

2.1 THE SITE

The subject site is comprised of a number of separate allotments, which are legally described as follows and illustrated in **Figure 1**:

- Lot 1 DP 395261 - 921 Botany Road Rosebery;
- Lot B DP 395262 - 921 Botany Road Rosebery;
- Lot A DP 317365 – 28 Lever Street Rosebery;
- Lot A DP 359530 - 28 Lever Street Rosebery;
- Lot C DP 359530 - 28 Lever Street Rosebery;
- Lot 1 DP 1108215 - 28 Lever Street Rosebery;
- Lot A DP 395262 – 925 Botany Road Rosebery; and
- Lot 2 DP 395261 - 925 Botany Road Rosebery.

The site is shown in the Survey Plan in **Annexure A** and the Site/Demolition Plan in **Annexure B**.

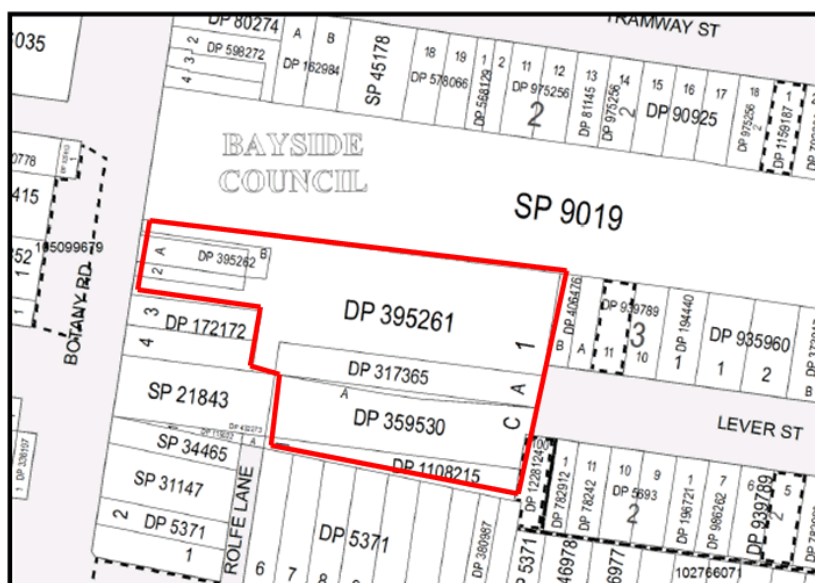


Figure 1: Allotments Comprising the Subject Site (Source: Land and Property Information, 22/09/2017)

The subject site is generally known as the Lever Street Reserve ('the subject site') and is located between Lever Street to the east and Botany Road to the west. The subject site is accessed via a pedestrian pathway from Lever Street through to Botany Road via a right of carriageway, while there is also a pedestrian pathway through to Rolfe Lane. Existing vehicle access to No 925 Botany Road is also available from Botany Road.

The location of the site is illustrated in **Figure 2**. The total site area is approximately 5,480m².

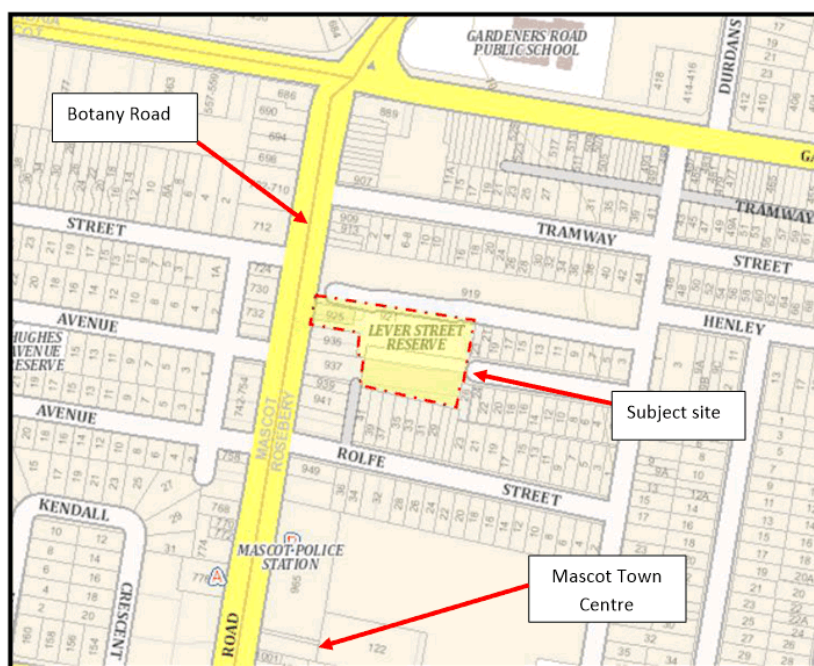


Figure 2: Location of the Site (Source: Six Maps)

There are several large trees within the site which are to be retained, while there are no other significant natural site features which currently exist on the site. The natural characteristics of the site are shown on the survey plan in **Annexure A**.

2.2 *EXISTING DEVELOPMENT*

The subject site currently contains a number of structures, which reflects both its current use as an area of public open space as well as its previous use for commercial development.

The subject site contains the following development:

- Two (2) storey commercial building with adjoining hardstand area for car parking at the rear and a driveway along the Botany Road frontage (within No 925 Botany Road);
- Electrical substation adjoining this commercial building along the Botany Road frontage of the subject site (within No 925 Botany Road);
- A metal clad building in the central portion of the site, previously used as a Scout Hall (within Lot C DP 359530);
- Park lighting poles currently existing within the public open space area fronting Lever Street;
- Park furniture and seating and play equipment.

2.3 *THE SURROUNDING DEVELOPMENT & LOCALITY*

The site is located on the eastern side of Botany Road, the major arterial road in the vicinity of the site, with the nearest cross street being Tramway Street, approximately 75metres to the north. The immediate area has a variety of uses including commercial uses along this portion of Botany Road adjoining the site, with high density residential development existing along the northern boundary of the Lever Street Reserve in the form of residential apartment buildings.

The larger part of the subject site consists of the public open space area of Lever Street Reserve which comprises a playground, park seating, lighting and a pedestrian pathway.

2.4 *THE PROPOSAL*

The proposal involves the demolition of the following structures:

- Two storey commercial building adjoining the Botany Road frontage of the subject site at No 925 Botany Road (Structure A);
- Metal clad building formerly used as a Scout Hall (Structure B); and
- Five (5) park light poles ((Structure C).

3. TRAFFIC AND PEDESTRIAN MANAGEMENT

3.1 SITE LOCATION AND ROAD NETWORK

The subject site has two (2) road frontages and three vehicle access points. These vehicle access points include:

- Northern vehicle access point from Botany Road to the rear car parking area at No 925 Botany Road;
- Southern vehicle access point from Botany Road to the rear car parking area at No 925 Botany Road; and
- Service vehicle access point from Lever Street to the east, which is gated and locked.

The subject site has numerous pedestrian access points, which include the following:

- Pedestrian pathway 3.38 metres wide along the northern boundary of the site accessed from Botany Road to the rear car parking area at No 925 Botany Road then into the Lever Street Reserve under a right of way;
- Pedestrian access directly from Lever Street into the reserve;
- Pedestrian access directly from Rolfe Lane into the reserve adjoining the existing Scout Hall;
- Pedestrian access is provided along the Botany Road frontage via an existing concrete footpath which will be maintained throughout the proposed demolition works.

The site location is shown in Figure 2 above while the vehicle and pedestrian access points are shown in **Figure 3** below.



Figure 3: Vehicle and Pedestrian Access Points into the Subject Site (Source: SIX Maps)

Botany Road provides a major route between the eastern suburbs and the city. It provides a four lane carriageway with two traffic lanes in each direction and on-street car parking when the bus lane is not in use. A bus lane exists adjoining the site and operates between 3pm and 7pm (in peak periods). Major intersections are signalised with additional lanes for turning traffic. A bus stop exists approximately 40 metres to the north of the site.

Lever Street is a local road with on-street car parking and vehicle access driveways to low density residential development.

There is a car parking area at the rear of 925 Botany Road, however, there is no other car parking existing on the site.

3.2 OVERALL PRINCIPLES FOR TRAFFIC MANAGEMENT

The proposed demolition work will commence with the demolition of Structure A in Stage 1, followed by the demolition of Structure B in Stage 2. The demolition works will cease following the removal of Structure C from various locations within the Lever Street Reserve.

The overall principles for traffic management during the demolition of structures are:

- To provide a convenient and appropriate environment for pedestrians;
- To minimise effects on pedestrian movements and amenity;
- To manage and control vehicular movements to and from the site;
- To maintain traffic flow in the vicinity of the site;
- To maintain existing on-street parking in the vicinity of the site where practical;
- To maintain access to other properties adjacent to the site;
- To restrict vehicle activity to designated truck routes through the area;
- To maintain safety for workers; and
- To provide appropriate access to the site for demolition traffic.

It is not anticipated that an on street works zone will be required for the demolition works. However, should an on-street works zone be required, a separate application will be made to Bayside Council by the demolition contractor.

Demolition work will be carried out in accordance with any relevant conditions of development consent and is likely to be between the following hours:

- Monday to Friday: 7:30 am to 5:30 pm;
- Saturday: 7:30 am to 3:30 pm; and
- Sunday/Public Holidays: no work.

The control of hours of operation avoids truck movements during the early hours of the morning, before 7:30 am and in the evening, after 5:30 pm.

3.3 *TRAFFIC AND PEDESTRIAN ACCESS DURING DEMOLITION WORK*

As outlined in the Statement of Environmental Effects prepared by KJ Planning dated January 2018, the proposed demolition work is likely to be carried out in the following phases:

- **Stage 1: Demolition of Structure A** – The demolition of the existing commercial building (Structure A) at 925 Botany Road will be carried out within an area of the site which is to be fenced off from the remainder of the site. Vehicle access will be provided from Botany Road via the northern access point. The vehicles will be loaded with demolition materials while standing in the existing rear car parking area and will exit the site in a forward direction along the southern driveway and access point to Botany Road.

The pedestrian right of way along the northern boundary of the site will be closed off during this stage of the proposed demolition. The remainder of the park and pedestrian access points, being those in Lever Street and Rolfe Lane, will be retained during this stage of the proposed demolition.

- **Stage 2: Demolition of Structure B** – Following Stage 1 of the proposed demolition, the existing metal clad building formerly used as a scout hall (Structure B) will be demolished. The pedestrian access point from Rolfe Lane will be closed during this second stage of the proposed demolition, while the northern pedestrian access point from Botany Road will be re-opened to the public to allow through pedestrian access from Botany Road to Lever Street. Vehicle access for the removal of demolition waste from this stage of the proposed demolition will be from Lever Street, with the grass area to the east of the former scout hall to be used for manoeuvring of vehicles to allow such vehicles to enter and leave the site via Lever Street in a forward direction.
- **Stage 3: Demolition of Structure C** – The demolition of the five (5) light poles will be carried out following the demolition of the Scout Hall. The park may be temporarily closed (for both use and pedestrian through-traffic) while these light poles are removed. Vehicle access to the site for the removal of the light poles will be as per Stage 2.

The Traffic & Pedestrian Management Plans for the proposed demolition work are outlined in **Annexure C** and **Annexure D**. Pedestrian access along Botany Road and within Lever Street will be

maintained during demolition works, with appropriate fencing to enclose the site to reduce potential safety hazards to pedestrians. Appropriately qualified site personnel will be used to ensure safe pedestrian activity and access across designed vehicle access points during the demolition works.

For matters relating to the construction process, local residents will be able to contact the appointed contract or by telephone or email. A dedicated telephone number will be established to the project managers which will be transferred to the contractor once it has been appointed.

3.4 TRUCK ROUTES

During demolition, trucks transporting material from the site will be accommodated on the site, as outlined in **Annexures C & D**. Vehicle access to and from the site will be provided from Botany Road for Stage 1 and Lever Street for Stages 2 and 3.

Access arrangements and vehicle movements to and from the site will be managed and controlled by site personnel. This will be outlined in the Final Traffic Control Plan to be provided as part of the final demolition documentation prior to the commencement of works.

It is proposed that trucks will travel to and from the site along Botany Road for Stage 1 and along Lever Street, then left into Tramway Street and into Botany Road (refer to **Figure 4**) for Stages 2 and 3. The designated truck routes to and from the site are designed to restrict traffic, as far as practicable, to the main road network though the area. The proposed truck routes are considered appropriate for the area.

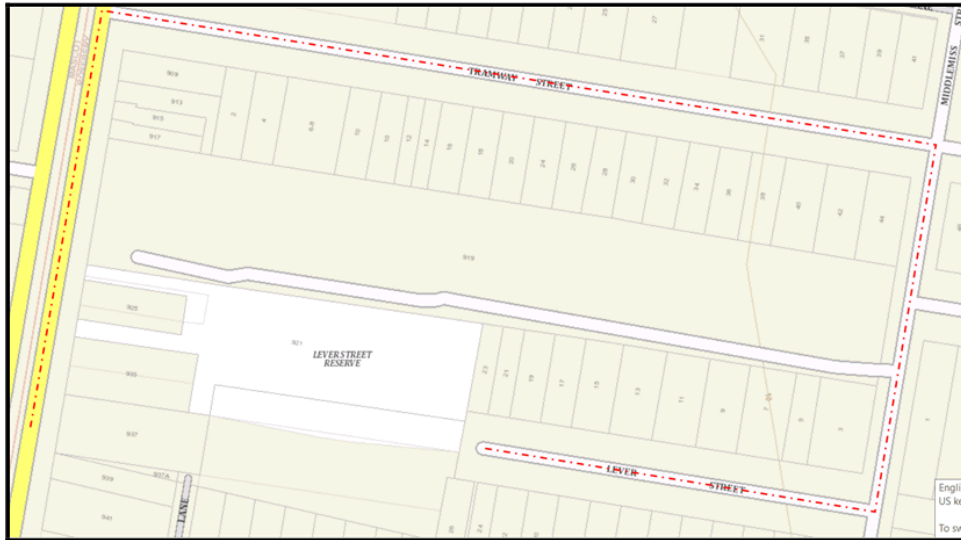


Figure 4: Truck Routes for the Proposed Demolition (Source: SIX Maps)

3.5 TRAFFIC AND PARKING IMPACTS

During the demolition period, there will be a number of truck movements per day, which will be further considered in the detailed demolition documentation to be provided prior to work commencing on the site. These trucks will be covered and have their wheels washed.

Drivers will be in radio or mobile telephone contact with the site supervisor who will coordinate the arrival of trucks as required.

It is anticipated that during the demolition and excavation periods, there would be some 5 demolition employees on the site, although employee numbers will vary over the demolition period. Employees will be encouraged to use public transport when travelling to and from the site. Public transport timetables will be made available to employees. Parking will also be available for employees in surrounding streets. The existing car park at the rear of No 925 Botany Road will be used by demolitions trucks to load demolition materials.

4. CONCLUSION

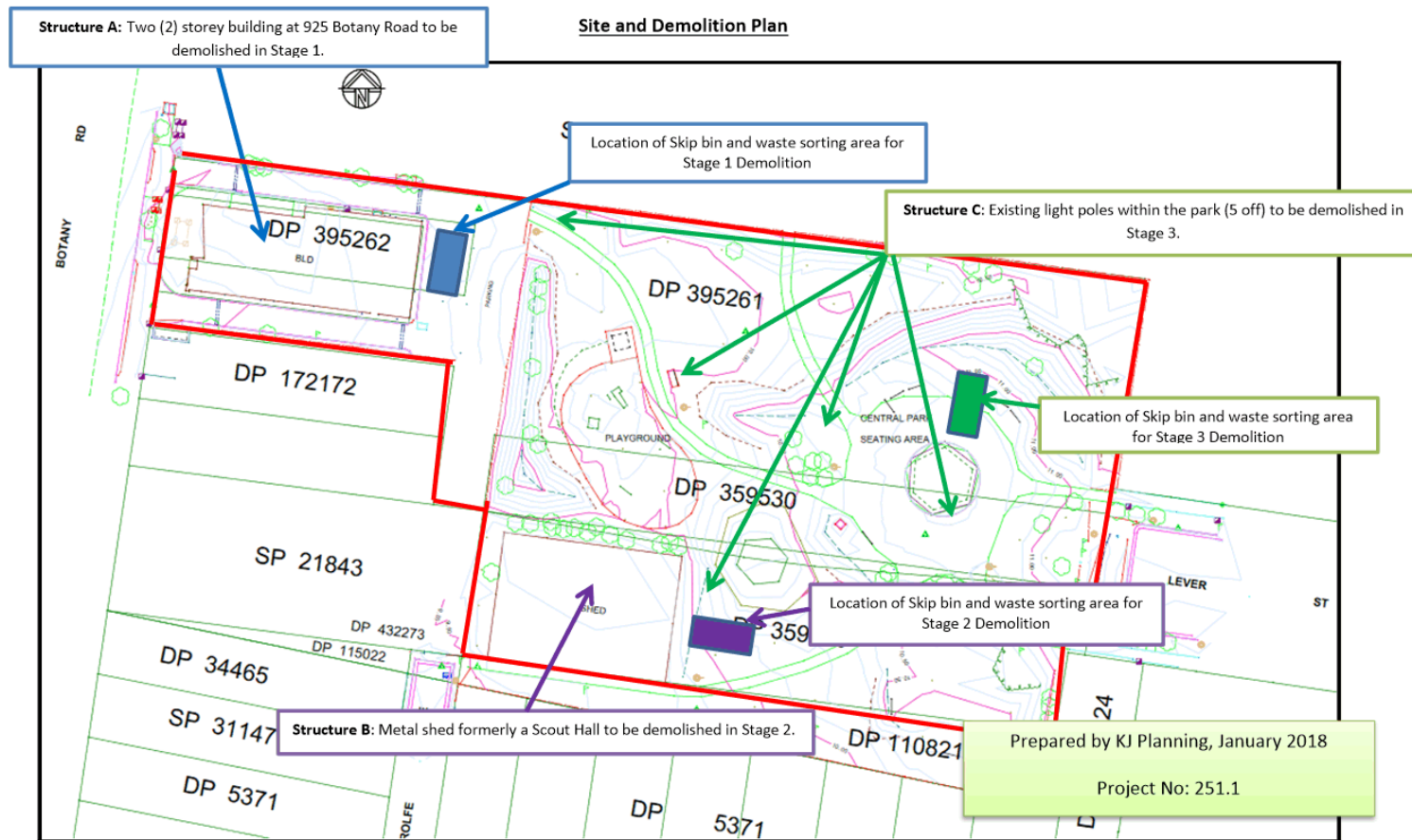
The following points summarise the traffic and pedestrian management for the proposed demolition works:

- Demolition activity to be provided for on-site;
- Demolition vehicle access to the site will be provided from Botany Road (Stage 1) and Lever Street (Stages 2 & 3);
- Vehicle movements on and off the site are to be managed and controlled by appropriately qualified site personnel;
- Truck movements to and from the site to be restricted to designated truck routes through the area;
- Class A construction fencing and overhead protection where required, will be provided adjacent to the demolition area on the Botany Road site frontage. Where demolition activities occur on the site boundary, the construction fence will be extended beyond the site boundary to provide additional protection for pedestrians;
- The management of the site works will be the responsibility of the site contractor;
- Pedestrian activity across the site access driveways will be managed and controlled by appropriately qualified site personnel;
- Pedestrian warning signs to be utilised in the vicinity of the site;
- Pedestrian arrangements, demolition activity and erection of safety fencing will be provided in accordance with SafeWork NSW requirements; and
- Signage to be provided in accordance with Australian Standards and the Roads and Traffic Authority's Manual for Traffic Control at Work Sites.

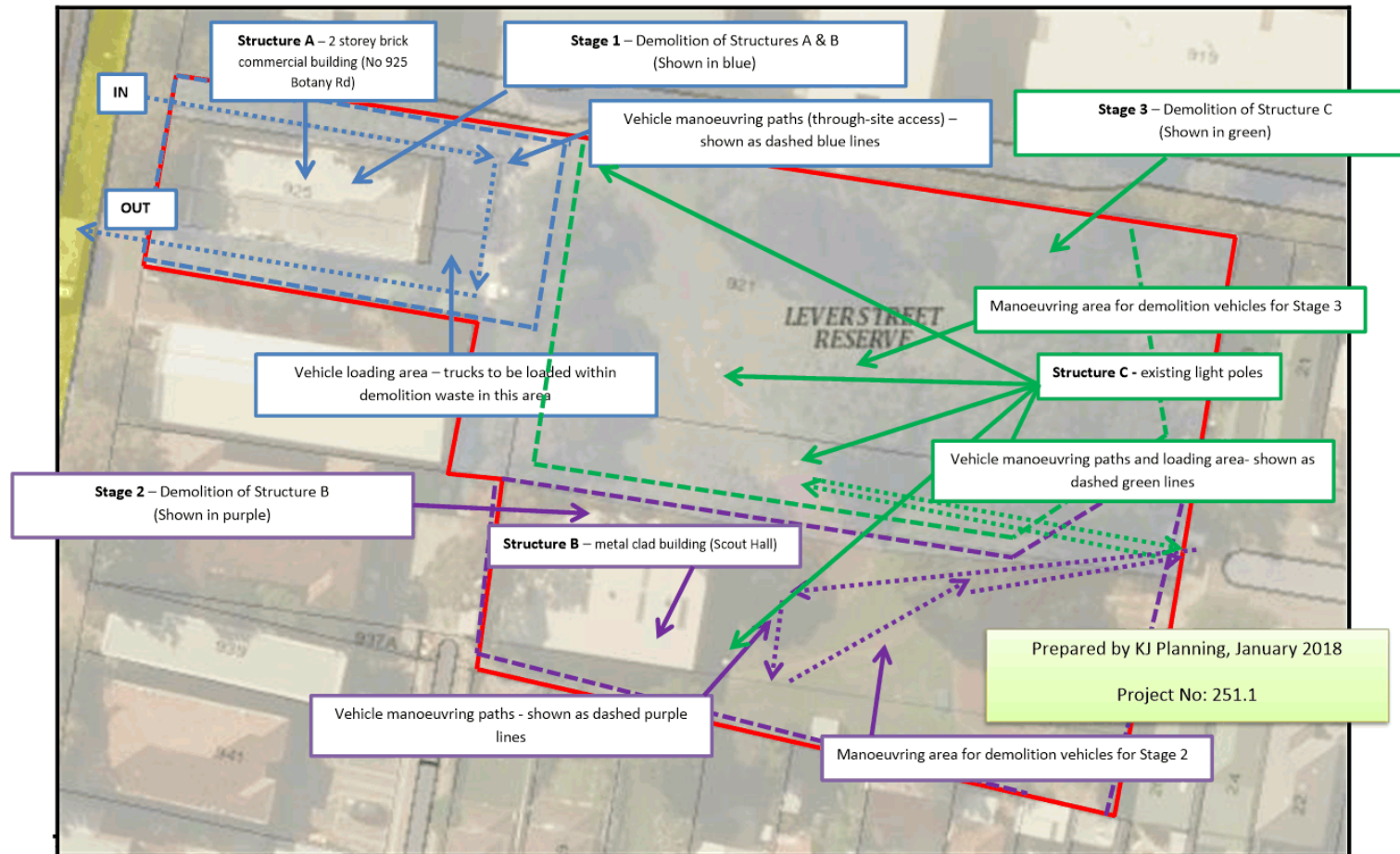
ANNEXURE A: Survey Plan



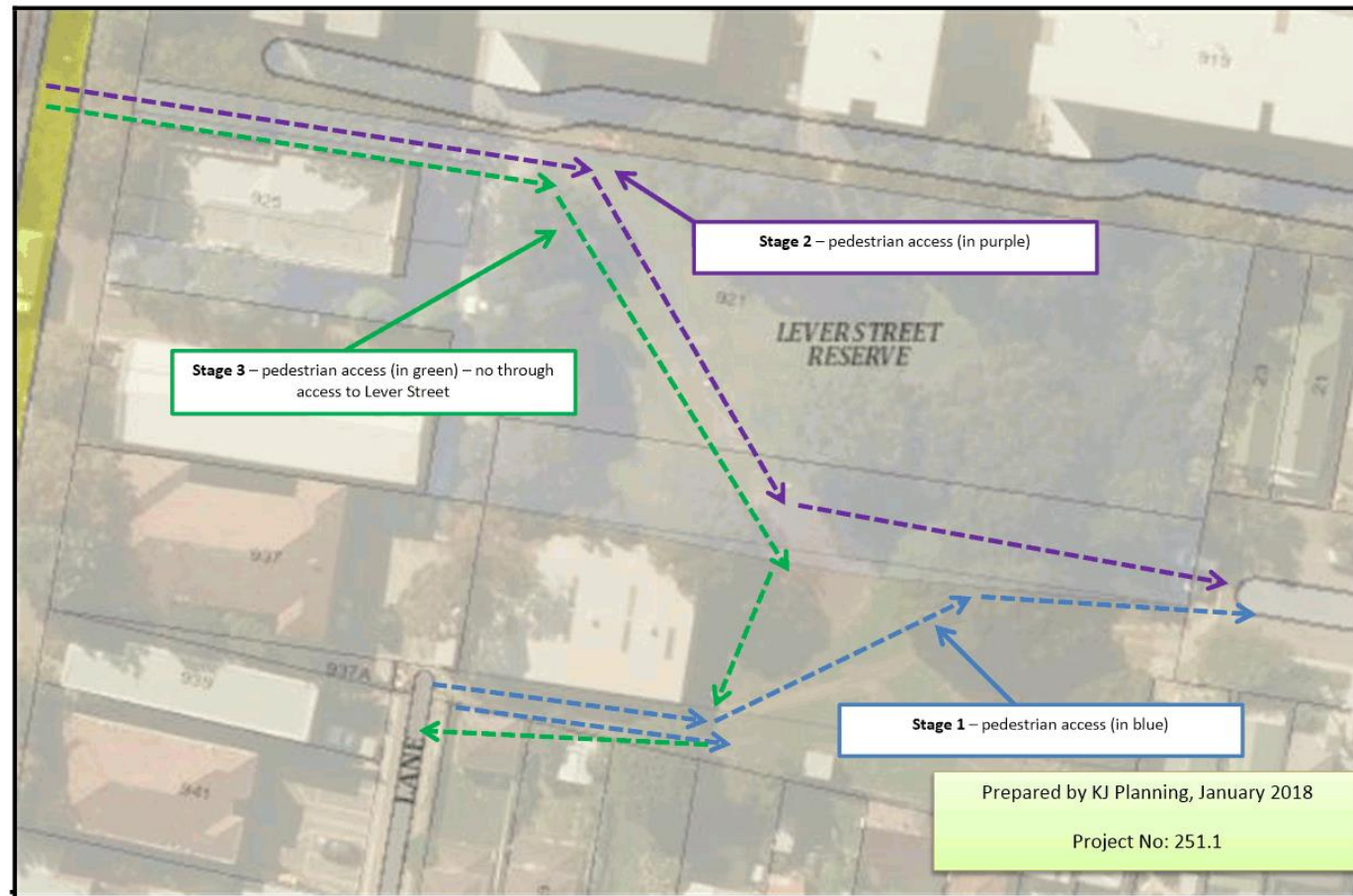
ANNEXURE B: Site/Demolition Plan



ANNEXURE C: Traffic Management Plan



ANNEXURE D: Pedestrian Management Plan



Waste Management Plan – Lever Street Reserve



Lever Street Reserve and 921 & 925 Botany Road, Rosebery

Waste Management Plan

Demolition of Existing Structures

Prepared on behalf of Bayside Council

January 2018

Project No 251-1

Waste Management Plan – Lever Street Reserve

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Waste Management Plan – Lever Street Reserve

1. INTRODUCTION

This Waste Management Plan seeks to ensure the appropriate handling, storage and disposal of waste generated during the proposed demolition of several structures on land known as the Lever Street Reserve. The subject site is comprised of a number of separate allotments, which are legally described as follows and illustrated in **Figure 1**:

- Lot 1 DP 395261 - 921 Botany Road Rosebery;
- Lot B DP 395262 - 921 Botany Road Rosebery;
- Lot A DP 317365 – 28 Lever Street Rosebery;
- Lot A DP 359530 - 28 Lever Street Rosebery;
- Lot C DP 359530 - 28 Lever Street Rosebery;
- Lot 1 DP 1108215 - 28 Lever Street Rosebery;
- Lot A DP 395262 – 925 Botany Road Rosebery; and
- Lot 2 DP 395261 - 925 Botany Road Rosebery.

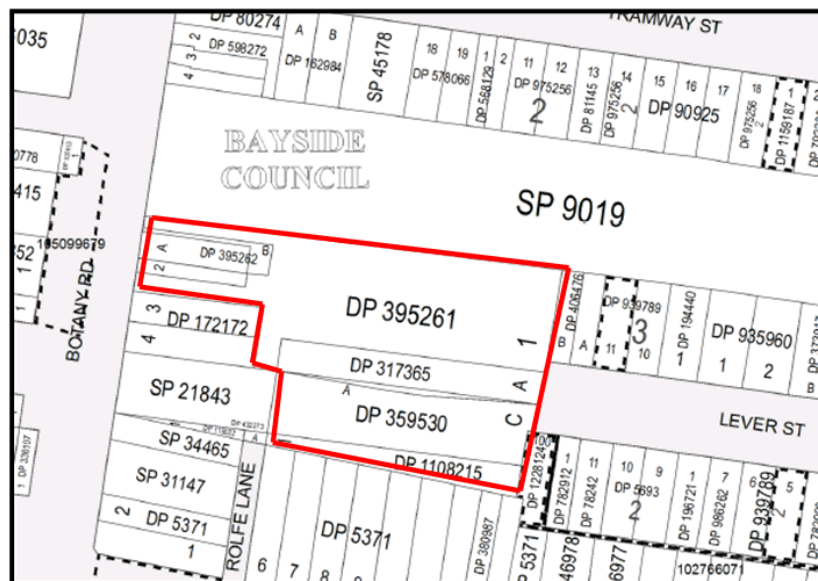


Figure 1: Allotments Comprising the Subject Site (Source: Land and Property Information, 22/09/2017)

Waste Management Plan – Lever Street Reserve

The subject site is generally known as the Lever Street Reserve ('the subject site') and is located between Lever Street to the east and Botany Road to the west. The subject site is accessed via a pedestrian pathway from Lever Street through to Botany Road via a right of carriageway, while there is also a pedestrian pathway through to Rolfe Lane. Existing vehicle access to No 925 Botany Road is also available from Botany Road. The location of the site is illustrated in **Figure 2**. The total site area is approximately 5,480m².

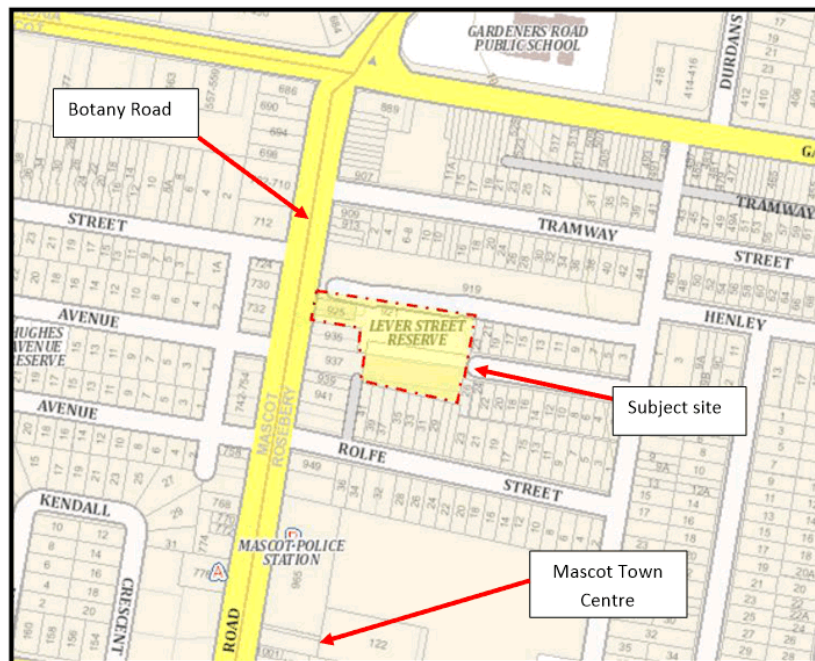


Figure 2: Location of the Site (Source: Six Maps)

This Waste Management Plan has been developed in accordance with Part 3N – Waste Minimisation and Management of the *Botany Bay Development Control Plan 2013* (BBDCP 2013).

2. THE PROPOSAL

The proposal involves the demolition of the following structures:

- Two storey commercial building adjoining the Botany Road frontage of the subject site at No 925 Botany Road (Structure A);

Waste Management Plan – Lever Street Reserve

- Metal clad building formerly used as a Scout Hall (Structure B); and
- Five (5) park light poles ((Structure C).

The Site/Demolition Plan is provided at **Annexure A**.

The demolition is proposed to be undertaken in the following stages to minimise disruption to the use of the park and the various pedestrian pathways throughout the site, which are outlined in the accompanying *Traffic and Pedestrian Management Statement* prepared by KJ Planning dated January 2018:

- **Stage 1: Demolition of Structure A** – The demolition of the existing commercial building (Structure A) at 925 Botany Road will be carried out within an area of the site which is to be fenced off from the remainder of the site. Vehicle access will be provided from Botany Road via the northern access point. The vehicles will be loaded with demolition materials while standing in the existing rear car parking area and will exit the site in a forward direction along the southern driveway and access point to Botany Road.

The pedestrian right of way along the northern boundary of the site will be closed off during this stage of the proposed demolition. The remainder of the park and pedestrian access points, being those in Lever Street and Rolfe Lane, will be retained during this stage of the proposed demolition.

- **Stage 2: Demolition of Structure B** – Following Stage 1 of the proposed demolition, the existing metal clad building formerly used as a scout hall (Structure B) will be demolished. The pedestrian access point from Rolfe Lane will be closed during this second stage of the proposed demolition, while the northern pedestrian access point from Botany Road will be re-opened to the public to allow through pedestrian access from Botany Road to Lever Street. Vehicle access for the removal of demolition waste from this stage of the proposed demolition will be from Lever Street, with the grass area to the east of the former scout hall to be used for manoeuvring of vehicles to allow such vehicles to enter and leave the site via Lever Street in a forward direction.

Waste Management Plan – Lever Street Reserve

- **Stage 3: Demolition of Structure C** – The demolition of the five (5) light poles will be carried out following the demolition of the Scout Hall. The park may be temporarily closed (for both use and pedestrian through-traffic) while these light poles are removed. Vehicle access to the site for the removal of the light poles will be as per Stage 2.

The Traffic & Pedestrian Management Plan for the proposed demolition work is contained at **Annexure B** and **Annexure C**, which outlines the proposed pedestrian and vehicle access during demolition works, with appropriate fencing to enclose the site to reduce potential safety hazards to pedestrians. Appropriately qualified site personnel will be used to ensure safe pedestrian activity and access across designed vehicle access points during the demolition works.

3. TYPES OF WASTE, STORAGE AND COLLECTION

Types of Waste

The type of waste to be produced on the site during the proposed demolition activities includes the following materials:

- Concrete (from the existing commercial building at 925 Botany Road as well as hard stand areas);
- Plasterboard;
- Timber (from walls, floor and roof structures);
- Metal;
- Bricks; and
- Glass (mainly from windows).

Waste Removal

The waste generated at this site is to be removed by the demolition contractor to an appropriate resource recovery facility.

Waste Management Plan – Lever Street Reserve

4. RELEVANT PLANNING CONTROLS

Part 3N of BBDCP 2013 contains controls relating to waste management for development. The objectives of these controls state:

- *O1 To minimise the volume of waste generated during demolition and construction;*
- *O2 To maximise the re-use and recycling of materials generated during demolition and construction; and*
- *O3 To minimise the volume of waste that is directed to landfill.*

The proposed demolition will satisfy these objectives given the demolition wastes are to be transported to the relevant recycling facility to reduce waste going to landfill.

The relevant controls are considered below in **Table 1**.

Table 1: Consideration of the Demolition Controls of Part 3N of BBDCP 2013

REQUIREMENTS	PROPOSAL	COMPLY
3N.2 Demolition and Construction		
C1 A Site Waste Minimisation and Management Plan in accordance with Part 1 – Model Site Waste Minimisation and Management Plan (refer to Part 3N.4 - Appendices) must be submitted for Development Application involving: (i) Demolition (ii) New development; and (iii) Alterations and additions affecting more than 20m ² of floor area.	This Waste Management Plan satisfies this requirement.	✓
C2 A detailed plan must be submitted showing: (i) A scaled drawing of any bin/container storage room (s) and area(s), temporary holding area(s), waste chute service room(s) and interim recycle/waste storage room(s); (ii) Details regarding how waste is to be minimised within a development; (iii) Estimation of quantities and types of materials to be re-used or left over from removal from the site;	The location of the skip bins required for the proposed demolition is shown on the Site Plan in Annexure A . The entire buildings and structures as outlined above are to be demolished and the waste sent to the relevant recycling facility. All material is to be sent to the relevant recycling facility (with a minor portion unlikely to be recycled), with the relevant materials outlined in Section 3 of this Plan.	✓ ✓ ✓

Waste Management Plan – Lever Street Reserve

(iv) Details regarding the types of waste and likely quantities of waste to be produced;	The type of waste is outlined above, while the quantities will be considered prior to work commencing on the site.	✓
(v) A site plan showing areas away from public access for reusable materials and recyclable materials during demolition and construction and the vehicle access to these areas;	The location of the skip bins and waste sorting areas required for the proposed demolition and the vehicle entry and exit points are shown on the Site Plan in Annexure A .	✓
(vi) Details of reusing and recycling methods for waste either on-site or off-site;	All material is to be sent to the relevant recycling facility (with a minor portion unlikely to be recycled), with the relevant materials outlined in Section 3 of this Plan.	✓
(vii) Target for recycling and reuse;	All material is to be sent to the relevant recycling facility, however, a minor portion is unlikely to be recyclable, likely to be around 10%.	✓
(viii) Nomination of persons responsible for ensuring targets are met and the person responsible for retaining waste dockets from facilities appropriately licensed to receive the development's construction and demolition waste;	To be provided by the demolition contractor when engaged prior to work commencing on the site.	✓
(ix) Confirmation that all waste going to landfill is not recyclable or hazardous; and	All material is to be sent to the relevant recycling facility (with a minor portion unlikely to be recycled), with the relevant materials outlined in Section 3 of this Plan.	✓
(x) Measures to reuse or recycle at least 80% of construction and demolition waste, either on site or diverted for reused and recycling with receipts sufficient to demonstrate the target will be achieved.	All material is to be sent to the relevant recycling facility (with a minor portion unlikely to be recycled likely to be approximately 10%), with the relevant materials outlined in Section 3 of this Plan.	✓
C3 Materials that have an existing reuse or recycling market should not be disposed of in landfill. Table 1 provides some examples of demolition materials and potential reuse/recycling opportunities.	All material is to be sent to the relevant recycling facility (with a minor portion unlikely to be recycled), with the relevant materials outlined in Section 3 of this Plan.	✓
C4 Separate collection bins or storage areas for materials to be reused, recycled and directed to landfill are to be provided.	Provided as shown on the Site Plan in Annexure A .	✓
C5 All storage areas and collection bins must be located within the site boundaries.	The location of the skip bins and waste sorting areas required for the proposed demolition are shown on the Site Plan in Annexure A within the site.	✓

Waste Management Plan – Lever Street Reserve

C6 Any material moved offsite is to be transported in accordance with the requirements of the <i>Protection of the Environment Operations Act (1997)</i> .	All loads will be transported in accordance with the regulations, including loads covered and wheels washed prior to exiting the site.	✓
C7 Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area if the location of the container(s): (i) Does not disturb traffic flow or pedestrian movement; and (ii) Does not disturb normal stormwater flow.	Skip bins located on the site.	✓
C8 Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) must be conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.	To be addressed in the <i>Safe work Method Statement</i> to be provided prior to demolition works commencing on the site.	✓
C9 Evidence/records such as weighbridge dockets and invoices for waste disposal or recycling services are to be retained on site demonstrating lawful disposal of waste.	To be addressed in the <i>Safe work Method Statement</i> to be provided prior to demolition works commencing on the site.	✓
C10 All waste and recycling is to be stored so as to prevent damage by the elements.	To be addressed in the <i>Safe work Method Statement</i> to be provided prior to demolition works commencing on the site.	✓
C11 Storage areas must be easily accessible for collection vehicles, clearly signposted indicating purpose and content and managed appropriately to prevent stormwater pollution, damage to vegetation and odour and health risks.	The vehicle entry and exit points will be clearly identified and are outlined in Annexures B and C .	✓

The proposed waste storage area is considered to be consistent with these objectives given the location of this area is within the site and does not detract from the amenity of the area or the operation of the local road network.

The reuse/recycle/disposal table outlined in 3N.4 Appendices is provided at **Annexure D**.

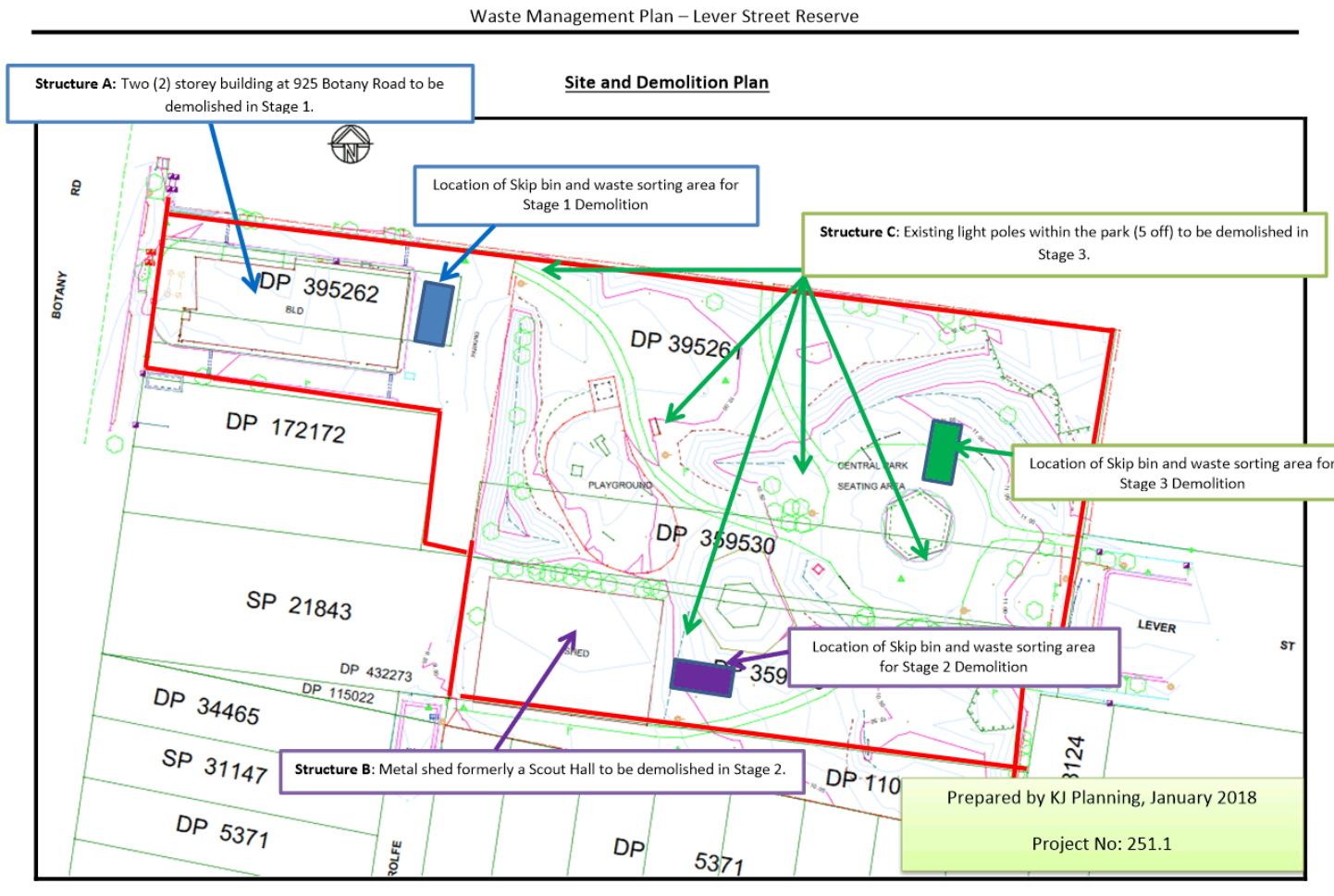
The proposal is considered to be consistent with these planning controls.

5. CONCLUSION

The storage and collection of waste on the site will be undertaken in accordance with this Plan, which will ensure that demolition waste is managed effectively and without any adverse impacts on the amenity of the surrounding area or the environment.

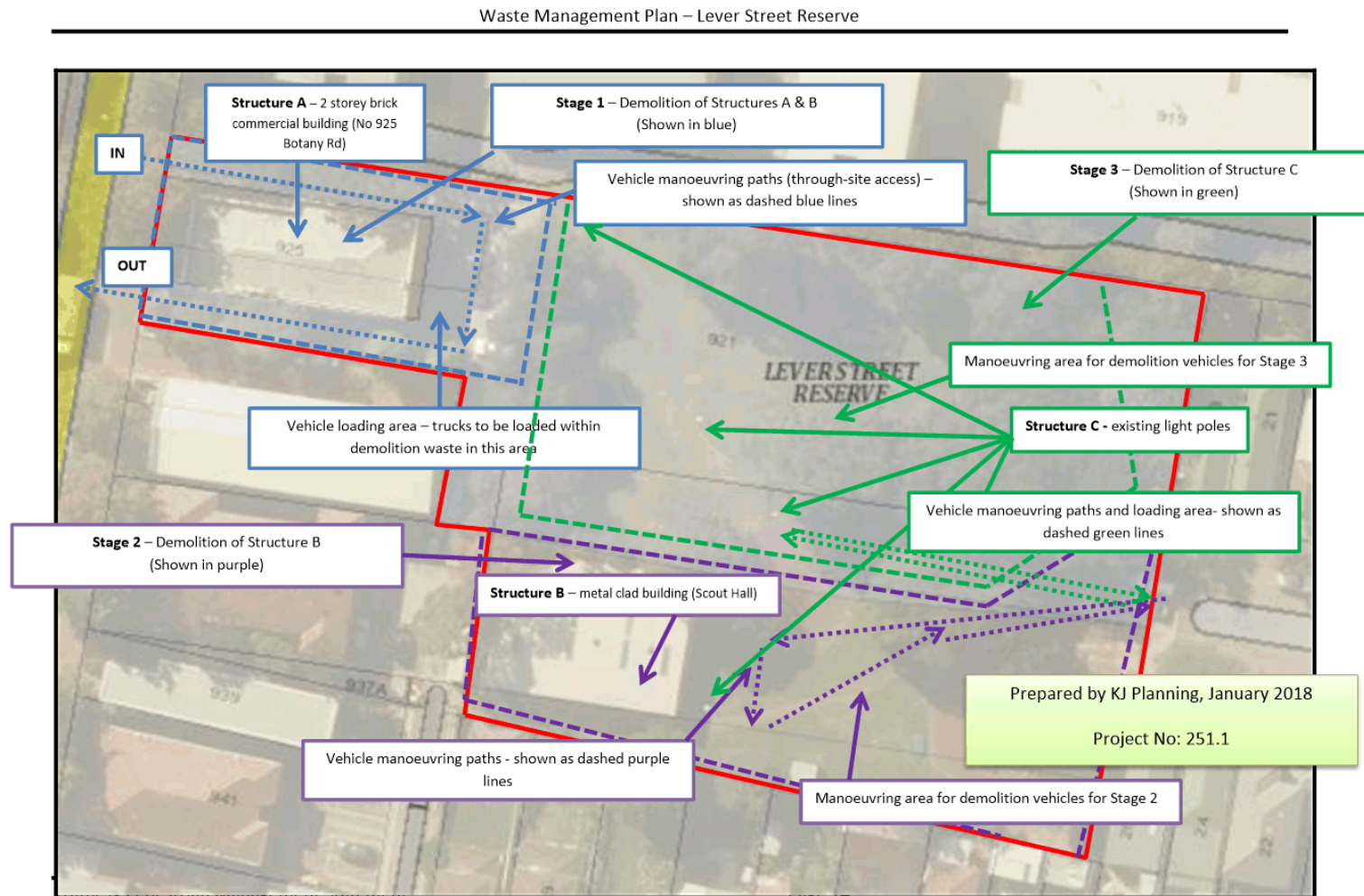
Waste Management Plan – Lever Street Reserve

***ANNEXURE A: SITE/DEMOLITION PLAN SHOWING BIN STORAGE
LOCATION***



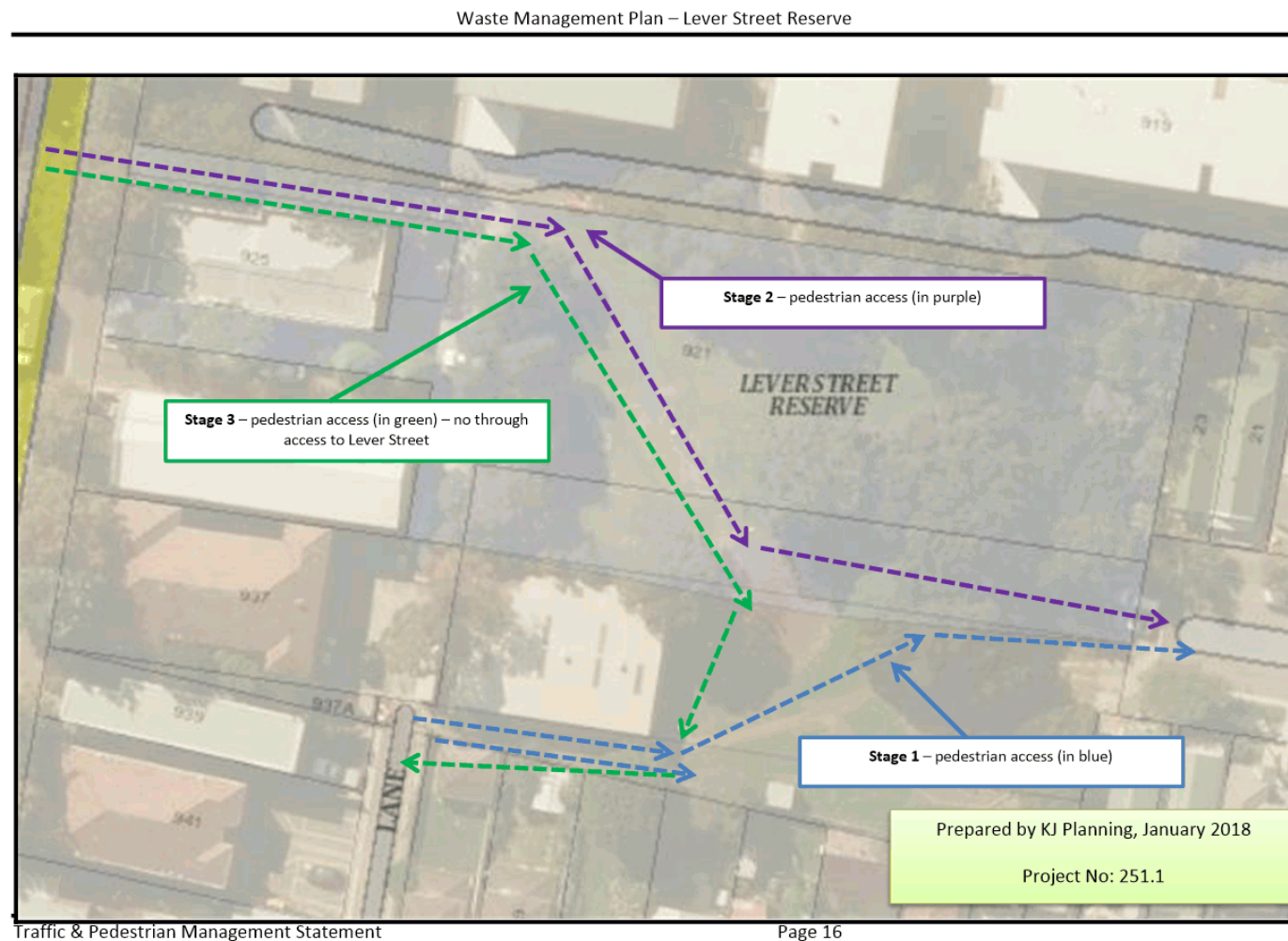
Waste Management Plan – Lever Street Reserve

ANNEXURE B: Traffic Management Plan



Waste Management Plan – Lever Street Reserve

ANNEXURE C: Pedestrian Management Plan



Traffic & Pedestrian Management Statement

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Waste Management Plan – Lever Street Reserve

ANNEXURE D: Reuse/Recycle/Disposal Table

Waste Management Plan – Lever Street Reserve

Materials on Site		Destination		
Type of Material	Estimated Volume	Re-use and recycling		Disposal
		On-site reuse & recycling (specify proposed on-site reuse & recycling methods)	Off-site reuse & recycling (specify contractor and/or recycling outlet)	Off-site disposal (specify contractor & landfill site)
Excavation material	N/A	N/A	N/A	N/A
Green waste (organic)	N/A	N/A	N/A	N/A
Bricks	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Concrete	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Timber – specify type	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Plasterboard	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Metals – specify type	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Tiles – specify type	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing
Other (such as light fittings, kitchen or bathroom fittings)	To be provided by demolition contractor prior to work commencing	N/A	To relevant recycling facility	To be provided by demolition contractor prior to work commencing



LEVER STREET RESERVE

Landscape Masterplan



PROJECT: LEVER STREET RESERVE MASTERPLAN
DWG No.: SK/M7.01 REV: 3
DATE: 22.01.2018
SCALE: 1:200 @ A1 / 1:400 @ A3



Bayside Local Planning Panel

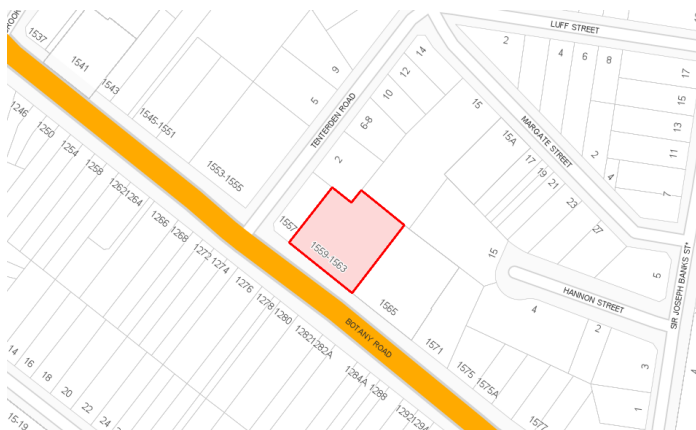
11/12/2018

Item No	6.2
Application Type	Section 4.55(1) Modification
Application No	SF18/2447
Lodgement Date	06/11/2018
Property	DA-2015/94/05 - 1559-1563 Botany Road, Botany
Ward	Botany Bay
Owner	Bangalay Holdings Pty Ltd & Videlia Properties Pty Ltd
Applicant	Bangalay Holdings Pty Ltd & Videlia Properties Pty Ltd
Proposal	Modification to delete Condition No. 105 as the site is not within a 20-25 ANEF contour.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Bayside Local Planning Panel approve the Section 4.55(1) Modification Application to modify Development Consent No. DA-2015/94/05 at 1559-1563 Botany Road, Botany and delete Condition No 105.

Location Plan



Application Details

Application Number:	2015/94/05
Date of Receipt:	6 November 2018
Property:	1559-1563 Botany Road, Botany Lot 111 DP904964, Lot 112 DP918728 & Lot B DP 386436
Owners:	Bangalay Holdings Pty Ltd & Videlia Properties Pty Ltd
Applicant:	Bangalay Holdings Pty Ltd & Videlia Properties Pty Ltd
Proposal:	Section 4.55(1) Application to delete Condition No 105 as the site is not within a 25 ANEF contour.
Recommendation:	Approve
Value:	Nil
No. of submissions:	N/A
Author:	Ana Trifunovska, Development Assessment Planner
Date of Report:	20 November 2018

Key Issues

Section 4.55(1) Application to modify Development Consent No. 2015/94/05 to delete Condition No 105 which was placed in the Consent in error as the site does not fall within the 25 ANEF contour.

The application did not require public notification under Part 2 – Notification and Advertising of the BDDCP 2013 as the proposed modification is considered minor.

The key issue with this application relates to the placement of Condition No 105 in the Consent which incorrectly states that the site is within a 25 ANEF contour. The proposed development is within the 20-25 ANEF contour and therefore Condition No 105 is considered redundant and is recommended to be deleted.

The modification application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to the modified conditions of consent in the attached Schedule.

Recommendation

It is RECOMMENDED that the Bayside Local Planning Panel:

1. Approve the Section 4.55(1) Modification Application to modify Development Consent No. 2015/94/05 to delete Condition No 105 placed in error, at 1559-1563 Botany Road, Botany.
2. Resolve to modify Development Consent No. 2015/94/05 under Section 4.55(1) of the Environmental Planning and Assessment Act 1979 as follows:
 - a) Delete Condition No 105 to acknowledge that the subject site is not in the 25 ANEF Contour.

Background

History – Approved Development

- Deferred commencement consent was issued by Council on 9 December 2015, the deferred commencement conditions related to obtaining a fire safety management plan, internal and external amendment to the church, an amended landscape plan and details relating to the mechanical ventilation system and its impacts to the heritage building.

Operational consent for the subject application was issued by Council on 26 September 2016 for the erection of a residential flat building containing 18 units; the restoration of existing heritage buildings; and adaptive reuse of the existing Church to a commercial premises, and the use of the existing manse as a dwelling, at 1559-1563 Botany Road, Botany. Details of the approved development include the following:

- Conservation works including the retention, repair and restoration of the heritage listed former Church building with alterations and additions comprising of a new mezzanine level and rear addition to facilitate the buildings adaptive reuse as a commercial premises;
- Conservation works comprising the retention, repair and restoration of the front portion of the heritage listed former Manse with alterations and additions to the rear to provide a contemporary addition and garden for ongoing use as three bedroom dwelling house;
- Demolition of the existing dwelling at No. 1559 Botany Road and various structures across the site;
- Excavation works for the purposes of a basement car park;
- Construction of a part two, part three storey infill building that is 'L' shaped in form situated along the north-eastern and north-western sides of the site with a landscaped communal courtyard and rear open space. The infill building comprises of:
 - 1 x two bedroom, two storey SOHO dwelling (small office/home office) accessible from the northern end of the Botany Road frontage, and containing a balcony at Level 2;
 - 2 x two bedroom, two storey townhouse-style dwellings attached to the rear of the SOHO dwelling, and underneath its balcony, with access from the internal courtyard;
 - 15 single storey units at the three storey rear portion of the building containing:
 - 6 x one bedroom units, and
 - 9 x two bedroom units, with each unit provided with individual entries via unenclosed walkways provided to each level, and containing private open space areas to the rear.
 - Construction of basement parking containing 40 car parking spaces and three motorcycle spaces accessed from Botany Road; and
 - Ancillary landscaping with ground level bicycle parking facilities.

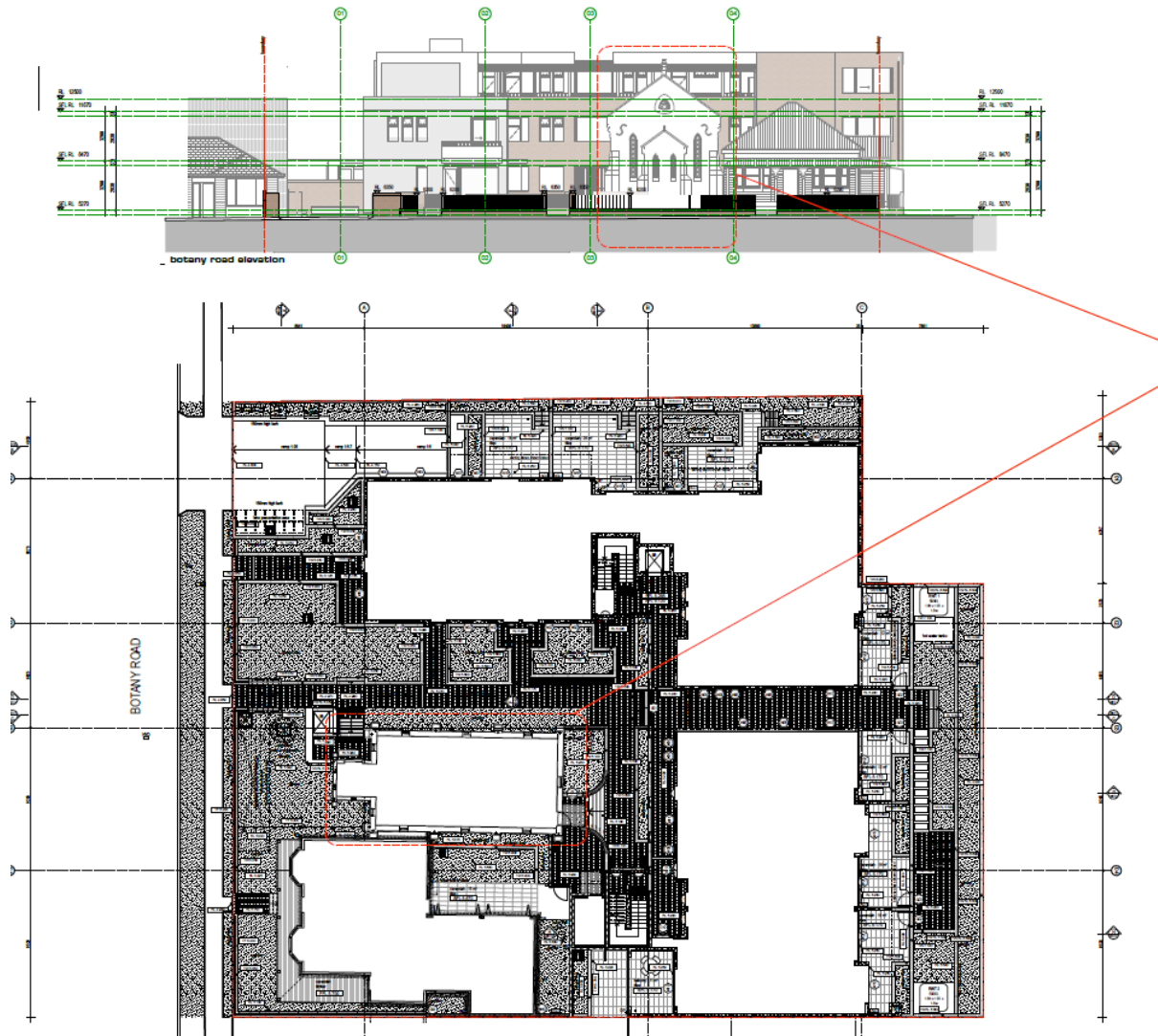


Figure 1 - Proposed Elevation and Site Plan

- **DA-15/94/02** was approved by Council on 19 May 2017 to amend the internal configuration of some of the apartments; modify the external finishes to reflect the internal reconfigurations; reconfiguration of the fire stairs and accessible toilet; and relocation of the downpipes to the external face of the wall.
- **DA-15/94/03** Court Appeal discontinued. Withdrawn 06 March 2018
- **DA-15/94/04** was approved on 05 March 2018 to modify the materials of the rear courtyard fencing from face brick to treated pine lapped timber. It should be noted that although this application was the third modification, there is no '03' modification.

Description and Assessment of the Proposed S.4.55 (1) Modifications

The proposed modification seeks to delete Condition No 105 which incorrectly states that the site is within a 25 ANEF contour as follows:

"Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which:-

- a) Acknowledges that:
 - i) The land is within a 25 ANEF contour;

- ii) *The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and*
- b) *Requires the Owner to maintain the noise attenuation work in accordance with the approved acoustic report outlines within Condition No. 1 of this Consent; and*
- c) *The terms of such positive covenant shall provide that it can only be varied by Bayside Council."*

A positive Covenant cannot be registered on the Title of the development site as the land is not within the 25 ANEF contour but rather in the 20-25 ANEF contour (refer to Figure 1). Therefore, the condition is deemed unnecessary as it was imposed on the Consent in error and Council does not require this Covenant for properties within the 20-25 ANEF contour.



Figure 2- ANEF Map. Subject site highlighted in red

Statutory Considerations

SECTION 4.55(1) CONSIDERATIONS (previously Section 96(1))

Section 4.55(1) of the Environmental Planning and Assessment Act 1979 states that

"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation."

Council supports the proposed modification to delete Condition No 105 to acknowledge that the site is not within the 25 ANEF contour and the condition was imposed on the Consent in Council error. Accordingly, the condition is deleted.

Planning Matters

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The application relates to a condition that does not alter the built form approved as part of DA-2015/94/04. The building will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013

The application refers to the deletion of Condition No 105 which relates to Clause 6.9 Development in areas subject to aircraft noise in Botany Bay Local Environmental Plan 2013. The subject site is within the 20-25 ANEF contour which has been accounted for in the original Development Application. The previous conclusions made in the parent DA have not been altered as part of this application and it is confirmed that the condition was imposed on the Consent in error. Therefore the modification does not raise any concern or affect compliance in regards to the BBLEP2013.

Botany Bay Development Control Plan 2013

The subject application refers to the deletion of Condition No 105 which relates to Part 3J – Development Affecting Operation at Sydney Airport in Botany Bay Development Control Plan 2013. The subject site falls within the 20-25 ANEF contour meaning that Condition No 105, stating that the land is within a 25 ANEF contour, is incorrect and has been imposed on the Consent in error. However, this error does not affect any other requirements of BBDCP2013 which were assessed accordingly within the parent applications. Therefore, the proposal is not contrary to the requirements of the BBDCP 2013 and the condition may be deleted.

Notification

The application was not required to be notified under Part 2 – Notification and Advertising of the BBDCP 2013.

Conclusion

The Section 4.55(1) Application seeks to modify Development Consent No. 2015/94/05 which approved the demolition of existing dwellings and erection of a mixed use development to delete Condition No 105 as the site is not within a 25 ANEF contour. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Attachment

Schedule 1 – Conditions of Consent

Premises: 1559-1563 Botany Road, Botany

DA No: 2015/94/05

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
1430 - DA06 D – Demolition Plan	Kennedy Associates Architects	Dated: 11 June 2015, Received by Council: 16 June 2015
1430 - DA07 D – Basement Car Park	Kennedy Associates Architects	Dated: 11 June 2015, Received by Council: 16 June 2015
1611 – S96 WD08D, External Works Plan	Kennedy Associates Architects	Dated 3 January 2017, Received by Council 7 February 2018 (DA-15/94/04)
1430 – DA08 G – Ground Plan 1611 - S96 01A, Ground Floor Plan	Kennedy Associates Architects	Dated: 3 August 2016, Received by Council: 3 August 2016 Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1430 – DA09 F – First Floor 1611 - S96 02A, First Floor Plan	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1430 – DA10 F – Second Floor 1611 - S96 03A, Second Floor Plan	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1430 – DA11 F – Roof Plan 1611 - S96 04A, Roof Plan	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1430 – DA12 E – Elevations	Kennedy Associates Architects	Dated: 25 September 2015, Received by Council: 9 October 2015 (DA-15/94/02)
1430 – DA13 D – Elevations	Kennedy Associates Architects	Dated: 11 June 2015, Received by Council: 9 October 2015 (DA-15/94/02)

Drawing No.	Author	Dated Received
1122 - S96 06A, Elevations	Kennedy Associates Architects	Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1122 - S96 07A, Elevations 1611 - S96 WD10D, Elevations	Kennedy Associates Architects	Dated 3 January 2017, Received by Council 17 January 2017 (DA- 15/94/02) Dated 3 January 2017, Received by Council 7 February 2018 (DA-15/94/04)
1122 - S96 08A, Elevations	Kennedy Associates Architects	Dated 3 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
1430 - DA14E - Sections	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 (DA-15/94/02)
1430 - DA15E - Sections	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 (DA-15/94/02)
1430 - DA16E - Sections	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016 (DA-15/94/02)
1430-DA17G-Materials	Kennedy Associates Architects	Dated: 7 September 2016, Received by Council: 7 September 2016
1430 - DA22 E - Adaptable Units	Kennedy Associates Architects	Dated: 24 September 2015, Received by Council: 9 October 2015
1430 - DA34 A - Manse Mechanical	Kennedy Associates Architects	Dated: 8 February 2016, Received by Council: 11 February 2016
L101 (I) Landscape Masterplan	Jane Irwin Landscape Architecture	Dated: 16 March 2016; Received by Council: 16 March 2016.
150301 - L102 (C) – Plant Schedule + Materials	Jane Irwin Landscape Architecture	Dated: 24 September 2015, Received by Council: 9 October 2015
2015-0432 - DA-STW- 001 (B) - Title Sheet and Locality Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW- 002 (B) Legend,	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015

Drawing No.	Author	Dated Received
Abbreviations and Drawing List		
2015-0432 - DA-STW-003 (B) General Notes	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-004 (B) Survey Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-007 (B) Erosion & Sediment Control Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-007 (B) Erosion & Sediment Control Details	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-101 (B) Stormwater Drainage Basement Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-101 (B) Stormwater Drainage Ground Floor Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-103 (B) Stormwater Drainage First Floor Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-104 (B) Stormwater Drainage Second Floor Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-105 (B) Stormwater Drainage Roof Plan	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-201 (B) Stormwater Drainage Detail Sheet No.1	LP Consulting Australia Pty Ltd	Dated: 10 June 2015, Received by Council: 16 June 2015
2015-0432 - DA-STW-202 (C) Stormwater Drainage Detail Sheet No.2	LP Consulting Australia Pty Ltd	Dated: 30 September 2015, Received by Council: 9 October 2015
Mark up plan of mechanical ventilation	n.a.	Received by Council: 18 February 2016

Drawing No.	Author	Dated Received
Access Report	Accessibility Solutions (NSW)	Dated: 10 June 2015, Received by Council: 16 June 2015
Acid Sulfate Soils Assessment Report No. E22244 AB - Rev1	Environmental Investigations Australia	Dated: 24 July 2014, Received by Council: 16 June 2015

Drawing No.	Author	Dated Received
Acoustic Report, file reference 2734R20150603asBotanyv3.docx	Koikas Acoustics Pty Ltd	Dated: 3 June 2015, Received by Council: 16 June 2015
BASIX Certificate Number 632553M_03	Building & Energy Consultants Australia	Dated 17 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
BASIX Certificate Number A219951	Building & Energy Consultants Australia	Dated: 11 June 2015, Received by Council: 16 June 2015
Construction Environmental Management Plan Project No. MPC-15-05/1 Document No. CEMP-R02	Evolve Project Consulting Pty Limited	Dated: June 2015, Received by Council: 16 June 2015
Geotechnical Investigation Report No. E22244 GA	Environmental Investigations Australia	Dated: 14 May 2015, Received by Council: 16 June 2015
Hazardous Materials Survey Report No. E22244 AC	Environmental Investigations Australia	Dated: 23 October 2014, Received by Council: 16 June 2015
Stage 1 Environmental Site Assessment E22244 AA	Environmental Investigations Australia	Dated: 24 July 2014, Received by Council: 16 June 2015
Statement of Heritage Impact	NBRS + Partners	Dated: June 2015, Received by Council: 16 June 2015
Waste Management and Re-Use Plan Project No. MPC-15-05/1 Document No. WMP-R02	Evolve Project Consulting Pty Limited	Dated: June 2015, Received by Council: 16 June 2015
Letter to Motski Pty Limited	David Brown, TCG Consulting Engineers	Dated: 4 February 2016; Received 18 February 2016
Fire Engineering Assessment Report FER2014.093D	Fahrenheit Global	Dated: 2 September 2016, Received by Council: 2 September
External Cladding Technical Specification: PrimeLine Weatherboard	James Hardie	Dated: March 2016, Received 24 August 2016
Statement of Environmental Effects S96 (02)	Kennedy Associates Architects	Dated 11 January 2017, Received by Council 17 January 2017 (DA-15/94/02)
Statement of Environmental Effects S96 (04)	Smith Group Pty Ltd	Dated 30 January 2018, Received 7 February 2017 (DA-15/94/04)

2. No construction works (including excavation) shall be undertaken prior to the issue of the Construction Certificate.
3. Unless shown on the approved plans or within the approved documents, no further works are permitted to the Church or Manse without a modification to this consent. This includes works which may be required to achieve BCA compliance, but are not shown within the approved plans or Fire Engineering Assessment.
4. With regard to the outdoor surface finishes, the approved Landscape Plan shall prevail over the plans prepared by Kennedy Associates Architects, with the exception of the rear fence on the subject site's northern side. In this regard, the materiality of the fence as approved on the External Works Plan prepared by Kennedy Associates, prevails.

(DA-15/94/04)

5. If the cladding to the Manse, currently located on the wall directly opposite the Church, is not able to be retained as part of the proposed performance solution outlined within the approved Fire Engineering Assessment, it may be replaced by a horizontal cladding, James Hardie Primeline Weatherboard, with patterns and colour to match the existing Manse. If the existing cladding is replaced, structural plans shall be provided for the approval of Council, to indicate the method of providing the replacement cladding to the existing building.
6. The ground floor of the 'SOHO commercial' unit must be used primarily for commercial purposes.
7. The applicant must, at no cost or expense to Council:
 - a) Upgrade the public domain and Council footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate; and
 - b) Upgrade the Council nature strips on Botany Road by excavating to a depth of 150mm, backfilling with an appropriate turf soil mix and re-turfing at the Applicant's expense; and
 - c) Upgrade the public domain and Council kerb and gutter with new kerb and gutter installed by the applicant and at the applicant's expense.
8. This Consent relates to land in Pt Lot 11 & 112 DP 918728 and Lot B DP 386436, as such, building works must not encroach on to adjoining lands or the adjoining public place.
9. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate for the development, being Certificate Nos. 632553M and A219951, each dated 11 June 2015, are fulfilled.
 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the

- development when this development consent is modified); or
- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
10. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i. The consent authority; or,
 - ii. An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i. Has appointed a principal certifying authority; and,
 - ii. Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii. The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.
 - c) All building work must be carried out in accordance with the provisions of the Building Code of Australia.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

11. The following conditions are imposed by the **NSW Roads and Maritime Service (RMS)**.
- a) The redundant driveways on the Botany Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Botany Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).
- 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) In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary to allow for twoway simultaneous entry and exit.

- c) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- d) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 88492114 or Fax: 88492766

- e) 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. In this regard, a plan shall be submitted to Council for approval which shows that the proposed development complies with this requirement.
- f) All vehicles are to enter and exit the site in a forward direction.
- g) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.6-2009 offstreet parking for people with disabilities.
- h) The proposed development should be designed such that road traffic noise from Botany Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.

- i) The developer shall be responsible for all public utility adjustment /relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
 - j) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Botany Road.
 - k) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Botany Road during construction activities.
 - l) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Botany Road.
 - m) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
12. The following General Terms of Approval imposed by the **NSW Office of Water** are to be complied with:
- a) General
 - i) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorization shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
 - ii) The design and construction of the building must prevent any takeoff groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
 - iii) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - 1. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - 2. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - 3. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
 - iv) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in

groundwater, and shall not themselves cause pollution of the groundwater.

- v) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

b) Prior to excavation

i) The following shall be included in the initial report:

- 1 measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
- 2 a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
- 3 details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
- 4 a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. IDPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.

- ii) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and, be documented together with all calculations and information to support the basis of these in the initial report.

- iii) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATACertified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the

dewatered groundwater and present the details of all assessments and plans in the initial report.

- iv) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
 - v) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
 - vi) A copy of a valid consent for the development shall be provided in the initial report.
 - vii) The method of disposal of pumped water shall be nominated (i.e. ReInjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
 - viii) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be re-injected into any aquifer. The re-injection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be re-injected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the re-injection site.
- c) During excavation
- i) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
 - ii) Piping, piling or other structures used in the 'management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off- site discharge.
 - iii) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and summary showing daily or weekly levels in all monitoring bores provided in the completion report.
 - iv) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/so The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
 - v) Dewatering shall be undertaken in accordance with groundwater related management plans applicable to the excavation site. The requirements of any

management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

- vi) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
 - vii) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.
- d) Following excavation
- i) Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
 - 1 detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - 2 a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - 3 a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
 - e) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE

13. Any existing **heritage fabric** that is being proposed to be demolished shall first be considered to be reused close to its existing location. If not possible to be reused, any heritage fabric that is demolished or removed from its existing location shall be stored and a record kept of its storage. Details of where the heritage fabric is stored is to be supplied to Council prior to the issue of the Occupation Certificate.

To satisfy this condition, the applicant must contact Council on localhistoryteam@bayside.nsw.gov.au in order to see if any of the fabric can be stored at Council's George Hanna Memorial Museum. The applicant must also contact the Presbyterian Church of Australia in order to see if any of the fabric can be reused in other places.

14. A complete Interpretation Plan and Strategy for the site 1559 - 1563 including the exterior and interior of the Church, Manse and Cottage, as well as the surrounding landscape and landscape features shall be submitted to and approved by Bayside Council prior to any works commencing on site, including demolition. An electronic copy and one (1) hard copy of the Interpretation Plan and Strategy are required to be lodged with Council.

Note: The Interpretation Plan and Strategy will be available to the Council's Library for research purposes.

15. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-

- a) Written notice, indicating the date when demolition of the building is to commence.
- b) This persons full name and address.
- c) Details of Public Liability Insurance.

16.

- a) Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site.
- b) In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.
- c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.
- d) The applicant shall bear the cost of all restoration works to buildings/structures and public infrastructure that been damaged during the course the demolition, site clearing

and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.

- e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.
17. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
18. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
19. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
20. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
21. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
22. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 - Guide to Lead Paint Management-Residential and Commercial Buildings
 - c) Requirements of NSW WorkCover Authority.
23. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
24. No demolition materials shall be burnt or buried on the site.
25. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
26. Vibration levels induced by the demolition activities shall not exceed 1 mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
27. An Acid Sulphate Soils Management Report (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority, prior to the issue of the Construction Certificate. This report shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The report shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of ASS affected excavated material;
 - c) Measures taken to neutralise the acidity of any ASS affected material; and
 - d) Run-off control measures for the ASS affected soil.
 - e) All recommendations of the report shall be implemented, prior to the commencement of building works.
28. An acid sulphate soil management plan shall be submitted to Council for approval if sediments suspected of potent acid sulphate generation are encountered during excavation or construction activities.
29. The operation shall not give rise to offensive odour or other air impurities in contravention

of the Protection of the Environment Operations Act 1997. The Principal contractor shall ensure that all practical means are applied to minimize dust and odour from the site. This includes:

- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression
 - g) Keeping excavated surfaces moist.
30. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.

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

31. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-

a) Builders Damage Deposit	\$120,000.00 (Condition 53)
b) Development Control	\$2,890.00
c) Section 94 Contributions	\$367,988.24 (Condition 30)
d) Tree Preservation Bond	\$3,850.00 (Condition 39)

32. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the Botany Bay Section 94 Contributions Plan 2005-2010.

Section 94 Development Contribution Plan 2005-2010

Residential

Community Facilities:	\$34,429.68
Open Space and Recreation	\$265,544.53
Administration:	\$1,299.34

Transport Management:	\$38,726.45
Commercial	
Community Facilities:	\$2,968.00
Administration:	\$378.00
Shopping Centre (City Wide)	\$1,603.00
Open Space and Recreation:	\$22,211.00
Transport Management:	\$828.24

The Section 94 Contribution of **\$367,988.24** is to be paid to Council prior to the issue of the first Construction Certificate. Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

33. Proposed works should be carried out in such a way that all conservation work to the existing site and existing buildings is carried out to traditional detailing where appropriate. Details to be provided in the Construction Certification drawings with such details being approved by the applicant's Heritage Architect - NBRS & Partners prior to the issue of the Construction Certificate.
34. Prior to the issue of the Construction Certificate, the Applicant is to submit documentary evidence to the Certifying Authority that the required Licence under the Water Management Act 2000 has been obtained.
35. It should be noted that a basement car park stormwater pump-out system will be only considered after all avenues to draw the property by gravity are exhausted. The basement car park stormwater pump-out system will not cater (a) subsoil water (which are not allowed to intrude into the carpark) and (b) any stormwater that originates from a level that is above the top of the adjacent street kerb or, if no street kerb, the level of the existing ground at the property boundary at the road reserve.

In order to make satisfactory arrangements for the operation of the stormwater pump-out system, the system shall be designed and constructed to ensure the following are provided:

- a) A holding tank capable of storing the run-off from a 100 year ARI – 12 hour duration storm event allowing for pump failure.
- b) Two pump system (on alternate basis) capable of emptying the holding tank at a rate equal to the lower of the permissible site discharge (PSD) rate; or the rate of inflow for the one hour, 5 year ARI storm event
- c) An alarm system in case of pump failure
- d) Submission of full hydraulic details and pump manufacturers specifications
- e) Pump out system to be connected to the on-site infiltration system or a stilling sump and gravity line before discharge to the street drainage or, if no drainage, the gutter.

- f) Plans and calculations are to be submitted and approved along with certification from the designer to indicate that the design complies with the above requirements, prior to the release of the Construction Certificate.
36. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas (where available) and water tap connections to each balcony.
37. All plumbing stacks, vent pipes, ~~stormwater downpipes~~, air conditioning units, and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principle Certifying Authority prior to the issue of the Construction Certificate.

(DA-15/94/02)

38. Stormwater plans shall be submitted to Council or Certifying Authority prior to the release of the Construction Certificate. The proposed stormwater drainage system shall be designed according to Council's current Guidelines for the Design of Stormwater Drainage Systems. The plans must be certified (by the appropriate practicing expert) that they have been "designed in accordance with Council's current Guidelines for the Design of Stormwater Drainage systems, and other current industry standards, codes and guidelines". The Stormwater plans should be generally in accordance with plans prepared by LP Consulting- Job No. 2015 - 0432 Dated May 2015, with the following amendments:
- a) Note: The proposed infiltration system is to amendment to have replace the first 300mm of the crushed rock with Turf, topsoil and a geotechnical fabric on top of the remaining crushed rock.
 - b) Disposal of stormwater by infiltration must be accompanied by geotechnical report prepared by a practicing professional geotechnical engineer, which demonstrates that there will be no adverse impact on the adjoining land and buildings.
 - c) No stormwater infiltration system shall be placed within the building footprint.
 - d) Where problems occur between the providing of stormwater systems and landscaping, landscaping provisions shall prevail. In these circumstances large stormwater structures shall be placed under a proposed hard surfaces as long as it is not located within the building footprint. If this cannot be achieved than Council may, on representation, consider placement within the landscape footprint provided it does not cover greater than 50% of the landscape area and/or it is constructed so that the top of the structure is 1.2m below final surface levels.
 - e) Council requires drainage structures to be located adjacent to the building or boundary rather than in the middle of the landscape footprint.
 - f) All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure.
 - g) Any Construction Certificate issued in relation to this consent shall incorporate and address the design of those works required by this consent which do not require separate Roads Act 1993 or Local Government Act 1993 approval and any ancillary works necessary to make the construction effective. All works on existing public roads, including stormwater discharging from the site, require

separate engineering approval pursuant to Section 68 of the Local Government Act 1993.

39. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system. Details of the pollution control device shall be submitted to principal certifying authority prior to the issuing of the Construction Certificate.
40. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater - Soil and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction certificate. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
41. The applicant is to submit payment for a Tree Preservation Bond of \$3850 to ensure protection of three (3) Council street trees (1 x *Platanus x acerifoli* and 2x *Melaleuca quinquenervia*) in the nature strip fronting the Church, no. 1563 and no. 1557 Botany Road from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by a qualified Arborist and a report to Council. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time during construction, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
42. Infiltration trenching and gross pollutant trap within the front setback of the property shall be sited clear of all garden beds to allow for effective landscaping. Two (2) rainwater tanks located at the north and south of the site shall be orientated to be parallel with the boundary fence to enable site responsive landscaping and improve amenity.
43. Any electrical substations are to be housed within the building structure. These items reduce the visual amenity of the development, public spaces and the public domain. Above-ground utilities including fire boosters must be appropriately screened in an enclosure. Details of the proposed screen shall be submitted to and approved by the Bayside Council Landscape Architect prior to Issue of Construction Certificate.
44. A Public Domain Landscape Plan is required for Botany Road. The plan shall be submitted to and approved by the Bayside Council Landscape Architect prior to issue of any Construction Certificate. The landscape plan shall include the following amendments:
 - a) Treatment of the nature strip and footpath to Council's specification. Location of any above ground electrical pillars needs to be considered and shown on plan.
 - b) Two (2) *Lophostemon confertus* (Brushbox) trees, pot size minimum 100litre and minimum height of 1.8 metres, shall be installed in the Botany Road nature strip. One (1) on the southern side of the 'Manse' property (no. 1563 Botany Road) and one (1) to the south of the driveway access.
45.
 - a) A detailed Schedule of Works for the Church, Manse and adjacent landscaping features shall be submitted to and approved by Bayside Council prior to the issue

of the Construction Certificate. The detailed Schedule of Works for the Church, Manse and adjacent landscaping features is to be prepared in association with the applicant's Heritage Architect - NBRIS & Partners.

- b) The Schedule of Works is to include the recommendations of the Comprehensive Fire Safety Management Plan and Plan of Action for fixed and movable items.
- c) Council advises/requires:
 - i. The schedule lodged with the DA is inadequate, and is to be updated and made comprehensive. It needs to include ALL works to Church, Manse and adjacent landscaping features.
 - ii. There is a new door opening for a bedroom in the manse onto the eastern front verandah and the blocking of an existing window to this room facing west. Further detail is required on this aspect.
 - iii. The sets of rear stairs and serpentine path need to be retained or reused in the vicinity of their current locations. Retention is not feasible given the basement Carparking required. Their reuse is to be included as part of the Schedule of Works required.

46.

- a) All Church joinery and artefacts must be retained, either in their existing locations or stored elsewhere.
- b) A Plan of Action for fixed and movable items should be stated clearly in the updated Schedule of Works to be submitted to, and approved by Bayside Council prior to the issue of the Construction Certificate.
- c) In this regard the applicant is to contact Council on localhistoryteam@bayside.nsw.gov.au in order to see if any of the Church joinery and artefacts can be stored at Council's George Hanna Memorial Museum. Contact is also to be made with the Presbyterian Church of Australia in order to see if any of the items can be reused in other places.
- d) If not possible to be reused, any Church joinery and artefacts that are to be removed from its existing location shall be stored and a record kept of its storage.
- e) Details of where the heritage fabric is stored is to be supplied to Council prior to the issue of the Occupation Certificate.

47. The building shall be designed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*. The report is to include any required noise attenuation to the structure of the building to meet the above standard and acoustically treated mechanical ventilation, if necessary, to comply with the above standard. If the applicant chooses to install air conditioning to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the Protection of the Environment Operations (Noise Control) Regulation 2000. (Information attached in the Advisory section). Details shall be submitted to Principal Certifying Authority prior to the release of the Construction Certificate

48. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom Managing Urban Stormwater - Soils and Construction

4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

49. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Erosion and Sediment Control Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom (The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
50. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan(ESCP) prior to the release of any construction certificate.
51. All plant and equipment (including but not limited to air conditioning equipment) shall not be visible from the public domain. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
52. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$120,000.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
53. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
54. Prior to the issue of the Construction Certificate, design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
55.
 - a) Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.
 - b) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or

landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.

56.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - iii) As part of this development, any Ausgrid power or lighting poles along the Botany Road frontage will need to be decommissioned and new light pole(s) and associated underground infrastructure shall be provided as specified by Ausgrid, RMS and any other affected service provider. The location of the new electrical pillars shall be confirmed with Council prior to the issue of the Construction Certificate.
 - iv) All utility services are to be undergrounded for the full frontage of Botany Road.
- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

These matters shall be determined prior to the issue of any Construction Certificate.

57. A Construction Management Program shall be prepared to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction

machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,

- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - l) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
 - m) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from Bunnerong Road.
 - n) Obtain Permits required under this consent.
58. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with the current versions of Council's off-streetparking DCP; Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation unless otherwise stipulated by another condition of consent. All off street resident, disabled, visitor and commercial parking shall be provided in accordance with the approved plans, Australian Standards AS 2890.6 and Council requirements.
59. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
60. Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standards 2118 is

maintained.

Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.

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

61. The proposed works to the Church and manse are to be carried out by a contractor and tradesman specialised in Heritage conservation and construction. All works shall be undertaken in a manner that minimizes demolition, alterations, and new penetrations/fixings to all significant fabric. Details of the contractors and tradesmen and their relevant experience in Heritage Conservation are to be provided to Council prior to the commencement of any work (including demolition) on site.
62. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act:-
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner *builder work* in Section 29 the Home Building Act 1989.
63. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
64. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.

65. Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
66. Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
67. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
68. The Applicant has permission to remove the (*Melaleuca quinquenervia*) street tree within the footprint of the proposed driveway at their own expense. The tree may only be removed after a Construction Certificate has been issued and removal shall be undertaken by the Applicant at their own expense.
 - a) A qualified Arborist with their own public liability insurance must be engaged.
 - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
 - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

69. In order to ensure that three (3) Council street trees (1 x *Platanus x acerifolia* and 2 x *Melaleuca quinquenervia*) in the Botany Road nature strip fronting the site are retained and protected during construction, and their health and structural stability ensured, the following is required:
 - a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
 - c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
 - d) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first

lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

- e) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- g) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- h) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- i) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 - Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- j) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- k) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- l) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- m) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- n) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

70. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
71. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
72. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

73. Council requires an application to discharge water to a Council road or stormwater system. The application must be made in writing to Council estimating volume and number of days involved and must be accompanied by a current dewatering license from the NSW Office of Water. For water to be permitted to go to stormwater the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Freshwater. If the groundwater does not meet these guideline levels a Trade Waste Permit from Sydney Water must be sought to put the groundwater to sewer.
74. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage

management facility approved by the Council.

- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
75. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -
- a) It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
76. A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3(Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RMS accredited.
77. A Road Opening Occupancy Licence is required from the relevant Road Authorities (Council or RMS) for all works on existing public roads. The application for this licence must be accompanied by a Traffic Management /Control plans.
78. The applicant shall conduct all construction and related deliveries wholly on site or shall make a separate application to Council's Engineering Services Department for a "Work Zone" adjacent to the development site. This application should be submitted one (1) month prior to the planned commencement of building works on the development site. Application forms are available at Council's Customer Service Counter.

DURING WORKS

79. If archaeological evidence is discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with section 146 of the Heritage Act 1977. Remnants and artefacts discovered during demolition, earthworks or excavation shall be photographed, catalogued by location and description and stored and preserved in an appropriate place. Disposal of the remnants and artefacts shall only occur in consultation with, and subject to, the agreement of Council.
80. All materials excavated from the site (fill or natural) shall be classified in accordance with

the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

81. The applicant is responsible for the installation and protection of all regulatory/parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant.
82. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the development. 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.
83. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
84. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
85. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.

If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
86. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
87. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be

validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

- 88. Any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 89. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 90. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
- 91. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 92. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 93.
 - a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
- 94. The following shall be complied with during construction and demolition:

a) Construction Noise

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

b) Level Restrictions

i) Construction period of 4 weeks and under:

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

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

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

c) Time Restrictions

i. Monday to Friday 07:00am to 06:00pm

ii. Saturday 07:00am to 01:00pm

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

d) Silencing

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

95.

a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,

c) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- e) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - f) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
96. During Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
97. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
98. Care must be taken to protect Council's roads, including the made footway, kerbs, etc and where plant and vehicles enter the site. Protecting constructions shall be maintained in a state of good repair and condition throughout the course of construction and kept in a safe condition. The area must be safe for pedestrian traffic at all times. Any damage to Council's road reserve will be repaired and the full cost shall be borne by the applicant.
99. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (eg footpath, nature strip, shoulder, road reserves, public car parks, service stations, etc) without the prior approval of Council's Engineering Services Section.
100. Council's footway is to be kept clean, tidy, washed and maintained at the applicant's expense.

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

101. A complete photographic archival record, before, during and after works, for the site 1559 -1563 Botany Road, including the overall site, the Church, Manse and the Cottage external and internal images, shall be submitted to and approved by Bayside Council prior to an Occupation Certificate being issued. An electronic copy and one (1) hard copy of the complete photographic archival record are required.

Note: The photographic archival record will be available to the Council's Library for research purposes.

102. A Heritage Maintenance Plan shall be prepared to guide the future maintenance of heritage fabric on the subject site, and submitted to Council for approval prior to the issue of an Occupation Certificate. The Plan is to comply with the Office of Environment and Heritage Guidelines and must be a practical guide for future owners to ensure the

long term conservation of significant fabric. The Plan is to be registered on title, on any future strata subdivision of the site, and included in the by-laws of any strata subdivision to ensure that future owners are aware of the requirements of the Plan to ensure the long term conservation of significant fabric.

103. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 - Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
104. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the approved report/s have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
105. ~~***Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which:-***~~
- ~~***a) Acknowledges that:***~~
 - ~~***i) The land is within a 25 ANEF contour;***~~
 - ~~***ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and***~~
 - ~~***b) Requires the Owner to maintain the noise attenuation work in accordance with the approved acoustic report outlined within Condition No. 1 of this Consent; and***~~
 - ~~***c) The terms of such positive covenant shall provide that it can only be varied by Bayside Council.***~~

(DA-2015/94/05)

106. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
- a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
107. Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed on the residential flat building with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
108. Prior to the issue of the Occupation Certificate, all letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

109.

- a) Residents of this development are not eligible to participate in Council's on-street resident parking scheme, purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
- b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;
- c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

110. Any subsequent Strata Subdivision must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:

- a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/94;
- b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under development Consent No. 15/94;
- c) Responsibilities regarding the maintenance of any car wash bays by the Owners Corporation / building owner; and
- d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;
- e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- f) Responsibilities that ensure that a private waste collection contract is engaged to collect the waste from the property.
- g) Responsibilities to pay for the private waste collection fees as well as Councils garbage service fees as property has not been designed in accordance with Council's controls to remove waste from the property.
- h) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
- i) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan

for the development; and

- j) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the Conveyancing Act, 1919. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
 - k) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
 - l) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
 - m) CCTV surveillance of all public areas within the development site; and
 - n) Notation to ensure that any storage cages in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm from any sprinkler heads. This will ensure that compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained.
 - o) The strata plan must show that the car parking spaces are allocated in accordance with the plans approved with this consent. All car spaces (except visitor spaces and the car wash bay) shall be created as part lots, and allocated to a particular lot in the strata plan.
111. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
112. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards
113. Prior to the issue of any Occupation Certificate, Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording. The following covenant shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
114. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements
115. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic

drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

116. The public domain in Botany Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications, at no cost or expense to Council. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Any pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks). The nature strips in Botany Road shall be upgraded by the Applicant in accordance with the approved Public Domain Plan and Council specifications. New kerb and gutter shall be installed within the public domain at the applicant's expense.
117. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimise damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
118. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the siteworks (unless evidence to prove otherwise). All damages as a result from siteworks shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- a) Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

119. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
120. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
121. Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to the issue of an Occupation Certificate.
122. A certificate is to be provided by a practising Civil engineer that the stormwater system has been constructed in accordance with the Construction Certificate and accepted practice, prior to the issue of any Occupation Certificates.
123. A copy of the approved kerb and guttering plans showing Work as Executed details together with an electronic copy shall be prepared by a registered surveyor and submitted to Council prior to the issue of any Occupation Certificates.
124. A convex mirror must be installed on the at the bottom of the driveway in accordance so as to provide adequate visibility of cars entering and exiting the driveway ramp.
125. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.
126. Redundant gutter and/or footway crossing(s) must be replaced with integral kerb and gutter.
127. All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed (and approved by Council) prior to the issuing of the Occupation Certificate.
128. The subject allotments shall be consolidated into one title. The linen plans for the consolidation are to be submitted to Council prior to the release of the Occupation Certificate and proof of registration with the Land Titles Office submitted prior to occupation and use of the building.
129. The car parking spaces within the basement shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The allocation of the carparking shall be as indicated on the approved plans.
130. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979. Conditions 99-127 are pre-conditions prior to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

131. The new street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
132. Ongoing maintenance of the road verge, footpath and nature strip in Botany Road shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 133.
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The adaptable apartments approved under this development consent are to remain unaltered at all times;
 - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times;
 - d) The approved Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.
134. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
135. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
136. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
137. Ongoing maintenance of the grass/landscaped nature strips that are located outside the property boundaries shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass or plant material in accordance with the approved landscape plan.

138. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2-1978 Intruder alarm systems*.

139.

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) Noise from any air-conditioning units (measured as the $L_{aeq\ 15\ \text{minute}}$) is not to exceed the background level (measured as the $L_{a90\ 15\ \text{minute}}$) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance within the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

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

140. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

141. The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

142. Any proposed new use should be such that it does not involve heavy services such as heavy duty cleaning, heavy mechanical services or excessive wear and tear in the interest of protecting the heritage fabric.

143. Adaptable dwellings shall be provided as indicated within the approved plans.

144. The ground floor of the 'SOHO commercial' unit must be used primarily for commercial purposes.

145. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15(94) dated as 16 June 2015, and as amended by S96(1A) Application No. 15/94/02 dated 17 January 2017 and Application No. 15/94/04 dated 3 March 2018 **and Application No. 2015/94/05 dated 20 November 2018** and that any alteration,

variation, or extension to the use, for which approval has been given, would require further approval.

(DA-2015/94/05)

SMITH GROUP PTY LTD

BUILDING QUALITY WITHOUT COMPROMISE

Date: 05.11.18

Mr Christopher Mackey
Bayside Council

STATEMENT .

Re: DA 15/094 – Application to Modify a Development Consent

Dear Christopher,

I refer to our email dated 02.11.18 seeking urgent clarification from Bayside council pertaining to Condition 105 of our Operational Consent for DA 15/094.

In review of lodging the positive covenant pertaining to ANEF 25, both our surveyor Paul Wild AAM and acoustic engineer Koikas Acoustic have both advised that our property falls outside of the ANEF 25 contour. It is therefore impossible for us to register this document with Land Titles office and meet this condition.

Can we ask for an **urgent** review within council of our application to remove Condition 105, also supported by the following documents -

1. Letter from Paul Wild, Registered Surveyor, AAM - dated 02.11.18
2. Letter from Koikas Acoustics – dated 02.11.18
3. Copy of Sydney Airport 2033 ANEF
4. Operational Consent – Condition 105 – determined 26.09.16
5. Koikas Acoustics report dated 03 June, 2015 – Section 2.0 - Page 5 - noted in our Operational Consent as received, accepted and stamped by council to receive the above consent.

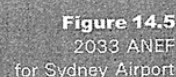
Regards,



Frank Hupp
Director

P.O. Box 458, St Leonards NSW 1590

PHONE 02 9439 1446
www.sgprojects.com.au | admin@sgprojects.com.au



Note: The photographic archival record will be available to the Council's Library for research purposes.

102. A Heritage Maintenance Plan shall be prepared to guide the future maintenance of heritage fabric on the subject site, and submitted to Council for approval prior to the issue of an Occupation Certificate. The Plan is to comply with the Office of Environment and Heritage Guidelines and must be a practical guide for future owners to ensure the long term conservation of significant fabric. The Plan is to be registered on title, on any future strata subdivision of the site, and included in the by-laws of any strata subdivision to ensure that future owners are aware of the requirements of the Plan to ensure the long term conservation of significant fabric.
103. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
104. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the approved report/s have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
105. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which: –
 - a) Acknowledges that:
 - i) The land is within a 25 ANEF contour; **IT IS NOT**
 - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and
 - b) Requires the Owner to maintain the noise attenuation work in accordance with the approved acoustic report outlined within Condition No. 1 of this Consent; and
 - c) The terms of such positive covenant shall provide that it can only be varied by Bayside Council. **THIS IS NOT POSSIBLE AS WE ARE OUTSIDE THE**
106. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that: **LAND TITLES CANNOT ACCEPT SUCH A COVENANT**
 - a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.



KOIKAS ACOUSTICS PTY LTD

CONSULTANTS IN NOISE & VIBRATION

ABN 12 058 524 771

Commercial 1 (Unit 27)

Ph: (02) 9587 9702

637 - 645 Forest Road

Fax: (02) 9587 5337

BEXLEY NSW 2207

E-mail: Office@KoikasAcoustics.com

Friday 2nd November 2018

Frank Hupp – admin@sgprojects.com.au

Smith Group Pty Ltd

PO Box 458,

St Leonards NSW 1590

Acoustics – Confirmation of site location with reference to ANEF 25 contour

Koikas Acoustics Pty Ltd (KA) has conducted a review of the development site location re. 1559-1563 Botany Road, Botany with reference to the current Sydney Airport Australian Noise Exposure Forecast (ANEF) 25 contour.

KA confirms that 1559-1563 Botany Road, Botany is not within the ANEF 25 contour, and is in fact approximately 80 metres outside of the ANEF 25 contour.

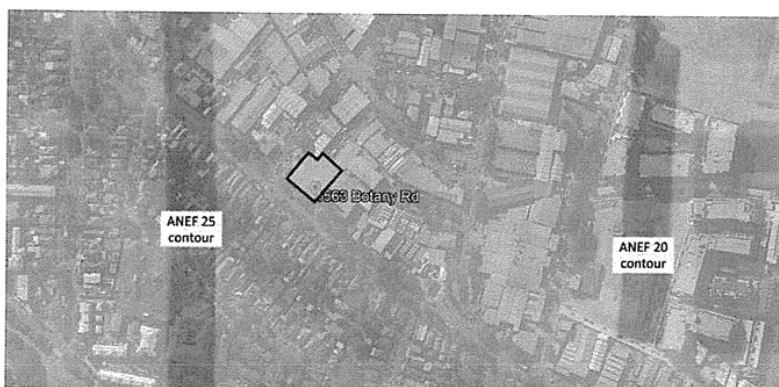


Figure 1. Site location with reference to ANEF contours

Regards,
Adam Semple, MAAS

Senior Consultant
Koikas Acoustics Pty Ltd

KOIKAS ACOUSTICS PTY LTD

Date: 2nd November 2018

File Reference: 2734L20181102as1559-1563BotanyRdBatany.docx

Prepared For: Smith Group Pty Ltd

Acoustics: Confirmation of site location with reference to ANEF 25 contour



2.0 THE PROPOSAL

The proposed development site is located at 1559-1563 Botany Rd, Botany NSW. The site is located within the B4 Mixed-use zone as shown on the relevant LEP zoning map. The proposed development will be located over 3 adjoining lots, being 1559, 1561 and 1563 Botany Rd.

The church and manse are existing buildings that occupy 1561 and 1563 Botany Rd respectively. These two buildings are to be retained and refurbished. The extent of this refurbishment is limited by the fact that both buildings are heritage listed by Council. Therefore any upgrade works must not impact on the heritage value of the sites. The existing dwelling at 1559 Botany Rd is to be demolished to accommodate the new apartments and townhouses. The development design has been prepared by Kennedy Associates Architects. The latest issue plans that have been used for this assessment are the Pre-DA Submission set dated 11/5/15.

The townhouses will be the most exposed of the new dwellings to traffic noise emanating from Botany Rd. The apartments are located to the rear of the site and as such will be less exposed on account of the increased distance between the road and the buildings and due to shielding effects of existing site buildings.

We expect noise levels from overflights of aircraft operating out of Sydney Airport to be comparable at all exposed facades of the buildings. Sydney Airport is located to the west of the subject site at a distance of approximately 900 metres to the nearest runway (16L / 34R). This places the site marginally outside the ANEF 25 contour on the current ANEF 2033 chart. As per AS2021, the site is conditionally acceptable for the proposed development. Aircraft frequenting runway 16L / 34R are commonly Boeing 737 and Airbus A320 type aircraft (37 to 38 movements per day), however there are on average 3 to 4 Boeing 767 movements per day. The 767 aircraft are significantly louder than the smaller 737 and A320 aircraft.

Industrial sites adjoin to the north-east and south-east. Residential premises are located to the south-west of the site across Botany Rd. Another residence directly adjoins the site to the north-west.

Ref: 27712A_DA_Item105

2/11/2018

Frank Hupp
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info@aamgroup.com
www.aamgroup.com
ABN: 63 106 160 678

Dear Frank,

Re: DA Item 105, 1559-1563 Botany Road, Botany

Thank you for providing the acoustic report from Koikas Acoustics Pty Ltd (KA), 2734L20181102as1559-1563BotanyRdBotany.pdf.

Within your DA, Item 105 (a) requires acknowledgement that the development site falls within the 25 ANEF contour. KA report states the development site falls outside the ANEF 25 contour. As a result, AAM will not be able to complete DA item 105.

Yours faithfully,
AAM Pty Ltd

A handwritten signature in black ink, appearing to read 'Paul Wild'.

Paul Wild,
Land Surveyor Registered under the Surveying and Spatial Information Act, 2002



Bayside Local Planning Panel

11/12/2018

Item No	6.3
Application Type	S4.55(1A) Modification
Application No	DA-2017/199/A
Lodgement Date	14/11/2018
Property	205-207 President Avenue, Monterey
Ward	Botany Bay
Owner	Mr Johny Papantoniou
Applicant	MacGillivray Architects
Proposal	Modification to extend the deferred commencement period by six(6) months.
No. of Submissions	Nil
Cost of Development	\$4,711,892
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That Development Application No DA-2017/199/A, being a Section 4.55(1A) application to amend Development Consent Number 2017/199, for the construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures at 205-207 President Avenue, Monterey be APPROVED and the consent amended in the following manner:

A. By amending the deferred commencement condition to read as follows:

The consent shall not operate until you satisfy Council about the following matters:

- 1 Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required.
- 2 The submission of a roof plan indicating the maximum RL for the stairs and lift overrun.
- 3 The submission of an amended landscape plan addressing the following:
 - (1) Frontage setback
 - a Allow at least one (1) large native canopy tree in an area of minimum three by three metres (3x3m).
The tree shall be an Angophora costata or a native tree endemic to the area, to be supplied and planted at 200 Litre pot size, with three (3) stakes.
 - b All turf area proposed in the front setback shall be replace with trees and shrubs. f absorption trench is present replace turf with groundcovers, sedges and grasses.

- (2) **Roof Terrace**
Planter boxes on roof terrace shall comply with the ADG part 4P Planting in Structures, to ensure success of proposed planting. Minimum width shall be 700mm. Include *Raphiolepis indica*, or similar shrub with small dense leaves to reach a minimum 1 metre high in the roof planter box to provide visual and acoustic privacy.
- (3) All planter boxes shall have the depth and width recommended by the ADG part 4P Planting in Structures, to ensure success of proposed planting.
- (4) All landscape areas shall be automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.
- (5) **Rear landscaped area**
The two advanced *Jacaranda mimosifolia* trees shall be planted, one in each corner, a minimum of 3 metres from any boundary of the site. In addition one (1) *Angophora costata*, or native tree endemic to the area, shall be included in the rear landscape area, at a minimum distance of 2.5 metres from adjoining boundaries. The trees are to be supplied at minimum pot size of 200 litres, (height above container 3.5 metres, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 metres).
- (6) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months.
- (7) **Public Domain**
The street tree shall be *Eucalyptus sideroxylon* 'Rosea', (Red Iron Bark) as specified in Rockdale Street Tree Master Plan. Being a State Road the street tree shall be supplied at 400 litre pot size.
- (8) Details of the proposed entry porticos in plan and elevation.
- (9) Fire booster details.

*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.*

Location Plan



Attachments

- 1 Assessment Report - 205-207 President Avenue Monterey [↓](#)
- 2 Supplementary Planning Report Bayside Planning Panel Meeting 26/05/2018 - Item 6.4 [↓](#)
- 3 Previous Assessment Report to Bayside Planning Panel Meeting 24/04/2018 - Item 6.1 [↓](#)
- 4 Deferred Commencement Notice of Determination - 205-207 President Avenue, Monterey [↓](#)
- 5 Letter from Applicant requesting extension [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/199/A
Date of Receipt:	9 November 2018
Property:	205 President Avenue, MONTEREY (Lot B DP 421111) 207 President Avenue, MONTEREY (Lot A DP 421111)
Owner:	Mr Johny Papantoniou
Applicant:	MacGillivray Architects
Proposal:	205-207 President Avenue MONTEREY NSW 2217 - Modification to extend the deferred commencement period by six (6) months
Recommendation:	Approved
No. of submissions:	Nil
Author:	Kimberley Bautista
Date of Report:	26 November 2018

Key Issues

Nil

Recommendation

That Development Application No 2017/199/A, being a Section 4.55(1A) application to amend Development Consent Number 2017/199, for the construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures at 205-207 President Avenue, Monterey be APPROVED and the consent amended in the following manner:

A. By amending the deferred commencement condition to read as follows:

The consent shall not operate until you satisfy Council about the following matters:

1. Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required.
2. The submission of a roof plan indicating the maximum RL for the stairs and lift overrun.
3. The submission of an amended landscape plan addressing the following:
 - (1) Frontage setback
 - a. Allow at least one (1) large native canopy tree in an area of minimum three by three metres (3x3m).

The tree shall be an *Angophora costata* or a native tree endemic to the area, to be supplied and planted at 200 Litre pot size, with three (3) stakes.

b. All turf area proposed in the front setback shall be replaced with trees and shrubs. If absorption trench is present replace turf with groundcovers, sedges and grasses.

(2) Roof Terrace

a. Planter boxes on roof terrace shall comply with the ADG part 4P Planting in Structures, to ensure success of proposed planting. Minimum width shall be 700mm. Include *Raphiolepis indica*, or similar shrub with small dense leaves to reach a minimum 1 metre high in the roof planter box to provide visual and acoustic privacy.

(3) All planter boxes shall have the depth and width recommended by the ADG part 4P Planting in Structures, to ensure success of proposed planting.

(4) All landscape areas shall be automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.

(5) Rear landscaped area

The two advanced *Jacaranda mimosifolia* trees shall be planted, one in each corner, a minimum of 3 metres from any boundary of the site. In addition one (1) *Angophora costata*, or native tree endemic to the area, shall be included in the rear landscape area, at a minimum distance of 2.5 metres from adjoining boundaries. The trees are to be supplied at minimum pot size of 200 litres, (height above container 3.5 metres, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 metres).

(6) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months.

(7) Public Domain

The street tree shall be *Eucalyptus sideroxylon* 'Rosea', (Red Iron Bark) as specified in Rockdale Street Tree Master Plan. Being a State Road the street tree shall be supplied at 400 litre pot size.

(8) Details of the proposed entry porticos in plan and elevation.

(9) Fire booster details.

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.

Background

History

Council received DA-2017/199 on the 5 December 2016 for the construction of a four (4) storey residential flat building development comprising 16 residential units, basement parking, front fence and demolition of existing structures. The application was referred to the Bayside Planning Panel (BPP) meeting on 24 April 2017, with a recommendation of refusal (planning report attached).

The BPP resolved to allow for the applicant to submit amended plans and documentation to address the following:

- the removal of the *Jacaranda mimosifolia* and the replacement planting of two *Jacaranda mimosifolia*s. This is to ensure that the site will make a contribution to the vegetation of the district in the future
- height exceedance with a Clause 4.6 variation and similarly a variation to the FSR or verification of compliance with the FSR.

This decision was based on the panel being of the view that the location of the existing Jacaranda tree would unreasonably impact on the potential yield of the site and that the more appropriate course of action is to ensure that there is sufficient deep soil planting on site to accommodate two advanced replacement Jacarandas.

On 29 May 2018 the amended landscape plan and CI 4.6 justification for a variation to CI 4.5 - Height of Buildings and Clause 4.4 - Floor Space Ratio was received by Council. This information was assessed.

On 26 June 2018 the information submitted was referred to the BPP (planning report attached). The Panel granted a Deferred Commencement consent subject to the following matters being satisfied:

- 1. Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required.*
- 2. The submission of a roof plan indicating the maximum RL for the stairs and lift overrun.*
- 3. The submission of an amended landscape plan addressing the following:*
 - (1) Frontage setback*
 - a. Allow at least one (1) large native canopy tree in an area of minimum three by three metres (3x3m). The tree shall be an Angophora costata or a native tree endemic to the area, to be supplied and planted at 200 Litre pot size, with three (3) stakes.*
 - b. All turf area proposed in the front setback shall be replace with trees and shrubs. If absorption trench is present replace turf with groundcovers, sedges and grasses.*
 - (2) Roof Terrace*
 - a. Planter boxes on roof terrace shall comply with the ADG part 4P Planting in Structures, to ensure success of proposed planting. Minimum width shall be 700mm. Include Raphiolepis indica, or similar shrub with small dense leaves to reach a minimum 1 metre high in the roof planter box to provide visual and acoustic privacy.*
 - (3) All planter boxes shall have the depth and width recommended by the ADG part 4P Planting in Structures, to ensure success of proposed planting.*
 - (4) All landscape areas shall be automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.*
 - (5) Rear landscaped area The two advanced Jacaranda mimosifolia trees shall be planted, one in each corner, a minimum of 3 metres from any boundary of the site. In addition one (1) Angophora costata, or native tree endemic to the area, shall be included in the rear landscape area, at a minimum distance of 2.5 metres from adjoining boundaries. The trees are to be supplied at minimum pot size of 200 litres, (height above container 3.5 metres, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 metres).*
 - (6) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months.*
 - (7) Public Domain*

The street tree shall be Eucalyptus sideroxylon 'Rosea', (Red Iron Bark) as specified in Rockdale Street Tree Master Plan. Being a State Road the street tree shall be supplied at 400 litre pot size.
 - (8) Details of the proposed entry porticos in plan and elevation.*
 - (9) Fire booster details.*

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.

Proposal

The proposal seeks consent to extend the deferred commencement period for an additional six (6) months. This is in replacement of the previously approved determination which is due to expire December 26 December 2018. The applicant states that they are experiencing delays in receiving a response of a section 73 application from Sydney Water. This time period extension is to enable the applicant to provide all necessary information to meet the Council conditions for operable consent. By approving the extension, prior expiry is revoked and is extended to a latter date of 26 June 2019.

Upon confirmation of Sydney Water's approval of the existing sewer pipes in conjunction with the additional deferred commencement conditions being satisfied, the construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures can commence.

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 development proposal is within an acceptable time frame to gain response from Sydney Water and will not impose adverse environmental impact to the subject and surrounding land.

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 deferral proposal does not inflict any changes or alterations to originally approved development, namely a four (4) storey residential flat building. Therefore, the proposal remains 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 notification in accordance with the provisions of Rockdale'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: No objections have been received.

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 modification for an extended deferred commencement date, does not change or alter the previously approved compliance of controls under Rockdale Local Environmental Plan 2011.

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
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Rockdale Development Control Plan 2011	Yes	Yes - see discussion
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Rockdale Development Control Plan 2011

The modification for an extended deferred commencement date, does not change or alter the previously approved compliance with the provisions of the Rockdale Development Control Plan 2011.

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

The request for an extension of deferred commencement will not impose any change in severity of health impacts, building height civil aviation regulations, safety and security or construction materials. Therefore, impacts from the development as modified are not anticipated.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. There will be no major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development as modified.

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

The 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 as modified is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
Basement Plan and Site Plan / Dwg 2.926.1A	macgillivray architects	27.04.17	05.05.17

Ground Floor Plan / Dwg 2.926.2A	macgillivray architects	27.04.17	05.05.17
First Floor Plan / Dwg 2.926.3A	macgillivray architects	27.04.17	05.05.17
Second Floor Plan / Dwg 2.926.4A	macgillivray architects	27.04.17	05.05.17
Third Floor Plan / Dwg 2.926.5A	macgillivray architects	27.04.17	05.05.17
Rooftop Common Open Space Plan / Dwg 2.926.12	macgillivray architects	27.04.17	05.05.17
West Elevation, South Elevation, Section A-A / Dwg 2.926.7A	macgillivray architects	27.04.17	05.05.17
East Elevation, North Elevation/Streetscape Elevation / Dwg 2.926.6A	macgillivray architects	27.04.17	05.05.17
Colours and Materials	macgillivray architects	-	05.12.16
Landscape Plan Rev A	Iscape Landscape architecture	15.05.18	29.05.18

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 the approved BASIX Certificate other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. The balconies, roof top structures and patio areas shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. 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. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

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

3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Development specific conditions

The following conditions are specific to the Development Application proposal.

11. 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.
12. 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.
13. Temporary dewatering of the site to construct the subsurface structure is not permitted.
14. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
15. 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.
16. 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.

17. (b) In order to ensure the design quality I excellence of the development is retained:
- i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
- (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
18. All plumbing shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations and shall be integrated into the design of the building and the landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
19. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling. Details shall be submitted in the construction certificate documentation prior to the issue of the Construction Certificate.
20. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
21. 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.

Prior to issue of the construction certificate

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

22. 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 \$8,420.00. 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.
23. 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.
 24. 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.
 25. A Section 7.11 contribution of \$105,168.07 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space s94 Contribution \$ 84,246.65
 Town Centre / Streetscape s94 Contribution \$ 2,680.03
 Pollution Control s94 Contribution \$ 10,515.14
 Administration & Management s94 Contribution \$ 635.64
 Community Facilities & Services 94 Contribution \$ 887.69
 Library services \$ 6,203.02

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.
 26. Prior to the issue of the Construction Certificate the sum of \$1601.00 is payable to Council for removal of the Agonis street tree, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.
 27. 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.
 28. 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.

29. Compliance with Rockdale Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within two(2) adaptable residential units, and between these unit(s) and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit number(s) 13 and 15. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

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

30. 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.
31. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

32. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table if the subsurface structure is below the ground water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably

experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

33. The driveway width transition from 5.5m to 3.5 must have a 45 degree splay to allow vehicles manoeuvring in to the basement without the need to reverse.
34. Prior to the issue of the Construction Certificate, the design and construction of the off-street car & bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer. In addition to that the following shall be addressed
 - (a) A loading and unloading facility is to be provided. The Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site.
 - (b) Car Wash Bay - The required car wash bay shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay.
 - (c) Parking spaces must not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1:2004.
 - (d) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance and headroom requirements of the Standard. Gutter flow analysis shall be incorporated in the design of the driveway profile.
 - (e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1:2004.
35. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
36. All surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

37. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. The absorption system provided shall be designed in accordance with section 5 of the specification 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.

38. 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.
39. 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.

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

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

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

41. 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.

42. 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.
43. 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.
44. 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.
45. 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.

46. (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.
47. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

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

48. 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.

49. 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.
50. 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.
51. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

52. 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.
53. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
54. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
 - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
 - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
 - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
 - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

55. 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.
56. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
57. 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.
58. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.

- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
59. 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.
60. Removal of the Willow Myrtle (*Agonis flexuosa*) street tree to enable construction of the new vehicle crossing is approved, subject to a replacement tree being planted in a suitable location in conjunction with the site landscape works. As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be

deemed a breach of Council's Development Consent and may be subject to legal action.

61. The Callistemon street tree located on the nature strip at the front of 207 President Avenue 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.
62. 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.
63. 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.
64. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
65. 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.

66. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
67. 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.
68. 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.

69. Lots A and B of DP 421111 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.
70. 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.
71. The width of the double driveway at the boundary shall be a maximum of 6 metres.
72. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and line marked to The Relevant Australian Standards
73. 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.

74. 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.
75. The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 1/12/16 and any relevant condition of this consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
76. Where applicable prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
77. 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.
78. 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 registered architect 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.

79. Roads & Maritime Services

1. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the President Avenue boundary.

2. The redundant driveway on the President Avenue boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on President Avenue shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

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.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

5. All vehicles are to enter and exit the property in a forward direction.
6. All vehicles are to be contained on site before being required to stop.
7. All works and signposting associated with the subject development shall be at no cost to Roads and Maritime.
8. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on President Avenue during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
9. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
10. Sight distances from the proposed vehicular crossings to vehicles on President Avenue are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.

Roads Act

80. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
 - construction of a concrete footpath along the frontage of the development site excluding areas adjacent to the existing bus stop ;
 - construction of a new fully constructed concrete vehicular entrance;
 - removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - construction of kerb and gutter
81. 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.

82. 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.
83. 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).
84. A Public Domain Frontage Works Application shall be submitted to Council for approval.

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *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. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. 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.
- f. 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.
- g. The property is within a broad area currently under investigation in relation to the proposed F6 Project. Information about the project is available by contacting the F6 Team on 1800 789 297 or motorwaydevelopment@rms.nsw.gov.au, or by visiting the project website at www.rms.nsw.gov.au/projects/motorwaydevelopment.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/199
Date of Receipt:	5 December 2016
Property:	205 President Avenue, MONTEREY (Lot B DP 421111) 207 President Avenue, MONTEREY (Lot A DP 421111)
Owner:	Mr Johny Papantoniou
Applicant:	MacGillivray Architects
Proposal:	205-207 President Avenue MONTEREY NSW 2217 - Construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures
Recommendation:	Refused
No. of submissions:	Two(2) in opposition and one (1) in support
Author:	Marta M Gonzalez-Valdes
Date of Report:	14 June 2018

Key Issues

The following issues have been identified in the original report to the Bayside Planning Panel, however, further comments are provided below to support the recommendation and for the Panel's consideration.

Non compliance with the building height and uncertainty as to whether the building height may have to be increased further as the proposed encasement of the sewer pipe transversing the site has not been endorsed by Sydney Water. The building as proposed is already not compatible with the scale and built form of the predominant streetscape in President Avenue and the proposal relies on extensive elevated areas, which creates visual impacts and perceived bulk. Further the extensive use of ramps and retaining walls given the elevated nature of the basement prevent the planting of proper vegetation to allow screening from adjacent buildings.

Non compliance with the maximum FSR requirement. The proposal exceeds the gross floor area (GFA) by 116sq.m. In calculating the GFA, circulation areas, voids and other areas which create additional bulk such as recessed balconies and external void areas, have not been included. It is noted that these areas contribute to extending the building footprint towards the rear and create a bulk beyond the predominant footprint of adjacent buildings.

Non compliance with the ADG under SEPP 65, particularly in regard to character and scale. The DRP recommended a recess of the levels at RL 16.11 to achieve better integration by following the parapet line of the adjacent buildings. This has not been achieved successfully.

Recommendation

A. That the Bayside Planning Panel do not support the proposed variation to Clause 4.3 - Height of Buildings and Clause 4.4 - Floor Space Ratio under Rockdale Local Environmental Plan 2011.

B. That the development application DA-2017/199 for the construction of a four(4) storey residential flat building comprising 16 residential units, basement parking, front fence and demolition of existing structures at 205-207 President Avenue Monterey be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

a) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following considerations listed within Clause 28 of State Environmental Planning Policy 65 Design Quality of Residential Apartment Development:

- i) 3C – Public Domain Interface
- ii) 3D – Communal Open Space
- iii) 3F – Visual Privacy
- iv) 4A – Solar Access
- v) 4E – Private Open Space
- vi) 4F – Common Circulation and Spaces
- vii) 4H – Acoustic Privacy
- viii) 4L – Ground Floor Apartments
- ix) 4O – Landscape Design
- x) 4Q – Universal Design

b) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, as the proposed removal of the Jacaranda mimosifolia at the rear of the site, is not appropriate.

c) 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 (Building Sustainability Index: BASIX) 2004, as an amended certificate has not been provided to accompany the amended design.

d) 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 4.3 – Height of Buildings
- c) Clause 4.4 – Floor Space Ratio
- d) Clause 4.6 - Exception to Development Standards
- e) Clause 6.7 – Stormwater

e) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:

- i. 4.1.3 – Water Management
- ii. 4.1.7 – Tree Preservation

- iii. 4.2 – Streetscape and Site Context
- iv. 4.3.1 Open Space and Landscape Design - Residential Flat Building
- v. 4.3.2 – Private Open Space
- vi. 4.3.3 – Communal Open Space
- vii. 4.3.4 – Open Space and Landscape Design – Residential Building
- viii. 4.4.2 – Solar Access
- ix. 4.4.5 – Visual and Acoustic Privacy
- x. 4.5.2 Social Equity - Equitable Access
- xi. 4.6 – Car Parking and Movement
- xii. 4.7 - Letterboxes
- xiii. 5.2 – Residential Flat Buildings

f) 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.

g) 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.

h) 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. That the objectors be advised of the Bayside Planning Panel's decision.

Background

History

This development application was considered at the Bayside Planning Panel (BPP) meeting on 24 April 2017. The BPP resolved:

- 1 That this item be deferred to allow the applicant to submit an amended landscape plan which allows for the removal of the jacaranda mimosifolia and the replacement planting of two jacaranda mimosifolias. This is to ensure that the site will make a contribution to the vegetation of the district in the future. The deferral will also allow the applicant to address the height exceedance with a Clause 4.6 variation and similarly a variation to the FSR or verification of compliance with the FSR. The matter is to be referred back to the Panel in a timely manner with an appropriate set of draft conditions to allow determination.*
- 2 That the objectors be advised of the Bayside Planning Panel's decision.*

Panel reason:

The Panel considers that in the circumstances the applicant should be given the opportunity to finalize the plans and submit the necessary documentation prior to determination. The Panel is of the view that the location of the existing Jacaranda tree would unreasonably impact on the potential yield of the site and that the more appropriate course of action is to ensure that there is sufficient deep soil planting on site to accommodate two advanced replacement Jacarandas.

The amended landscape plan and CI 4.6 justification for a variation to CI 4.5 - Height of Buildings and Clause 4.4 - Floor Space Ratio were submitted on 29 May 2018. This information has been assessed. The proposed variation to the height and FSR controls are not supported for the reasons outlined in the reports. Importantly, the proposal is not considered to be consistent to the objectives of the standards and the applicant has not demonstrated there are sufficient environmental planning grounds to contravene the standards.

Council's landscape architect does not support the proposed landscape scheme given the excessive use of structures within the front and side setbacks, the limited setbacks, particularly along the south boundary and the inability of the proposed planting to grow so as to provide appropriate screen planting. Allowing greater setbacks along the sides is critical to ensure the elevated circulation areas are properly screened from neighbours. This has not been achieved successfully.

Further the proposal contains outstanding information critical to the determination of the application such as confirmation from Sydney Water that the encasement of the sewer pipe is supported.

Approval of the proposal is not in the public interest.

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:

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.6 Exceptions to development standards	No - see discussion	No - see discussion

4.6 Exceptions to development standards

The proposal does not comply with clause 4.3 - Height of Buildings and Clause 4.4 - Floor Space Ratio. The applicant has provided a CI4.6 justification which attempts to address CI4.6(3), which reads as below:

(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.

The Cl 4.6 justification provided by the applicant has been considered within the parameters of Cl4.6 (4) below.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Director-General has been obtained.

A summary of the assessment of the proposed variations to development standards is provided as follows:

Clause 4.3 - Height of Buildings

The maximum height permitted on the site under this clause is 14.5 metres. The non compliance has been established as follows:

Vertical elements and parapet - RL 20.11m - complies

Lift overrun - 2.942m over the height limit (20% variation)

Fire stairs - 1.741m over the height limit (12% variation)

Pergola - 1.452m over the height limit (10% variation)

In justifying the non compliance, the applicant states:

- The proposal is in an infill site and 'compliance with the minimum height standard is considered unnecessary'.
- 'The lift and stair structures pose no substantial loss of amenity to adjacent units, particularly in relation to privacy and loss of views. Any additional overshadowing would be minor and cast upon the adjacent units walls'.
- Privacy to adjacent units is maintained...'
- As the structures are located in the centre, they will have little to no visual impact and to the streetscape.
- The location of the COS at roof top will create less impacts than locating it at the rear. It will also provide residents with access to sun light and district views.

Clause 4.4 - Floor Space Ratio

The maximum floor space ratio (FSR) applicable to the site is 1:1 or 1347.4sq.m of gross floor area (GFA). The proposed GFA has been calculated as 1464.36 sq.m. This represents 116sq.m. above the permissible GFA or 1.087:1 FSR. The proposed variation is 8.7%.

In justifying the non compliance the applicant states:

- Compliance is considered unnecessary.

- The site is an infill site. 'It is considered that density is dictated more by envelope controls, particularly front, side and rear setback controls, rather than by a FSR.'
- The proposal complies with the setback controls.
- The variation is negligible.
- It does not result in impacts to the streetscape.
- It does not create significant amenity impacts to adjacent buildings. It will not add value to adjacent unit.
- The DRP considered the density of the proposal appropriate.

As a summary the applicant states that the proposal is in the public interest, and is consistent with the objectives of the development standards and zone objectives.

Assessment comments:

The proposal is an infill site. As indicated in Rockdale DCP at Cl 4.1.9 (3) - *The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants. Development of existing isolated sites may not achieve the maximum potential, particularly height and floor space ratio and will be assessed on merit.*

The proposed raised basement level in proximity to the boundaries and the reliance on ramps and elevated communal areas such as the side entry portico (elevated approximately 1.24m from existing natural ground level) are uncharacteristic of the existing developments in President Avenue and will have a negative impact on the streetscape as well as visual and acoustic impacts to neighbouring properties. The front balconies of the dwellings on the northeast are recessed and limit solar access to the living areas. Similarly the side balconies for these units Units 5 and 9 as shown on the first and second floor plan create additional bulk and have the potential for being converted into habitable space in the future. The break in the building on the same units (Units 1, 5, 9 and 13) to create a courtyard at ground level, a void on levels one and two and a balcony on level 3 make no positive contribution and adds bulk to the building. The scale of the building and perceived density is further compromised by the architectural elements and unnecessary recesses. The recommendation by the Design Review Panel to recess the front of the building or provide a different treatment at RL 16.11 has not been satisfactorily achieved. As such the building presents with a bulkier and greater scale as compared to the predominant streetscape in President Avenue.

The removal of some of these elements would have allowed a more compact built form and a building footprint more compatible with the adjacent development. The retention of the existing significant Jacaranda tree at the rear, which was highly recommended for retention by specialists such as the DRP and Council's tree officer would also have been achieved. Further, the development has failed to demonstrate that impacts on overshadowing is not unreasonable.

The proposed landscaping has not been designed to mitigate impacts. As indicated by Council's landscape architect, screen planting so close to the building as well as planter beds 600mm deep on the western boundary are not optimal solutions for screening. The limited setbacks particularly along the eastern elevation prevents appropriate planting to achieve screening from neighbours.

The proposal is not consistent with the objectives of the height control in particular '(b) to permit building heights that encourage high quality urban form' and '(d) to nominate heights that will provide an appropriate transition in built form and land use intensity'. Similarly, the proposal is not consistent

with the objectives of the floor space ratio control in particular '(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties' and '(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.'

The C14.6 justification submitted by the applicant has not adequately addressed C14.6(3). Consistent with the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90, the applicant has been unable to establish the site and development specific circumstances which could otherwise warrant the proposed additional height and FSR on the subject site. As stated above, the proposal does not comply with the objectives of the standards sought to be varied and there has not been any compelling argument to demonstrate any particular reasons to justify such a variation.

For the above reasons and the reasons implicit in the original report to the BPP, it is considered that the proposed height and FSR variation should not be supported and that compliance with the standards is reasonable and necessary in this instance. Approval of the application is not in the public interest.

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	No - see discussion	No - see discussion
4.3.1 Open Space and Landscape Design - Residential Flat Buildings	No - see discussion	No - see discussion

Rockdale Development Control Plan 2011

Refer to original report.

4.3.1 Open Space and Landscape Design - Residential Flat Buildings

The submitted landscape plan has not been approved by Council's landscape architect. It has been found that the landscaped areas rely on excessive retaining walls and elevated areas with minimal setback from boundaries to allow adequate planting to mitigate visual and amenity impacts to adjacent buildings.

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

Item No	6.1
Application Type	Development Application
Application Number	DA-2017/199
Lodgement Date	5 December 2016
Property	205-207 President Avenue, Monterey
Owner	Mr Johny Papantoniou
Applicant	MacGillivray Architects
Proposal	Construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures
No. of Submissions	Two (2) in opposition; one (1) in support
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 Development Application DA2017/199 for construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing at 205-207 President Avenue, Monterey, be REFUSED pursuant to Section 4.16(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*:
 - i. 3C – Public Domain Interface
 - ii. 3D – Communal Open Space
 - iii. 3F – Visual Privacy
 - iv. 4A – Solar Access
 - v. 4E – Private Open Space
 - vi. 4F – Common Circulation and Spaces
 - vii. 4H – Acoustic Privacy
 - viii. 4L – Ground Floor Apartments
 - ix. 4O – Landscape Design
 - x. 4Q – Universal Design
 - 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 (Vegetation in Non-Rural Areas) 2017*, as the proposed removal of the *Jacaranda mimosifolia* at the rear of the site, is not appropriate.

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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 requirements of Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007*, as concurrence from the Road and Maritime Services, pursuant to the Roads Act 1993, has not been received in relation to the design of the vehicular access to the land.
- iv) 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 (Building Sustainability Index: BASIX) 2004*, as an amended certificate has not been provided to accompany the amended design.
- v) 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 4.3 – Height of Buildings
 - c) Clause 4.4 – Floor Space Ratio
 - d) Clause 6.7 – Stormwater
- vi) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the objectives and provisions of *Rockdale Development Control Plan 2011* including:
 - i. 4.1.3 – Water Management
 - ii. 4.1.7 – Tree Preservation
 - iii. 4.2 – Streetscape and Site Context
 - iv. 4.3.1 Open Space and Landscape Design - Residential Flat Building
 - v. 4.3.2 – Private Open Space
 - vi. 4.3.3 – Communal Open Space
 - vii. 4.3.4 – Open Space and Landscape Design – Residential Building
 - viii. 4.4.2 – Solar Access
 - ix. 4.4.5 – Visual and Acoustic Privacy
 - x. 4.5.2 Social Equity - Equitable Access
 - xi. 4.6 – Car Parking and Movement
 - xii. 4.7 - Letterboxes
 - xiii. 5.2 – Residential Flat Buildings
- vii) 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.
- viii) 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.
- ix) 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.

Item 6.1

Bayside Planning Panel 24/04/2018

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

Attachments

- 1 Assessment Report
 - 2 Site Analysis Plan
 - 3 Landscape Plan
 - 4 North East Elevation and Streetscape Plan
 - 5 West South Elevation Plan
 - 6 Basement Parking Plan
-

Location Map



Item 6.1

Bayside Planning Panel 24/04/2018

BAYSIDE COUNCIL

Delegated Planning Assessment Report

Application Details

Application Number:	DA-2017/199
Date of Receipt:	5 December 2016
Property:	205-207 President Avenue, MONTEREY NSW 2217
Lot & DP/SP No:	Lot A and Lot B in DP 421111
Owner:	Mr Johny Papantoniou
Applicant:	MacGillivray Architects
Proposal:	Construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures
Value:	\$4,711,892
Recommendation:	Refusal
No. of submissions:	Two (2) in opposition; one (1) in support
Author:	Brendon Clendenning, Creative Planning Solutions Pty Limited
Date of Report	4 April 2018

Key Issues

Council received Development Application No. DA-2017/199 on 5 December 2016 seeking consent for the construction of a four (4) storey residential flat building comprising 16 residential units, roof terrace, basement car parking and demolition of existing buildings, at 205-207 President Avenue, Monterey.

Following the receipt of amended plans in relation to the comments of the Design Review Panel DRP, and Roads and Maritime Services (RMS), Council issued an additional information request on 20 September 2017. This request raised a number of issues relating to Apartment Design Guide non-compliances, floor space ratio, streetscape, landscaping, building height, communal open space, solar access, parking, sewer information, and access. Additional information was also sought in relation to an apartment schedule, groundwater, architectural plans, and Design Review Panel comments.

The applicant issued a response to this letter on 25 September 2017 and met with Council on 28 September 2017. Following the meeting, Council issued further advice to provide clarification on points of discussion from the meeting held at Council offices.

On 8 February 2018, after which no amended proposal had been submitted, Council indicated to the applicant that the application would be determined if it was not withdrawn by 15 February 2018. The applicant indicated that the preparation of an amended proposal would be finalised

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within 3-4 weeks, and Council indicated to the applicant that the information must be provided by 13 March 2018.

To date, no further amended plans have been submitted since the earlier amended set, responding to the issues raised by the DRP and the RMS.

The original proposal was compliant with the building height standard for the site. The proposal was amended in response to feedback from the DRP, which included potential support for a building which did not comply with the maximum building height requirement. Further, insufficient information was provided to demonstrate that the proposal was compliant with the floor space ratio standard, and the proposal is therefore deemed to be non-compliant with two development standards.

The proposal also seeks the removal of a large Jacaranda tree in the rear yard. The submitted arborist report indicates that it cannot be retained having regard to the proposed development; however, it is evident that there are design options available which would enable the retention of this tree. The proposal also exhibits various other non-compliances, which the applicant has attributed to being a consequence of the location of a sewer main; however, inadequate information has been provided to substantiate this.

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 below 'Recommendation'.

Recommendation

That:

A. Development Application DA2017/199 for construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing at 205-207 President Avenue, Monterey, be REFUSED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the following considerations listed within Clause 28 of *State Environmental Planning Policy 65 Design Quality of Residential Apartment Development*:
 - a) 3C – Public Domain Interface
 - b) 3D – Communal Open Space
 - c) 3F – Visual Privacy
 - d) 4A – Solar Access
 - e) 4E – Private Open Space
 - f) 4F – Common Circulation and Spaces
 - g) 4H – Acoustic Privacy
 - h) 4L – Ground Floor Apartments
 - i) 4O – Landscape Design
 - j) 4Q – Universal Design
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 (Vegetation in Non-Rural Areas) 2017*, as the proposed removal of the *Jacaranda mimosifolia* at the rear of the site, is not appropriate.
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 requirements of Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007*, as concurrence from the Road and Maritime Services, pursuant to the Roads Act 1993, has not been received in relation to the design of the vehicular access to the land.
4. 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 (Building Sustainability Index: BASIX) 2004*, as an amended certificate has not been provided to accompany the amended design.

5. 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 4.3 – Height of Buildings
 - c) Clause 4.4 – Floor Space Ratio
 - d) Clause 6.7 - Stormwater
6. 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) 4.1.7 – Tree Preservation
 - c) 4.2 – Streetscape and Site Context
 - d) 4.3.1 Open Space and Landscape Design - Residential Flat Building
 - e) 4.3.2 – Private Open Space
 - f) 4.3.3 – Communal Open Space
 - g) 4.3.4 – Open Space and Landscape Design – Residential Building
 - h) 4.4.2 – Solar Access
 - i) 4.4.5 – Visual and Acoustic Privacy
 - j) 4.5.2 Social Equity - Equitable Access
 - k) 4.6 – Car Parking and Movement
 - l) 4.7 - Letterboxes
 - m) 5.2 – Residential Flat Buildings
7. 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.
8. 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.

9. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

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

Background

History

5 December 2016 – DA-2017/199 submitted to Council

Construction of a four (4) storey residential flat building comprising 16 residential units, roof terrace, basement car parking, front fence and demolition of existing buildings.

19 December 2016 – 18 January 2017 - Public notification of proposal

16 February 2017 – Consideration by Design Review Panel (DRP)

The DRP recommended that a communal rooftop area be added to the development, despite the resultant non-compliance with the building height limit. The panel also provided a range of recommendations in relation to landscaping, including the requirement for the retention of the large Jacaranda tree in the rear yard.

1 February 2017 – Road and Maritime Services (RMS) referral response

The RMS indicates that the driveway was to be a minimum of 5.5 metres wide for the first 6 metres to allow for simultaneous entry and exit movements.

21 February 2017 – Tree Management Officer referral response

The Tree Management Officer referral response indicated that the existing Jacaranda tree was to be retained and that redesign was required.

May 2017 – Submission of amended plans

21 July 2017 – Tree Management Officer referral response

After reviewing the arborist report, the Tree Management Officer referral response concluded that the tree would not be able to be retained, given the location of the proposal.

27 July 2017 – Tree Management Officer referral response

After reviewing the DRP minutes, the Tree Management Officer again indicated that the existing Jacaranda tree was to be retained and that redesign was required.

11 September 2017 – Request for further information

A letter sent to applicant regarding several deficiencies in the proposal. These dealt with various non-compliances with the specific design criteria and design guidance prescribed within the Apartment Design Guide (including balcony depths, building size, circulation spaces, garbage chutes, storage), floor space ratio, streetscape, landscaping, height, solar access, parking, sewer, acoustic impacts, access, and groundwater. Other information was also sought such as an apartment schedule and updates to the architectural plans.

28 September 2017 – Meeting with applicant held at Council offices

October 2017 – Follow up email sent to the applicant following the meeting

Further clarification was provided, primarily in relation to Council's position in relation to the Jacaranda tree. Information was also provided on Council's position on the balconies to the north-east apartments, the size of the awning over the pedestrian entry, the entry portico, storage, and garbage chutes.

8 February 2018 – Applicant advised that the application would be refused unless withdrawn by 15 February 2018.

27 February 2018 – Engineering referral response

The Development Engineer referral response indicated that there were issues in relation to the car park and stormwater design. Given the other issues contained above, the applicant was not afforded the opportunity to respond to this referral.

Site Description

The site is known as 205-207 President Avenue, Monterey. It comprises two lots which are legally described as Lot A and Lot B in DP 421111.

The site is located on the southern side of President Avenue, between its intersections with Wycombe Avenue to the west and The Grand Parade to the east.

The site is rectilinear in shape and has an area of 1,347.4sqm. It has a primary frontage of 20.115m to President Avenue and a depth of 66.985m.

The site is relatively flat with minimal variation in surface levels throughout the site. A large Jacaranda tree sits in the rear of the site, with smaller trees located in the rear setback and within the road reserve.

The two existing dwellings are each provided with vehicular access from President Avenue. The subject site is affected by Class 4 Acid Sulfate Soils and subject to Sydney Airport's Building Height Controls.

The site is located to the east of The Grand Parade, which runs along the shores of Botany Bay. North of President Avenue, The Grand Parade is the focal point for the Brighton Le Sands commercial centre, and that part of The Grand Parade and the adjoining waterfront area are characterised by high pedestrian traffic.

The southern side of President Avenue is characterised by four storey residential flat buildings, and the northern side of President Avenue is primarily characterised by single residential dwellings. The two dwellings located on the subject site are the only single dwellings fronting the southern side of President Avenue between its intersections with Wycombe Avenue and The Grand Parade. Development to the rear also consists of residential flat development, with a height of 3 storeys and fronting Banks Street.

The properties adjoining on either side of the subject site are each four storey brick walk-up residential flat buildings, with pitched roofs. Each of these buildings sit on a relatively narrow allotment, of a similar width to the subject site, but narrower than the majority of other allotments within the block.

The site is serviced by buses on nearby streets, including The Grand Parade and O'Connell Street, and is situated approximately 2km to the east of Kogarah Railway Station.

Description of Development

The development application, DA-2017/199, at 205-207 President Avenue, Monterey, seeks consent for the construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures.

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

Site area	1347.4sqm (survey)
Site dimensions	<ul style="list-style-type: none"> • Frontage/width: 20.115m • Length: 60.985m
Gross floor area	Approx. 1493sqm
Floor space ratio	1.11:1
Building Height	17.3m
No. of Apartments	Two (2) x 1-bedroom: Twelve (12) x 2-bedroom: Two (2) x 3-bedroom: Total: 16 apartments
Apartment sizes	66.93sqm – 97.40sqm
Private Open Space sizes	10.162 sqm – 19.277sqm
Communal Areas	<ul style="list-style-type: none"> • Communal open space (rear): 156.5sqm • Communal open space (rooftop): 103.9sqm
Parking	<ul style="list-style-type: none"> • Car spaces: 22 • Accessible spaces: 2 • Visitor spaces: 4 • Motorcycle spaces: 2 • 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 a rooftop communal open space. The building contains a lift core and stair core, situated on opposite sides of the foyer areas, and access is provided to each level, including the basement and rooftop.

The building is setback 8.5m from President Avenue, and approximately 11m from the rear southern boundary. The main building wall is setback 4.5m from the side boundaries; however, ancillary structures are proposed within the side setback areas.

Internal layout and facilities

The development consists of 16 units with a mix of 1-bedroom, 2-bedroom and 3-bedroom units, and each floor provides a floor plate containing four units. The majority of units contain a combined kitchen, dining, and living areas, which adjoin balconies or terraces spanning the entire width of the apartment. The exception being the north-eastern units, which contain kitchens situated alongside balconies/decks at the frontage of each apartment. Separate bathroom and WC areas are provided to each apartment, with laundries proposed within the bathrooms. A rooftop communal open space is proposed with stair and lift access. The rooftop communal open space features a barbecue area and seating.

Basement

The development includes a single level of basement car parking which comprises 22 car parking spaces, including 18 resident parking spaces, and 4 visitor parking spaces, 2 accessible spaces, 2 motorbike spaces, 2 bicycle spaces, a waste bin storage room, and 1 lift core providing pedestrian access to the building above. Vehicular access to the basement is provided off a driveway to President Avenue, and the car park is arranged in a single aisle. The basement has setbacks which are not entirely consistent with the setbacks of the buildings, being a 900mm side setback to the eastern side boundary, and a 800mm side setback to the western side boundary.

Materials and finishes

The materials and finishes of the development include a mixture of light and dark toned bricks, aluminium framed windows, and some render. A perspective from President Avenue is shown within *Figure 1*.



Figure 1 Streetscape Elevation (MacGillivray Architects, 2017)

Trees and landscaping

All of the existing four (4) trees identified on the survey are proposed to be removed, including the large Jacaranda in the rear. There is a street tree fronting the site and a tree located near the boundary on the adjoining property to the rear that are proposed to be removed, but another street tree, situated further to the east, is proposed to be retained.

The primary areas of landscaping on the site are proposed along the length of the southern side boundary, within a courtyard space between the buildings, and within a planter box in the front setback.

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 with the amended plans 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 (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

The proposal fronts President Avenue, which is listed as a classified road. Consent must not be granted to development on this site unless Council is satisfied of the following:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Vehicular access is proposed from President Avenue, given that the site is provided with no frontages to other streets. As works are proposed to accommodate the vehicular crossing, the application was referred to Roads and Maritime Service (RMS) for concurrence, as required by S138 of the *Roads Act 1993*. The RMS provided the following comment:

"The submitted plans show the driveway width is 3500mm. Roads and Maritime requires the driveway to be a minimum of 5.5 metres wide for the first 6 metres to allow for simultaneous entry and exit movements".

The amended plans depict the design amendment required by the RMS. However, concurrence is yet to be provided, and it is unclear if the proposed design amendment satisfies this clause.

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 four (4) trees are proposed to be removed from the site to accommodate the proposed development, this includes a large *Jacaranda mimosifolia* at the rear of the site. The tree is shown within the image below:



Figure 2 Existing *Jacaranda mimosifolia* at the rear of the site

The submitted arborist report indicated as follows:

"This specimen is recommended to be removed and replaced as it cannot be retained due to the current proposed building footprint. Design options have been explored into the potential for the retention of the tree and with a Structural Root Zone of 3.2 metres and a Tree Protection Zone of 11.4 metres from centre of trunk and the relocation of the storage further to the west the encroachment is still too great for the specimen to remain viable".

Council's Tree Management Officer has reviewed the application and indicated that the building and landscape for the site needs to be redesigned to allow this tree to be retained as it provides significant amenity to the local area.

During a meeting with the applicant, Council indicated that there were other design options which would allow for the retention of the tree. The image below provides an excerpt of the amended basement floor plan. The basement floor plan shows that the basement storage provides a major incursion into the tree protection zone and the tree canopy.

The ADG indicates that at least half of the required apartment storage is to be provided within each individual unit, and allows for some storage to be provided within the basement. However, the ADG does not stipulate any minimum amount of storage that must be provided within the basement.

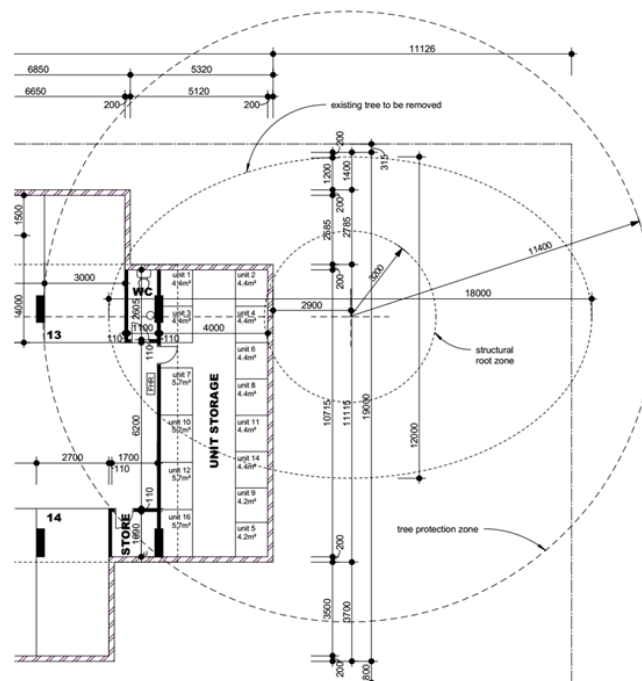
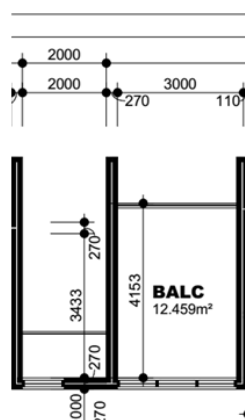


Figure 3 Basement Floor Plan showing (from centre) the structural root zone, canopy spread, and tree protection zone, of the existing *Jacaranda mimosifolia* (MacGillivray Architects, 2017)

In addition, the floor plans within each level provide 2 metre wide articulation areas, as well as some instances of second balconies oriented towards the side boundaries, which serve to unnecessarily increase the overall depth of the building. Void areas are also proposed to the foyer at First Floor and Second Floor, which add to the overall size of the building, despite also being excluded from floor space calculations. An example of such spaces is shown within the image below:



**Figure 4 – Articulated area and side balcony within Unit 5, situated on the first floor
(MacGillivray Architects, 2017)**

Finally, as shown within the image below, the ground floor courtyard areas of the rear units, are primarily comprised of hard stand areas, which are elevated above ground level, as a consequence of the limited depth of the basement (discussed further throughout the report). Although larger courtyard areas are favourable for ground floor units, within the context of the existing tree, every effort should be made to provide deep soil area surrounding the tree. For instance, it is possible to delete the lower level of the rear courtyards, as they are not required for to achieve minimum private open space requirements. It is not considered that this requirement is incompatible with the provision of suitable courtyard areas for the rear ground floor units.

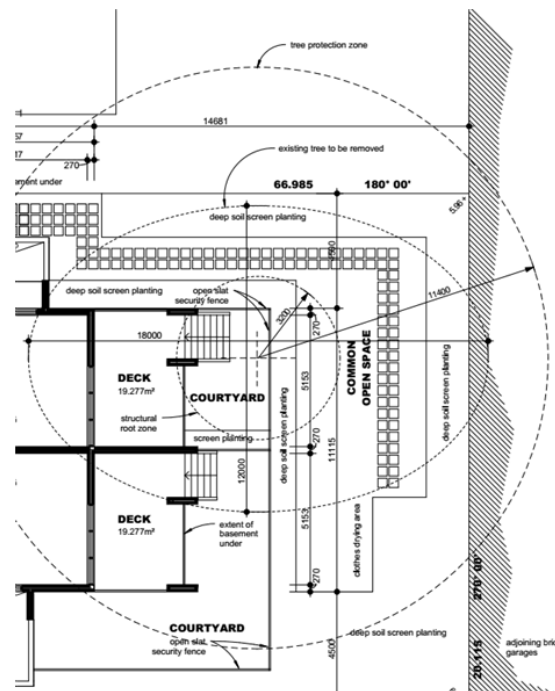


Figure 5 Ground Floor Plan showing (from centre) the structural root zone, canopy spread, and tree protection zone, of the existing *Jacaranda mimosifolia* (MacGillivray Architects, 2017)

It is evident that there are opportunities to shift the core of the building towards President Avenue and increase the rear setback to minimise the incursion on the tree. This information was communicated to the applicant as follows:

"The Design Review Panel had also earlier indicated that there may be some merit in a minor reduction in the front setback (of up to 1.5m) in order to 'slide' the building north on the site to contribute space for the retention of the Jacaranda if further space is considered necessary.

Council has given further consideration to this issue, and can advise that the following design modifications should be made to the development:

- The basement storage areas should be deleted or reduced in scale in order to minimise the impacts to the roots of the tree. As discussed during the meeting, the ADG does not require that 50% of storage be located within the basement, only that a minimum of 50% of the required storage be located within the apartment. Therefore, there is no impediment to providing all of the storage within the apartments.*
- The circulation core of the building (i.e. lifts and stairs) should be relocated further towards the street in order to enable the entirety of the development to be situated away from the tree. This may require a different approach to the mix of apartments*

located either side of the circulation core. It is recommended that consideration should be given to a floor plan which provides to the southern side of the circulation core, either 2 x 1-bedroom apartments, or 1 x 3-bedroom apartment.

- *It is recommended that a more efficient floor layout be proposed, with articulation elements that require only a minimal increase in the overall building footprint. If required, the front setback may also be reduced as recommended by the Design Review Panel.*
- *This design may also allow for adequate communal open space to be provided at the rear, with the potential for deletion of the rooftop communal open space, which could assist in minimising ongoing maintenance costs of the development”.*

It is therefore not accepted that the tree must be removed to accommodate a reasonable development on the site, and the application is recommended for refusal, given the impact to this tree.

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

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

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

Advice from Design Review Panel

The proposed development was considered by the Bayside Design Review Panel (DRP) on 16 February 2017. 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 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 to any design response made by the applicant:

- a) **DRP comment:** The Panel supports in principle a flat roofed building despite the adjacent context of three levels buildings with pitched roofs. The Panel considers that, in order to better reflect the character of the adjacent buildings to the east and west, the upper level of the building, particularly on the street frontage, should be more recessive than the bottom three levels of the building (possibly achieved by a subtle change in materials, colours or textures or by minor setbacks to the top levels), and the banding element of the

floor line of the third floor at approximate RL 16.11 should be strengthened to provide a more distinctive line and horizontal delineation in the building façade that corresponds to the gutter line of adjacent buildings.

Assessment consultant comment: The amended proposal provided an additional horizontal banding element sitting above that highlighted by the DRP, and just under the glazing to the third floor apartments. However, none of the other changes have been introduced to the design.

- b) **DRP comment:** The Panel is only prepared to support the side setbacks being less than the minimum required by the Apartment Design Guide, considering its context and noting the provision of visual privacy screening to side windows, if the landscape quality of the long side spaces is significantly improved in order to provide a better quality outlook (see comments under landscape).

Assessment consultant comment: Refer to later comments specifically in relation to landscaping.

- c) **DRP comment:** The Panel considers that the large Jacaranda in the rear of the subject site must be retained and that the built form should be adjusted at the rear (and possibly along the eastern side in) to retain this tree.

In particular the basement storage should be reconfigured to avoid the root zone of the tree; and built form should be shortened to avoid the roots and branches of the tree. The Panel notes there are several indents in the building on the eastern side that could be removed in order to "slide" the design of the eastern side of the building to the north to provide space for shortening of the building without necessarily compromising on the yield. The Panel would also support a minor reduction in the front setback (of up to 1.5m) in order to slide the building north on the site to contribute space for the retention of the Jacaranda if further space is considered necessary.

Assessment consultant comment: The design has not sought to retain the Jacaranda. Further discussion is provided in relation to the Vegetation SEPP.

- d) **DRP comment:** The Panel notes that there are opportunities for solar power, and rainwater harvesting to be included in the design.

Assessment consultant comment: Solar panels are provided with the amended design. An absorption system is proposed with the design.

- e) **DRP comment:** The Panel notes that indigenous plants from council list are suggested but landscape plan does not accurately articulate.

Assessment consultant comment: A condition of consent requiring an amended landscape plan could accommodate this requirement. However, the application is recommended for refusal.

- f) **DRP comment:** The Panel considers that the large Jacaranda in the rear yard must be retained and the building redesigned to accommodate retention of this tree.

Assessment consultant comment: The design has not sought to retain the Jacaranda. Further discussion is provided in relation to the Vegetation SEPP.

- g) **DRP comment:** The quality of the deep soil planting areas available is not clearly defined as many of these areas are too thin to accommodate significant planting such as canopy trees to reduce bulk and scale and provide building articulation as well as reduce rising salinity.

Assessment consultant comment: Planting within the side setbacks is constrained by the width of the basement, and the proposal is recommended for refusal in this regard.

- h) **DRP comment:** The Panel considers that the side setback areas must be redesigned to accommodate an improved landscape solution with small and medium trees, shrubs and ground covers to improve the quality of this space. The Panel notes that this will involve work to redesign and rationalise ramping, stairs, paving areas, and other structures in this area; the relationship of fencing and retaining walls to provide for adequate planting space; and utilising of deep soil areas to provide for tree planting.

Assessment consultant comment: Planting within the side setbacks areas is further constrained by the structures built within the side setbacks and the proposal is recommended for refusal in this regard.

- i) **DRP comment:** Reuse and transplanting of existing Date Palms should be considered as part of this design proposal

Assessment consultant comment: A condition of consent requiring an amended landscape plan could accommodate this requirement. However, the application is recommended for refusal.

DRP comment: The Panel notes there is a lack of information in relation to landscape plans including: legend information; location of services (gas water etc); fencing; hardscape material colours and selections (including any use of permeable paving); irrigation systems; the plant schedule does not convey widths; graphics do not convey scale of trees; no layback and crossover defined; and mailbox location and design.

Assessment consultant comment: Irrespective of the level of information provided, the array of structures within landscaped areas is not supported, and the overall quality of the landscaped areas is not sufficient to warrant support.

- j) **DRP comment:** The Panel considers that the design is generally acceptable, but a higher level of amenity should be achieved in the communal and public open spaces of this development, and a better level of screening to the side setback areas through the provision of more landscape treatment.

Assessment consultant comment: Discussed throughout the report; these matters are reflected within the reasons for refusal.

k) **DRP comment:** The Panel considers:

- The bin storage area in front of boundary is inappropriate, and a better solution should be found.
- Safety of the side setback areas should be considered as they are redesigned in accordance with the comments above.
- Security to units 3 and 4 are of concern as accessible from communal open space areas

The quality of the deep soil planting areas available is not clearly defined as many of these areas are too thin to accommodate significant planting such as canopy trees to reduce bulk and scale and provide building articulation as well as reduce rising salinity.

Assessment consultant comment: Bin storage has been relocated to the basement. As indicated throughout this report, the rear of the site required a redesign in order to retain the Jacaranda tree, and there may be opportunities to improve the relationship between the private open spaces and the communal open space. For instance, it is possible to delete the lower level of the rear courtyards, as they are not required for to achieve minimum private open space requirements.

l) **DRP comment:** The Panel considers that the design is generally acceptable, but a higher level of amenity should be achieved in the communal and public open spaces of this development, and a better level of screening to the side setback areas through the provision of more landscape treatment.

Assessment consultant comment: The amended plans have accommodated this requirement, and this is reflected within the reasons for refusal.

Further discussion is provided throughout the report on the communal open space areas.

m) **DRP comment:** The Panel considers that the application is generally satisfactory in relation housing diversity and social interaction.

Assessment consultant comment: Noted.

n) **DRP comment:** The Panel considers that the quality of the communal open space should be significantly improved and designed to be more engaging.

The Panel notes there is an opportunity to utilise the rooftop as an additional communal space, and would support a height exceedance for extension of lift tower and pergola structure in order to provide a high quality rooftop communal garden noting that the height of this space in relation to the adjacent roof areas means it would could be easily designed to not overlook adjacent dwellings.

Assessment consultant comment: It is not considered that the amended design has addressed this point appropriately. The structures that are proposed to accommodate the rooftop communal open space are excessive in size, and the resultant height non-compliance is unable to be supported. Refer to further commentary provided in relation to Clause 4.3 of the RLEP 2011.

- o) **DRP comment:** The Panel considers that the building articulation and break up of materials, form and character are generally high quality particularly in relation to referencing and interpreting the local 1960s character in a contemporary design.

Assessment consultant comment: Noted.

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 in a prominent location along President Avenue, which experiences a high volume of traffic, particularly given it accommodates traffic travelling between the Sydney CBD and areas within Sutherland Shire and Wollongong. The southern side of President Avenue is characterised by four storey residential flat buildings, and the northern side of President Avenue is primarily characterised by single residential dwellings.</p> <p>The properties adjoining on either side of the subject site are each four storey brick walk-up residential flat buildings, with pitched roofs. Each of these buildings sit on a relatively narrow allotment, of a similar width to the subject site, but narrower than the majority of other allotments within the block. As a consequence, each of the neighbouring buildings are provided with generally small side setbacks; however, the side setbacks of the building to the east, at 209-211 President Avenue, are more generous through the central portion of the building. As is typical in this street, vehicular parking is provided to the rear of each lot, with minimal communal open space area.</p> <p>The rear boundary of the existing building to the west, at 201 President Avenue, sits further to the north than on other lots on the southern side of the street, and the rear building line is therefore much further to the north than on other lots.</p> <p>Balconies from each neighbouring building face directly towards the subject site, and the existing dwellings are currently afforded with very little privacy, particularly given the small side setbacks.</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>

Principle	Comment
	<p>The proposed non-compliant side setbacks could be supported, given the site is the last remaining development site within this block. However, further refinement is needed to improve the relationship between the proposed buildings and the neighbouring buildings, with additional landscaping recommended within the side setbacks.</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 proposal is larger than neighbouring developments. This is a direct consequence of the rooftop communal open space and associated structures that are proposed above the habitable floors. Although the tallest parts of the building are located towards its centre, the scale of the building will readily be perceivable from the north from low density areas directly opposite President Avenue, and further beyond. The generous width of President Avenue, and the lower density on the northern side of the street would allow the larger parts of this building to be seen from a wide visual catchment, and consequently the overall scale of the proposal is not appropriate in this location.</p> <p>In order to better reflect the character of the adjacent buildings to the east and west, the DRP had sought for the upper level of the building, particularly on the street frontage, to be more recessive than the bottom three levels of the building (possibly achieved by a subtle change in materials, colours or textures or by minor setbacks to the top levels). The amended proposal provided an additional horizontal banding element sitting above that highlighted by the DRP, and just under the glazing to the third floor apartments. However, none of the other changes have been introduced to the design.</p> <p>The design features an array of ground floor structures within the front setback which are completely at odds with the prevailing character of the street, and these elements are not appropriate.</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 create visual interest along the streetscape and when viewed from adjoining properties. However, there are concerns with the location of kitchens within the north-eastern units, and with the excessive building depth that is created in part by articulation through the side elevations.</p>
Density	<p>The plans indicate that the proposed GFA is 1347.36sqm, which would comply with the FSR development standard. A GFA validation was submitted with the original proposal, but has not been provided with the amended design. Details on floor space ratio compliance was requested by Council; however, this information has not been provided.</p> <p>The GFA has been calculated by Council to be 1493.17sqm, which equates to an FSR of 1.11:1, and would be non-compliant with the development standard. However, no 4.6 variation request was submitted, as the applicant's figures</p>

Principle	Comment
	indicated compliance. In the absence of a clause 4.6 written request, and based on the assessment calculations there is no legal basis to consent to the subject DA. In any event, it is considered the proposed density is not suitable in this locality.
Sustainability	<p>The Design Review Panel had made a number of requests in relation to sustainability, including several changes to the landscaping proposal, and the exploration of opportunities for solar power and rainwater harvesting. The proposal has incorporated the latter requirements.</p> <p>Furthermore, the extent of overshadowing remains unclear as the impacts have not been demonstrated adequately. Finally, an amended Basix Certificate did not accompany the amended design.</p>
Landscape	The Design Review Panel had made a number of requests in relation to landscaping, including several changes to the landscaping proposal, and the exploration of opportunities for solar power and rainwater harvesting. Critically, the application still seeks the removal of the Jacaranda within the rear yard, and this is not appropriate, given the design alternatives that are available. Moreover, the applicant has not resolved the landscape design issues within the front and side setbacks.
Amenity	<p>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 design seeks to minimise privacy impacts through provision of privacy screening. However, details of landscaping is required to ensure that privacy impacts are ameliorated, particularly noting the minimal setbacks to the basements, and lack of planter depths.</p> <p>The deep narrow balcony layouts to the units in the northern eastern corner of the building, are not appropriate given they will limit the availability of solar access and daylight into the internal areas of these dwellings.</p>
Safety	The DRP comments outlined safety concerns with the original design, due to the relationship between the private open spaces and the communal open space, and it is considered that there are design solutions which could improve this outcome, as well as improving the overall allocation of communal open space. For instance, it is possible to delete the lower level of the rear courtyards, as they are not required to achieve minimum private open space requirements.
Housing diversity and social interaction	<p>The proposal provides an acceptable dwelling mix and is compliant with the RDCP 2011 requirements. The unit mix includes 12.5% of 1-bedroom units, 75.0% of 2-bedroom units and 12.5% of 3-bedroom units.</p> <p>Part 4.5.1 of the RDCP 2011 requires that two adaptable dwellings be provided for this development. The submitted Access Report indicates that this information can be provided with a Construction Certificate; however, this</p>

Principle	Comment
	<p>information should be provided for DA assessment to ensure compliance can be achieved the final built form outcome.</p> <p>Part 4F of the ADG provides guidance on the design of common circulation spaces at each level of the building. Part 4F requires that daylight and natural ventilation be provided to all common circulation spaces that are above ground. No natural light or ventilation is provided to the circulation spaces of the third floor, and this is related to the provision of two 3-bedroom apartments at this level.</p> <p>In addition, the overall function of common circulation spaces within the development are poor having regard to the following:</p> <ul style="list-style-type: none"> • The entry to the building sits in the centre of the building, with a long entry path provided from the street to the entry foyer. • There is no direct connection between the ground floor communal open space and the common internal areas <p>The design does not adequately facilitate incidental social interaction between residents.</p>
Aesthetics	<p>The DRP considers that the building articulation and break up of materials, form and character are generally high quality particularly in relation to referencing and interpreting the local 1960s character in a contemporary design.</p> <p>The garbage bin storage area within the front setback has been deleted and relocated within the basement area. However, there are further changes that can be made within the street to reduce the overall visual clutter within the street frontage, including removal of the entry awning, letterboxes, and level changes to remove the amount of ramps required for access.</p> <p>Furthermore, the fifth level, associated with the height non-compliance, will be readily perceived from properties to the north of the site, despite being setback from the street, and the proposal is not appropriate in this regard.</p>

Apartment Design Guidelines

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 3C - Public Domain Interface

The objectives of Part 3C are as follows:

- Transition between private and public domain is achieved without compromising safety and security.
- Amenity of the public domain is retained and enhanced.

Part 3C includes a variety of controls aimed at achieving the above objectives. It is noted that the garbage bin storage area was relocated to the basement, however, the following concerns remain with regard to the public domain presentation:

- The main pedestrian entry to the building is not provided at the front of the building, and the letterboxes, portico, and ramps at the boundary provide a poor presentation to the streetscape. This is largely a consequence of the raised level of the ground floor.
- A prominent entry should be provided which is integrated into the overall building.
- Furthermore, the ground floor apartments that face the street are not provided with individual entries from the street, or the entry corridor.

In relation to the floor level of the ground floor, the submitted Statement of Environmental Effects indicated the following:

"The basement is proposed as low as possible but is not located completely below ground. It protrudes above ground to an approximate maximum height of 1.5m (to the ground floor level). This is due to the level of the sewer traversing the centre of the site.

Initial design consideration was to divert the sewer around the site perimeter to the rear, so the basement could be proposed below natural ground level. Harrison and Friedmann, Civil Engineers and Water Servicing Co-ordinator for Sydney Water, were engaged to determine if this was possible. They found that the fall of the sewer was not sufficient enough to allow diversion. They concluded that for any development to occur on the site, the sewer would require encasement and be built upon.

The position of the sewer and the subsequent encasement dimensions has determined the proposed basement floor level. A sewer 'peg-out' indicating the position and depth of the sewer is included with the application".

In relation to the discussion within the Statement of Environmental Effects, Council sought the following information

Further information is required on the site constraints relating to the sewer main, as much of the urban design issues with the street frontage, as well as the site coverage non-compliance, appear to be as a consequence of the sewer main. Specific details on the location of the sewer, and its effect on the construction of the basement, must be provided:

- *The Statement of Environmental Effects (SEE) indicates that there is not enough slope for the sewer to be diverted. A letter from the engineer should be provided to demonstrate this to be the case. The SEE also states that a sewer pegout has been prepared, which should be made available to Council.*
- *Details on the feasibility of alternative designs shall be provided, to demonstrate that the proposed levels present an optimal outcome for the site. If the proposed levels are unchanged, it must be demonstrated that site coverage, and the variation in levels, has been minimised as much as possible.*

No further information has been submitted in this regard.

Part 3D – Communal Open Space

Part 3D of the ADG requires that communal open space be provided to an area that is equal to 25% of the site, and that a minimum of 50% direct sunlight be provided to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).

The proposal provides approximately 156.5sqm of communal open space at ground level, at the rear of the property, which faces towards the south and would therefore receive very little solar access. Although the proposal complies with the lower spatial requirements within the RDCP 2011 (5sqm per apartment), the proposal is inconsistent with the solar access requirements of both the ADG and RDCP 2011.

To improve the provision of communal open space, the DRP recommended that a rooftop communal open space be provided. The plans indicate that 141sqm of communal open space has been provided; however, it has been estimated that the size of the communal open space is actually closer to 103.8sqm. This would give a total communal open space area of 260.3sqm, or 19% of the site, which is short of the required 25%, but is compliant with the requirements of the RDCP 2011.

Critically, the proposed rooftop communal open space requires a significant height non-compliance to obtain access. It has been indicated throughout this report, that there are opportunities to improve the provision of communal open space at the rear of the site. The extent and overall scale associated with the height non-compliance are excessive, and the rooftop communal open space as currently proposed is not able to be supported.

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 6 Building Separation Requirements

The proposal incorporates five-storeys with a height of approximately 17.3 metres. The lower three storeys would require boundary setbacks of 3m for non-habitable rooms and 6m for habitable rooms and balconies. The fifth storey would require setbacks of 4.5m for non-habitable rooms and 9m for habitable rooms and balconies. Further, given the fourth storey partially sits above 12m, these more onerous setback requirements would also apply to the fourth storey.

The proposed setbacks can be summarised as follows:

- Each level is provided with 4.5m side setbacks to the external walls of the internal areas of the building. However, blade walls and privacy screening are proposed approximately 1 metre further towards the side boundaries. The pedestrian entry portico is also provided within the eastern side setback area.
- The basement has setbacks which are not entirely consistent with the setbacks of the buildings, being a 900mm side setback to the eastern side boundary, 800mm side setback to the western side boundary, and is raised approximately one metre above ground level.
- There is generally no variation in the setback to habitable and non-habitable areas.

The proposal therefore does not comply with the required setbacks of between 6m and 9m for the habitable areas of the building. Privacy screening has been proposed throughout the development, and given the site represents the only underdeveloped site within the urban block, and that the site does not meet the minimum requirement for lot width, it is reasonable to expect that full compliance with the setback requirements would not be possible, and would also not be consistent with the prevailing street character. However, it has not been demonstrated that the extent of the non-compliances is acceptable as proposed, particularly noting the DRP requirements for suitable planting within the side setback areas.

Part 4A – Solar Access

Refer to discussion in relation to Part 4.4.2 of the RDCP 2011.

Part 4E – Private Open Space

Part 4E of the outlines a range of provisions for the private open space areas associated with balconies. Design guidance in relation to 4E-2 indicates that primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.

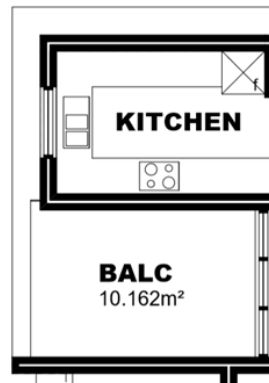


Figure 7 Kitchen and front balcony within Unit 13, situated on the third floor (MacGillivray Architects, 2017)

An example of the primary balconies to the north-eastern apartments are shown within the image above, and are almost 3.5m deep, allowing little solar access to reach the living rooms, particularly given privacy screening is proposed over eastern windows, and that small side setbacks within the proposal, and on neighbouring properties, limits the provision of solar access. These units are also provided with east facing balconies/courtyards, which are similarly-dimensioned, and further constrained given their location alongside narrow side setback areas.

In the correspondence sent to the applicant, Council indicated to the applicant that the north-east apartments should be redesigned to provide wide balconies with outlooks towards the north, and the kitchens should be relocated to sit further to the south. This is similar to what is provided within the apartments within the north-west portion of the building.

It is noted that this recommended design change would reduce the articulation to the front façade. However, given the overall width of the façade, it is considered that this feature is not required, and that the articulation provided by the suggested design amendments would be acceptable. The proposed front façade is depicted below.



Figure 8 Streetscape Elevation with kitchens shown on the left hand side of the front façade (MacGillivray Architects, 2017)

Part 4F – Common Circulation and Spaces

Part 4F provides guidance on the design of common circulation spaces at each level of the building. Part 4F required that daylight and natural ventilation be provided to all common circulation spaces that are above ground. No natural light or ventilation is provided to the circulation spaces of the third floor, and this is related to the provision of two 3-bedroom apartments at this level.

In addition, the overall function of common circulation spaces within the development are poor having regard to the following:

- The entry to the building sits in the centre of the building, with a long entry path provided from the street to the entry foyer.
- There is no direct connection between the ground floor communal open space and the common internal areas

The design is inconsistent with objective 4F-2, which requires designs to facilitate incidental social interaction between residents.

Part 4H – Acoustic Privacy

Bedrooms within the south-western units are located adjacent to the lift, which is contrary to the design guidance within Part 4H. The acoustic report provided with the application has not demonstrated that the indoor sound levels to these bedrooms are able to be made to be acceptable.

In addition, access from the ground floor entry foyer to both the street, and to the rear communal open space, requires residents to travel past ground floor bedroom windows.

Part 4L - Ground floor apartments

As indicated within the assessment of Part 3C, the ground floor apartments that face the street are not provided with individual entries from the street, or from the entry corridor. The proposal is inconsistent with Part 4L.

Part 4O – Landscape Design

Refer to discussion in relation to Part 4.3.1 of the RDCP 2011.

Part 4Q - Universal Design

Part 4Q requires that adaptable housing be provided in accordance with the relevant Council policy, which is outlined within Part 4.5.1 of the RDCP 2011. This policy would require that two adaptable dwellings be provided for this development. The submitted Access Report indicates the following:

“Two adaptable units have been provided, located in dwellings number 13 and 16. These are proposed within the three bedroom units as these units provide for the greatest ‘ease of adaption’. No detail is provided at this Development Application stage but will be provided for the Construction Certificate”.

This information is required to be provided for assessment of the development application.

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	No – see discussion
4.4 Floor space ratio - Residential zones	No – see discussion
4.6 Exceptions to development standards	4.6 request not submitted - see discussion in relation to Clause 4.3 and 4.4
5.10 Heritage conservation	Yes – see discussion in relation to 4.1.2 of RDCP 2011
6.1 Acid Sulfate Soil - Class 4	Yes – see discussion
6.2 Earthworks	Yes – see discussion
6.4 Airspace Operations	Yes – see discussion
6.7 Stormwater	No – see discussion
6.12 Essential Services	Yes – see discussion

2.3 Zone R4 High Density Residential

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

The 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 the first objective as discussed throughout this report.

4.3 Height of buildings

Clause 4.3 provides a maximum height of buildings on the subject site of 14.5 metres. The existing ground levels range from RL 5.44 – RL 6.03. No specific information has been provided on the maximum level of the proposal, however it has been measured off the plan to be approximately RL 22.75, which would result in a height non-compliance of between approximately 16.72m and 17.31m. Measuring directly from the plans also shows a maximum height of approximately 17.3m. The proposal does not comply with the development standard and therefore does not satisfy this clause.

Following its review of the original plans, the DRP indicated that they would support a height non-compliance at the site to offset the provision of communal open space at the rear, which is oriented the south. The DRP comments are provided below:

“The Panel notes there is an opportunity to utilise the rooftop as an additional communal space, and would support a height exceedance for extension of lift tower and pergola structure in order to provide a high quality rooftop communal garden noting that the height of this space in relation to the adjacent roof areas means it would could be easily designed to not overlook adjacent dwellings”.

Following a review of the amended plans, Council had indicated that the extent of the height non-compliance – that is, the portion of the roof structure that was non-compliant – was excessive, and that more effort was required to reduce the extent of the height non-compliance. These comments are provided below:

“The elevations indicate that the central element - which is non-compliant with the maximum building height – is situated across the entire width of the building. The scale of the lift overrun and adjacent structures must be minimised and centralised within the building envelope. The foyer should be deleted, and the ceiling heights around the stairwell reduced to be as small as possible”.

No further information has been submitted which responds to this concern, and no clause 4.6 variation was submitted with the amended design.

In addition, it is apparent that the increased rear setback required to allow for the retention of the Jacaranda tree, combined with smaller rear private open space areas would enable an improved communal open space. Furthermore, the depth of the building is unnecessarily large as discussed elsewhere, and the 2 metre wide articulation areas and second balconies oriented towards the side boundaries, serve to unnecessarily increase the overall depth of the building. There is capacity to reduce the overall depth of the building, allowing for the improvement of the rear communal open space, which could potentially negate the need for such a large rooftop communal open space.

Despite no 4.6 variation being submitted (as there being no legal basis for approval of the subject DA), it is not considered that such a request could be supported in any instance given that it is unlikely that it could be demonstrated that the height control is unreasonable or unnecessary, particularly noting other non-compliances with setbacks and site coverage, indicating that the scale of the development is excessive for this site.

4.4 Floor space ratio - Residential zones

Clause 4.4 restricts the development to a maximum floor space ratio (FSR) of 1:1, which equates to a total gross floor area (GFA) of 1347.4sqm. The amended plans indicate that the proposed GFA is 1347.36sqm, which would comply with the FSR development standard.

A GFA validation was submitted with the original proposal, but has not been provided with the amended design. Details on floor space ratio compliance was requested by Council; however, this information has not been provided.

The GFA has been calculated by Council to be 1493.17sqm, which equates to an FSR of 1.11:1, and would be non-compliant with the development standard. However, no 4.6 variation request was submitted, as the applicant's figures indicated compliance.

Given that the requested information was not provided, floor space ratio non-compliance is included as a reason for refusal.

6.1 Acid Sulfate Soil - Class 4

Acid Sulfate Soils – Class 4 affects the site. The proposal involves works more than 2 metres below the natural ground surface, and therefore an acid sulfate soils assessment is required. The submitted Acid Sulfate Soils Assessment concludes that an Acid Sulfate Soils Management Plan will not be required provided onsite dewatering does not lower the groundwater level outside the site. Information was sought in relation to groundwater, but was not provided, and this is reflected within the reasons for refusal. However, based on the information that is currently available on acid sulfate soils, it is considered that the clause could be satisfied.

6.2 Earthworks

Earthworks including excavation are required on site to accommodate the development. 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. The maximum building height is comfortably below this requirement at approximately RL 22.75.

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 RDCP 2011.

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 (RDCP 2011) 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 – see discussion
4.1.2 Heritage – vicinity	Yes – see discussion

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.1.3 Water Management	No – see discussion
4.1.4 Soil Management	Yes
4.1.5 Contaminated Land	Yes – see discussion under SEPP 55.
4.1.6 Development on sloping sites	Yes
4.1.7 Tree Preservation	No – see discussion under Vegetation SEPP
4.1.9 Lot size and Site Consolidation – Residential Flat Buildings	No – 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 – see discussion in relation to SEPP 65
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 – see discussion in relation to the ADG
4.3.3 Communal Open Space	No – see discussion in relation to the ADG
4.3.4 – Open Space and Landscape Design – Residential Building	No – see discussion
4.4.2 Solar Access	No – see discussion
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 in relation to the ADG in relation to acoustic privacy.
4.4.5 Visual privacy – Roof Top Area	Yes – see discussion
4.4.6 Noise impact	Yes
4.5.1 Social Equity - Housing Diversity and Choice	Yes
4.5.2 Social Equity - Equitable Access	No – see discussion in relation to the ADG
4.6 Car Parking	No – see discussion
4.7 Air Conditioning and Communication Structures	Yes
4.7 Waste Storage and Recycling Facilities	Yes – see discussion
4.7 Laundry Facilities and Drying Areas	Yes
4.7 Letterboxes	No – see discussion in relation to the ADG

Relevant Parts of the RDCP 2011	Compliance with standard/provision
4.7 Service Lines/Cables	Yes
5.2 Residential Flat Building – Site Coverage	No – see discussion
5.2 Residential Flat Building – General	No – see discussion in relation to the ADG
5.2 Residential Flat Building – Setbacks	No – see discussion in relation to the ADG
5.2 Residential Flat Building – Balcony Balustrade	Unclear – see discussion

4.1.1 Views and Vista

The subject site is located within a low lying area. 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 Cook Park (item I168, local significance) and is located approximately 200m to the west. 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 absorption rate used in the assessment of the absorption system need to be factored down in accordance with Section 5.4.1 of Council Technical Specification Stormwater Management;*
- *An oil separator device is to be provided in the basement drainage system in accordance with Section 5.4.1 of Council Technical Specification Stormwater Management.*

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

Given the other issues outlined elsewhere, the applicant was not afforded the opportunity to address these issues, and this matter is subsequently included in the recommended reasons for refusal.

Groundwater

The submitted geotechnical report indicates that some minor localised dewatering may be required if foundations extend below the groundwater table. Details were requested, as approval

of the proposal may require an approval for an aquifer interference activity pursuant to the *Water Management Act 2000*. No further information has been provided.

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) 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 subject site has a frontage of 20.115m, less than the frontage of 24m required under the DCP. The development site combines the only two remaining sites on the southern side of President Avenue, between Wycombe Avenue and The Grand Parade, to create an allotment that is of a similar size to each of the adjoining allotments, which each contain older residential flat buildings. As a result, the redevelopment of this land for the purpose of a residential flat building is a desirable outcome. The non-compliance with the minimum frontage is therefore not included as a reason for refusal.

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. President Avenue is generally characterised by existing residential flat developments, and the subject site represents a consolidation of the remaining underdeveloped allotments within this block. Therefore, the proposal does not render any potential development sites as being isolated.

4.3.1 Open Space and Landscape Design - Residential Flat Building

Several deficiencies with the landscape design were identified by the DRP, and have not been resolved (refer to comments in relation to SEPP 65 and Vegetation SEPP assessment). In particular the proposal seeks unnecessary removal of a Jacaranda, and provides inadequate screen planting to the sides of the building, which would offset the non-compliant side setbacks. The latter issue is exacerbated by minimal basement side setbacks, and inadequate planter depth (600mm is proposed, and 800mm planters would be required).

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*

Given that half of the apartments in the development are oriented towards the south, and that the proposal is provided with narrow side setbacks, it is unlikely that the proposal complies with the above requirements.

Council had sought further information in relation to overshadowing and solar access, as the information provided with the application is not sufficient to determine compliance with the various solar access requirements. Further information was required as follows:

- 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 communal open space should be provided. Shadows cast by neighbouring buildings, fences, and the proposal must be accounted for in this analysis.
- 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 on shadow elevation plans. The impact of the proposal on the solar access provided to neighbouring communal open space area should be clearly outlined, either on plan, or through a separate written response.

This information has not been provided.

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 are incorporated to protect the visual and acoustic amenity of neighbouring properties. The rooftop communal open space is setback over 2m from each edge of the building and complies with this requirement.

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 (12.5%), twelve (12) x 2-bedroom units (75%), and two (2) x 3-bedroom unit (12.5%). As a consequence, the proposal is compliant with this control.

4.6 Car Parking, Access and Movement

The proposed development provides for a complying 22 parking spaces for residents, two (2) of which are accessible, with four (4) car parking spaces for visitors, one (1) of which also doubles as a car wash bay, within the basement car park level. Two (2) motorbike and two (2) bicycle spaces are also provided within the basement. However, one of the motorbike spaces is provided as a 'small motorbike space', which are not appropriate for a development of this size as it is unlikely that they will cater to the limited number of residents within this development. Standard motorcycle spaces shall be provided to cater for the greatest number of potential occupants.

In addition, Part 4.6 requires that basements be located within the building footprint, fully below natural ground level, and that where site conditions mean that achieving this requirement is unachievable, the maximum basement projection above natural ground level is to be 1m at any point on the site.

The Statement of Environmental Effects indicates that the proposal is unable to be located completely below natural ground level or within the building footprint, because of the location of an existing sewer line. The maximum basement projection above natural ground level has been generally limited to approximately 1m; however, further information was by Council on the location of the sewer, to demonstrate that such a projection was necessary.

In addition, the following comments were provided by Council's development engineer:

- *Council technical and Parking Specifications Traffic, Parking and Access, table 3.3 require a Small Rigid Vehicle parking space be provided within the proposed development. refer to AS2890.2:2002 regarding grade, height clearance and parking space sizes. Note: Small Rigid Vehicles require less steep grades and more headroom;*
- *All Structural members to be located outside the parking spaces, refer to Section 5 of AS2890.1:2004;*
- *The 90 degree transition from a 5.5 metre Driveway to a 3.5 m is not accessible, a 60 degree splay must be incorporated in the transition to eliminate the need for reversing to access the ramp;*
- *The ramp access width must be 3.6m minimum to allow for a 300mm Kerb clearance in accordance with figure 2.8 of AS2890.1:2004;*
- *Carwash bays must be 3.5m wide minimum refer to Council Technical Specification Section 7.5.5;*
- *The driveway ramp is generally acceptable, except for headroom, headroom clearance need to be measured perpendicular to the ramp; however if a SRV vehicle is to be provided in the basement the grades do not comply.*

Given the other issues outlined elsewhere, the applicant was not afforded the opportunity to address these issues, and this matter is subsequently included in the recommended reasons for refusal.

4.7 Waste Storage and Recycling Facilities

The proposed waste storage area within the basement provides space for 8 bins within the basement, with temporary space available for larger waste. This is appropriate for a development of this size.

5.2 Residential Flat Building – Site Coverage

Part 5.2 indicates that building footprints for residential flat buildings are to be limited to 35% of the site area. The proposal provides for 792.82sqm (58.8%) of site coverage. The Statement of Environmental Effects indicates that this is a direct consequence of the location of the sewer main, as the basement is unable to be positioned entirely underneath the proposed building. Further information is required to substantiate this position. Refer to discussion in relation to Part 3C of the ADG.

5.2 Residential Flat Building – 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 submitted finishes schedule does not clearly indicate whether balustrades will be transparent, and 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 relevant provisions requiring further discussion.

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 the building height and FSR requirements and as a result, creates undue 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 development has been notified in accordance with the provisions of the RDCP 2011. In response, three (3) submissions were received, plus a second objection from one of the original objectors. All but one of the submissions objected to the proposal.

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

Issue 1: Site coverage non-compliance.

Comment: The non-compliance with site coverage has not been adequately justified, and this is included as a reason for refusal.

Issue 2: Privacy impacts to surrounding buildings.

Comment: It has not been demonstrated that the proposed setback non-compliances are acceptable, and as a consequence, this forms one of the reasons why the proposal is recommended for refusal.

Issue 3: Construction over sewer

Comment: It is expected that there are engineering solutions which would enable construction over the sewer. However, the applicant has not satisfactorily demonstrated that the sewer is unable to be diverted.

Issue 4: Overshadowing

Comment: The overshadowing impacts have not been adequately demonstrated, and the proposal is therefore recommended for refusal.

Issue 5: Not compatible with existing character

Comment: It is agreed that the height of the proposal, and the design of the ground floor front setback areas are not compatible with the existing character, and the proposal is recommended for refusal.

Issue 6: Removal of Jacaranda

Comment: It is considered that there are design options which would allow for the retention of the Jacaranda, and this is reflected within the reasons for refusal.

Issue 7: Support for proposal, and support for height increase to 6 or 7 storeys

Comment: Adequate statutory justification has not been provided for the proposed height non-compliance as is required by clause 4.6 of the RLEP 2011. A building of a height up to 7 storeys, would likely require the preparation of a planning proposal.

Issue 8: Parking availability, particularly on President Avenue, Banks Street and Solander Street.

Comment: Parking is generally compliant, however a range of issues remain outstanding with respect to the design of the parking areas, and this is reflected within the reasons for refusal.

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

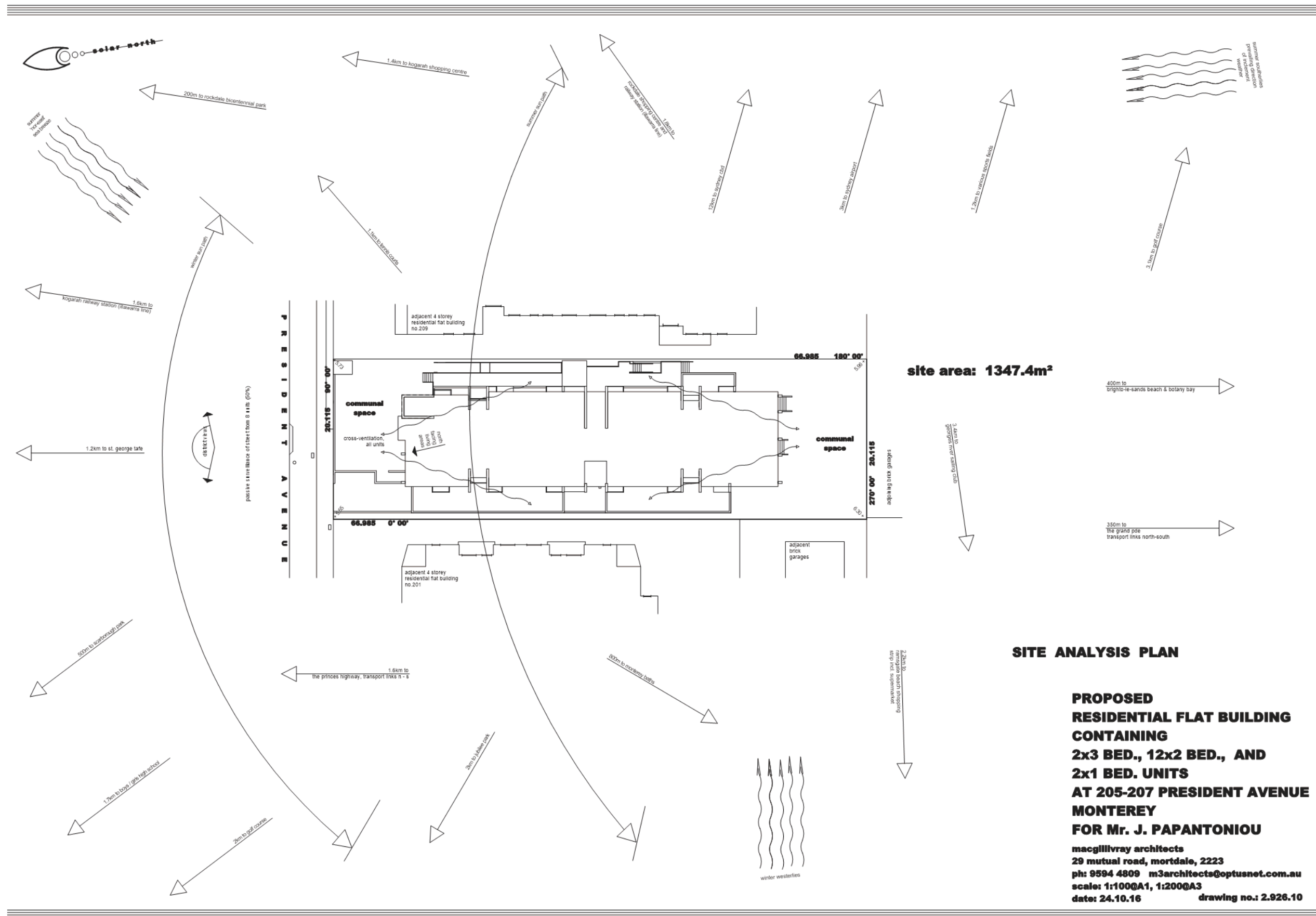
For the reasons outlined previously within this report, the proposed development is inconsistent with the requirements and objectives of the relevant planning policies, and as such is deemed to be unsatisfactory and not in the public interest.

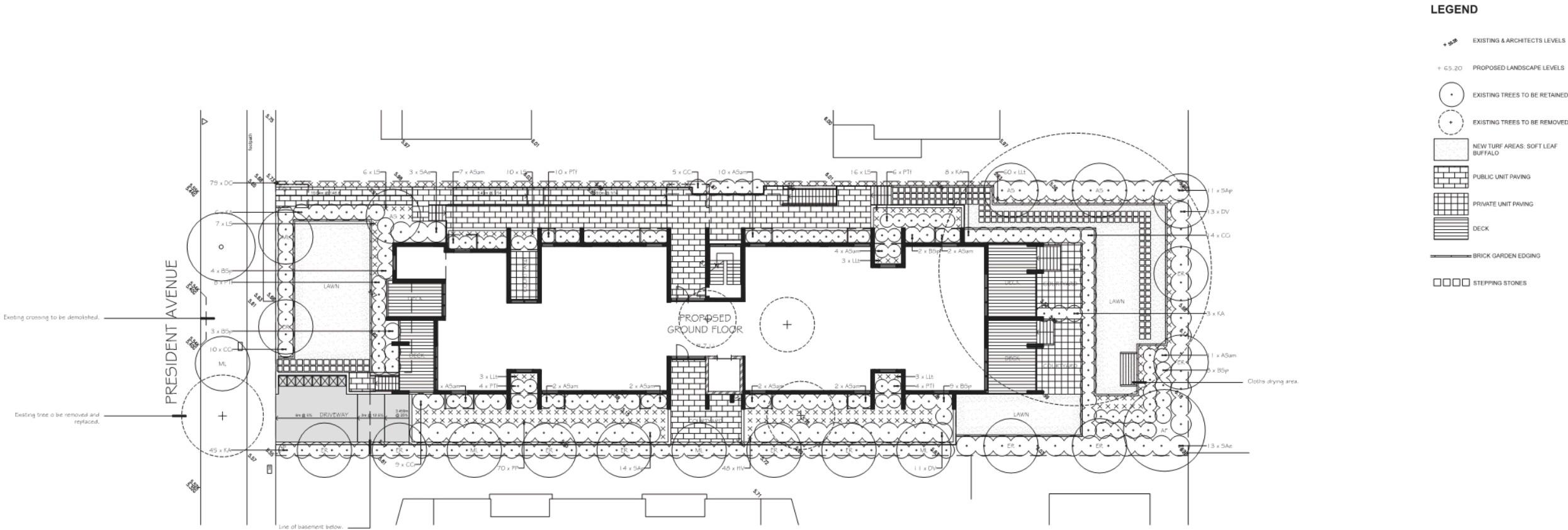
Section 94 Contributions

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

Conclusion

Development Application No. 2017/199 for construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures at 205-207 President Avenue, Monterey has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal for the reasons outlined within the 'Recommendation' contained earlier in this report.





SCHEDULE OF PLANT MATERIAL

CODE	BOTANICAL NAME	COMMON NAME	QUANTITY	MATURE HEIGHT	CONTAINER SIZE	STAKES
AS	<i>Acmena smithii</i>	Lilly Pilly	3	13m	45 litre	2
ASam	<i>Acmena smithii</i> 'Allyn Magic'	Dwarf Lilly Pilly	44	1m	200mm	-
AF	<i>Angustifolia floribunda</i>	Rough Barked Apple	1	15m	45 litre	2
BSp	<i>Banksia spinulosa</i>	Harpin Banksia	26	1.5m	200mm	-
CC	<i>Callistemon cincinnus</i>	Bottlebrush	38	2.5m	200mm	-
DC	<i>Dianella caerulea</i>	Pearo Lily	79	0.4m	140mm	-
DV	<i>Dodonaea viscosa</i> 'Purpurea'	Purple Hop Bush	24	3m	200mm	-
ER	<i>Elaeocarpus reticulatus</i>	Blushberry Ash	11	5m	45 litre	2
HV	<i>Heisterbergia violacea</i>	Native Sempervivum	48	prostrate	140mm	-
KA	<i>Kantia ambigua</i>	Tick Bush	62	2.5m	200mm	-
LL	<i>Lomandra longifolia</i> 'Tanika'	Tanka Lomandra	69	0.4m	140mm	-
LS	<i>Lomandra 'Seascape'</i>	Seascape Lomandra	39	0.4m	140mm	-
ML	<i>Malakouca linearifolia</i>	Paperbark	5	7m	45 litre	2
PP	<i>Phoradendron paniculata</i>	Wonga Vine	70	prostrate	140mm	-
PT	<i>Phormium tenax</i> 'Tiamia'	Red NZ Flax	32	1m	140mm	-
SAA	<i>Syzygium australe</i> 'Elegance'	Dwarf Lilly Pilly	16	3m	200mm	-
SAp	<i>Syzygium australe</i> 'Pinnacle'	Dwarf Lilly Pilly	25	3m	200mm	-

The majority of the plants in this schedule have been selected from a list of indigenous species from the Rockdale City Council's Technical Specification for Landscaping.

MAINTENANCE SCHEDULE

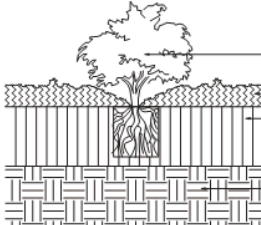
To ensure the rapid establishment and long term success of the landscape works the contractor shall undertake a 12 month maintenance period after Practical Completion. During this time the contractor shall be responsible for the replacement of any failed plants or other materials.

The following general maintenance tasks shall also be undertaken:

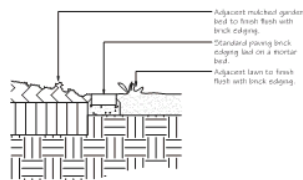
- Hand watering of plants on a regular basis equating to four times per week for the first month and two times per week for the next two months (depending on weather conditions & subject to water restrictions)
- Mowing of turf areas every two weeks from October to March and every month from April to September (depending on when the maintenance period occurs)
- Checking of plants, stakes and ties every month
- Spreading of seeds every month
- Replacement of failed plants every three months
- Pruning plants (where applicable) every three months
- Topping up of mulch after six months to maintain a 100mm cover
- No application of water crystals around plants after six months
- Any other work after six months and applying fertiliser in accordance with the recommendations of the soil analysis



1 HARDWOOD STAKING FOR TREES
SCALE 1:20
TYPICAL SECTION



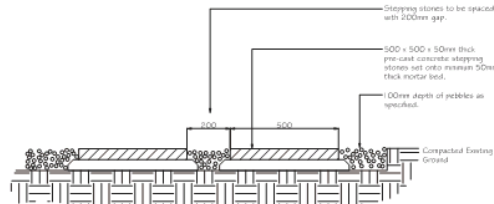
2 MASS PLANTING
SCALE 1:20
TYPICAL SECTION



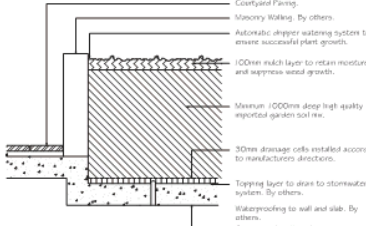
3 BRICK GARDEN EDGING
SCALE 1:20
TYPICAL SECTION



4 LAWN AREAS
SCALE 1:10
TYPICAL SECTION



5 STEPPING STONES
SCALE 1:10
TYPICAL SECTION



6 PLANTER BOX
SCALE 1:20
TYPICAL SECTION

NOTES

This plan is to be read in conjunction with all documentation prepared by MacGillivray Architects.

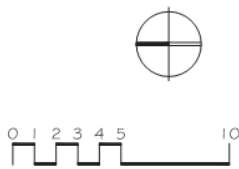


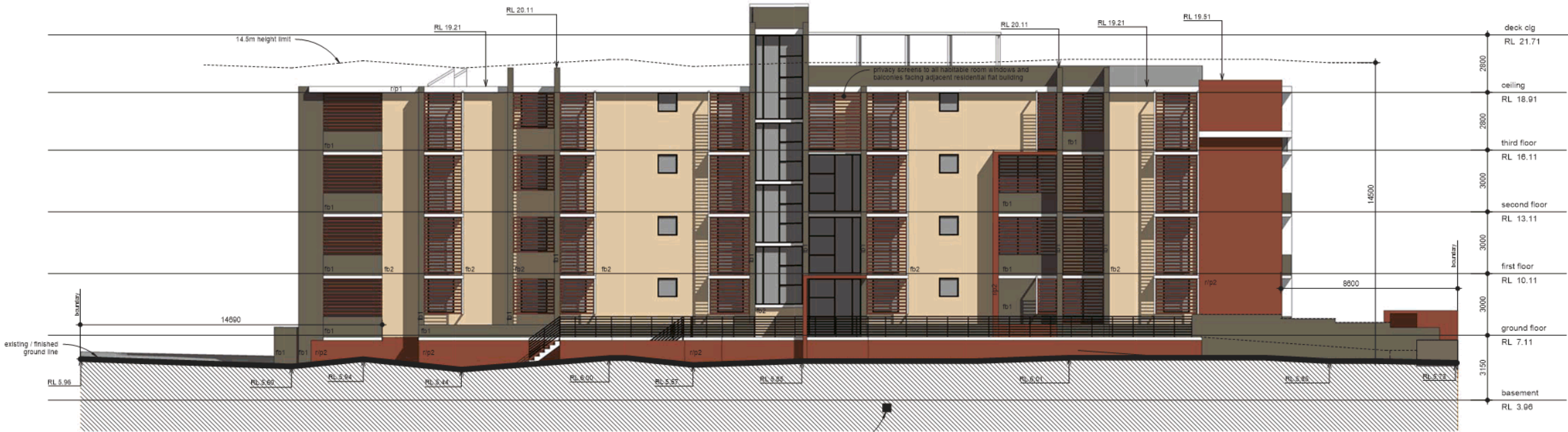
office: 16/303 pacific highway
lindfield nsw 2070
postal: 25 bent street
lindfield nsw 2070
ph 9416 4290 fax 9416 4735
A.C.N 097 328 580
email jia@netspace.net.au

project
Proposed Development
205-207 President Avenue,
Monterey

drawing
Landscape Plan

client
Mr. J. Papantoniou
date
September 2016
job.dwg no.
117.16/356
designed by
IJ
scale
1:100 @ A0
1:200 @ A2
no. in set
ONE/ONE
drawn by
CT

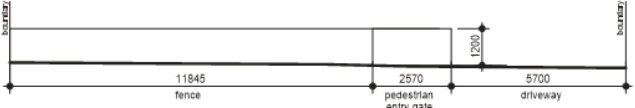




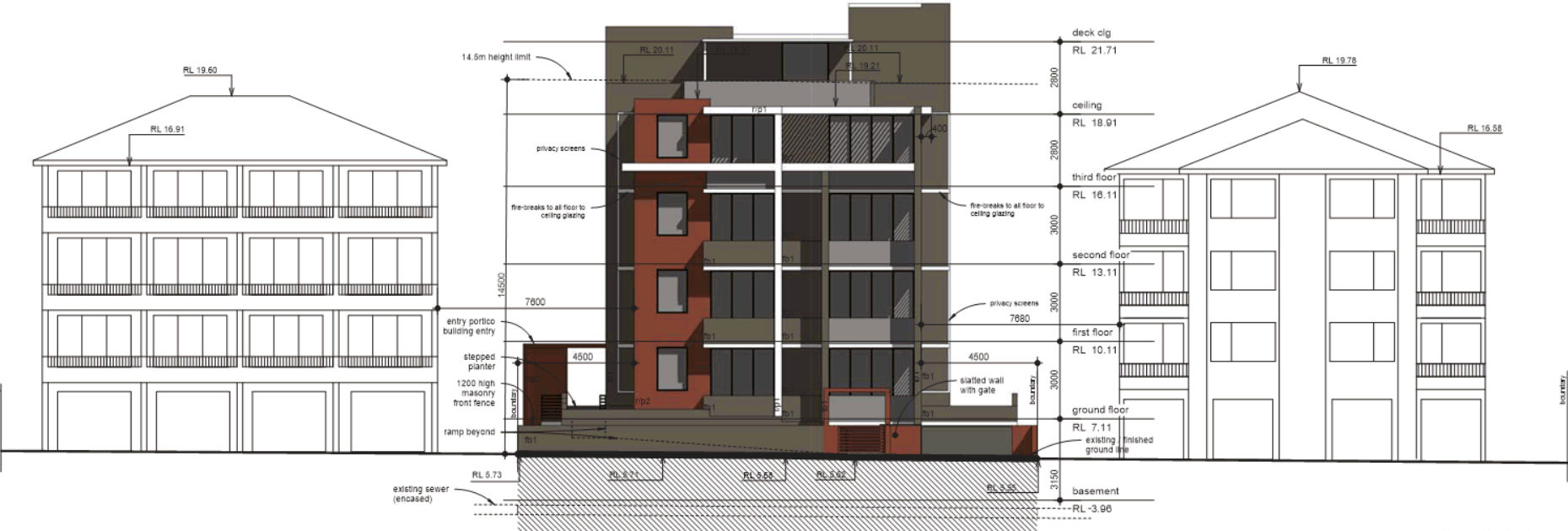
EAST ELEVATION

materials

fb1: face brick 1, neutral 'petrolite brown' or similar
fb2: face brick 2, neutral 'kimmental olive' or similar
fb3: paint or render and paint 1, dulux 'warmlist'
fb4: paint or render and paint 2, dulux 'warmlist'
fb5: floor balustrade glazing
fb6: floor balustrade glazing
fb7: floor balustrade glazing
fb8: floor balustrade glazing
fb9: floor balustrade glazing
fb10: floor balustrade glazing
fb11: floor balustrade glazing
fb12: floor balustrade glazing
fb13: floor balustrade glazing
fb14: floor balustrade glazing
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FRONT FENCE ELEVATION



NORTH ELEVATION

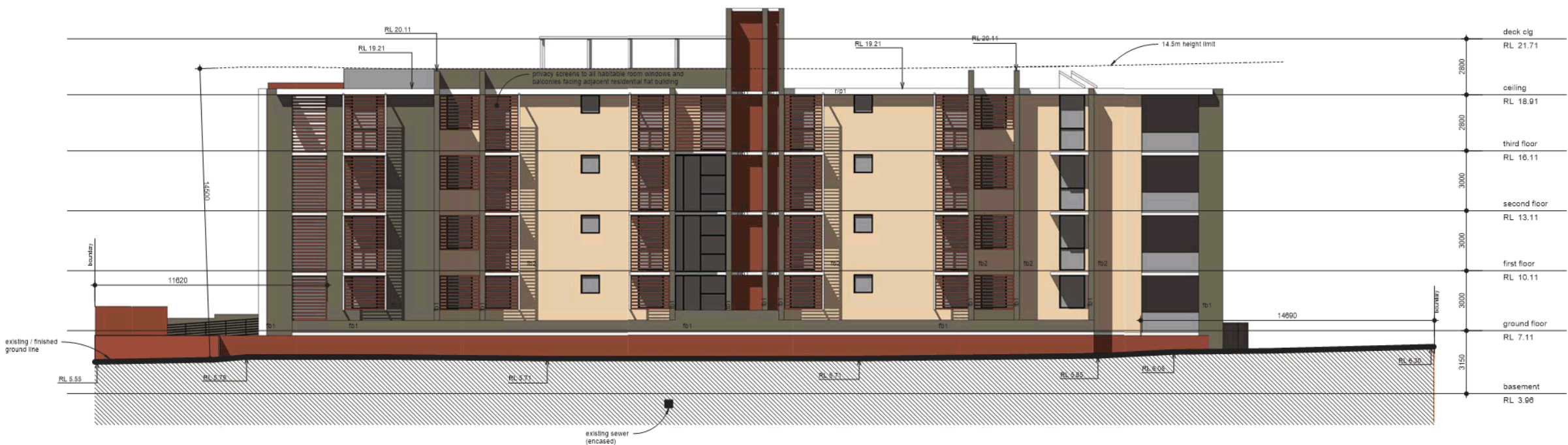
STREETSCAPE ELEVATION

**PROPOSED
RESIDENTIAL FLAT BUILDING
CONTAINING
2x3 BED., 12x2 BED., AND
2x1 BED. UNITS
AT 205-207 PRESIDENT AVENUE
MONTEREY
FOR Mr. J. PAPANTONIOU**

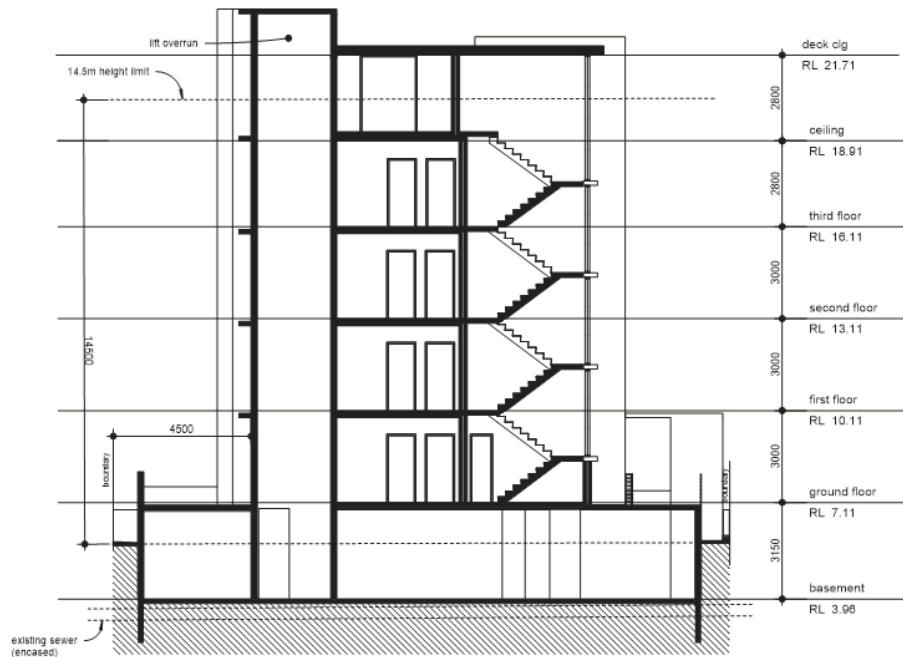
macgillivray architects (arch reg. no.: 2583)
29 mutual road, mortdale, 2223
ph: 9594 4809 m3architects@optusnet.com.au
scale: 1:100@A1, 1:200@A3
date: 28.07.16 drawing no.: 2.926.6A

driveway widened, garbage area relocated from ground to basement, tree protection zone indicated, disabled entry ramp relocated from side boundary to front setback area, planters added to northern (street) side of ramp, site entry portico relocated adjacent to carpark ramp, security fence added to rear ground floor courtyard, top floor street fronting units amended by reducing blade walls, changing solid roof over balconies to open pergola, balustrades changed to glazing and a horizontal element added, common open space and solar panels added to roof

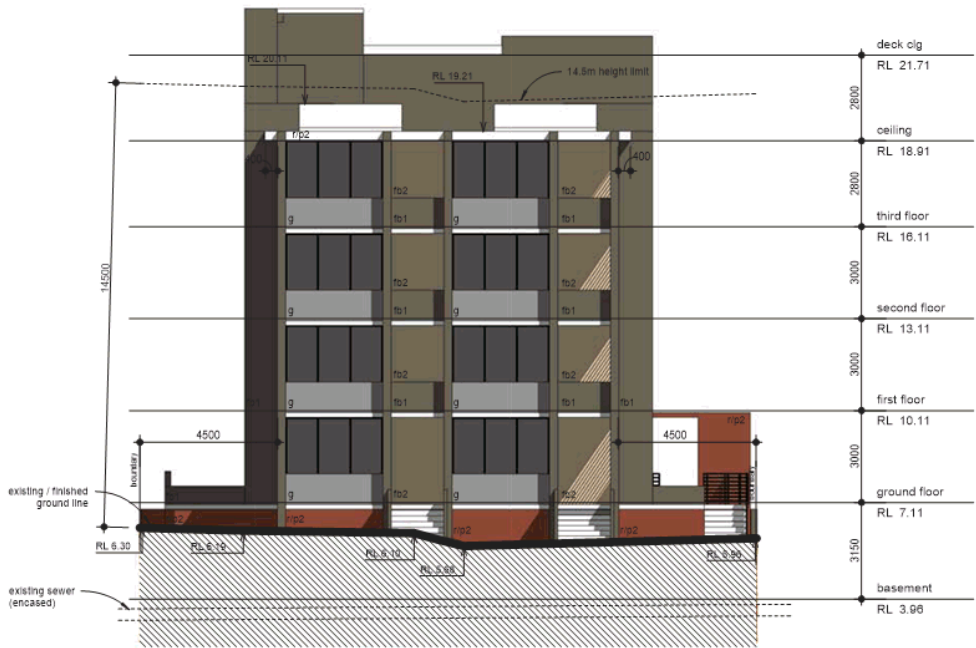
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WEST ELEVATION



SECTION A - A

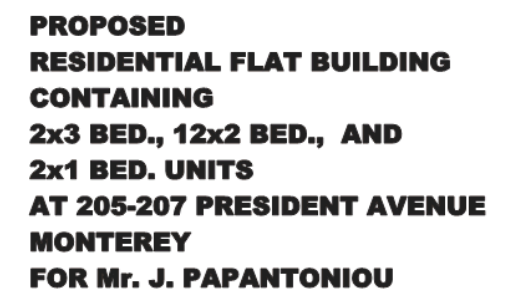


SOUTH ELEVATION

**PROPOSED
RESIDENTIAL FLAT BUILDING
CONTAINING
2x3 BED., 12x2 BED., AND
2x1 BED. UNITS
AT 205-207 PRESIDENT AVENUE
MONTEREY
FOR Mr. J. PAPANTONIOU**

macgillivray architects (arch reg. no.: 2583)
29 mutual road, mortdale, 2223
ph: 9594 4809 m3architects@optusnet.com.au
scale: 1:100@A1, 1:200@A3
date: 28.07.16 drawing no.: 2.926.7A

driveway widened, garbage area relocated from ground to basement, tree protection zone indicated, disabled entry ramp relocated from side boundary to front setback area, planters added to northern (street) side of ramp, site entry portico relocated adjacent to carpark ramp, security fence added to rear ground floor courtyard, top floor street fronting units amended by reducing blade walls, changing solid roof over balconies to open pergola, balustrades changed to glazing and a horizontal element added, common open space and solar panels added to roof
rev. a (27.04.17)



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scale: 1:100@A1, 1:200@A3
date: 28.07.16 drawing no.: 2.926.1A

26 June 2018

Our Ref: DA-2017/199
 Contact: Marta M Gonzalez-Valdes 9562 1666



MacGillivray Architects
 29 Mutual Rd
 MORTDALE NSW 2223

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number:	DA-2017/199
Property:	205 President Avenue, MONTEREY (Lot B DP 421111) 207 President Avenue, MONTEREY (Lot A DP 421111)
Proposal:	205-207 President Avenue MONTEREY NSW 2217 - Construction of a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures
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 4.16(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:

1. Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required.
2. The submission of a roof plan indicating the maximum RL for the stairs and lift overrun.
3. The submission of an amended landscape plan addressing the following:

(1) Frontage setback

- a. Allow at least one (1) large native canopy tree in an area of minimum three by three metres (3x3m).

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

بخدمة الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

1 of 20

The tree shall be an *Angophora costata* or a native tree endemic to the area, to be supplied and planted at 200 Litre pot size, with three (3) stakes.

b. All turf area proposed in the front setback shall be replaced with trees and shrubs. If absorption trench is present replace turf with groundcovers, sedges and grasses.

(2) Roof Terrace

a. Planter boxes on roof terrace shall comply with the ADG part 4P Planting in Structures, to ensure success of proposed planting. Minimum width shall be 700mm. Include *Raphiolepis indica*, or similar shrub with small dense leaves to reach a minimum 1 metre high in the roof planter box to provide visual and acoustic privacy.

(3) All planter boxes shall have the depth and width recommended by the ADG part 4P Planting in Structures, to ensure success of proposed planting.

(4) All landscape areas shall be automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.

(5) Rear landscaped area

The two advanced *Jacaranda mimosifolia* trees shall be planted, one in each corner, a minimum of 3 metres from any boundary of the site. In addition one (1) *Angophora costata*, or native tree endemic to the area, shall be included in the rear landscape area, at a minimum distance of 2.5 metres from adjoining boundaries. The trees are to be supplied at minimum pot size of 200 litres, (height above container 3.5 metres, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 metres).

(6) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months.

(7) Public Domain

The street tree shall be *Eucalyptus sideroxylon* 'Rosea', (Red Iron Bark) as specified in Rockdale Street Tree Master Plan. Being a State Road the street tree shall be supplied at 400 litre pot size.

(8) Details of the proposed entry porticos in plan and elevation.

(9) Fire booster details.

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
Basement Plan and Site Plan / Dwg 2.926.1A	macgillivray architects	27.04.17	05.05.17
Ground Floor Plan / Dwg 2.926.2A	macgillivray architects	27.04.17	05.05.17
First Floor Plan / Dwg 2.926.3A	macgillivray architects	27.04.17	05.05.17
Second Floor Plan / Dwg 2.926.4A	macgillivray architects	27.04.17	05.05.17
Third Floor Plan / Dwg 2.926.5A	macgillivray architects	27.04.17	05.05.17
Rooftop Common Open Space Plan / Dwg 2.926.12	macgillivray architects	27.04.17	05.05.17
West Elevation, South Elevation, Section A-A / Dwg 2.926.7A	macgillivray architects	27.04.17	05.05.17
East Elevation, North Elevation/ Streetscape Elevation / Dwg 2.926.6A	macgillivray architects	27.04.17	05.05.17
Colours and Materials	macgillivray architects	-	05.12.16
Landscape Plan Rev A	Landscape architecture	15.05.18	29.05.18

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 the approved BASIX Certificate other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Note: For further information please see <http://www.basix.nsw.gov.au>.
6. The balconies, roof top structures and patio areas shall not be enclosed at any future time without prior development consent.

7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. 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. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

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

3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Development specific conditions

The following conditions are specific to the Development Application proposal.

11. 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.
12. 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.
13. Temporary dewatering of the site to construct the subsurface structure is not permitted.
14. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.

15. 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.
16. 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.
17. (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.
18. All plumbing shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations and shall be integrated into the design of the building and the landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
19. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
20. 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.
21. Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights for all non-habitable areas shall be a minimum of 2.4 m as measured vertically from finished floor level to the underside of the ceiling. Details shall be submitted in the construction certificate documentation prior to the issue of the Construction Certificate.

Prior to issue of the construction certificate

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

22. 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 \$8,420.00. 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.
23. 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.
24. 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.
25. A Section 7.11 contribution of \$105,168.07 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:
- Open Space s94 Contribution \$ 84,246.65
 Town Centre / Streetscape s94 Contribution \$ 2,680.03
 Pollution Control s94 Contribution \$ 10,515.14
 Administration & Management s94 Contribution \$ 635.64
 Community Facilities & Services 94 Contribution \$ 887.69
 Library services \$ 6,203.02
- 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.
26. Prior to the issue of the Construction Certificate the sum of \$1601.00 is payable to Council for removal of the Agonis street tree, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.
27. 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.

28. 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.

29. Compliance with Rockdale Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within two(2) adaptable residential units, and between these unit(s) and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit number(s) 13 and 15. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

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

30. 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.
31. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

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

32. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table if the subsurface structure is below the ground water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure

must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

33. The driveway width transition from 5.5m to 3.5 must have a 45 degree splay to allow vehicles manoeuvring in to the basement without the need to reverse.
 34. Prior to the issue of the Construction Certificate, the design and construction of the off-street car & bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer. In addition to that the following shall be addressed
 - (a) A loading and unloading facility is to be provided. The Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site.
 - (b) Car Wash Bay - The required car wash bay shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay.
 - (c) Parking spaces must not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1:2004.
 - (d) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance and headroom requirements of the Standard. Gutter flow analysis shall be incorporated in the design of the driveway profile.
 - (e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1:2004.
 35. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
 36. All surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.
- The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.
37. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. The absorption system provided shall be designed in accordance with section 5 of the specification. 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.

38. 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.
39. 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.

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

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

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

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

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the

professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

42. 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.
43. 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.
44. 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.
45. 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.

46. (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.
47. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

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

48. 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.

49. 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.
50. 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.
51. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.
52. 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.
53. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
54. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
 - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
 - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
 - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
 - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
55. 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.
- 56. All contractors shall comply with the following during all stages of demolition and construction:
 - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
- 57. 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.
- 58. The following conditions are necessary to ensure minimal impacts during construction:
 - i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.

- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
59. 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.
60. Removal of the Willow Myrtle (*Agonis flexuosa*) street tree to enable construction of the new vehicle crossing is approved, subject to a replacement tree being planted in a suitable location in conjunction with the site landscape works. As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.

61. The Callistemon street tree located on the nature strip at the front of 207 President Avenue 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.
62. 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.
63. 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.
64. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
65. 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.

66. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
67. 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.
68. 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.
69. Lots A and B of DP 421111 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.

- 70. 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.
- 71. The width of the double driveway at the boundary shall be a maximum of 6 metres.
- 72. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and line marked to The Relevant Australian Standards
- 73. 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.

- 74. 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.
- 75. The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 1/12/16 and any relevant condition of this consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- 76. Where applicable prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
- 77. 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.
- 78. 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 registered architect 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.

79. Roads & Maritime Services

1. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the President Avenue boundary.

2. The redundant driveway on the President Avenue boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on President Avenue shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

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.

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114

Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

5. All vehicles are to enter and exit the property in a forward direction.

6. All vehicles are to be contained on site before being required to stop.

7. All works and signposting associated with the subject development shall be at no cost to Roads and Maritime.

8. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on President Avenue during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

9. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.

10. Sight distances from the proposed vehicular crossings to vehicles on President Avenue are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.

Roads Act

80. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- construction of a concrete footpath along the frontage of the development site excluding areas adjacent to the existing bus stop ;
 - construction of a new fully constructed concrete vehicular entrance;
 - removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - construction of kerb and gutter
81. 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.
82. 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.

83. 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).
84. A Public Domain Frontage Works Application shall be submitted to Council for approval.

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *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. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. 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.
- f. 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.
- g. The property is within a broad area currently under investigation in relation to the proposed F6 Project. Information about the project is available by contacting the F6 Team on 1800 789 297 or motorwaydevelopment@rms.nsw.gov.au, or by visiting the project website at www.rms.nsw.gov.au/projects/motorwaydevelopment.

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 Marta M Gonzalez-Valdes on 9562 1666



Luis Melim
Manager - Development Services

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a r c h i t e c t s

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Friday, 9 November 2018

The Manager,
Bayside Council (Rockdale),
2 Bryant Street,
Rockdale, NSW, 2216

council@bayside.nsw.gov.au

*Re: Deferred Commencement Consent extension, DA2017/199,
205-207 President Avenue, Monterey.*

Dear Sir / Madam,

Development consent for the above-mentioned application was obtained on the 26th of June, 2018. The approval is subject to a Deferred Commencement Consent.

The consent cannot operate until the Deferred Commencement Consent conditions are satisfied. Deferred commencement condition number one requires: 'Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required'.

To obtain this confirmation from Sydney Water, the Water Servicing Coordinator we have engaged (Harrison Friedmann & Associates at Carlton) has determined that a Section 73 application to Sydney Water is required.

To lodge a Section 73 application, the structural design of the proposal is required. Structural design has been obtained and forwarded to the Water Servicing Coordinator who has made the application to Sydney water.

The Water Servicing Coordinator has indicated that presently, due to increased demand, Sydney Water is experiencing severe delays in assessing s.73 applications.

The period of the deferred commencement is six months from the date of determination, being the 26th of December. Due to Sydney Water delays and

Jim MacGillivray B. Arch
Nominated Responsible Architect
Registration No.2583

Jamie MacGillivray B. Arch

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page 1 of 2

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the deferred commencement period ending around Christmas, we may have issues with providing the information within this timeframe.

It is considered that we should be able to provide such information before the 26th of December, however, in the event of any delay, we request a six month extension to the six month period.

Could you please let us know if this is possible?

Regards,



J. MacGillivray

Jim MacGillivray B. Arch
Nominated Responsible Architect
Registration No.2583

Jamie MacGillivray B. Arch

Jasmina MacGillivray B. Arch

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Bayside Local Planning Panel

11/12/2018

Item No	6.4
Application Type	Modification to approved residential flat building
Application No	SF18/2375
Lodgement Date	31/05/2018
Property	DA-2017/1022/04 - 130-150 Bunnerong Road, Eastgardens
Ward	Botany Bay
Owner	Karimbla Properties (No. 39) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2017/1022 to amend Condition Nos. 44(e), 65 and 115 and delete Condition Nos. 44(f) and (g), 66 and 67.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Bayside Local Planning Panel approve the Section 4.55(1A) Application to modify Development Consent No. 2017/1022 as follows:

- i amend Condition No. 44(e) relating to tree preservation bond from \$7,500.00 to \$9,000.00 to achieve consistency with Condition No. 65;
- ii amend Condition No. 65 to modify the period of the bond from 24 months to 12 months;
- iii modify Condition No. 115 relating to replacement of the existing kerb, gutter and road pavement;
- iv delete Condition Nos. 44(f) and (g) which relate to tree preservation/maintenance bonds; and
- v delete Condition Nos. 66 and 67 which relate to tree preservation/maintenance bonds.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects - DA-2017/1022/04 -130-150 Bunnerong Road Eastgardens [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1022/04
Date of Receipt:	31 May 2018
Property:	130-150 Bunnerong Road Eastgardens (also known as 8 Studio Drive) SP 98537 (Formerly Lot 2 in DP 1187426)
Owners:	Karimbla Properties (No. 39) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2017/1022 to amend Condition Nos. 44(e), 65 and 115 and delete Condition Nos. 44(f) and (g), 66 and 67
Recommendation:	Approval, subject to recommended conditions of consent
Value:	N/A
No. of submissions:	Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	22 November 2018

Key Issues

Development Application No. 2017/1022 was approved on 5 October 2017 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys which will accommodate 167 apartments and a child care centre at Urban Block 4 of 130-150 Bunnerong Road, Eastgardens.

Bayside Council received the subject 4.55(1A) Application to modify Development Consent No. 2017/1022 to amend Condition Nos. 44(e), 65 and 115 and delete Condition Nos. 44(f) and (g), 66 and 67.

The application was not required to be notified under Part 2 – Notification and Advertising of the BBDCP 2013 as the modifications are very minor and do not modify the approved built environment.

There were no key issues raised as part of this application and the proposed modifications are supported.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

Item Bayside Planning Panel Meeting
18/12/2018

Recommendation

It is RECOMMENDED:

1. That the Bayside Planning Panel approve the Section 4.55(1A) Application to modify Development Consent No. 2017/1022 as follows:
 - i) Amend Condition No. 44(e) relating to tree preservation bond from 7,500.00 to \$9,000.00 to achieve consistency with Condition No. 65;
 - ii) Amend Condition No. 65 to modify the period of the bond from 24 months to 12 months;
 - iii) Modify Condition No. 115 relating to replacement of the existing kerb, gutter and road pavement;
 - iv) Delete Condition Nos. 44(f) and (g) which relate to tree preservation/maintenance bonds; and
 - v) Delete Condition Nos. 66 and 67 which relate to tree preservation/maintenance bonds.

Background

History

Stage 1 – Master Plan (DA-14/96)

Integrated Development Application No. 14/96 was received by Council on 5 May 2014 for the redevelopment of the site for a staged mixed use development involving subdivision and concept approval for the location of public road network, private access ways through the site, on-site stormwater detention including water sensitive urban design (WSUD), Building Envelopes and Building Heights facilitating approximately 2,733 dwellings on site, parking spaces in above ground and basement facilities, and provision of 8,000sqm of public open space. The Capital Investment Value CIV for these works was \$128,431,190.00, therefore the former Joint Regional Planning Panel (JRPP) was the consent authority. On 28 August 2014, this application was referred to the JRPP in accordance with Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act) as it has a CIV in excess of \$20 million (Reference No. 2014/SYE/105).

On 12 September 2014, Karimbla Constructions (NSW) Pty Ltd filed a Class 1 Appeal against Council's 'deemed refusal' of the application. The application was considered at a series of Section 34 conferences, whereby a series of amended plans were considered. Council and the applicant reached a Section 34 agreement and the appeal was upheld. On 7 August 2015 the development consent was issued.

The Stage 1 Masterplan consent is a concept approval and does not grant consent for any demolition, remediation, excavation or building works. It is noted however that remediation works have commenced on-site as Category 2 works under the State Environmental Planning Policy No. 55 – Remediation of Land. The approval is limited to the massing, modulation, overall siting and setbacks, maximum height of buildings, maximum GFA, uses, maximum

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FSR, public domain provisions, unit mix, minimum unit sizes, indicative unit numbers, and minimum car parking provisions.

The key details of the approved Masterplan are as follows:

- The applicant must enter into a Planning Agreement including the following:
 - Central Park embellished and dedicated to Council,
 - Roads within the site constructed, embellished and dedicated to Council,
 - Traffic lights and any other necessary traffic control systems constructed,
 - Monetary contribution of \$10.5 million towards the cost of providing transport infrastructure in the form of upgrade to the intersection of Page Street and Wentworth Avenue.
- Concept subdivision of the site
- Central Park of 8,000sqm.
- Linear Park of 2,703sqm.
- Building envelopes, setbacks, maximum GFA and FSR for each urban block.
- Indicative maximum of 2,223 residential apartments, up to 5,000sqm of retail space and four child care centres.
- Residential unit mix – max 20% 1 bedroom, 50% 2 bedroom, min 30% 3 bedroom.
- Residential unit sizes.
- Car parking rates including an indicative minimum number of 3,693 spaces.

Further modifications to the Stage 1 consent have been approved which slightly modify the above.

The VPA has been entered into and currently the applicant seeks an amendment to it. It is noted that Part 9D of the BBDCP 2013 specifically relates to the redevelopment of the subject site, 130-150 Bunnerong Road, Eastgardens, and guided the Stage 1 consent. The Stage 1 consent includes conceptual details of the proposed buildings which have been altered from the provisions of Part 9D. Stage 2 applications were submitted to Council for assessment for each individual block and have been approved by the Sydney Eastern City Planning Panel.

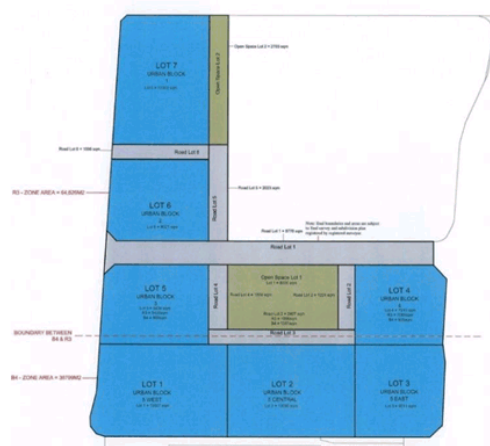


Figure 1. Approved Master plan concept subdivision plan DA-14/96

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Site description of the subject urban block

The subject site forms one of seven urban blocks within the site. The overall Stage 1 Masterplan site is contained within the block bound by Bunnerong Road to the east, Banks Avenue to the west, Heffron Road to the north and Westfield Drive to the south. The subject site is located on the eastern side of the site and has a total site area of 7,733sqm.



Figure 2. Location of UB4 within the overall site

Approved Development

- DA-2017/1022- The Development Application was approved by the Sydney Eastern City Planning Panel on 5 October 2017 for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys which will accommodate 167 apartments and a child care centre at Urban Block 4 of 130-150 Bunnerong Road, Eastgardens. The proposal was approved with an FSR of 2.3:1 and a maximum building height of 28.8 metres (RL 50.8m).
- DA-2017/1022/02- Modification Application was approved on 17 May 2018 by the Sydney Eastern City Planning Panel which introduced roof terraces/gardens to the top floor level apartments and to reconfigure internally units including conversion of a number of 1 bedroom apartments to 2 bedroom apartments, minor changes relating to BCA requirements, removal of basement ramp and alterations to access driveway.

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- DA-2017/1022/03- Modification Application was approved on 23 October 2018 by the Bayside Local Planning Panel relating to deletion of conditions regarding landscape agreement and bond associated with a standard landscape maintenance agreement.
- DA-2017/1022/05- Modification Application was approved on 14 August 2018 under delegation which related to the addition of a portal frame at the western pedestrian entrance on Studio Drive.

Description and Assessment of the Proposed S.4.55 (1A) Modifications

The proposed modification seeks to amend or delete seven conditions within the consent. An assessment of the conditions are as follows:

Condition No. 44:

Condition No. 44 of the consent provides the relevant fees that are required to be paid prior to the issue of the Construction Certificate and is worded as follows:

44 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

(a)	Development Control	\$13,225.00
(b)	Damage Deposit	\$314,700.00 (See below)
(c)	Section 94 Contributions	\$2,361,207.88 \$2,394,718.29
(d)	Long Service Levy	See below
(e)	Tree Preservation Bond	\$7,500.00 (See below)
(f)	Tree Maintenance Bond	\$7,500.00 (See below)
(g)	Street Tree Planting Bond	\$7,500.00 (See below)
(h)	Public Works Defect Liability Bond	\$25,000.00 (See below)

The applicant seeks to delete 44(f) and (g) as they are duplicate fees that are further reiterated within Condition Nos. 66 and 67 of the consent. The conditions require a tree bond to be paid for the maintenance of street trees for a 12 month period after planting. It is agreed by Council that the bond fee is a duplicate and was imposed in error therefore Condition Nos. 44(f) and 44(g) can be deleted. Condition No. 44(e) states a bond of \$7,500.00. To achieve consistency with Condition No. 65, the condition has been amended to reflect a bond amount of \$9,000.

Condition No. 65

Condition No. 65 of the consent relates to a street tree maintenance bond which is required to be paid prior to the issue of the Construction Certificate and refunded after a suitable period after the planting of the trees. The condition is worded as follows:

65 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$9,000 to ensure protection of the

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9 new street trees along Bunnerong Road from damage to replace the 9 Cupaniopsis anacardioides that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of 24 months after issue (or cease upon issue of) of the Occupation Certificate. At the completion of the maintenance period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

The applicant seeks to amend the duration of the bond from 24 months to 12 months after issue of the Occupation Certificate. The proposed amendment was referred to Council's Landscape Architect who had no issues in modifying the time period to 12 months. Therefore the proposed amendment is supported.

Condition No. 66 and 67

Condition Nos. 66 and 67 of the consent relate to relevant tree bonds that are required to be paid for street tree planting along Bunnerong Road. The conditions are worded as follows:

- 66 The applicant is to submit payment of a Tree Maintenance Bond of \$9,000.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.*
- 67 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$9,000 to ensure the installation and establishment of nine (9) street trees (species to be advised) in accordance with Condition mentioned below and Councils Street Tree Master Plan. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.*

Condition Nos. 66 and 67 are reiterations of Condition No. 65 and as Condition No. 65 is to be retained, deletion of the two conditions is supported.

Condition No. 115

Condition No. 115 of the consent relates to the removal and reconstruction of the existing kerb, gutter and road pavement along Bunnerong Road. The condition is worded as follows:

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

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- a) *On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and*
- b) *On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and*
- c) *On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.*

The applicant originally sought to delete part (a) and (c) of the condition as the Bunnerong Road kerb and gutter and road pavement has recently been installed and is in a good condition therefore requiring ripping this up and replace is onerous. Additionally, there are other conditions in the consent such as the damage deposit that covers any damage that occurs to Council assets which the developer/applicant will need to fix before the issue of the final Occupation Certificate. Initially Council was not in support of the removal of these conditions however the applicant has submitted RMS approval for the works within the Bunnerong Road reserve regarding the road pavement condition. A similar modification on a condition imposed on the southern urban block at UB5E under DA-16/143/06 was approved by the Panel on 28 August 2018 and was to be reworded as the following:

On Bunnerong Road, adjacent to the development, the road shall be upgraded in accordance with RMS specifications. Approval of RMS is required prior to commencing any works within the road reserve.

It is agreed that Condition 115(a) can be deleted while Condition No. 115(c) is to be modified with the wording above to achieve consistency with the southern urban block at UB5E consent.

Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to modifications to conditions, and as such, the modifications will result in substantially the same development as approved under DA-2017/1022 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

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The Section 4.55(1A) modification application relates to modifications to conditions, therefore the modification application is substantially the same development to which consent was originally granted.

- c) It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

The application did not require public notification under Part 2 – Notification and Advertising of the BBDCP 2013 as the proposed modification was considered minor.

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

No objections received as the application was never notified.

SECTION 4.42- STATUS OF CONCEPT APPLICATIONS AND CONSENT CONSIDERATIONS (previously Section 83D)

The Stage 1 Master plan consent DA-14/96 is the first of a Staged Development Application as per Section 4.42 of the Environmental Planning and Assessment Act. The subject application is a modification to a Stage 2 Development Application and as per the Section 4.42(2) it cannot be inconsistent with the Stage 1 consent. The proposed modifications do not alter the conditions approved within the Stage 1 consent.

S.4.15(1) – MATTERS FOR CONSIDERATION – GENERAL (FORMERLY S.79C)

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

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered as follows:

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The application relates to conditions that do not relate to the built form approved as part of DA-2017/1022 and in subsequent applications. The buildings will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013

The application refers to modifications to conditions therefore there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal will continue to be

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consistent with the objectives of the BBLEP 2013 with regard to the R3- Medium Density Residential zone and the B4- Mixed Use zone.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan 2013

The application refers to modifications to conditions therefore there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal relates to tree bonds and kerb, gutter and road pavement replacement and is not contrary to the requirements of the BBDCP 2013.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed modifications relate to modifications of conditions which relate to tree bonds and to the kerb, gutter and road pavement and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2017/1022.

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

The suitability of the site was addressed in the original approval of DA-2017/1022.

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

No objections were received as the application was not required to be notified under Part 2 – Notification and Advertising of the BBDCP 2013.

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

The proposed amendments will have no significant adverse impact upon the public interest.

Conclusion

The Section 4.55(1A) Application seeks to modify Development Consent No. 2017/1022 which approved the demolition and construction of a residential flat building with childcare centre

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development. The modifications related only to conditions of consent relating to tree bonds and kerb, gutter and road pavement retention. The development as modified, is substantially the same development that was originally approved or as modified. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Attachment

Schedule 1 – Conditions of Consent

Premises: 130-150 Bunnerong Road, Eastgardens

DA No: 2017/1022/04

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-000 Rev E F- Cover page	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Received 3 May 2018
DA-001 Rev B- Context Plan- Site Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-002 Rev C- Building Articulation Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-005- Rev E- UB4_Parking Level (Sheet 1)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-006- Rev E- UB4_Parking Level (Sheet 2)	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-100 Rev F G-H- UB4 Ground Floor Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Dated 8 March 2018 Dated July 2018; Received 05 July 2018
Entry Portal Plan and Section. (Plan No. S4826_SK-20180625-01)	Nettleton Tribe	Dated 25 June 2018; Received 05 July 2018
DA-101 Rev C- UB5E Ground Floor Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017

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DA-102 Rev E F- Level 1-4 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018
DA-103 Rev D-E- Level 5 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018
DA-104 Rev E F- Level 6 Plan	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018
DA-105 Rev D E- Level 7 Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 31 November 2017; Received 8 March 2018
DA-106 Rev D E F- Roof Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 3 May 2018
DA-201 Rev D E F- North and South Elevations	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 8 March 2018
DA-202 Rev D E F - East and West Elevations	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 6 February 2018; Received 8 March 2018
DA-203 Rev C- Elevations Comparisons	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-301 Rev D- Sections 01	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-430 Rev C D - GFA Area Plans	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017 Dated 21 November 2017; Received 17 January 2018
DA-501 Rev C- Ventilation Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-601 Rev B- Shadow Analysis- Winter	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-602 Rev B- Solar Point Perspective Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-603 Rev C- Solar Analysis Plan	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-604 Rev C- Solar Analysis- Communal Open Space	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-801 Rev B- Survey Plan Sheet 1	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-802 Rev B- Survey Plan Sheet 2	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-803 Rev B- Survey Plan Sheet 3	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017

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DA-1001- Rev A- Adaptable Unit (Sheet 1)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1002- Rev A- Adaptable Unit (Sheet 2)	Nettleton Tribe	Dated 8 February 2017; Received 3 August 2017
DA-1101- Rev B- Privacy and Screening	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1201- Rev B- BASIX Commitment Notes	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
DA-1401- Rev C- UB4 and UB5e Basemen Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1402- Rev C- UB4 and UB5E Ground Level Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1403- Rev C- UB4 and UB5E Parking Level 1 Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1404- Rev C- UB4 and UB5E Level 2 Parking Allocation	Nettleton Tribe	Dated 3 August 2017; Received 3 August 2017
DA-1601- Deep Soil Calculation	Nettleton Tribe	Dated 25 July 2017; Received 3 August 2017
Landscape Report Ref: ND1710	Urbis	Dated 10 August 2017 Received 11 August 2017
L01 Rev C- Level 8 Rooftop Plan	Urbis	Dated 3 May 2018; Received 3 May 2018

(Modified via DA-2017/1022/02) (Modified via DA-2017/1022/05)

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-026 Rev 3	Wall to Wall	Dated 1 February 2017; Received 13 February 2017
Acid Sulfate Soils Management Plan Ref: CES130805-MG-AD	Consulting Earth Scientists	Dated 21 January 2016; Received 17 August 2016
Noise Impact Assessment Report Ref: 610.16881-R01	SLR	Dated 2 February 2017; Received 13 February 2017
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 14 August 2017; Received 13 September 2017
Thermal Comfort and BASIX Assessment Ref: 16-0764 Rev A-Ref: 17-1513 Rev B	Efficient Living	Dated 23 January 2017; Received 13 February 2017 Dated 22 December 2017; Received 17 January 2018
Building Code of Australia Compliance Assessment Report Ref: 1423-78 Rev 01	AED Group	Dated January 2017; Received 13 February 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated January 2017; Received 13 February 2017
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 19 January 2017; Received 13 February 2017
SEPP 65 Design Verification	Nettleton Tribe	Received 13 February 2017 Received 7 May 2018
SEPP 55 Requirements	Consulting Earth Scientists	Dated 10 April 2014; Received 13 February 2017

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Geotechnical Investigation Report Ref: GEOTLCOV24928AE-AC	Coffey Geotechnics Pty Ltd	Dated 5 February 2016; Received 13 February 2017
Quantity Surveying Cost Report	Steven Wehbe	Dated 30 January 2017; Received 13 February 2017
Site Audit Statement Ref: JC_NSW11C	NSW EPA	Received 13 February 2017
Site Audit Report: S11394_SAR_JC-NSW11C	AECOM	Dated 31 March 2014; Received 13 February 2017
Site Surveys	JBW Surveyors Pty Ltd	Dated 16 September 2014; Received 13 February 2017
Reflectivity and Glare Assessment Ref: 610.13932-R01	SLR	Dated 27 January 2017; Received 13 February 2017
Stage 1 Masterplan Consent Compliance Table	Meriton Property Services Pty Ltd	Received 13 February 2017
Statement of Environmental Effects	Urbis	Dated February 2017; Received 13 February 2017
Stage 2 Traffic and Transport Report Ref: 237575-00	ARUP	Dated 7 February 2017; Received 13 February 2017
Waste Management Plan Rev B	Elephants Foot	Dated 13 January 2017; Received 13 February 2017
Qualitative Wind Assessment Ref: 610.13932.R08 610.13932-L03-v.01 UB4 S96	SLR	Dated 31 January 2017; Received 13 February 2017 Dated 12 February 2018; Received 3 May 2018
Clause 4.6 variation to vary height and FSR development standard	Urbis	Dated February 2017; Received 13 February 2017
Amended Cover letter	Karimbla Constructions Services (NSW) Pty Ltd	Dated 7 March 2018; Received 8 March 2018
CC Stormwater Report- Urban Block 4	At&I	Dated October 2017; Received 8 March 2018

(Modified via DA-2017/1022/02) (Modified via DA-2017/1022/05)

- 2 This Consent relates to land in Lot 2 in DP 1187426 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The consent given does not imply that works can commence until such time that:
 - (a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) The consent authority; or,
 - (ii) An accredited certifier; and,
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority; and

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- (ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - (iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 This development is a Stage 2 consent. The development must comply with all conditions of the Stage 1 consent DA-14/96 unless modified and agreed upon by Council within this consent.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
- (a) Note:

Relevant BASIX Certificate means:

 - (i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - (iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid requires kiosk substation housings to be separated from building ventilation system air intake and exhaust duct openings, by not less than 6 metres. This applies irrespective of whether the building ducted ventilation system is mechanical or natural and irrespective of whether or not fire dampers are installed in the ducts. Any portion of a building other than a BCA class 10a structure constructed from non-combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are

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sheltered by a non-ignitable blast resisting barrier. For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

- 8 Ausgrid requires the following conditions with respect to Chamber substations. For a chamber station within the property or within 6m of the development, the substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings. In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment. For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.
- 9 Any work undertaken near Overhead Power lines needs to be carried out in accordance with:
 - (a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - (b) Ausgrid Network Standards
 - (c) Ausgrid Electrical Safety Rules
- 10 The location of underground cables by using Dial Before You Dig and comply with the requirements of Ausgrid's Network Standard 156: Working Near or Around Underground Cables before any excavation works are undertaken.
- 11 Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- 12 The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (eg. whether a substation is required on site). The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.

The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- 13 The building must not exceed a maximum height of 91 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.

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- 14 The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- 15 Separate approval must be sought under the Regulations for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- 16 At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

The following conditions are imposed by **Water NSW**:

- 17 A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
- 18 An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
- 19 If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
- 20 Water NSW prefers "tanking" (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
- 21 If the basement is not "tanked", the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

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- 22 Roads and Maritime raises no objection to the development proposal on property grounds provided all buildings and structure, together with any improvements integral to the future use of the site is wholly within the freehold property (unlimited in height or depth), along the Bunnerong Road boundary.
- 23 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 24 All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Bunnerong Road.
- 25 A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bunnerong Road during construction activities.
- 26 Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- 27 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment of Roads and Maritime. Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au If it 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.

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

Sydney Water does not object to the proposed development, subject to the following:

28 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

29 Building Plan Approval

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The developer must have building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 30 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, 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.
- 31 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- (a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - (b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - (c) Permit to install temporary ground anchors in public land,
 - (d) Permit to discharge ground water to Council's stormwater drainage system,
 - (e) Permit for roads and footways occupancy (long term/ short term),
 - (f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - (g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - (h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - (i) Permit to use any part of Council's road reserve or other Council lands.
- 32 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and

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guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 33 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 34 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - (a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - (b) Each toilet provided:
 - (i) must be standard flushing toilet; and,
 - (ii) must be connected:
to a public sewer; or
if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - (c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 35 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 36 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 37 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

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- 38 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 39 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.

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

- 40 Prior to the issue of the relevant Construction Certificate, revised plans are to demonstrate that the pop up skylights on Tower A are to not to exceed the maximum building height as stipulated in Condition No. 15 of the Stage 1 Consent. The skylights are to be velux-style skylights.
- 41 Prior to the issue of the relevant Construction Certificate, revised plans are to be provided to the Principal Certifying Authority demonstrating that the eastern wall of media rooms- G07 and B-108 shall be deleted to achieve sunlight access to the habitable rooms.
- 42 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 43 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
- (a) 1 Bedroom apartments 6m³
 - (b) 2 Bedroom apartments 8m³
 - (c) 3 Bedroom apartments 10m³
- At least 50% of the required storage is to be located within the apartment.
- 44 Prior to the issue of any Construction Certificate, the following fees are to be paid:-
- (a) Development Control \$13,225.00
 - (b) Damage Deposit \$314,700.00 (See below)
 - (c) Section 94 Contributions ~~\$2,361,207.88~~ \$2,394,718.29
 - (d) Long Service Levy See below
 - (e) Tree Preservation Bond ~~\$7,500.00~~ \$9,000.00 (See below)
 - (f) ~~Tree Maintenance Bond~~ \$7,500.00 (See below)
 - (g) ~~Street Tree Planting Bond~~ \$7,500.00 (See below)

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- (h) Public Works Defect Liability Bond \$25,000.00 (See below)

(Modified via DA-2017/1022/02) **(DA-2017/1022/04)**

- 45 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of \$2,361,207.88 (indexed as of September 2017) in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:

a)	Community Facilities	\$405,176.37
b)	Recreation Facilities	\$1,760,003.85
c)	Transport Management	\$165,831.97
d)	Administration	\$30,195.68

An additional Section 94 Contribution of \$33,510.41 applies to the development. The breakdown of the Section 94 Contributions is as follows:

(a)	Community Facilities:	\$5,750.29
(b)	Recreation Facilities – Citywide:	\$24,978.09
(c)	Transport Management – Citywide:	\$2,353.5
(d)	Administration:	\$428.54

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

(Modified via DA-2017/1022/02)

- 46 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

- 47 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$314,700.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

- 48 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the

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

49 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- (i) Proposed protection for Council and adjoining properties, and
- (j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

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- (l) The methodology to control dust on site.

50 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services). The plan shall:

- (a) be prepared by a RMS accredited consultant,
- (b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- (c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

51 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
- (b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

52 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- (a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
- (b) All service vehicles to leave the access way into the public roads in a forward direction.
- (c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,

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- (d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - (e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 53 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- (a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 7 February 2017, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - (b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 54 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 55 Prior to the issue of the relevant Construction Certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- (a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - (b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - (i) The additional load on the system, and
 - (ii) The relocation and/or adjustment of the services affected by the construction.
 - (c) The Ausgrid lighting poles along Bunnerong Road, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
 - (d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider and is to be completed prior to the issue of the final Occupation Certificate, and

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- (e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the commencement of these works.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

- 56 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority or Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- (a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
 - (b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
 - (c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - (d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - (e) The submission of detailed calculations including computer modelling where required supporting the proposal.
- 57 Prior to the issue of the relevant Construction Certificate, the recommendations of the Qualitative Wind Assessment Report from SLR referred to in this consent are to be incorporated into the design in order to ensure compliance with the Councils maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1 of the DCP 2013) as follows:

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- a) 10 metres/second along commercial/retail streets;
 - b) 13 metres/second along main pedestrian streets, parks and public places; and
 - c) 16 metres/second in all other streets.
- 58 The building shall be designed in accordance with the Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy', and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Suitably endorsed construction plans and specifications addressing these criteria's shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.
- 59 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- (a) identify each item of plant and equipment;
 - (b) the following additional criteria adopted by Bayside Council:
 - (i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (iv) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 60 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

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- 61 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 62 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
- 63 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
- 64 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
- 65 Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$9,000 to ensure protection of the 9 new street trees along Bunnerong Road from damage to replace the 9 Cupaniopsis anacardioides that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of **24 12** months after issue (or cease upon issue of) of the Occupation Certificate. At the completion of the maintenance period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method. (DA-2017/1022/04)
- 66 ~~The applicant is to submit payment of a Tree Maintenance Bond of \$9,000.00. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council. (DA-2017/1022/04)~~
- 67 ~~Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$9,000 to ensure the installation and establishment of nine (9) street trees (species to be advised) in accordance with~~

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~~Condition mentioned below and Councils Street Tree Master Plan. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree. (DA-2017/1022/04)~~

68 ~~Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Public Works Defects Liability Bond of \$25,000. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.~~

69 ~~Prior to the issue of a Final Occupation Certificate, the Applicant is to submit payment to Council enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$69,000 for a period of five (5) years twelve (12) months after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years twelve (12) months.~~

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

~~The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$69,000 (card or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.~~

~~(DA-2017/1022/03)~~

70 A frontage works approval be submitted to council prior to any construction certificate being issued. Prior to the issue of the relevant Construction Certificate, a public domain improvements plan be completed by Urbis shall be submitted for approval by Council. The Plan will include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting, maintenance and finishing details. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements.

71 The landscape areas shown on the Urbis Landscape plans dated 10/08/2017 rev G shall be the subject of detailed landscape construction documentation (plans and

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specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP. The detailed (construction level) plan shall include, but not be limited to:

- (a) A site plan showing building envelopes, paved areas and areas to be landscaped.
- (b) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
- (c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- (d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
- (e) An irrigation plan comprising of subsurface drip systems and automatic timers with rainwater / soil moisture sensor controls; where possible storm water runoff will be directed to the lawn and garden beds. Irrigation will be provided to all soft landscape areas and will be specified in an updated landscape plan.
- (f) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- (g) All fencing, privacy screening and pergolas/arbours/pavilions – elevations and materials.
- (h) Details of other landscape elements such as furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations.
- (i) Bench seats should also be provided with and without hand rests on
- (j) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP and compliant with AS 4419 and AS 3743.
- (k) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised and kept to the edges of landscaped spaces. Provide lawn as well as planted areas, trees for shade and seating.
- (l) Trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to complement and scale with the building form (setbacks, communal open space) and to pedestrianise landscaped open spaces. Deep soil zones must include larger trees. Consider avenue plantings and specimen tree entry features. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.

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- (m) Show the location of underground stormwater and rainwater tanks, ensuring deep soil availability for landscaping and tree planting is maximised. NOTE: detention tanks not permitted in street setbacks.
- (n) Show the location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.

Landscaping shall be installed in accordance with the approved landscape plan set *H, by Urbis*, stamped by Council's Landscape Architect and dated 13/09/2017 prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 72 Construction operations shall comply with the following:
- (a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - (b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - (c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - (d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - (e) Concrete trucks and trucks used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - (f) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
 - (g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.

- 73 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on*

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structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.

- 74 Vibration caused by excavation and construction at any residence or structure outside the site must be limited to: a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).
- 75 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 76 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 77 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 78 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 79 The development is to be constructed to meet the following construction noise requirements:
 - a) Construction Noise

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- i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm;
 - ii) Saturday 07:00am to 03:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
- 80 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- (a) The Soil and Water Management Plan if required under this consent;
 - (b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
 - (c) Protection of the Environment Operations Act 1997.
- 81 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 82 All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;

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- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan '*Updated Remediation Action Plan - Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW*' prepared by Douglas Partners, Project 71631.12, dated September 2013 and
 - e) The '*Proposed Remediation Action Plan Amendment – Revision 1 Part 130 - 150 Bunnerong Road, Pagewood*' prepared by Douglas Partners, Project 85009 Rev 1 dated 2 September 2015.
- 83 The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the '*Acid Sulfate Soils Management Plan – 130-150 Bunnerong Road, Pagewood, NSW*', Reference CES130805-MG-AD by Consulting Earth Scientists dated 21 January 2016.
- 84 For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 85 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 86 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- (a) Office of Environment and Heritage (OEH) approved guidelines; and
 - (b) Protection of the Environment Operations Act 1997; and
 - (c) Protection of the Environment Operations (Waste) Regulation 2014.
 - (d) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 87 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 88 Landscape construction should be carried out by a qualified landscape contractor to ensure that adequate standards of workmanship are achieved. Landscape contractors

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who are members of the Landscape Contractors Association of NSW should be engaged.

- 89 Landscaping shall be installed in accordance with the approved Urbis landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan).

- 90 There are street trees identified on the Arborist plan within the nature strip that will require tree protection depending when the replacement of nine (9) trees is actioned. Protection (and tree bond) to existing trees in the Bunnerong Road nature strip based on the Arborist Report from Jacksons Nature Works (Arboricultural Impact Assessment Report, for Urban Block 4 -13/9/2017).

Trees 1-9 - Cupaniopsis anacardioides is to be replaced with a similar size tree 100 Litre due to vandalism and poor maintenance (no irrigation).

Replacement trees will be advised to the developer and should not be planted until the irrigation to Bunnerong Road has been completed and Council notified.

A Tree Protection Zone requirement is necessary only if the Street trees are to be replaced prior to the completion of UB4.

The TPZ should not be impacted ensuring their retention.

The Tree Protection Zone is a radial distance measured from the centre of the trunk of the tree, radius of 2m.

Tree protection zones must also comply with the following requirements:

- a) Tree Protection Zone areas of 2m radius of tree.
 - b) Tree Protection Zones shall be fenced to protect the TPZ as a preventative measure.
 - c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site;
 - d) All site personnel and contractors shall be aware of all tree protection requirements associated with the conditions of consent; and
 - e) The Project Arborist shall provide written certification of compliance with the above, including photographs to the certifying authority.
- 91 In accordance with councils DCP, the following activities are prohibited beneath the canopy drip line of any tree required to be retained and protected unless otherwise approved under the development consent/plans:
- (a) Excavations and trenching (with exception of the approved foundations and underground services);
 - (b) Ripping or cultivation of soil;
 - (c) Mechanical removal of vegetation;

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- (d) Soil disturbance or movement of natural rock;
- (e) Soil level changes including the placement of fill material (excluding and suspended floor slab);
- (f) Movement and storage of plant, equipment & vehicles;
- (g) Erection of site sheds;
- (h) Affixing of signage or hoardings to trees;
- (i) Storage of building materials, waste and waste receptacles;
- (j) Disposal of waste materials and chemicals including paint, solvents,

In accordance with AS 4970 – 2009, inspections shall be conducted by the Project Arborist in accordance with the following key milestones:

Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection;

During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

The Project Manager shall be responsible to notify the Project Arborist prior to any works within the Tree Protection Zones of protected tree within a minimum of 24 hours' notice.

- 92 In order to ensure that the *Cupaniopsis anacardioides* is protected during construction, and its health and structural stability ensured, the following is required:

- (a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the Arborist's report dated 13/09/2017
- (b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report/Landscape Plan.
- (c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete.
 - (i) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction.
 - (ii) Fencing shall be erected to ensure the public footway is unobstructed.
 - (iii) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or

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to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).

- (d) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer (or Consultant Arborist).
- (g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- (i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree.
- (j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- (k) Any sub-surface OSD tank is to be located underneath the driveway, be a minimum of 3 metres beyond the canopy dripline of the existing tree and not located where it will limit the planting of trees on the property. Excavation shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- (l) Masonry boundary fencing/walls or retaining walls shall be of piered or bridged construction to minimise damage to major or structural tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.

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- (m) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new subsurface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- (n) All waste concrete and debris shall be removed from areas to be landscaped on the site, not buried, to minimise soil contamination.
- (o) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council (or the Consultant Arborist) at the completion of construction.
- (p) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

OR

Council will invoice the Applicant for costs associated with remedial pruning work or tree replacement. For trees on private property, the Applicant will be required to undertake tree maintenance/replacement work, as specified by Council.

- 93 Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels. Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree and not located where it will limit the planting of trees on the property. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 94 If kerb and gutter and footpath replacement is required **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer. This includes the demolition of existing structures, to be undertaken with small machinery only, excavation for required subgrades/drainage and the construction of formwork. Tree roots 35mm in diameter or greater that require pruning shall be done **only** under the direction of Council's Tree Management Officer after site inspection so as not to impact or harm the existing street tree.
- 95 If adjustment or connection to existing subsurface services or utilities within the road verge or the road carriageway is required, **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer so as not to impact or harm the existing street tree. NOTE: Services may require re-routing at the Applicant's expense to ensure tree root protection. New overhead electrical property service wires shall located so that it is outside the tree canopy. No canopy pruning

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will be permitted for service wires.

96

- (a) The Applicant has permission to remove nine (9) trees, being the Cupionopsis anacardioides (trees 1-9 on arborist plan) located on Bunnerong Road. Permission is also granted to replace as identified by the Consultant Arborist in the report dated 13/09/2017 Note : Trees are not permitted to be replaced until the Construction Certificate has been issued irrigation is made available to Bunnerong Road and replacement tree species provided.
- (b) The replacement trees species will be nominated by Council prior to during Construction, as the street trees should be replaced with 200 litre trees at 10m centres. Council staff will notify the project manager once a decision has been made.

97

- (a) Prior to the issue of an Occupation Certificate, five (5) Angophora costata tree, at least 1.8 metres in height and 200 litre pot size, at 10 metre centres, shall be installed in the front of east-west Boulevard of the development and provide amenity to the streetscape by a qualified landscape contractor. The tree/s shall be sourced from a reputable supplier that grows to NATSPEC.
- (b) Five (5) Corymbia maculata trees min height 1.6metres and pot size 200 litre shall be planted at 10m centres along North South Street 2 of the property to provide screening and privacy for adjoining residents. Trees shall be sourced from a reputable supplier that grows to NATSPEC.
- (c) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
- (d) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
- (e) The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing.
- (f) Council is not liable for any damage to subsurface infrastructure during public domain works.
- (g) The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be staked as required.
- (h) Two hold point inspections are required : prior planting trees to ensure plant stock is suitable and post planting.
- (i) The street tree planting to all internal roads (East-West Boulevard, North-South Street 2 and Civic Avenue are to use the Citygreen Stratavault system

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of planting to be incorporated into the updated Landscape plans and documentation.

- (j) There must be irrigation to the site prior to installation of any trees.

Note: The street trees mentioned above may be modified prior to construction. Council will notify developer regarding tree alternatives (if any).

- 98 The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 99 The applicant is required to install 7 Eucalyptus microcorys trees; pot size 200 litre at minimum 1.6m height, at 8 metre centres to setback along Bunnerong Road. Irrigation must be provided to these trees as with all tree plantings to this site prior to installation.
- 100 Prior to the issue of an Occupation Certificate, no more than 50% of the street setback shall be hard paved (including stepping stones and large expanses of gravel). Paving shall be confined to the driveway and a pathway to the dwelling only. The driveway location and dimensions shall be in accordance with the approved Urbis plan, splaying within the property to meet the alignment of the Council crossover, no additional paving shall be provided. The remainder of the setback shall be deep soil and soft landscaped, including the residual area between driveway carpark and through link. As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
- 101
- (a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- (b) The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 102 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor prior to landscaping works commencement. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

OR

To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in the following areas:

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- a) all site boundary landscape setbacks and frontages, and
- b) the communal open space areas.

The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

- 103 For the purposes of irrigating the landscaped areas, a water tank, minimum 25,000 litres in size but ideally equivalent to the building roof area to be drained, shall be installed on the property for stormwater collection and re-use.
- 104 All new street trees shall be installed prior to completion of the staged development. All tree planting work is to be completed and protective fencing, being 1.8 metre chainlink fence, erected around the trees for protection prior to the commencement of construction.
- 105 All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt.
- 106 A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.
- 107 Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 2000mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cutout. The Applicant is required to contact Council's Landscape Architect for an inspection of root barrier system located within the public domain prior to backfilling and turfing.
- 108 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's

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directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.

- (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 109 All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 110 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 111 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
 - (a) Minimum 254 257 residential spaces
 - (b) 17 residential visitor spaces
 - (c) 1 car share space within the car park
 - (d) Minimum 32 Childcare Centre spaces

(Modified via DA-2017/1022/02)
- 112 Prior to the issue of the relevant Occupation Certificate, at least 32 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 113 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 114 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

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

~~a) On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and (DA-2017/1022/04)~~

b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and

~~c) On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications. On Bunnerong Road, adjacent to the development, the road shall be upgraded in accordance with RMS specifications. Approval of RMS is required prior to commencing any works within the road reserve. (DA-2017/1022/04)~~

- 116 The work to Civic Avenue, North-South Street 2, and Bunnerong Road public footpath shall be constructed in accordance with Council specifications *outlined in the 'Frontage Works Approval'* Council document. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

- (a) after formwork installation and to prior pouring the concrete blinding slab,
- (b) at the commencement of paving works, and
- (c) at final completion.

Council approval of public domain works is required prior issue of an Occupation Certificate.

- 117 Prior to the issue of the relevant Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

- 118 Prior to the issue of the Occupation Certificate, the following easements shall be created in conjunction with Council and the beneficiary:

- (a) Register a new "Right of Way" Easement over the entire adjacent Lot 3 UB5E.

- 119 Prior to the issue of the relevant Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- (a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and

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- (b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

- 120 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 121 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy. Application fees apply.
- 122 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 123 A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 124 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 125 Prior to the issue of the Occupation Certificate, all noted screen or buffer planting is required along the property boundary to provide screening and privacy for UB4 residents. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level. Planter beds shall be a minimum width of 0.75 metres.
- 126 Prior issue of an Occupation Certificate the Council footpath in front of the property is to be suitably repaired and made good after completion of construction works to Council specification and at the Applicant's expense. If existing pavers are damaged, subject to Council inspection and instruction, the Applicant is to source and purchase new pavers to match existing pavers in the street. If a significant number of new pavers are required Council may require that the entire frontage be replaced to allow for a uniform appearance. The footpath shall be maintained in a clean and tidy state at all times by the occupiers. Maintenance includes the removal of weeds and rubbish and periodic cleaning.

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- 127 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- 128 Concrete wheel stops shall be installed in all car spaces adjoining garden beds in accordance with Council specifications and Australian Standard AS/NZS 2890.1:2004 prior to the issue of an Occupation Certificate to prevent overhang and damage to garden beds.
- 129 The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with approved *Urbis Landscape plan rev H* and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.
- 130 Prior to the issue of the Occupation Certificate, a site works review is required demonstrating:
- (a) Extent and minimum dimensions of the site dedicated to landscaping comply with the Detailed landscaping plans
 - (b) All detailed works comply with detailed schedules and specifications included in the detailed landscape plans
 - (c) Any modifications to the design were an equivalent or better solutions to the requirements of the detailed landscape plans and do not affect the ability of the landscape treatment to achieve the design intent.
 - (d) Site cultivation, quality and depth of soil and mulches as a minimum complies with Council specifications and standards.
 - (e) Drainage of all open space and soft landscaping complies with detailed landscape plans and to Council standards
- 131 Prior to the issue of the Occupation Certificate, the following applies:
- (a) Any tree size modifications (ie from stated 400 litre to 200 litre or less) requires a Section 96 approval prior for compliance certification.
 - (b) Any variation in planting from the submitted CC Plant Schedule requires a Section 96 approval prior to certification.
- 132 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- (a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to

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be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.

- 133 The condition to be inserted under the heading of prior to Issue of Occupation Certificate is to read:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
 - b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
 - c) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 134 Prior to the issue of the Occupation Certificate for the Child Care Centre, the child care centre is to comply with the requirements of the NSW Children Services Regulations 2004 and any other requirements as specified by the NSW Department of Community Services.
- 135 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

- 136 A separate application is to be submitted for the fit out of the child care centre.
- 137 The use of studies as bedrooms is prohibited.
- 138 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 139 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 140 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 141 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and

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Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.

- 142 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 143 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, and in accordance with conditions of consent and Council's Landscape DCP, at all times.
- 144 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 145 Ongoing maintenance of grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 146 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 147 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- 148 All intruder alarms shall be fitted with a timing device in accordance with the requirements of Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 149 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (b) Before 7 am or after 10 pm on any other day.
- 150 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

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The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

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Statement of Environmental Effects

Section 4.55 Application

130-150 Bunnerong Road, Pagewood (UB4)

Amend various conditions

29 May 2018

PREPARED BY

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared in support of a Section 4.55 application to amend various conditions of DA2017/1022.

This Statement:

- Describes the site and its surrounding area;
- Details the nature of the proposed development; and
- Undertakes an assessment of the proposal under the heads of consideration in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

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

2 Site and Surroundings

2.1 The Site

The site comprises an L-shaped parcel of land with an area of 103,547sqm at 130-150 Bunnerong Road, Pagewood within the former City of Botany Local Government Area (LGA). It is legally described as Lot 2 in DP 1187426. The land was formally known as Virginia Park and was previously occupied by industrial uses associated with the manufacturing operations of British American Tobacco Australasia (BATA). It was rezoned in 2013 to support mixed use development including high density residential uses.

The site has frontages to Banks Avenue to the west, Westfield Drive to the south, Bunnerong Road to the east and Heffron Road to the north. The site borders land zoned for industrial purposes and currently occupied by BATA's remaining site operations.

The site has been cleared of its former industrial buildings and construction of the approved development under DA2017/1022 has commenced.

2.2 Surrounding Area

The surrounding land uses in the vicinity of the sites comprise:

- North: Low density residential uses. Pagewood shops are located to the north-east.
- East: Low density residential uses.
- South: Westfield Eastgardens shopping centre. The servicing area of the shopping centre borders the site's southern boundary. Commercial and industrial uses are located further to the south-west.
- West: Bonnie Doon Golf Course and associated club house.

2.3 Existing Consent

Development Application 10730 of 2014 for a Stage 1 concept proposal to allow for the comprehensive redevelopment of the site for mixed use was approved by the Land and Environment Court on 7 August 2015. Condition 7 of the consent states the following:

"(7) Separate Stage 2 and future development consent shall be sought for demolition of any structures and any civil and built development."

In effect, the Stage 1 consent establishes the development parameters for the future development of the site but it does not allow for the construction of buildings or works associated with the project. All physical work will be the subject of separate development applications lodged with Council.

In accordance with Condition 7 of the Stage 1 consent, and the provisions of Clause 4.22 of the EP&A Act, DA2017/1022 was lodged with Bayside Council for assessment. On 5 October 2017, the former Sydney Planning Panel issued its consent (DA2017/1022) for the following development:

"Integrated Development Application for the construction of a residential flat building consisting of one level of basement car parking, a podium and two towers, 1 x 6 storeys and 1 x 8 storeys. The development will accommodate 167 apartments and a child care centre."

Development has commenced in accordance with the above consent.

3 Proposed Modification to DA2017/1022

3.1 Proposed Modification

The proposed modification involves an amendment to various conditions as follows:

CONDITION	REASON FOR MODIFICATION
44 Fees to be paid	Correct discrepancy between amounts specified in (g) to align with Condition 67. The condition is further sought to be amended to reflect the deletion of conditions 65 and 66 as detailed below.
Conditions 65-67	Multiple bond amounts required in respect of the same item (namely planting and maintenance of 9 x new street trees)
65 Tree Preservation Bond	Delete condition. Not applicable as there are no existing street trees to be preserved. Duplication of requirements under Condition 66 in respect of protection of new trees. New street trees are adequately protected through Bond requirements specified under Condition 66.
66 Tree Maintenance Bond	Delete condition. Duplication of requirements under condition 67.
67 Tree Planting Bond	Amend condition to combine requirements specified under existing Condition 67. Bond amount is inconsistent with amount specified under Condition 44. Condition 44 to be updated accordingly.
113 Rectification of damage	Delete condition. Occupation of units and issue of the occupation certification do not occur concurrently. There is typically a period of several weeks between the two events. Works surrounding the site (within the public domain) would continue following issue of the occupation certification. Additionally, the condition does not specify the extent of area to which the condition applies. The site forms part of a wider development zone. It is impossible to determine whether damage in the vicinity of the site has been caused by works associated with the UB4 development or one of the other development blocks, noting that the roads surrounding the UB4 site will be used for construction access on an ongoing basis associated with the surrounding land. Council holds security bonds in relation to rectification of damage associated with site works.
115 Bunnerong Road works	Delete condition (a): Bunnerong Road kerb and gutter has recently been installed and is in good condition. Other conditions of consent adequately cover any requirement to make good public domain areas damaged during the course of development. Delete condition (c): Duplication of requirements under part (b) of condition 115.

Statement of Environmental Effects
130-150 Bunnerong Road, Pagewood (UB4)
Amend various conditions

The conditions are proposed to be amended as follows:

Bold denotes new text, deleted text shown in strikethrough:

44 ~~Prior to the issue of any Construction Certificate~~, the following fees are to be paid:-

a) Development Control	\$13,225.00
b) Damage Deposit	\$314,700.00 (see below)
c) Section 94 Contributions	\$2,361,207.88 (see below)
d) Long Service Levy	See below
e) Tree Preservation Bond	\$7,500 (see below)
f) Tree Maintenance Bond	\$7,500 (see below)
g) Street Tree Planting Bond	\$7,500 \$9,000 (see below)
h) Public Works Defect Liability Bond	\$25,000 (see below)

65 ~~Prior to the Commencement of Demolition/Issue of Construction Certificate~~, the applicant is to submit payment for a Tree Preservation Bond of \$9,000 to ensure protection of the 9 new street trees along Bunnerong Road from damage to replace the 9 *Cupaniopsis anacardioides* that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of 24 months after issue (or cease upon issue of) the Occupation Certificate. At the completion of the maintenance period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

66 The applicant is to submit payment of a Tree Maintenance Bond of \$9,000. The duration of the Bond shall be limited to a period of 6 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.

67 ~~Prior to the issue of Construction Certificate~~, the applicant is to submit payment for a Street Tree Planting Bond of \$9,000 to ensure the installation and establishment of nine (9) street trees (species to be advised) in accordance with ~~Condition mentioned below and Council's Street Tree Master Plan~~. Establishment includes watering for a period of six months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the trees **are** found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the trees **s**.

113 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, ~~prior to occupancy of the development and release of damage deposit.~~

115 ~~Prior to the issue of the relevant Occupation Certificate~~, the applicant shall carry out the following works:

- a) ~~On Bunnerong Road, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications, and~~
- b) On Bunnerong Road, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications, and
- c) ~~On Bunnerong Road, adjacent to development, demolish existing road pavement and reconstruct road pavement full width as per Council's Infrastructure and Pavement Engineer's specifications.~~

Statement of Environmental Effects
130-150 Bunnerong Road, Pagewood (UB4)
Amend various conditions

4 Section 4.55 Assessment

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

The proposal seeks to amend various conditions in the consent. No physical change is proposed to the approved development.

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

5 Environmental Planning Assessment

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

5.1.1 Botany Bay Local Environmental Plan 2013

Part 2 of the *Botany Local Environmental Plan 2013* (LEP) identifies that the subject site is zoned B2 Local Centre. The proposal is permitted in the zone with consent from Council.

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

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

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

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

5.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 (DCP) applies to the subject site. The proposed amendments do not alter the development's compliance with the provisions of the DCP.

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

Not applicable.

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

The DA has been made in accordance with the requirements contained in Clause 50 of the *Environmental Planning and Assessment Regulation 2000*.

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

There are no impacts arising from the proposal.

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

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

5.8 Section 4.15(1)(d): Submissions

Council will consider submissions at the close of the exhibition period.

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

Given the absence of any demonstrable adverse impacts resulting from the proposal it is considered that the public interest would be best served by approval of the application under consideration.

Statement of Environmental Effects
130-150 Bunnerong Road, Pagewood (UB4)
Amend various conditions

6 Conclusion

The proposal seeks Council's consent to amend various conditions of DA2017/1022 which relates to Urban Block 4, 130-150 Bunnerong Road, Pagewood.

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

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

The development is substantially the same as when originally approved and will have no implications upon the public domain.

Accordingly, the application should be recommended for approval.

Meriton
May 2018

Bayside Local Planning Panel

11/12/2018

Item No	6.5
Application Type	Section 4.55(1A) Application to modify Development Consent DA-2016/150
Application No	SF18/2445
Lodgement Date	06/09/2018
Property	DA-2016/150 - 42 Church Avenue, Mascot
Ward	Mascot
Owner	Karimbla Property (No. 45) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify various conditions of Development Consent No. DA-2016/150 relating to public domain, landscaping and timing of bonds.
No. of Submissions	Nil
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

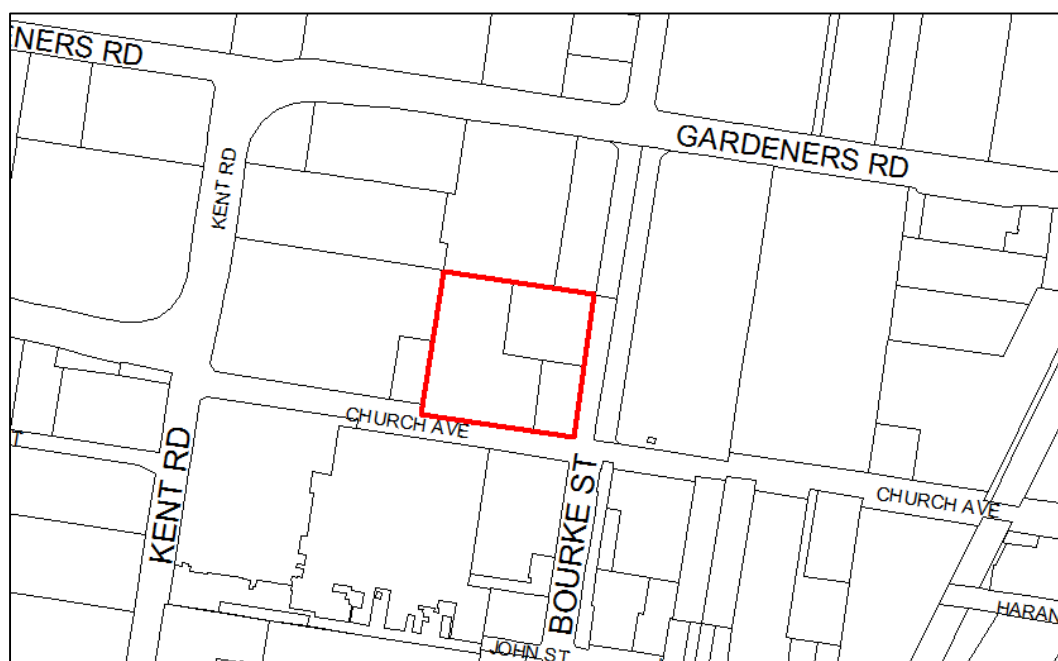
Officer Recommendation

That the Bayside Local Planning Panel approve Section 4.55(1A) Application to modify Development Consent No. 16/150 to amend various conditions relating to public domain works, landscaping and timing of bonds at 42 Church Avenue, Mascot, as follows:

- 1 That Condition No. 116 be modified to reflect the timing of carrying out public domain works on Church Avenue, Bourke Street and Galloway Street prior to the issue of any Occupation Certificate for the final building.
 - 2 That Condition No. 117 be modified to reflect the timing of inspection reports for the works on the road reserve to be obtained prior to the issue any Occupation Certificate for the final building.
 - 3 That Condition No. 118 be modified to reflect the timing of the restriction on Use of Land and Positive Covenant(s) to be imposed prior to the issue of the Strata Subdivision Certificate.
 - 4 That Condition No. 119 be modified to reflect the timing of the land dedication works to be carried out prior to the issue of any Occupation Certificate for the final building.
 - 5 That Condition No. 133 be modified to reflect the timing of landscaping works on the property and public domain to be installed prior to the issue of any Occupation Certificate for the final building.
 - 6 That Condition No. 135 be modified to reflect the reduction in the timing of the landscaping works bond from 5 years to 12 months.
-

- 7 That Condition No. 136 be modified to reflect the timing of the Certificate of Compliance with the approved landscape plan to be obtained prior to the issue of any Occupation Certificate for the final building.
 - 8 That Condition No. 137 be modified to reflect the timing of the installation of public domain works prior to the issue of any Occupation Certificate for the final building.
 - 9 That Condition No 152 be deleted for easability purposes.
-

Location Plan



Attachments

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

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	16/150/07
Date of Receipt:	6 September 2018
Property:	42 Church Avenue Mascot Lot 2 in DP 1187426
Owners:	Karimbla Properties (No. 45) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2016/150 to amend various conditions relating to public domain works, landscaping and timeframe of bonds.
Recommendation:	Approval, subject to recommended conditions of consent
Value:	N/A
No. of submissions:	Nil
Author:	Sumeet Badhesha, Development Assessment Planner
Date of Report:	23 November 2018

Key Issues

Development Application No. 16/150 was approved by the Sydney Eastern City Planning Panel on 20 July 2017 for the construction of a mixed use development incorporating a 4 storey podium with four x 14 storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 36,819sqm of gross floor area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park, associated excavation, earthworks and landscaping and land subdivision. The subdivision of the site involves three new lots which include the development site, Church Avenue street widening will be a separate lot and Galloway Street to the north and the public park to be dedicated to Council will be another lot. There have been a number of modifications that have been approved which may have changed the above description and FSR.

Bayside Council received Modification Application No. 16/150/07 on 6 September 2018 seeking consent to modify Development Consent No. 2016/150 to amend conditions relating to public domain works (land dedication, road reserve works), landscaping and timeframe of bonds.

The application was placed on public exhibition for a fourteen (14) day period from 19 September 2018 to 3 October 2018. No objections were received.

The proposed modifications are supported with the exception of the reduction to the time period of the Public Works Defects Liability Bond within Condition No 134 and the removal of

Condition 135 which requires the lodgement of a bond to ensure landscaping is carried out and maintained in accordance with the approved landscape plan. This is further discussed within the assessment report.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, except for the amendment to Condition No 134 and deletion of Condition No 135.

Recommendation

That the Bayside Local Planning Panel approve Section 4.55(1A) Application to modify Development Consent No. 16/150 to amend various conditions relating to public domain works, landscaping and timing of bonds at 42 Church Avenue, Mascot, as follows:

1. That Condition No. 116 be modified to reflect the timing of carrying out public domain works on Church Street, Bourke Road and Galloway Street prior to the issue of any Occupation Certificate for the final building.
2. That Condition No. 117 be modified to reflect the timing of inspection reports for the works on the road reserve to be obtained prior to the issue any Occupation Certificate for the final building.
3. That Condition No. 118 be modified to reflect the timing of the restriction on Use of Land and Positive Covenant(s) to be imposed prior to the issue of the Strata Subdivision Certificate.
4. That Condition No. 119 be modified to reflect the timing of the land dedication works to be carried out prior to the issue of any Occupation Certificate for the final building.
5. That Condition No. 133 be modified to reflect the timing of landscaping works on the property and public domain to be installed prior to the issue of any Occupation Certificate for the final building.
6. That Condition No. 135 be modified to reflect the reduction in the timing of the landscaping works bond from 5 years to 12 months.
7. That Condition No. 136 be modified to reflect the timing of the Certificate of Compliance with the approved landscape plan to be obtained prior to the issue of any Occupation Certificate for the final building.
8. That Condition No. 137 be modified to reflect the timing of the installation of public domain works prior to the issue of any Occupation Certificate for the final building.
9. That Condition No 152 be deleted for easability purposes.

Background

History

- Development Application No. 2016/150 was approved by the Sydney Central Planning Panel on 20 July 2017 for the construction of a mixed use development incorporating a 4 storey podium with four x 14 storey towers containing residential units, retail space,

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childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 36,819sqm of gross floor area (FSR of 3.32:1); landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park, associated excavation, earthworks and landscaping and land subdivision. The subdivision of the site involves three new lots which include the development site, Church Avenue street widening will be a separate lot and Galloway Street to the north and the public park to be dedicated to Council will be another lot.

- Section 4.55(1A) Application was lodged with Council on 4 August 2017 for the modification of 101(c) to allow for the extension of construction hours. This application was approved by the Bayside Local Planning Panel on 21 August 2018 (DA-16/150/02).
- Section 4.55(1) Application was lodged with Council on 22 September 2017 for the modification of Condition No. 130(b). This was approved under delegated authority on 22 September 2017 (DA-16/150/03).
- Section 4.55(1A) Application was lodged with Council on 19 January 2018 to delete Condition No. 144. This application was approved on 23 October 2018 by the Bayside Local Planning Panel (DA-16/150/04).
- Section 4.55(1A) Application was lodged with Council on 28 June 2018 to modify the approved development to increase the size of the terrace to Unit G37 and relocation of the mailroom. This application was approved by the Bayside Local Planning Panel on 13 November 2018 (DA-16/150/06).
- Development Application No. 2017/1166 was approved on 14 December 2017 by the Bayside Planning Panel for alterations to the approved building by deleting the childcare centre and replacement with 27 additional apartments. An FSR of 3.41:1 (37,903sqm) was approved for the site with a total of 367 units. Two of the originally proposed units was not supported by the Panel therefore the Panel requested that they were converted to a community room. The number and size of the retail tenancies did not change as part of this proposal.
- Development Application No. 2017/1238 was approved on 8 May 2018 by the Bayside Planning Panel for changes to approved development to add retail tenancies to the Church Avenue and Bourke Street frontages, increasing the retail floor area from 512sqm to 1,037sqm. The overall FSR that was approved was 38,172sqm which results in an FSR of 3.44:1.
- Section 4.55(1A) Application was lodged with Council on 13 February 2018 to modify Development Consent No. 2016/150 to modify the approved mixed use development regarding car parking, GFA and unit mix. This was approved by the Bayside Local Planning Panel on 28 August 2018.

Site Description

The subject site is legally known as 42 Church Avenue, Mascot and forms three parcels of land described as Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.

The subject site is located on the western side of Bourke Street between Gardeners Road to the north, Kent Road to the west and Church Avenue to the south. Galloway Street is a new

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street currently under construction and runs along the northern boundary of the site. The site is approximately 120 metres to the north-west of Mascot Train Station.

The site has a total area of 11,104sqm with a 108.5 metres street frontage to Church Avenue, a 101.5 metre street frontage to Bourke Street, a 101.9 metres western boundary length and a 109.1 metre northern boundary length. The site is generally flat.

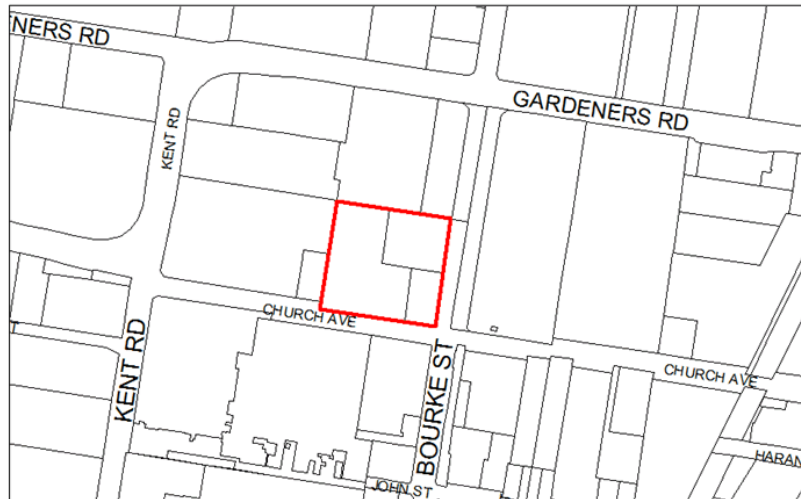


Figure 1. Locality Plan

The site is currently demolished of all structures with construction well underway. The corner of the south-western side of the development is impacted by road widening. The site is located within the 20-25 ANEF zone and is within 25 metres of the Sydney Trains easement for underground rail (Airport Tunnel).

The site is within the B4 Mixed Use zone of the BBLEP 2013 and is within Urban Block 1 of the Mascot Station Town Centre Precinct within Part 9A of the BBDCP 2013. The table below lists the relevant details of the surrounding mixed-use developments.

Description and Assessment of the Proposed 4.55(1A) Modifications

Modification No. 1: Condition No 116

The proposed modification seeks consent to allow for the public domain works to Church Avenue, Bourke Street and Galloway Street to occur prior to the issue of "*any Occupation Certificate for the final building*", instead of "*any*" Occupation Certificate. This is supported by Council's Public Domain Unit. Once modified, the condition will read as follows:

116. Prior to the issue of any Occupation Certificate **for the final building**, the applicant shall carry out the following works:
- On Church Avenue, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,

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- b) On Church Avenue, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
- c) On Church Avenue, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,
- d) On Bourke Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
- e) On Bourke Street, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
- f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.

Modification No. 2: Condition 117

The proposed modification seeks consent to allow for the formwork and final inspection reports for the works on the road reserve to be provided prior to the issue of “*any Occupation Certificate for the final building*”, instead of “*any*” Occupation Certificate. This is supported by Council’s Development Engineer. Once modified, the condition will read as follows:

117. Prior to the issue of any Occupation Certificate **for the final building**, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

Modification No. 3: Condition 118

The proposed modification seeks consent to allow for the Positive Covenant to be registered prior to the issue of a Subdivision Certificate, instead of any Occupation Certificate as originally imposed. This is supported by Council's Development Engineer. Once modified, the condition will read as follows:

118. Prior to the issue of ~~any Occupation~~ the Strata Subdivision Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

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Modification No. 4: Condition 119

The proposed modification seeks consent to allow for land dedication for purposes of widening Church Avenue, constructing a new park off Galloway Street and construction a portion of Galloway Street, to occur prior to the issue of "*any Occupation Certificate for the final building*", instead of "*any*" Occupation Certificate. This is supported by Council's Public Domain Unit. Once modified, the condition will read as follows:

119. Prior to the issue of any Occupation Certificate **for the final building**, the following is to be complied with:

- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:
 - i) Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes,
 - ii) Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
 - iii) Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

Modification No. 5: Condition 133

The proposed modification seeks consent to allow landscaping to be installed prior to the issue of "*any Occupation Certificate for the final building*" instead of "*an*" Occupation Certificate as was originally imposed. This modification is supported by Council's Landscape Architect. Once modified, the condition will read as follows:

133. Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate **for the final building**. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.

Modification No. 6: Condition 134

The proposed modification seeks consent to reduce the time period of the Public Works Defects Liability Bond from 12 months to 6 months and incorporate public domain

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landscaping works within this condition, and as a result deletion of Condition 135. The reduction to the time period and the consolidation of Condition 135 within this condition is not supported by Council. Therefore this condition remains unchanged.

Modification No. 7: Condition 135

The proposed modification seeks consent for the deletion of Condition 135. The intent of Condition No. 135 was to ensure landscaping is carried out and maintained in accordance with the approved landscape plan. Council does not support the removal of this condition as requested by the applicant, however, Council will accept a reduction in the timeframe period of the landscape bond from five (5) years to twelve (12) months after practical completion of landscape works. Council is of the opinion twelve months after practical completion of landscape works is sufficient to assess whether landscaping is established and maintained as per the approved landscape plan. This does not limit compliance to twelve months and ongoing compliance with the landscape plan is required.

Therefore, the condition is to be modified as follows:

135. ***Prior to the issue of any Occupation Certificate for the final building***, the Applicant is to ***submit payment to Council enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$100,000.00 for a period of twelve (12) months*** after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to ***five (5) years twelve (12) months***.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

Modification No. 8: Condition 136

The proposed modification seeks consent to allow for the Certificate of Compliance with landscaping to be obtained prior to the issue of *"any Occupation Certificate for the final building"* instead of *"an"* Occupation Certificate as was originally imposed. This modification is supported by Council's Landscape Architect and is required as the development is being carried out in stages. Once modified, the condition will read as follows:

136. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The

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Certificate is to be submitted to Bayside Council prior to the issue of ~~an~~ **any** Occupation Certificate **for the final building**.

Modification No. 9: Condition 137

Condition No 137 reads as follows:

137. The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate **for the final building**. ~~This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.~~

It is recommended to modify the condition as above.

Statutory Considerations

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

SECTION 4.55(1A) CONSIDERATIONS (previously Section 96(1A))

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to modifications to various conditions relating to public domain, landscaping and timing of bonds, and as such, the modification will result in substantially the same development as approved under DA-2016/150 and then subsequently modified. It is considered that the proposed amendment is suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to various conditions relating to public domain, landscaping and timing of bonds, therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the***

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notification or advertising of applications for modification of a development consent, and

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a fourteen (14) day period.

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

No submissions were received during the public notification period.

S4.15(1) - Matters for Consideration – General

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

The following Environmental Planning Instruments are relevant to this application:

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development application.

Development Application No. 16/150 was approved as integrated development as the proposal approved basement car parking that would intercept the groundwater table. General Terms of Approval were placed in the consent relating to excavation of the basement level. The subject application does not change the envelope of the basement level approved therefore the subject application is not integrated development and does not need to be referred to Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

The development is in close proximity to the rail corridor, with Mascot Station located close to the site. The original application for the built form was referred to Sydney Trains who provided appropriate conditions relating to excavation near the rail corridor. As the subject application does not propose any changes to the excavation of the basement and the building, the application did not need to be referred to Sydney Trains for comments.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

State Environmental Planning Policy No. 55 – Remediation of Land

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The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

Consideration of SEPP No. 55 was carried out within the assessment of DA-16/150. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

State Environmental Planning Policy 65- Design Quality of Residential Apartment Development

The Section 4.55(1A) modification application relates to modifications to various conditions relating to public domain, landscaping and timing of bonds, and which do not relate to the built form approved as part of DA-2016/150. The building will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013 (BBLEP)

The Section 4.55(1A) modification application relates to modifications to various conditions relating to public domain, landscaping and timing of bonds, and therefore there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal will continue to be consistent with the objectives of the BBLEP 2013 with regard to the B4- Mixed Use zone.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan (BBDGP) 2013

The Section 4.55(1A) modification application relates to modifications to various conditions relating to public domain, landscaping and timing of bonds, and therefore there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application. The proposal relates to landscaping agreement and payment of bond and is not contrary to the requirements of the BBDGP 2013.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

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As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The proposal does not alter the conclusions that were resolved and approved within DA-16/150.

The suitability of the site was addressed in the original approval of DA-2016/150.

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

No submissions were received. The application was notified as required under Part 2 – Notification and Advertising of the BBDCP 2013.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

The Section 4.55(1A) Application seeks to modify Development Consent No. 2016/150 which approved the construction of a mixed use development with a childcare centre. The modification relates to amendments to conditions which relate to public domain works, landscaping works and timing of bonds. The development as modified, is substantially the same development that was originally approved or as modified. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Attachment

Schedule 1 – Conditions of Consent

Premises: 42 Church Avenue, Mascot

DA No: DA-16/150/07

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
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DWG No. 0001 Rev B C- Cover Sheet	Crone Architects	Dated 13 February 2017; Received 24 February 2017 Dated 3 August 2018; Received 6 August 2018
DWG No. 0002 Rev A- Site Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0003 Rev A- Setback and Storey Height Analysis		Dated 28 July 2016; Received 24 February 2017
DWG No. 0004 Rev A- Existing Plan		Dated 28 July 2016; Received 24 February 2017
DWG No. 0005 Rev B- GA Parking Level 01- (Basement L01)		Dated 13 February 2017; Received 24 February 2017
DWG No. 0006 Rev C- GA Ground Level		Dated 3 May 2017; Received 11 May 2017
DWG No. 0007 Rev B C- GA Level 01 A0012_P-GD Rev A- Ground Floor		Dated 13 February 2017; Received 24 February 2017 Dated 3 August 2018; Received 6 August 2018 Dated June 2018; Received 28 June 2018
DWG No. 0008 Rev B C- GA Level 02		Dated 13 February 2017; Received 24 February 2017 Dated 3 August 2018; Received 6 August 2018
DWG No. 0009 Rev B C- GA Level 03		Dated 13 February 2017; Received 24 February 2017 Dated 3 August 2018; Received 6 August 2018
DWG No. 0010 Rev B C- GA Level 04		Dated 13 February 2017; Received 24 February 2017 Dated 3 August 2018; Received 6 August 2018
DWG No. 0011 Rev B- GA Level 05		Dated 13 February 2017; Received 24 February 2017
DWG No. 0012 Rev B- GA Level 06		Dated 13 February 2017; Received 24 February 2017
DWG No. 0013 Rev B- GA Level 07		Dated 13 February 2017; Received 24 February 2017
DWG No. 0014 Rev B- GA Level 08		Dated 13 February 2017; Received 24 February 2017

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DWG No. 0015 Rev B- GA Level 09		Dated 13 February 2017; Received 24 February 2017
DWG No. 0016 Rev B- GA Level 10		Dated 13 February 2017; Received 24 February 2017
DWG No. 0017 Rev B- GA Level 11		Dated 13 February 2017; Received 24 February 2017
DWG No. 0018 Rev B- GA Level 12		Dated 13 February 2017; Received 24 February 2017
DWG No. 0019 Rev B- GA Level 13		Dated 13 February 2017; Received 24 February 2017
DWG No. 0020 Rev A- GA Level 14 (Plant)		Dated 28 July 2016; Received 24 February 2017
DWG No. 0021 Rev A- GA Roof Level		Dated 28 July 2016; Received 24 February 2017
DWG No. 0022 Rev C- North Elevation (A+D)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0023 Rev C- East Elevation (A+B)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0024 Rev B- South Elevation (B+C)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0025 Rev B- West Elevation (C+D) A0034_P-WE Rev A- West Elevation		Dated 3 July 2017; Received 5 July 2017 Dated 1 June 2018; Received 28 June 2018
DWG No. 0026 Rev C- North Section/Elevation (B+C) A0031_P-NE Rev A North Elevation		Dated 3 July 2017; Received 5 July 2017 Dated 1 June 2018; Received 28 June 2018
DWG No. 0027 Rev C- South Section/Elevation (A+D)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0028 Rev B- East Section/Elevation (C+D)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0029 Rev B- West Section/Elevation (A+B)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0030 Rev B- Section 01 (B+C)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0031 Rev C- Section 02 (A+D)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0032 Rev B- Section 03 (C+D)		Dated 3 July 2017; Received 5 July 2017
DWG No. 0033 Rev B- GFA Plans		Dated 13 February 2017; Received 24 February 2017

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DWG No. 0034 Rev A- GFA Plans		Dated 28 July 2016; Received 24 February 2017
DWG No. 0035 Rev A- GFA Plans		Dated 28 July 2016; Received 24 February 2017
DWG No. 0036 Rev D- Shadow Analysis- Winter Solstice		Dated 3 May 2017; Received 11 May 2017
DWG No. 0037 Rev D- Shadow Analysis- Winter Solstice		Dated 3 May 2017; Received 11 May 2017
DWG No. 0043 Rev B- ADG Cross Ventilation		Dated 13 February 2017; Received 24 February 2017
DWG No. 0044 Rev B- ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0045 Rev B- ADG Solar Access		Dated 13 February 2017; Received 24 February 2017
DWG No. 0046 Rev B- ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0047 Rev B- ADG Apartments Direct Sunlight Analysis		Dated 13 February 2017; Received 24 February 2017
DWG No. 0048 Rev A- Materials Board		Dated 28 July 2016; Received 24 February 2017
DWG No. 0049 Rev A- BASIX Specification		Dated 28 July 2016; Received 24 February 2017
DWG No. 0051 Rev A- Perspective View 02		Dated 28 July 2016; Received 24 February 2017
DWG No. 0052 Rev A- Landscape Diagrams		Dated 13 February 2017; Received 24 February 2017
DWG No. 0053 Rev C- Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0054 Rev C- Shadow Analysis- Equinox		Dated 3 May 2017; Received 11 May 2017
DWG No. 0055 Rev A- NE Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0056 Rev A- NW Winter Solstice		Dated 13 February 2017; Received 24 February 2017
DWG No. 0057 Rev A- NE Equinox		Dated 13 February 2017; Received 24 February 2017

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DWG No. 0058 Rev A- NW Equinox		Dated 13 February 2017; Received 24 February 2017
DWG No. 0060 Rev A- Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0061 Rev A- Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0062 Rev A- Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0063 Rev A- Shadow Analysis Winter Solstice		Dated 14 June 2017; Received 20 June 2017
DWG No. 0059 Rev A- Basement Storage/Bicycle Parking/Media Cupboard		Dated 13 February 2017; Received 24 February 2017
DWG No. CS-000 Rev C- Cover Sheet, Drawing Register and Legend	Urbis Pty Ltd	Dated 11 May 2017; Received 11 May 2017
DWG No. FI-200 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-201 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-202 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-203 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-204 Rev E- Planting Plan- Ground Level		Dated 11 May 2017; Received 11 May 2017
DWG No. FI-210 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-211 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
DWG No. FI-212 Rev A- Planting Plan- Level 4		Dated 15 July 2016; Received 11 May 2017
Survey Plan- Sheets 1+2	LTS Lockley Registered Surveyors	Dated 12 September 2014; Received 29 August 2016
Civil Works Package- Rev B	At&I	Dated 2 May 2016; Received 24 February 2017
41176DP- Plan of Subdivision	Matthew Graham Smith	Dated 2014; Received 29 August 2016

(DA-16/150/05)(DA-16/150/06)

Reference Document(s)	Author	Dated / Received by Council
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ND 1502- Landscape Design Development Application Report	Urbis	Dated 2 May 2017; Received 11 May 2017
Letter to Council responding to additional information	Meriton Property Services Pty Ltd	Dated 4 May 2017; Received 11 May 2017
Response Matrix outlining Landscaping issues	Meriton Property Services Pty Ltd	Received 11 May 2017
Addendum Report – Arboricultural- Ref: 3504	TALC	Dated 6 February 2017; Received 24 February 2017
Traffic Impact Assessment Rev B- Ref: 248258	ARUP	Dated 17 February 2017; Received 24 February 2017
Clause 4.6 variation to the FSR development standard	Meriton Property Services Pty Ltd	Received 24 February 2017
Clause 4.6 variation to the height development standard	Meriton Property Services Pty Ltd	Received 18 May 2017
Reflectivity and Glare Assessment- Ref: 610.14464-R011-v1.0	SLR	Dated 23 January 2017; Received 24 February 2017
Response Matrix to additional information request by Council	Meriton Property Services Pty Ltd	Received 24 February 2017
Response to Council DA Traffic Issues	ARUP	Dated 17 February 2017; Received 24 February 2017
Design Statement for DA submission- Ref: CA3392	Crone Architects	Dated 7 July 2016; Received 29 August 2016
DCP Compliance Table	Meriton Property Services Pty Ltd	Received 29 August 2016
BASIX Certificate No. 741493M	Prepared by Efficient Living Pty Ltd	Dated 3 August 2016; Received 29 August 2016
Acoustic Report- Ref: 2016.1100.1/2807A/R0/TA	Acoustic Logic	Dated 28 July 2016; Received 29 August 2016
Waste Management Plan Rev C	Elephants Foot	Dated 26 August 2016; Received 29 August 2016
Access Report- Rev 2- MTN-017	Wall to Wall Design + Consulting	Dated 28 August 2016; Received 29 August 2016
Building Code of Australia Compliance Assessment Report- 1423-80-Rev 00	AE&D Group	Dated 13 July 2016; Received 29 August 2016

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Qualitative Environmental Wind Assessment Report- Ref: 610.14464	SLR	Dated 28 July 2016; Received 29 August 2016
Arboricultural Assessment Report	TALC	Dated 9 June 2017; Received 10 July 2017
Construction Management Plan	Meriton Property Services Pty Ltd	Dated July 2016; Received 29 August 2016
Civil Infrastructure Development Application Report- Rev 01- Ref: 16-363-01	At&I	Dated August 2016; Received 29 August 2016
Remediation Action Plan- Ref: 73894.01	Douglas Partners	Dated July 2014; Received 29 August 2016
Detailed Site Investigation for Contamination- Ref: 73894.00	Douglas Partners	Dated July 2014; Received 29 August 2016
Geotechnical Investigation- Ref: GEOTLCOV25225AA-AC	Coffey	Dated 25 November 2014; Received 29 August 2016
Flood Report Rev 1	Calibre Consulting	Dated 27 July 2016; Received 29 August 2016
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 20 July 2016; Received 29 August 2016
Statement of Environmental Effects	Meriton Property Services Pty Ltd	Dated 29 August 2016; Received 29 August 2016
Advice regarding retail spaces on first floor	Urbis	Dated 5 June 2017; Received 20 June 2017
Letter addressing reasons for deferral	Meriton Property Services Pty Ltd	Dated 20 June 2017; Received 20 June 2017

- 2 No construction works (including excavation) shall be undertaken prior to the issue to the relevant Construction Certificate.
- 3 This Consent relates to land in Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 4 The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,

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- b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 5 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 6 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
 - a) Note:

Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

The following conditions are imposed by **Ausgrid**:

- 7 Ausgrid has identified the following assets to be affected by the development works:
- a) Close Proximity of overhead and/or underground cable/s on public land
 - i) Ausgrid require that due consideration be given to the compatibility of proposed development existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, electric and magnetic fields (EMF), noise, visual amenity and other matters that may impact on Ausgrid or the development.
 - b) In general, conditions to be adhered to by the developer include, but are not limited to, the following:

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- i) Any work undertaken near Overhead Power lines needs to be done in accordance with:
 - WorkCover Document ISSC 23 "Working Near Overhead Power Lines"
 - Ausgrid Network Standards
 - Ausgrid Electrical Safety Rules
- ii) The location of underground cables by using *Dial before you dig* and comply with the requirements of Ausgrid's Network Standard 156: *Working near or around underground cables* before any excavation works are undertaken
- iii) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.
- c) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).
- d) The developer is to ensure that the proposed works do not contravene Ausgrids technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrids network.

The following conditions are imposed by **Sydney Airport Corporation Limited (SACL)**:

8

- a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
- b) The application sought approval for the property development to a height of 51.0 metres Australian Height Datum (AHD).
- c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 51.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

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- e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - g) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
- (a) Application for Approval of Crane Operation
- (i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
 - (ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
 - (iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
 - (iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
 - (v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
 - (vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
 - (vii) The "Important Notes" must be read and accepted.
 - (viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:

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- 9 A strip of land has been dedicated as Public Road by private subdivision (DP1014063) along the Bourke Street frontage of the subject property, as shown by yellow colour on the attached aerial – “X”. The subject property is further affected by a road proposal at the corner of Bourke Street and Church Avenue, as shown by pink colour on the attached aerial – “Y”.

Roads and Maritime raises no objection to the development proposal provided all buildings and structures, together with any improvements integral to the future use of the site are clear of the land required for road.

- 10 The proponent is to be advised that the subject property is within a broad area under investigation for:

- a) The proposed F6 Project. In this regard, further information can be obtained at www.rms.ndw.gov.au/projects/motorwaydevelopment or by contacting F6 Corridor Study Team via – Email: motorwaydevelopment@rms.nsw.gov.au or by calling 1800789297.
- b) The contractor for the Westconnex new M5 Project has now been announced and the contractors current design requirements for this project do not require this property. Please note however the detailed design for the project has not been finalised and accordingly land requirements may be subject to change.
- c) The proposed Westconnex M4-M5 Link Project.

For more information on the Westconnex project, please call 1300660248, email info@westconnex.com.au or visit the project website www.westconnex.com.au

In addition to the above, Roads and Maritime has reviewed the development application and provides the following comments for Council’s consideration in the determination of the application:

- 11 A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- 12 The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS289.20- 2002 for heavy vehicle usage.

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

- 13 Water
 - a) The trunk water system has adequate capacity to service this development area. The existing 200mm water main in Church Avenue can service the proposed development.
- 14 Wastewater
 - a) The trunk wastewater system has adequate capacity to service this development area. The existing 300mm wastewater main in Church Avenue can service the proposed development.

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15 Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is surbangrowth@sydneywater.com.au. Further advice and requirements for this proposal are at attachments 1 and 2 (overleaf). If you require any further information, please contact Beau Reid of Urban Growth Strategy on 02 8849 5241 or e-mail david.demer@sydneywater.com.au

16 Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing Land development or telephone 13 20 92.

17 Building Plan Approval

The developer must have building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or nex1 to assets).

The following conditions are imposed by **Sydney Trains**:

18 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:

- a) Geotechnical Investigation prepared by Coffey dated 25 November 2014 (Ref: GEOTLCOV25225AA-AC);
- b) Potential Impacts on Sydney Trains Tunnel prepared by Coffey dated 1 May 2017 (Ref: 754-SYDGE197961-AB Rev 5);
- c) Dewatering Management Plan prepared by Coffey dated 13 February 2017 (Ref: 754-SYDGE197961AD);
- d) Survey Plans (Drawings Nos 21976 C Sheets 1-4) prepared by B&P Surveyors;
- e) Bulk Excavation Plan- Drawing No. E-1500 dated August 16 prepared by Karimbla Construction Services;
- f) Correspondence titled "Calculations for 900mm diameter foundation piles end bearing on Class III Shale" prepared by CD Group dated 26 April 2017.

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The Principal Certifying Authority is not to issue the Construction Certificate until the measures detailed in the documents approved/certified by Sydney Trains under this Condition are incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

- 19 The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- a) Machinery to be used during excavation/construction.
- b) Construction, Excavation and Demolition Plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- 20 If required by Sydney Trains, prior to the commencement of works, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- 21 An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- 22 Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- 23 If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 24 A tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the tunnel monitoring plan, and if required, that it has been endorsed.

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- 25 Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- 26 No rock anchors/bolts are to be installed into Sydney Trains property or easements.
- 27 Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easements, unless agreed to be these authorities. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- 28 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- 29 If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- 30 Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 31 Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations including loading details for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 32 Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.
- 33 Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those

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approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

The following conditions are imposed by **Water NSW**:

34 The following General Terms of Approval apply:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related

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operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
 - i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

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- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
- k) A copy of a valid consent for the development shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

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- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

- u) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
 - i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- v) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 35 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.
- 36 If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.

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- 37 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Structural Engineer having regard to foundations/structures of the locality
- 38 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
 - (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if: -
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.
- 39 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
- 40 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or

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excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 41 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
- n) Sewer – common sewerage system ad08.

- 42 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan

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shall incorporate and reference the construction environmental management plan and address site limitations.

- 43 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 44 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 45 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 46 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4th Edition* (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4th Edition* (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 47 The Remedial Action Plan (RAP) shall be updated by a suitably qualified and experienced contaminated land consultant to reflect the current proposed development layout and to incorporate any new information of soil and groundwater found in any additional sampling and analysis.
- The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

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- 48 In accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
- 49 A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council.
- 50 The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 51 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 52 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 53 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 54 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 55 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 56 Prior to the commencement of excavation or any building works, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 57 The Applicant has permission to remove the following trees:

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Tree #1, Tree #2, Tree #3, Tree #4, Tree #5, Tree #6, Tree #7, Tree #8, Tree #9, Tree #10, Tree #11, Tree #12, Tree #13, Tree #14, Tree #15, Tree #16, Tree #17, Tree #18, Tree #19, Tree #20, Tree #21, Tree #22, Tree #23, Tree #24, Tree #25, Tree #26, Tree #27, Tree #28, Tree #29, Tree #30, Tree #31, Tree #32, Tree #33, Tree #34, Tree #35, Tree #36, Tree #37, Tree #38, Tree #39, Tree #40, Tree #41, Tree #42, Tree #43, Tree #44, Tree #45, Tree #46, Tree #47, Tree #48, Tree #49, Tree #50, Tree #51, Tree #52, Tree #53, Tree #54, Tree #55, Tree #56, Tree #57, Tree #58, Tree #59, Tree #60, Tree #61, Tree #62, Tree #63, Tree #64, Tree #65, Tree #66, Tree #67, Tree #68, Tree #69, Tree #70, Tree #71, Tree #72, Tree #73 as identified by the Consultant Arborist in the report by Tree and Landscape Consultants (TALC) (dated 9th June 2017). **Note: Trees are not permitted to be removed until the Construction Certificate has been issued.**

Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:

- a) A qualified Arborist with their own public liability insurance must be engaged.
- b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
- c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

- 58 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Church Street and Bourke Road, road reserve. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- c) Distance from the manholes shall be accurately measured, and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

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59 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) The additional load on the system, and
 - ii) The relocation and/or adjustment of the services affected by the construction.
- c) As part of this development, the Ausgrid lighting poles along Bourke Road and Church St, will need to be decommissioned and new lighting poles shall be constructed satisfying P2 lighting requirements and any other requirements as specified by Council, RMS and any other service provider,
- d) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the relevant Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

60 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

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

61 The applicant must prior to the issue of any Construction Certificate, pay the following fees:

- | | | |
|-----|---------------------------|-----------------------------------|
| (a) | Development Control | \$2,940.00 |
| (b) | Waste Levy | \$12,391.20; |
| (c) | Builders Security Deposit | \$629,880.00 (Condition No. 65) |
| (d) | Section 94 Contributions | \$5,194,622.36 (Condition No. 66) |

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- 62 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$629,880.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 63 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$5,194,622.36** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

a) Community Facilities- Citywide	\$798,693.83
b) Recreation Facilities- Mascot Precinct	\$81,027.65
c) Recreation Facilities- Citywide	\$3,469,129.18
d) Transport Management- Citywide	\$326,870.05
e) Transport Management- Mascot	\$459,437.20
f) Administration	\$59,518.46

TOTAL: \$5,194,622.36

The total Section 94 Contribution of **\$5,194,622.36** is to be paid to Council prior to the issue of any Construction Certificate.

Note: The Section 94 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

- 64 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:
- a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
 - b) The northern patios/courtyards of the ground floor apartments of Building A and D along Galloway Street (northern setback) are to be setback 3 metres from the site boundary to comply with the 3 metre setback requirement under Part 9A of the BBDGP 2013;
 - c) Internal reconfiguration of the 2 and 3 bedroom apartments to provide an open storage area within/close to, the entry way of the apartment and be in addition to storage in the kitchen, bathrooms and bedrooms;
 - d) Study nooks are to be provided to two and three bedroom units and are not to be enclosed in cupboard areas that do not have access to ventilation and

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sunlight. It is recommended that study nooks are located within the open planned area of the apartments;

- e) A loading dock management plan of the ground floor loading dock is to be prepared demonstrating the management of the loading dock during operations. This is to be provided to the Council and the Principal Certifying Authority prior to issue of the Occupation Certificate.
 - f) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean; and
 - g) The location of mailboxes within the lobby of each building is to be identified on the amended plans.
 - h) The first floor level must be designed as flexible space to allow for future adaption. It must have a minimum floor to ceiling height of 3.3 metres.
 - i) The residential/commercial (dual use) first floor flexible space is to include design features which allow for future adaptability of this space for employment generating activities.
- 65 Storage cages located in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500mm away from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of the relevant Construction Certificate.
- 66 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant Construction Certificate. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 67 The drawings for the construction certificate for the basement and above ground car park shall show the following parking requirements:

Car Parking Rates	Required
0.6 space / 1 bed unit	54.6 52.8 spaces
0.9 space / bed unit	156.6 162.9 spaces
1.4 space / bed unit	105-99.4 spaces
1 visitor space / 7 dwellings	48.6 spaces
Retail Spaces	20 spaces
Child Care Centre	29.5 spaces
TOTAL REQUIRED	415-414 spaces (rounded up)

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Car Parking Rates	Required
TOTAL PROVIDED	510 spaces

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate. (DA-16/150/05)

- 68 Prior to the issue of the relevant Construction Certificate, any recommendations from the amended Qualitative Wind Assessment Report are to be incorporated into the design in order to ensure compliance with Council's maximum wind criteria (as set out at Part 9A.4.5.4 Wind Mitigation, Control C1); as follows:

- (a) 10 metres/second along commercial/retail streets;
- (b) 13 metres/second along main pedestrian streets, parks and public places; and
- (c) 16 metres/second in all other streets.

- 69 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by **Acoustic Logic, dated 28/07/2016, Report reference number 20161100.1/2807A/R0/TA** shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of *AS2021 – 2000* shall be incorporated into the construction of the building.

The work detailed in the report includes:

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

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

- 70 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.

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- 71 Prior to the issue of the relevant construction certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i. The additional load on the system, and
 - ii. The relocation and/or adjustment of the services affected by the construction.
- 72 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 73 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,

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- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 74 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
 - c) during construction, if access from **Bourke Road** is required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by the New South Wales Roads and Maritime Services, and
 - d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*
- 75 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and

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- b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 76 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - b) All service vehicles shall enter the property front in front out,
 - c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 77 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - a) Disabled car parking spaces shall be provided and clearly marked as per the Stage 2 Traffic and Transport Report by ARUP Group, dated 10 August 2016, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 78 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 79 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

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

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
 - b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
 - c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - e) The submission of detailed calculations including computer modelling where required supporting the proposal.
- 80 A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.
- 81 An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.

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This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

- 82 The **private domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Occupation Certificate. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:
- a) Along Galloway Street deep soil landscaping setback shall be increased to three (3) metres forward of patios. Landscaping shall include a mix of medium and large canopy trees.
 - b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - c) Canopy trees are required to be incorporated within the landscape setback along Galloway Street frontage and Church Avenue frontage.
 - d) A mix of medium sized, deciduous and evergreen trees are to be used extensively within the level 4 communal park. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 10 Part 4.6.
 - e) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - f) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
 - g) Indicate the location of all basement structures relative to the landscape areas.
 - h) Areas of paving, schedule of materials, edge treatments, tactiles, playground and fitness equipment details, and sectional construction details. Use of WSUD initiatives or materials is required to be indicated.
- 83 The **public domain landscape** areas shown on the plan by Urbis, Plans CS-000, FI-200 to FI-204, FI-210 to FI-212 (Issue C, dated May 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate for public domain works. The landscape documentation is to be prepared by Urbis Landscape Architects and shall include, but not be limited to:
- a) The clear delineation of all public domain areas as follows:
 - i) Galloway Street and Church Avenue footpath areas –
 - ii) The ground level Public park located between Building D and Building A

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- b) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- c) Street trees are required along Church Avenue, Galloway Street and within the new community park south of Galloway Street.
- d) All street trees are to be in accordance with Council's Street Tree Master Plan.
- e) All deep soil areas are to include evergreen canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
- f) Canopy trees are to be used extensively within the community park. Deciduous trees are to be incorporated in strategic locations to allow solar access and improve amenity. Any planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 10 Part 4.6).
- g) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 200 litres and street trees 400 litre.
- h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- i) The public park shall include a combination of seating in addition to blade seating walls. Incorporate picnic settings to improve amenity.
- j) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the new ground level community park. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- k) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
- l) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, public toilets, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- m) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- n) A detailed public art proposal. ***This is to be provided prior to the issue of an Occupation Certificate. (DA-16/150/06)***

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- o) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 10 Part 4.6) and capable of supporting medium and large canopy trees.
- p) Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- q) Indicate the location of all basement structures relative to the landscape areas.
- r) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report.

DURING WORKS

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- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

85 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

86 During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas.

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Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

- 87 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 88 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
- 89 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 90 All remediation work must be carried out in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The updated Remedial Action Plan (RAP).
- 91 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 92 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

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- 93 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 94 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 95 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
- 96 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
- 97 During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 98 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 99 All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 100 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 101 The following shall be complied with during construction and demolition:
- (a) Construction Noise

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- (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 05:00pm
 - (ii) Saturday 08:00am to 01:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 102 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 103 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 104 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 105 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no

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more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

- 106 The public footpaths in Church Avenue, Galloway Street and Bourke Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 107 New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
- 108 Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 109 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

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

- 110 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 111 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 317 residential spaces
 - b) 49 visitors spaces
 - c) 20 retail spaces
 - d) 29 child care centre spaces
 - e) 1 carwash bay located on the ground floor car park level
- Any excess parking is to be allocated to an apartment.
- 111A The FSR, unit mix and car parking shall be consistent with the terms and conditions of DA-16/150 (as modified), DA-2017/1166 and DA-2017/1238 (as modified). (DA-16/150/05)
- 112 Prior to the issue of the relevant Occupation Certificate, at least 72 bicycle spaces are to be provided in the car park.
- 113 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 114 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing and new stormwater drainage infrastructure on **Church Street, Bourke Road, and Galloway St.**
- The camera and its operation shall comply with the following:
- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - c) Distance from the manholes shall be accurately measured, and
 - d) The inspection survey shall be conducted from manhole to manhole.
- The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction

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of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

115 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

116 Prior to the issue of any Occupation Certificate **for the final building**, the applicant shall carry out the following works:

- a) On Church St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
- b) On Church St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
- c) On Church St, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,
- d) On Bourke Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,
- e) On Bourke Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and
- f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.

(Modified via DA-2016/150/07)

117 Prior to the issue of any Occupation Certificate **for the final building**, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

(Modified via DA-2016/150/07)

118 Prior to the issue of **any Occupation the Strata Subdivision Certificate**, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

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- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

(Modified via DA-2016/150/07)

- 119 Prior to the issue of any Occupation Certificate **for the final building**, the following is to be complied with:

- a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:
 - i. Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes,
 - ii. Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and
 - iii. Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

- 120 A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

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The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

- 121 To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council for clearly demonstrating that the site is suitable for the proposed development. A separate SAS shall be provided for any land dedication to council, such as parks or roadways and the site audit statement shall not be subject to any ongoing management measures. This shall be provided to issue of any applicable Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy any Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the release of any applicable Occupation Certificate or applicable dedication of land to Council. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 122 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

123

- a) The Stratum subdivision of the development shall be the subject of a further Development Application to Council; and
- b) The subdivision application must be accompanied by a formal copy of the by-laws which shall be in accordance with the plans and documentation approved under this Consent and must also include the following:
 - i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 16/150.
 - ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 16/150.
 - iii) Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner.
 - iv) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance with a Plan of Management.

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- v) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997.
 - vi) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
 - vii) The linen plan must include details of any easements, encroachments, rights of way, including right of footway restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
 - viii) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
 - ix) The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines;
 - x) Maintenance of required acoustic measures of Development Consent No. 16/150; and
 - xi) CCTV surveillance of all public areas within the development site.
- 124 That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- 125 Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 126 Prior to the issue of the relevant Occupation Certificate, where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 127 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic

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engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

- 128 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 129 Prior to the issue of any Occupation Certificate, street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 130 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - (a) All reduced levels shown upon the approved plans, with relation to the required solar panels, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - (b) A Floor Space Ratio (FSR) of ~~3.2:1~~ **3.32:1** and height of 51m AHD as approved under this Development Consent No. 16/150, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate. **(DA-16/150/03)**
 - (c) The development as built, stands within Lot 1 in DP 376752, Lot 3 in DP 376752 and Lot 21 in DP1014063.
- 131 The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
- 132 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 133 Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of **an any Occupation Certificate for the final building**. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.

(Modified via DA-2016/150/07)
- 134 The Applicant is to submit payment for a Public Works Defects Liability Bond of \$250,000.00 for all hard structures, paving, drainage and so on within the public domain. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

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- 135 ***Prior to the issue of any Occupation Certificate for the final building, the Applicant is to ~~submit payment to Council enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement~~ of a bond in the sum of \$100,000.00 ~~for a period of twelve (12) months~~ after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to ~~five (5) years~~ **twelve (12) months**.***

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

(Modified via DA-2016/150/07)

- 136 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of **an** *any* Occupation Certificate **for the final building**.

(Modified via DA-2016/150/07)

- 137 The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate for the final building. ~~This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.~~

(Modified via DA-2016/150/07)

- 138 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

- 139 The commercial tenancy on ground floor is approved for the use as commercial premises and/or food and drink premises in accordance with the definition in the Standard Instrument.
- 140 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).

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- 141 The use of the child care centre is subject to a separate development application for its fitout.
- 142 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 143 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
- 144 ~~Ongoing maintenance of the road verges and footpaths and nature strips in Church Avenue and Galloway Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.~~ (DA-2016/150/04)
- 145 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 146 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.

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- (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (ii) Before 7 am or after 10 pm on any other day.
- 147 All loading and unloading associated with the retail tenancy is to be undertaken within the ground floor of Building B.
- 148 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 149 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 150
 - (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
 - (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 151 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- ~~152 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/150 dated as 29 August 2016 and further amended by DA-16/150/03 dated 22 September 2017 and as further modified by DA-16/150/05 dated 13 February 2018 and as further modified by DA-16/150/06 dated 28 June 2018 and that any alteration, variation, or extension to the use, would require further Approval. (DA-16/150/03)(DA-16/150/05)(DA-16/150/06)~~
~~(Deleted via DA-2016/150/07)~~

Item

Bayside Planning Panel Meeting
11/12/2018

Statement Environmental Effects

Section 4.55 Application

42 Church Avenue, Mascot

Amend various conditions

5 September 2018

PREPARED BY

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Statement of Environmental Effects
 42 Church Avenue, Mascot
 Amend various conditions

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Annexure 1: Amended Conditions

1 Introduction

This Statement of Environmental Effects relates to a Section 4.55 Application seeking Council's consent to correct development consent DA16/150.

The subject Section 4.55 Application seeks to amend various conditions.

This Statement:

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

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

2 Site and Surroundings

2.1 The Site

The site is known as 42 Church Avenue, Mascot, and it comprises three parcels of land located on the northwestern corner of Church Avenue and Bourke Street. **Figure 1** shows the general location of the site and **Figure 2** shows an aerial view of the site and its boundaries.

The site comprises Lots 1 and 3 in DP 376752 and Lot 21 in DP 1014063. It has a 108.5 metre frontage to Church Avenue; a 101.5 metre frontage to Bourke Street; a 101.9 metre western side boundary; and a 109.1 metre northern boundary. The total site area is 11,104 sqm.

The site has been approved for redevelopment – refer section 3.1 of this Statement.

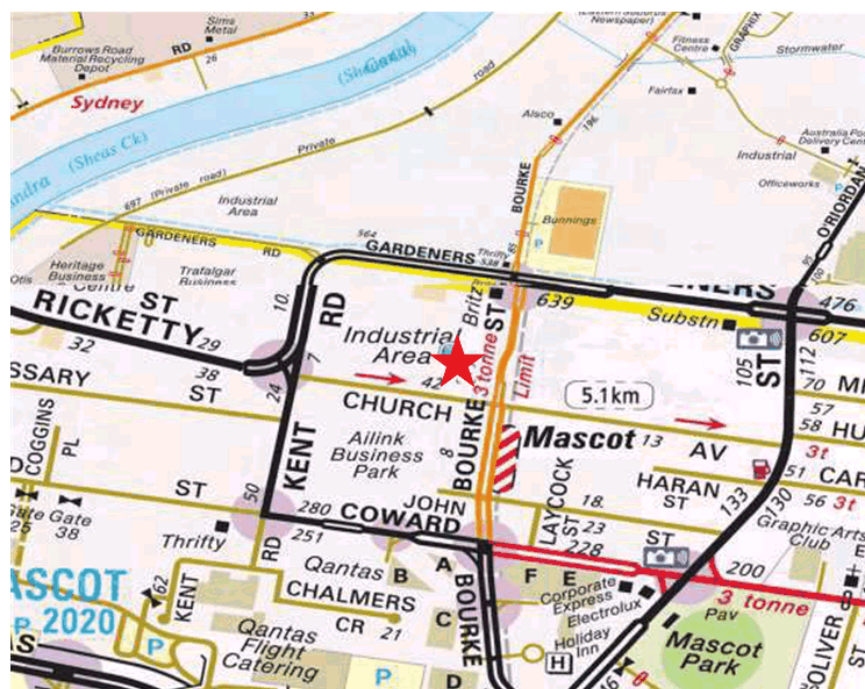


Figure 1: Location of subject site marked with red star

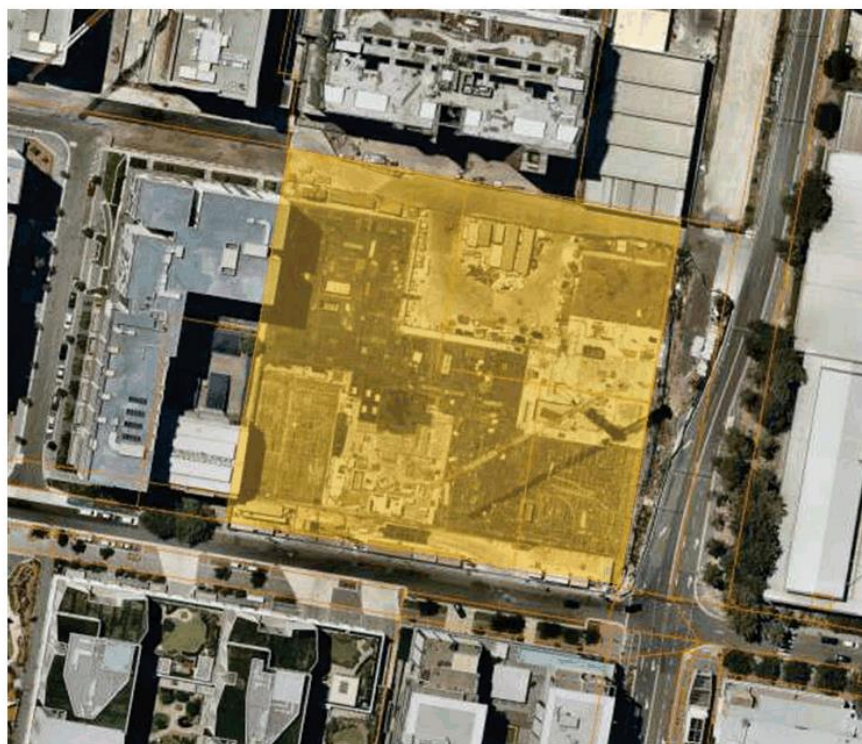


Figure 2: Aerial view of subject site – shaded yellow (as at 21 January 2018)

2.2 Surroundings

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

The site is located diagonally opposite the Mascot Railway Station, and it is on the northern fringe of the town centre that surrounds the station.

To the east, on the other side of Bourke Street, is a commercial / warehouse. To the southeast are mixed use residential and commercial buildings and the Mascot Railway.

The adjoining site to the north is currently partly vacant and partly occupied with commercial buildings.

To the south of the site, on the on the other side of Church Avenue, is a multi-storey mixed use building with ground floor retail and residential apartments above.

The adjoining site to the west is occupied by a residential flat building and also part of the redevelopment of No.9 Kent Road for residential flat buildings.

3 Proposed Modifications

3.1 Existing Consent

On 25 July 2017, the JRPP issued its consent (DA16/150) for the following development:

Integrated Development Application for the construction of a mixed use development incorporating a 4 storey podium with four x 14- storey towers containing residential units, retail space, childcare centre, private recreation facilities, basement and above ground 'sleeved' car parking and 35,532sqm of gross floor area; landscaping and dedication of land along the Church Avenue frontage; construction of southern half of a new east-west street along the northern alignment of the site; landscaping and dedication of a new public park; associated excavation, earthworks and landscaping; and land subdivision.

3.2 Proposed Amendments

It is proposed to the following conditions:

- 116 (public domain works);
- 117 (road reserve works);
- 118 (positive covenant);
- 119 (land dedication);
- 133 (public domain landscaping);
- 134 (security bond);
- 135 (security bond);
- 136 (landscape certificate of compliance); and
- 137 (landscaping).

Annexure 1 contains a copy of the proposed amended conditions and an explanation for the proposed changes.

4 Threshold Test – Substantially the Same

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

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

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

5 Environmental Planning Assessment

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

5.1.1 Botany Local Environmental Plan 2013

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

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

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

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

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

5.3.1 Botany Development Control Plan 2013

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

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

Not applicable.

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

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

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

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

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

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

5.8 Section 4.15(1)(d): Submissions

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

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

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

6 Conclusion

The subject Section 4.55 Application seeks to amend various conditions.

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

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

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

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

Annexure 1: Amended Conditions

DA16/150 Proposed Amended Conditions

CONDITION 116

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

- a) On Church St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,*
- b) On Church St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,*
- c) On Church St, adjacent to development, construct new stormwater pipe underneath the new kerb & gutter location and repair (where required), at the applicants expense, the existing 750 diameter pipe, as per Council's Infrastructure specifications,*
- d) On Bourke Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction,*
- e) On Bourke Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications, and*
- f) Construct the relevant portion of the new Galloway Street as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.*

Reason for amendment:

The timing of the condition needs to be amended to reflect the staged scale of the development and the ability to deliver the public infrastructure works. It is sought that the condition timing be changed to the final occupation certificate or relevant occupation certificate. Westconnex upgrade works to roads and services will cause disturbance to the finishing of works along Bourke Road.

Galloway Street cannot be completed either before any occupation certificate. Westconnex will be doing the Bourke Road return into Galloway by 10m, which causes delays to works in Galloway Street (see attached plans). Council also has to finish their portion of Galloway Street so this can be properly connected to our works. In addition to, this there currently exist a building over part of the road reservation by other owners.

There is no way that the public domain works can be done prior to any occupation.

DA16/150 Proposed Amended Conditions

CONDITION 117

| *Prior to the issue of ~~any~~ the relevant Occupation Certificate or final Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.*

Reason for amendment:

For the reasons outlined in Condition 116, the timing of the condition needs to change to prior to the relevant occupation certificate or the final occupation certificate.

DA16/150 Proposed Amended Conditions

CONDITION 118

Prior to the issue of ~~any Occupation the Strata Subdivision Certificate~~, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and*
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.*

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

Reason for amendment:

There is no concern with providing the necessary covenants, only timing. The timing for the Positive covenant is not linked to occupation, but to the issue of the Strata Subdivision Certificate. Strata subdivision cannot BE obtained without the Positive Covenant being registered on the land. There is an obligation under the Conveyancing Act to have the Positive Covenant registered first.

DA16/150 Proposed Amended Conditions

CONDITION 119

| Prior to the issue of ~~any~~ the relevant Occupation Certificate or final Occupation Certificate, the following is to be complied with:

a) Dedicate to Council and at no expense to the Council and generally in accordance with the Architectural Plans by Crone Architects, dated 28 July 2016, Part 22 of the Statement of Environmental Effects, by Meriton, dated 29 August 2016 and the following:

i. Dedicate the portion of land to Council for the purpose of widening Church Avenue. The areas of the land to be dedicated shall be the full length of Church Avenue frontage of the development site and as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes,

ii. Dedicate the portion of land to Council for the purpose of constructing new park off Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes, and

iii. Dedicate the portion of land to Council for the purpose of constructing a portion of Galloway Street. The areas of the land to be dedicated shall be as detailed in the Botany Bay Development Control Plan 2013. The Plan of Dedication shall be lodged with Council and registered with Land & Property Information prior to the issue of any Occupation Certificate. A copy of the registered document shall be submitted to Council for record purposes.

Reason for amendment:

This condition ties in with the completion of the road works listed under condition 116, which does not happen one go, but in stages. Timing needs to change prior to the relevant Occupation Certificate or Final Occupation Certificate.

DA16/150 Proposed Amended Conditions

CONDITION 133

Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of ~~an- the~~ relevant Occupation Certificate or final Occupation Certificate. This amended plan supercedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.

Reason for amendment:

The landscaping of the public domain is tied in with condition 116 which requires the road works to be completed prior to any occupation. The landscaping in the public domain cannot be completed until the road works are completed under Condition 116. The timing of the condition must be amended be prior to the relevant occupation certificate or the final occupation certificate.

DA16/150 Proposed Amended Conditions

CONDITION 134

The Applicant is to submit payment for a Public Works Defects Liability Bond of \$250,000.00 for all hard structures, paving, drainage and ~~so on~~ landscaping within the public domain. The duration of the Bond shall be limited to a period of ~~12~~ 6 months after Council approval of all public domain works. At the completion of the ~~12~~ 6 month period the Bond shall be refunded pending a satisfactory inspection of the public domain work by Council. If rectification or maintenance work is required within this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

Reason for amendment:

This condition is open ended by stating the works “**and so on within the public domain**”. The bonded works must be tied to specific items that will be the responsibility of Council, such as paving, kerb, gutters, paving drainage and landscaping.

Section 4.17(6) of the Environmental Planning and Assessment Act 1979 (as amended),

As specified at Section 4.17(6) of the EP&A Act, the time period that may be applied for the remedying of any defects in public works is 6 months. The clause states the following:

(6) Conditions and other arrangements concerning security

A development consent may be granted subject to a condition, or a consent authority may enter into an agreement with an applicant, that the applicant must provide security for the payment of the cost of any one or more of the following:

(b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,

(c) remedying any defects in any defects in any such public work that arise within 6 months after the work is completed.

The duration of the Bond therefore must be reduced to 6 months.

DA16/150 Proposed Amended Conditions

CONDITION 135

~~The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$100,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.~~

Reason for amendment:

This condition is to be deleted as it is covered in the amendments to condition 134. Condition 134 requires a bond amount of \$250,000 to cover landscaping in the public domain. The time frame of 5 years to maintain the landscaping in the public domain is invalid. Section 4.17(6) of the Environmental Planning and Assessment Act 1979 (As amended), only permits a 6 month time frame and is tied in with the amendments sought for Condition 134.

DA16/150 Proposed Amended Conditions

CONDITION 136

At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of ~~an~~ the relevant Occupation Certificate or final Occupation Certificate.

Reason for amendment:

Similar to conditions 116, 117, 119 and 133 the landscaping works on site will be undertaken in stages due to the scale of the project. The condition requires the timing to be changed to prior to the relevant occupation certificate or prior to the final occupation certificate.

DA16/150 Proposed Amended Conditions

CONDITION 137

The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of any Occupation Certificate. ~~This amended plan supersedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.~~

Reason for amendment:

The condition states the amended plan supersedes the original landscape plan. This is a contradictory condition as the only landscape plan that applies to the consent is listed in the table of plans under Condition 1 of the consent as modified from time to time. The sentence is to be deleted as shown below.

Similar to condition 136, the timing needs to be changed to prior to the relevant occupation certificate or final occupation certificate. The occupation and construction of the development is staged.

As identified in condition 134 above, the maintenance of the landscaped area can only be for a period of up to 6 months in accordance with Section 4.17(6) of the Environmental Planning and Assessment Act 1979. Therefore, reference to maintenance at all times is to be deleted as this is required by Condition 134.

The condition can also be deleted as it is entirely covered by Condition 134.



Bayside Local Planning Panel

11/12/2018

Item No	6.6
Application Type	Development Application
Application No	DA-2018/1044
Lodgement Date	26/03/2018
Property	21 Bay Street, Botany
Ward	Mascot
Owner	Malex Developments Pty Ltd
Applicant	Malex Developments Pty Ltd
Proposal	Addition of a rooftop terrace to an approved four (4) storey commercial building, including lift and stairwell access
No. of Submissions	Four(4)
Cost of Development	\$30,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Bayside Local Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 refuses a variation to the height of buildings prescribed by cl4.3 of the Rockdale Local Environmental Plan 2013, as it is satisfied that the applicant's request has not adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would not be in the public interest because it is inconsistent with the objectives of that particular standard and the objectives for development within the zone.
 - 2 The development application DA18/1044 for the addition of a rooftop terrace to an approved four (4) storey commercial building, including lift and stairwell access at 21 Bay Street Botany, be refused for the following reasons:
 - a 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 satisfy Clause 4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013 relating to the proposed height of the elevator and stair access to the roof top garden.
 - b 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 satisfy the objectives of Clause 5.10(a) and (b) Heritage Conservation of the Botany Bay Local Environmental Plan 2013 relating to the conservation of the environmental heritage and the heritage significance of heritage items in Botany Bay.
 - c Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Part 8 of the Botany Bay Development Control Plan – Botany
-

Character Precinct. The proposal does not complement the height and architectural style found in the immediate vicinity, nor does it maintain the roof form of the prevailing designs within the street. The proposed development does not promote neighbourhood amenity, enhance the character of the area or be sympathetic to the significance of adjoining heritage items. The proposed height increase for the lift and stairwell will reduce solar access to surrounding properties and will decrease existing views.

- d Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Part 6 – Employment Zones of the Botany Bay Development Control Plan 2013. The proposal does not protect the heritage integrity of adjoining heritage items as required in Objective 01, and is not compatible with adjoining residential areas as required in Objective 03.
- e 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 overlooking and loss of privacy impacts on adjoining and nearby properties.
- f 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 and is likely to set an undesirable precedent.

3 That the objectors be advised of the Bayside Local Planning Panel decision.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Roof garden plan [↓](#)
- 3 West Elevation [↓](#)
- 4 East Elevation [↓](#)
- 5 South Elevation [↓](#)
- 6 North Elevation [↓](#)
- 7 Section [↓](#)
- 8 Clause 4.6 Submission [↓](#)

BAYSIDE COUNCIL

Application Details

Application Number:	DA-2018/1044
Date of Receipt:	26.3.2018
Property:	21 Bay Street, Botany
Lot & DP/SP No:	Lot 1 DP 201192
Owner:	Malex Development Pty Ltd
Applicant:	Malex Development Pty Ltd
Proposal:	Addition of a rooftop terrace to an approved four (4) storey commercial building, including lift and stairwell access
Recommendation	Refusal
Value:	\$30,000
Zoning:	B7 Business Park - Botany Bay Local Environmental Plan 2013
Author:	Petra Blumkaitis – Development Assessment Planner
Date of Report:	26 November 2018
No. of submissions:	Four (4)

Key Issues

The key issues with this application are:

1. Height non-compliance of 31.6%,
2. Impact on adjoining heritage item, and
3. Overlooking impacts to neighbouring properties.

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.

Recommendation

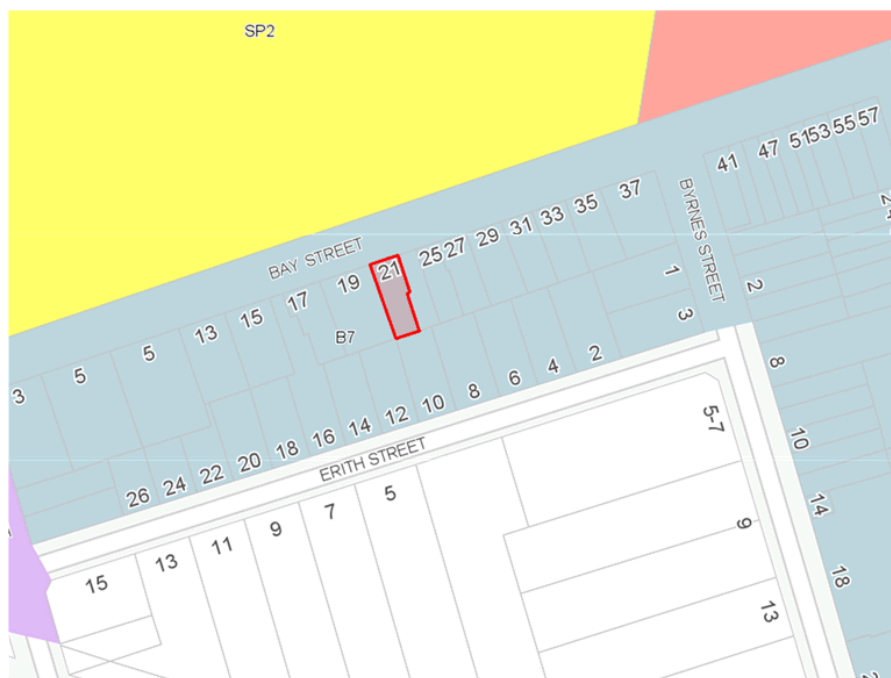
- A.** That the Bayside Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 refuses a variation to the height of buildings prescribed by cl4.3 of the Rockdale Local Environmental Plan 2013, as it is satisfied that the applicant's request has not adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would not be in the public interest because it is inconsistent with the objectives of that particular standard and the objectives for development within the zone.
- B.** The development application DA18/1044 for the addition of a rooftop terrace to an approved four (4) storey commercial building, including lift and stairwell access at 21 Bay Street Botany, be refused for the following reasons:
1. 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 satisfy Clause 4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013 relating to the proposed height of the elevator and stair access to the roof top garden.
 2. 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 satisfy the objectives of Clause 5.10(a) and (b) Heritage Conservation of the Botany Bay Local Environmental Plan 2013 relating to the conservation of the environmental heritage and the heritage significance of heritage items in Botany Bay.
 3. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Part 8 of the Botany Bay Development Control Plan – Botany Character Precinct. The proposal does not complement the height and architectural style found in the immediate vicinity, nor does it maintain the roof form of the prevailing designs within the street. The proposed development does not promote neighbourhood amenity, enhance the character of the area or be sympathetic to the significance of adjoining heritage items. The proposed height increase for the lift and stairwell will reduce solar access to surrounding properties and will decrease existing views.
 4. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Part 6 – Employment Zones of the Botany Bay Development Control Plan 2013. The proposal does not protect the heritage integrity of adjoining heritage items as required in Objective 01, and is not compatible with adjoining residential areas as required in Objective 03.

2 of 14

5. 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 overlooking and loss of privacy impacts on adjoining and nearby properties.
 6. 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 and is likely to set an undesirable precedent.
- C. That the objectors be advised of the Bayside Planning Panel decision.

Site Description

The subject site is located on the south side of Bay Street between Byrnes and McFall Streets. The subject site is rectangular in shape with an area of 214.5m² with a 9.3m frontage, 25m side boundaries and 7.6m rear boundary. The site is relatively level and is located within the B7 Business Park zone. The site is currently vacant. See locality map, with zones, below:



Development surrounding the site consists of a mix of single storey and two storey detached dwellings and two storey commercial, warehouse and industrial buildings located within a B7 Business Park zone. The adjoining property at No. 19 Bay Street is heritage listed as is the streetscape along Bay

Street. The locality is undergoing change as aging residential stock is replaced with buildings and uses permitted within the B7 Business Park zone.

Site History

DA-2016/173 was lodged on 29 September 2016 for the construction of a four storey commercial development with ground level parking and associated landscaping works, was approved by the Bayside Planning Panel on 26 September 2017.

Description of Development

The development application seeks Council consent for the addition of a rooftop terrace to an approved four storey commercial development.

The specifics of the proposal are as follow:

- Extending the stair and lift access to the roof, and
- Constructing an outdoor terrace on the roof of the approved building.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site as part of the development application is nil as the proposal does not include any works at ground level.

Botany Bay Local Environmental Plan 2013

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

Principal Development Standards of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Yes	The site is B7 Business Park under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zones?	No	<p>The zone objectives in the BBLEP 2013 are:</p> <ul style="list-style-type: none"> • To provide a range of office uses and light industrial uses, • To encourage employment opportunities, and • To encourage uses in the arts, technology, production and design sectors. <p>The proposed development is ancillary to the approved commercial building. The proposed roof top garden does not add office or industrial floor space to the site but will complement the approved use.</p>
Clause 4.3 Height of buildings Does the height of the building comply with the maximum building height?	No	<p>Proposed Height: 15.8m Maximum permitted height: 12m</p> <p>The approved building exceeds the maximum permitted height by 620mm. The proposal will increase the stairwell and lift well, to permit access to the rooftop garden, to 15.8m total height, exceeding the maximum permitted by 3.8m or 31.6%.</p>
Clause 4.4 Floor space ratio What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	N/A	The approved FSR will not change as a result of this application.
Clause 5.10 Heritage conservation Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site is not heritage listed or within a Heritage Conservation Area.
Clause 5.10(4) Consider the effect of the proposed development on the heritage significance of the item or area concerned.	No	The subject site is adjacent to the heritage-listed property at No. 19 Bay Street, Botany (I15). The streetscape of Bay Street is also listed in the heritage schedule as a landscape heritage item I12. Council's Heritage Advisor does not

Principal Development Standards of BBLEP 2013	Compliance Yes/No	Comment
		support the proposal due to the impact on the adjoining heritage-listed items.
<p>The following provisions in Part 6 of the LEP apply to the development–</p> <ul style="list-style-type: none"> • 6.1 – Acid sulfate soils • 6.2 - Earthworks 	Yes	6.1 & 6. 2 – Acid sulphate soils will not be affected as the proposed development includes no earthworks.
<ul style="list-style-type: none"> • 6.3 – stormwater management 	Yes	6.3 – The proposal will connect with the stormwater management system previously approved for the site.
<ul style="list-style-type: none"> • 6.9 – Development in areas subject to aircraft noise 	N/A	6.9 - The subject site is within the 30-35 ANEF boundaries and is likely to be affected by aircraft noise. However the proposal is for an outdoor area and therefore not captured by AS 2021 – 2000.
<p>Airspace Operations</p> <p>Does the proposal comply with the Limitation of Operations Surface?</p> <p>Is the community protected from undue risk?</p>	Yes	<p>Sydney Airport reviewed the proposal because the development will result in a building 17.3m AHD in an area limited to 15.24m by the Civil Aviation (Buildings Control) Regulations.</p> <p>Sydney Airport advised they have no objection to the proposal.</p>

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. On balance, the proposal is considered unsatisfactory in terms of BBLEP 2013.

Clause 4.6 Variation to Height

The site has a maximum building height of 12m on the Height of Buildings map within the Botany Bay Local Environmental Plan 2013 (BBLEP2013). The approved building is non-compliant by 620mm. The proposed modification will add a lift shaft and stair well on top of the approved building which will increase the non-compliance with the height control. The proposal has a maximum height (top of lift/stair well roof) of 15.8m, which is a breach of 3.8m or 31.6%.

The proposed roof top garden will include a balustrade around the terrace area for safety. The height of the balustrade will be 13.5m.

The heights, in AHD, of the floor levels and the top of the lift/stair access as proposed are:

- Ground floor – R.L 2.15
- First floor – R.L 5.3
- Second floor - R.L 8.0
- Third floor - R.L 10.7

- Roof - R.L 14.15
- Top of lift tower - R.L.17.35

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the Height of Building development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLP2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

The applicant has provided a written Clause 4.6 variation request (attached to this report), providing justification for the proposed variation to the 12m height of building requirement, stating that it is unnecessary and unreasonable in the particular circumstances. The applicant's request adequately addresses the matters required to be demonstrated by subclause (3) stating that compliance with the development standard is unnecessary in the circumstances of this case.

Excerpts of the applicant's request are provided below:

"...the proposed roof terrace and the extension of the stair and lift core will breach the maximum height. The height breach is a maximum of 3.8m which occurs at the north eastern corner of the approved building for the extension of the stair and lift core."

and

"The extension to the stair and lift core is set back 4.2m from the Bay Street boundary and through the use of glazing presents as a recessive element that is vertically proportioned and adds visual interest to the locality. Furthermore, the maximum non-compliance for the stair and lift core is limited to an area of 21m² in the north-eastern corner of the site and represents only 9.7% of the total site area."

Case law

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

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

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the

development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

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

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

Comments: The height control for the subject site is generous and reflective of the desired future character for Bay Street. Bay Street has been identified as suitable for redevelopment which provides employment and is complementary to the commercial activity on nearby Botany Road.

The height control is not unreasonable or unnecessary in the circumstances present at No. 21 Bay Street. The relevant circumstances for No. 21 Bay Street are:

1. the site adjoins two heritage listed items
2. the site adjoins and is nearby to single and double storey, detached residential dwellings.

The negative impact on the heritage items from the proposal is not supported by Council's Heritage Advisor. The potential for overlooking and loss of privacy to residences is high and unsupportable.

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

Comments:

There are no environmental planning grounds to justify contravening the development standard. The site currently benefits from a planning consent which permits the use of the full height available for the site. The site is not constrained in such a way that a variation of the development standard would be warranted to permit an orderly and best use of the land.

Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 are therefore also considered:-

- A. Objectives of Clause 4.6.
- B. Objectives of the Height of Building standard.
- C. Objectives of the B7 Business Park zone
- D. Public interest and public benefit of maintaining the development standard.
- E. Concurrence is assumed per planning circular PS 08-003.

A. Objectives of Clause 4.6

The objectives of Clause 4.6 (pursuant to Clause 4.6(1) of Botany Bay Local Environmental Plan 2013) are:

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

Comments:

The degree of flexibility proposed by the variation is inappropriate because there are no sound reasons to vary the development standard by such a large amount which will result in detrimental impacts to surrounding properties and heritage items. The proposed variation will not result in better outcomes for the subject site or the locality.

B. Objectives of the Height of Building standard

The objectives of Clause 4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013 are:

- *To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner.*
- *To ensure that taller buildings are appropriately located.*
- *To ensure that building height is consistent with the desired future character of an area.*
- *To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*
- *To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.*

The applicant has argued the future development along Bay Street and the locality will replace existing older housing stock with commercial and industrial buildings which will utilise the maximum permitted height and as such the proposed modification and height variation will be in keeping with the long term character and building heights in the area.

While this long term picture is the desired future character for the area, this future is not intended to include large variations to the height development standard without substantial and sound reasons based on mitigating circumstances because of site constraints. The site is not constrained in any way which would warrant variation of the maximum height and the current development consent already benefits from a variation to the maximum height permitted on the site.

Comments:

The foot print area of the proposed lift and stair well is 9.7% of the total site area. While this is a small part of the site and the building, the whole building is already non-compliant with the height control for the zone and the proposed lift and stair well height non-compliance is a variation of 31.6% from the development standard.

The proposal is not consistent with the objectives of the height of building development standard for the following reasons:

- the approved building is out of character with the existing built form of Bay Street, notwithstanding that the future built form is anticipated to more closely align with the height of the approved building. The addition of the proposed modification will exacerbate the lack of coordination and cohesion of the built form along the street,
- an increase in the height of the approved building, adjacent to two heritage items does not ensure the appropriate locating of taller buildings, and
- the impact on privacy and the loss of further solar access for existing development is not minimised,

C. Objectives of the zone

The Objectives of the B7 Business Park zone are as follows:

- To provide a range of office and light industrial uses
- To encourage employment opportunities
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area
- To encourage uses in the arts, technology, production and design sectors.

Comments:

The approved development (DA-2016/173) was found to meet the objectives of the B7 zone and was subsequently approved. The current proposal is ancillary to the approved building and provide amenity for the approved use of the building.

D. Public Interest and Public Benefit

The proposed height variation is not in the public interest because it will result in unacceptable impacts to the adjoining heritage items, loss of privacy and noise impacts to the adjoining and nearby residential properties. There were four (4) objections, focused on loss of privacy, received during the public notification period for the proposal.

Summary

The Clause 4.6 exception to the height of building control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council [2007] NSW LEC 827* and *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 1009* & NSW LEC 90 (*Four2Five*). The proposal is inconsistent with the underlying objectives of the standard identified. The proposed development has been assessed against Council's Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls which while compliant with the majority are noncompliant in significant and unsupportable ways.

It has been established that the proposed development is inappropriate and adherence to the development standard in this instance is reasonable and necessary.

The applicant's Clause 4.6 variation request is not well-founded and the departure from the height of building development standard for 21 Bay Street, Botany is not in the public interest. On this basis, it is recommended that the development standard relating to the maximum height of building for the site pursuant to Clause 4.3 of the Botany Bay Local Environmental Plan 2013 should not be varied.

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

There are no current Draft EPIs applicable to this development

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

The following Development Control Plan is relevant to this application.

Botany Bay Development Control Plan 2013

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

Part 3A – Parking & Access

The proposal will not add GFA to the approved building and therefore will not change the on-site car parking requirement.

Part 3B – Heritage

The proposal was referred to Council's Heritage Advisor who recommended the proposal not be supported due to adverse impacts on the adjoining heritage item at No. 19 Bay Street, Botany, the increased overlooking from the rooftop terrace and the visual impact on the views along Bay Street to both No. 19 Bay Street and the landscape heritage item along the northern edge of Bay Street being the verge plantings of Canary Island Date Palms (*Phoenix canariensis*) between Byrne and McFall Streets.

Part 3N- Waste Minimisation and Management

A waste management plan has not been provided to Council. Any approved works will be required to comply with the waste management plan submitted in support of the original commercial building development application.

Part 5 – Business Centres

The subject site is not located within any identified Business Centres. Bay Street is perpendicular to the portion of Botany Road identified as Botany Local Centre. However the subject site is located some three blocks away from Botany Road.

Part 6 – Employment Zones

The subject site is located with the Botany (West) Industrial Precinct as identified in Clause 6.2.7 of the BBLEP2013.

A) The proposal is inconsistent objectives 1 and 3 of the Precinct, see discussion below objectives.

The objectives of the Precinct are:

- 1 *To protect the heritage integrity of the Heritage Items within the precinct and the integrity of the Botany Township Heritage Conservation Area;*
- 2 *To protect the northern precinct's amenity by limiting the size of delivery vehicles;*
- 3 *To ensure that business park and industrial uses within the precinct are compatible with adjoining residential areas;*
- 4 *To ensure that development does not have an adverse impact on the drainage within the Precinct;*
- 5 *To ensure that industrial uses concentrate in the southern part of the Precinct with access to Foreshore Drive through the Hale Street extension;*
- 6 *To ensure that development can withstand the stresses of flooding and sea level rise and does not adversely impact flooding.*

Discussion

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Non-compliance with Objective 1: Council's Heritage Consultant has assessed the application and recommended refusal due to the impact on the adjoining heritage item at No. 19 Bay Street, the visual impact on views along Bay Street to both No. 19 and the landscape heritage item adjacent to Bay Street, and the increase in overlooking to neighbouring and nearby properties.

Non-compliance with Objective 3: The proposed development will allow overlooking for some distance due to the elevation of the proposed terrace and the 1-2 storey development surrounding the site. The subject site is bounded on both sides by residential development which extends by six lots to the east and two lots to the west. To the rear of the site is No. 10 Erith Street, which is a commercial development, however four properties to the east along Erith Street are residential and two properties to the west are residential, followed by a two storey commercial building before a further five residences continue to the intersection of Erith and McFall Streets. The elevation of the proposed outdoor terrace could permit overlooking into the private outdoor spaces and some rooms of these residential properties. The subsequent loss of privacy is unsupportable.

B) The proposal is inconsistent with controls 1 and 2 of the Precinct, see discussion below controls.

The relevant controls of the Precinct are:

- 1 *The design and function of development shall assist in protecting the heritage significance of the precinct and the integrity and significance of heritage items within the Precinct and of the adjacent botany Township Heritage Conservation Area.*
- 2 *Development is not to adversely impact on the surrounding residential areas.*

Discussion

See Discussion for Objectives above.

Part 8 – Botany Character Precinct

The site is located within the Botany Character Precinct but not within an identified zone (Botany Local Centre, Banksmeadow Neighbourhood Centre or Botany South industrial area) of the Precinct.

The proposed rooftop terrace is presently considered to not contribute to the desired future character of the Precinct as detailed in Clause 8.4.2 of BBDCP 2013. In particular the proposal does not complement the height and architectural style found in the immediate vicinity, nor does it maintain the roof form of the prevailing designs within the street. The proposed development does not promote neighbourhood amenity, enhance the character of the area or be sympathetic to the significance of adjoining heritage items. The proposed height increase for the lift and stairwell will reduce solar access to surrounding properties and will decrease existing views.

As such the proposal is not suitable for the site and is inconsistent with the desired future character of the Botany Character Precinct pursuant to Botany Bay Development Control Plan Part 8 Character Precincts.

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

Clause 92 of the Regulation has been considered and addressed in this report.

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

The proposed development will have adverse environmental and social impacts in the locality.

Matters relating to heritage impact, overshadowing, loss of privacy, view loss, area character and local amenity are addressed in detail in this report and on balance are unacceptable.

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

A four storey commercial development has been approved for the site. The proposed rooftop terrace and lift and stairwell extension will not change the natural hazards or site contamination matters, which have been addressed in the assessment of the commercial building.

The site is flood affected and this was addressed in the assessment for the building under DA-2016/173. The current proposal will not affect flood mitigation measures for the site.

The site is within an ANEF 30 area. This makes it unsuitable for residential development and in the opinion of Council unsuitable for a rooftop terrace with the intention of offering employees a relaxing break-out space.

The application was referred to Sydney Airport who advised there is no objection to the development to a maximum height of 17.3 metres AHD, the proposed height of the lift and stairwell.

The detrimental impacts resulting from overlooking and the loss of privacy to adjoining and nearby residences makes the site not suitable for a roof top terrace.

Two heritage items adjoin the subject site. The impact from the proposed development on the heritage items make the site unsuitable for the proposal.

The site is not suitable for the proposed development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 4 April 2018 to 20 April 2018. Four (4) objections were received.

The objections received as the result of the notification raised the following concerns:

- Loss of privacy
- Noise
- Potential loss of sunlight

Discussion

- Loss of privacy
Of the proposed roof top terrace, despite the encircling garden beds and being set back from the edge of the approved building, the useable area, will permit overlooking into the private spaces of adjoining and nearby residential properties. The loss of privacy experienced by the residents is unsupportable.
- Noise
The use of the proposed roof top terrace and the elevator is likely to impact on the nearby residential premises by noise.
- Potential loss of sunlight

Should privacy screens be suggested as a solution to privacy loss these would create an additional impact of overshadowing and loss of sunlight access to neighbouring and nearby properties. The erection of privacy screens would not be supported by Council. (Additional to which privacy screens would essentially create a fifth floor on a site zoned for a maximum of four.)

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

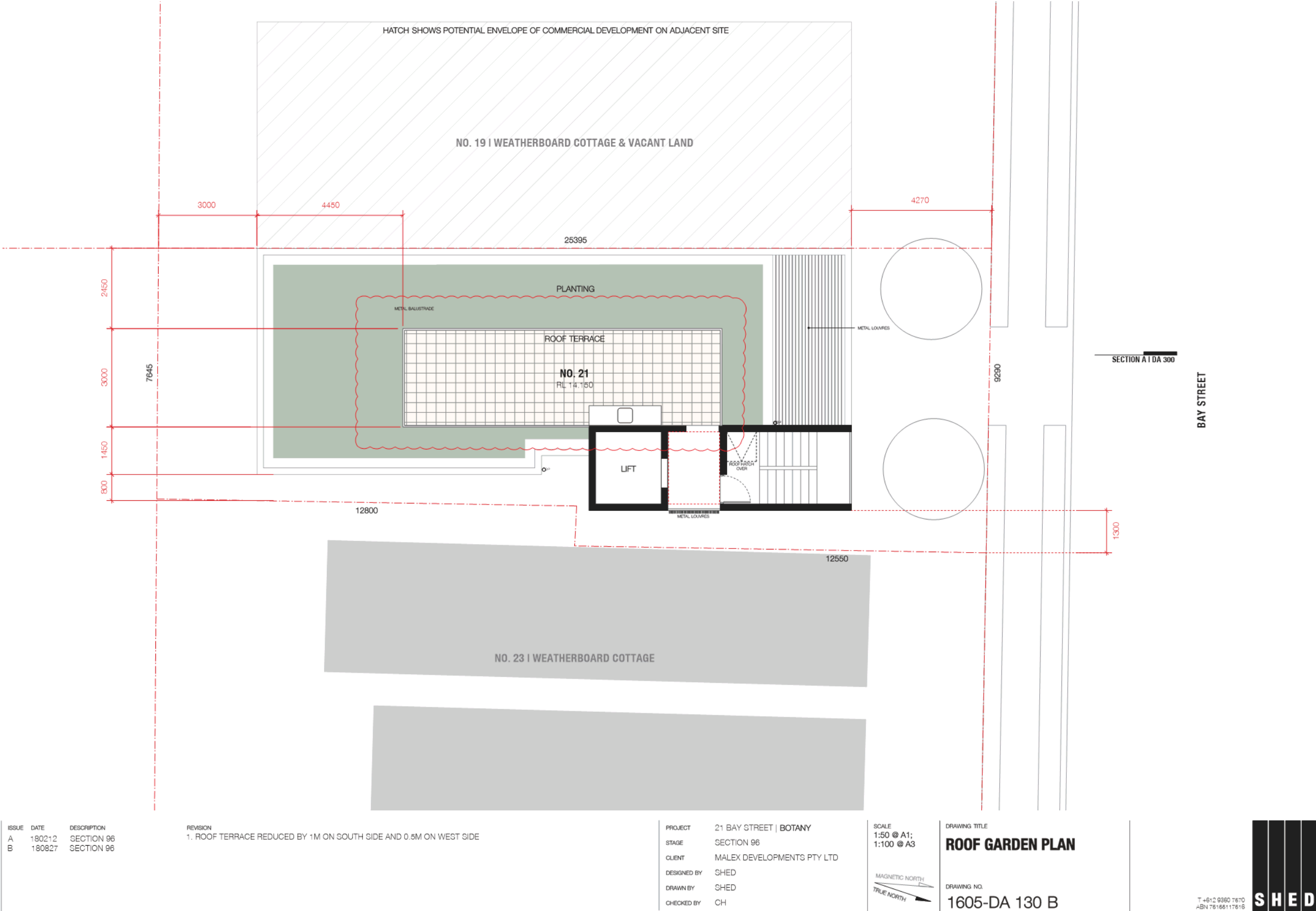
Granting approval to the proposed development is not in the public interest. The proposal will not facilitate the orderly development of land.

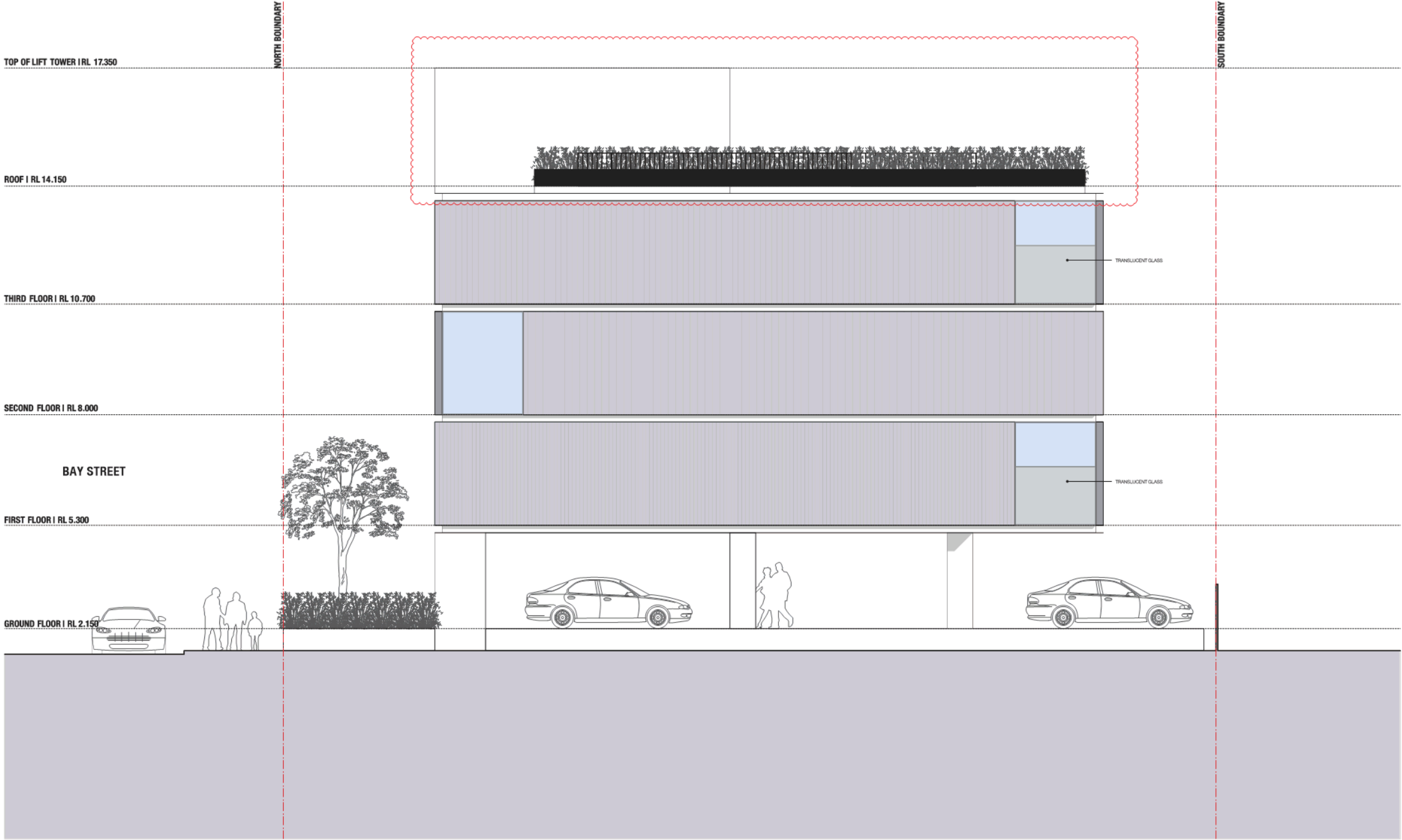
Section 94 Contributions

No contributions are applicable for this proposed development.

Conclusion

Development Application No. 2018/1044 for rooftop terrace and extension to lift and stairwell at 21 Bay Street, Botany has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for REFUSAL.



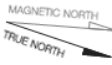


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C	170801	DA
D	180212	SECTION 96

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1. RL'S AMENDED
1. ROOF GARDEN ADDED, LIFT AND STAIR EXTENDED TO ROOF LEVEL

PROJECT	21 BAY STREET BOTANY
STAGE	SECTION 96
CLIENT	MALEX DEVELOPMENTS PTY LTD
DESIGNED BY	SHED
DRAWN BY	SHED
CHECKED BY	CH

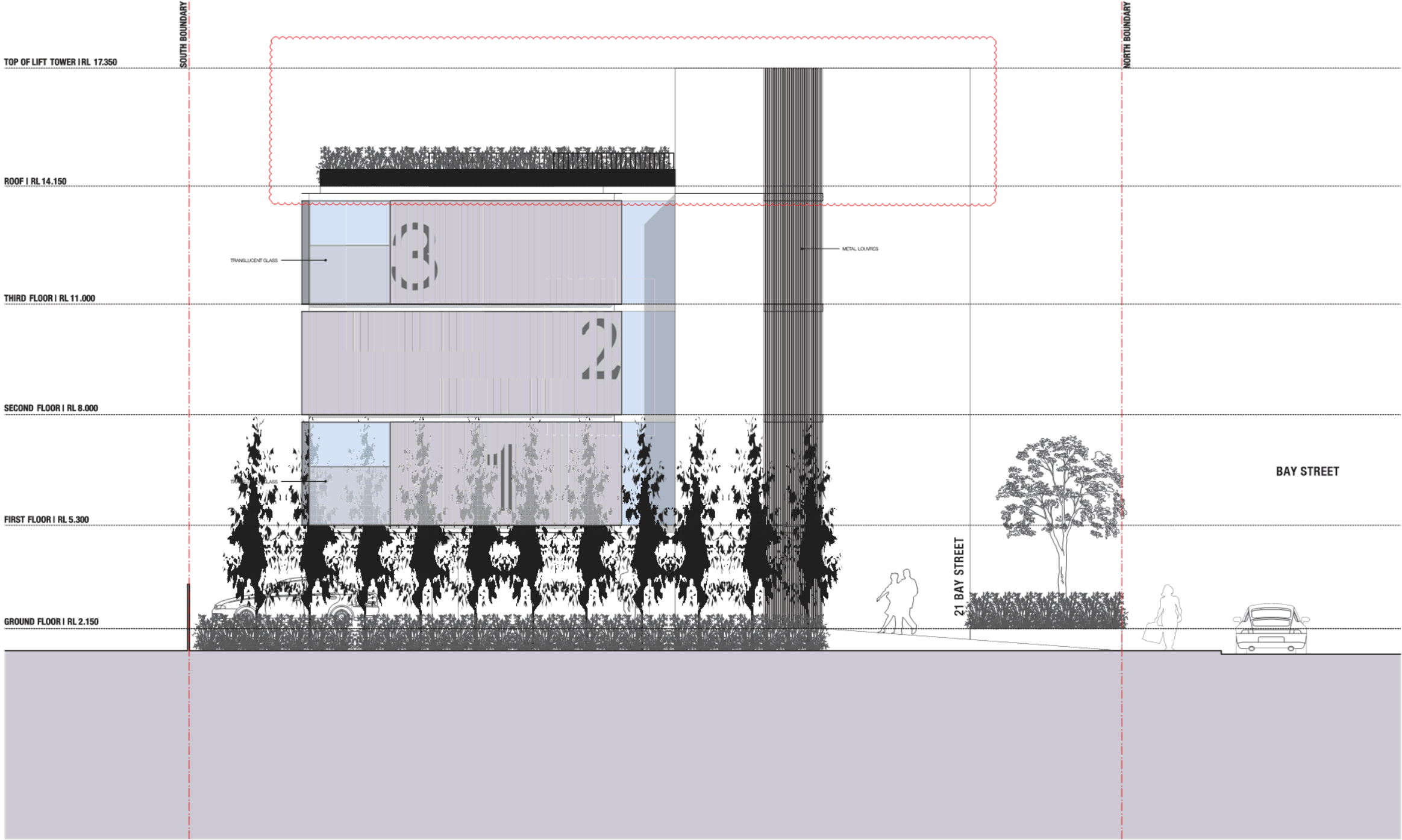
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ABN 76166117616



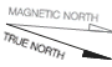


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D	180212	SECTION 96

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1. RL'S AMENDED
1. ROOF GARDEN ADDED, LIFT AND STAIR EXTENDED TO ROOF LEVEL

PROJECT	21 BAY STREET BOTANY
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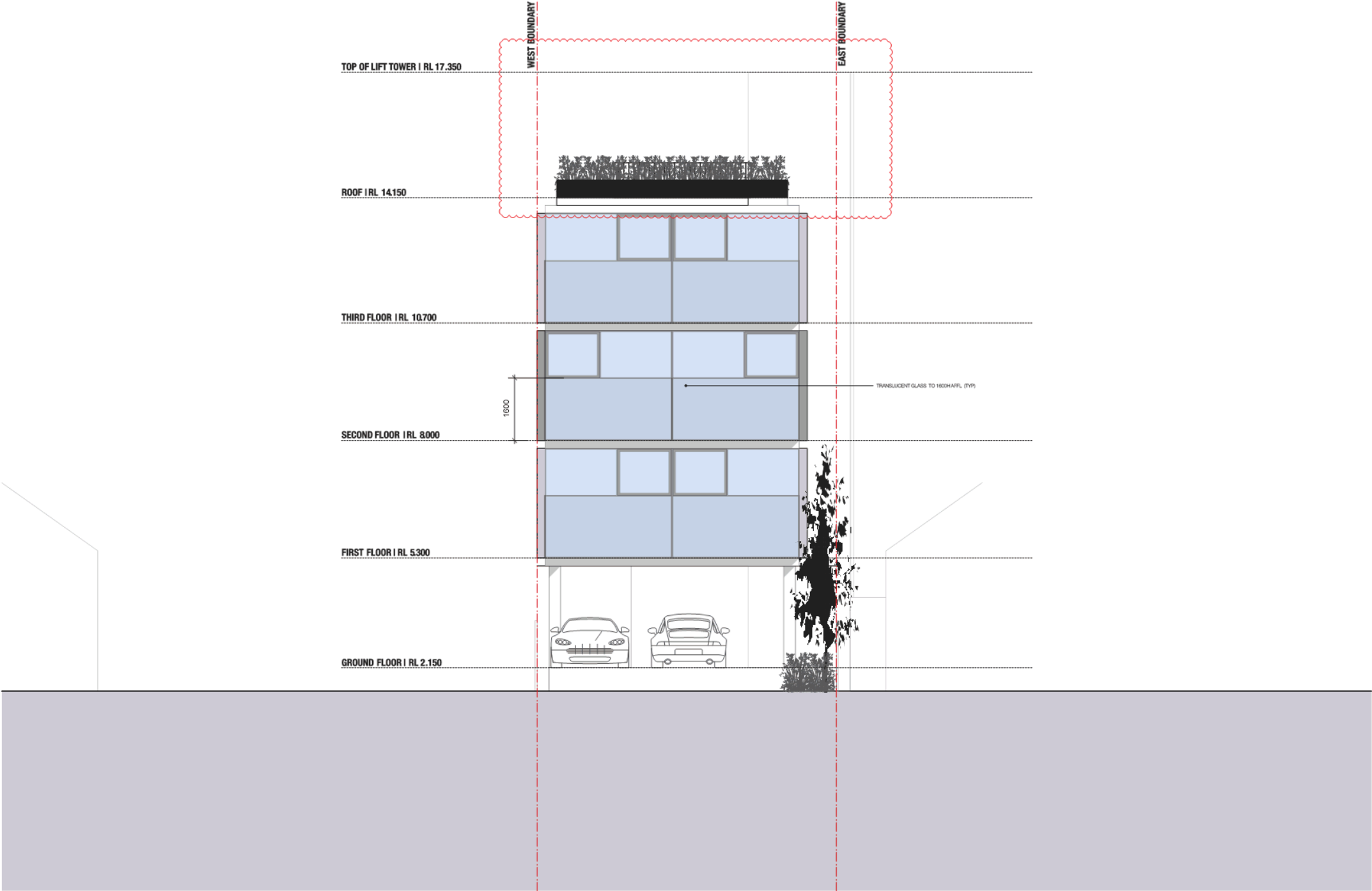
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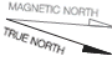


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C	170801	DA
D	180212	SECTION 96

REVISION
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1. RL'S AMENDED
1. ROOF GARDEN ADDED, LIFT AND STAIR EXTENDED TO ROOF LEVEL

PROJECT	21 BAY STREET BOTANY
STAGE	SECTION 96
CLIENT	MALEX DEVELOPMENTS PTY LTD
DESIGNED BY	SHED
DRAWN BY	SHED
CHECKED BY	CH

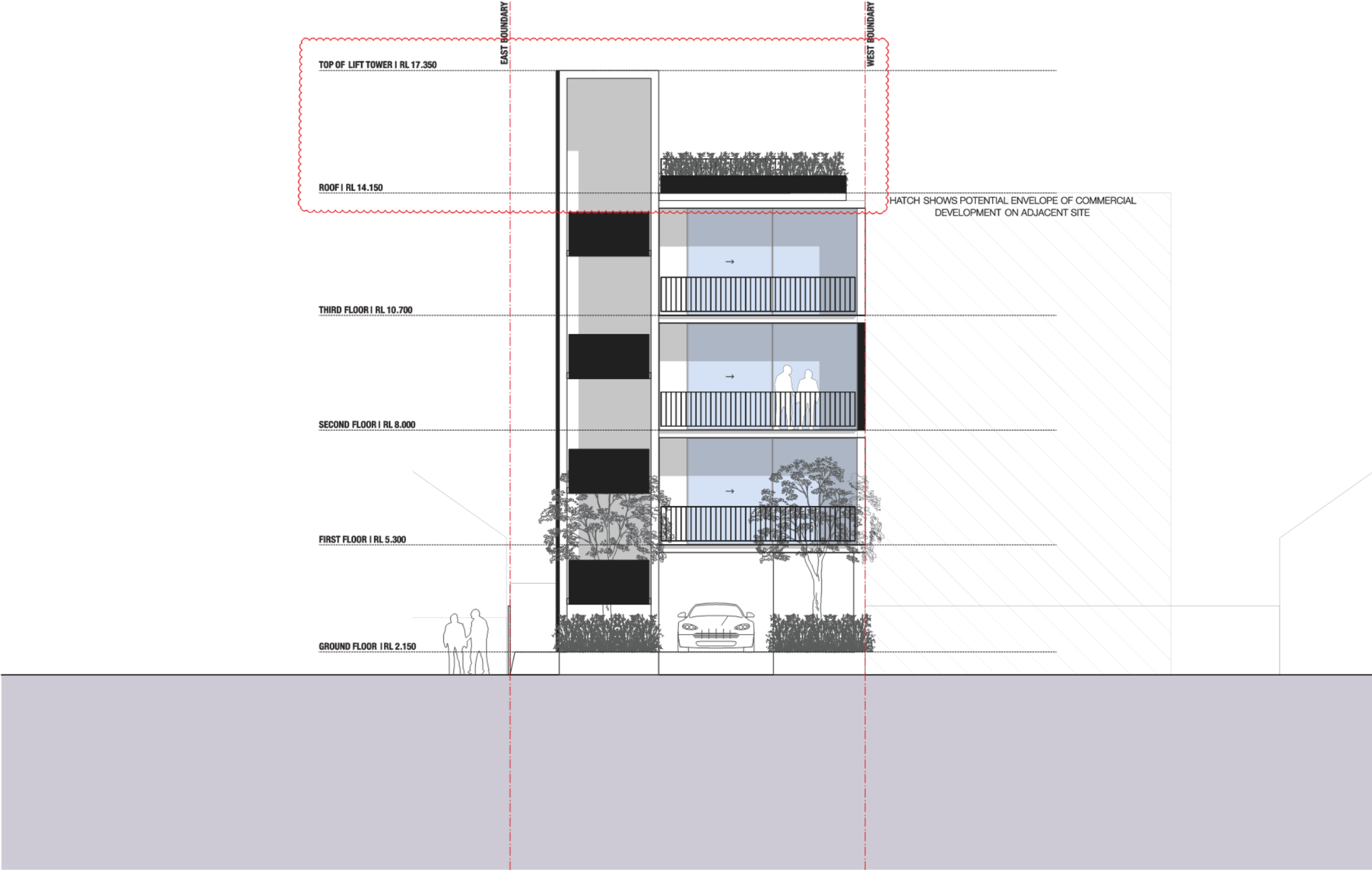
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ABN 76166117616





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C	170801	DA
D	180212	SECTION 96

REVISION
1. BALUSTRADES AMENDED TO METAL 2. LIFT OVERUN REDUCED
1. RL'S AMENDED
1. ROOF GARDEN ADDED, LIFT AND STAIR EXTENDED TO ROOF LEVEL

PROJECT	21 BAY STREET BOTANY
STAGE	SECTION 96
CLIENT	MALEX DEVELOPMENTS PTY LTD
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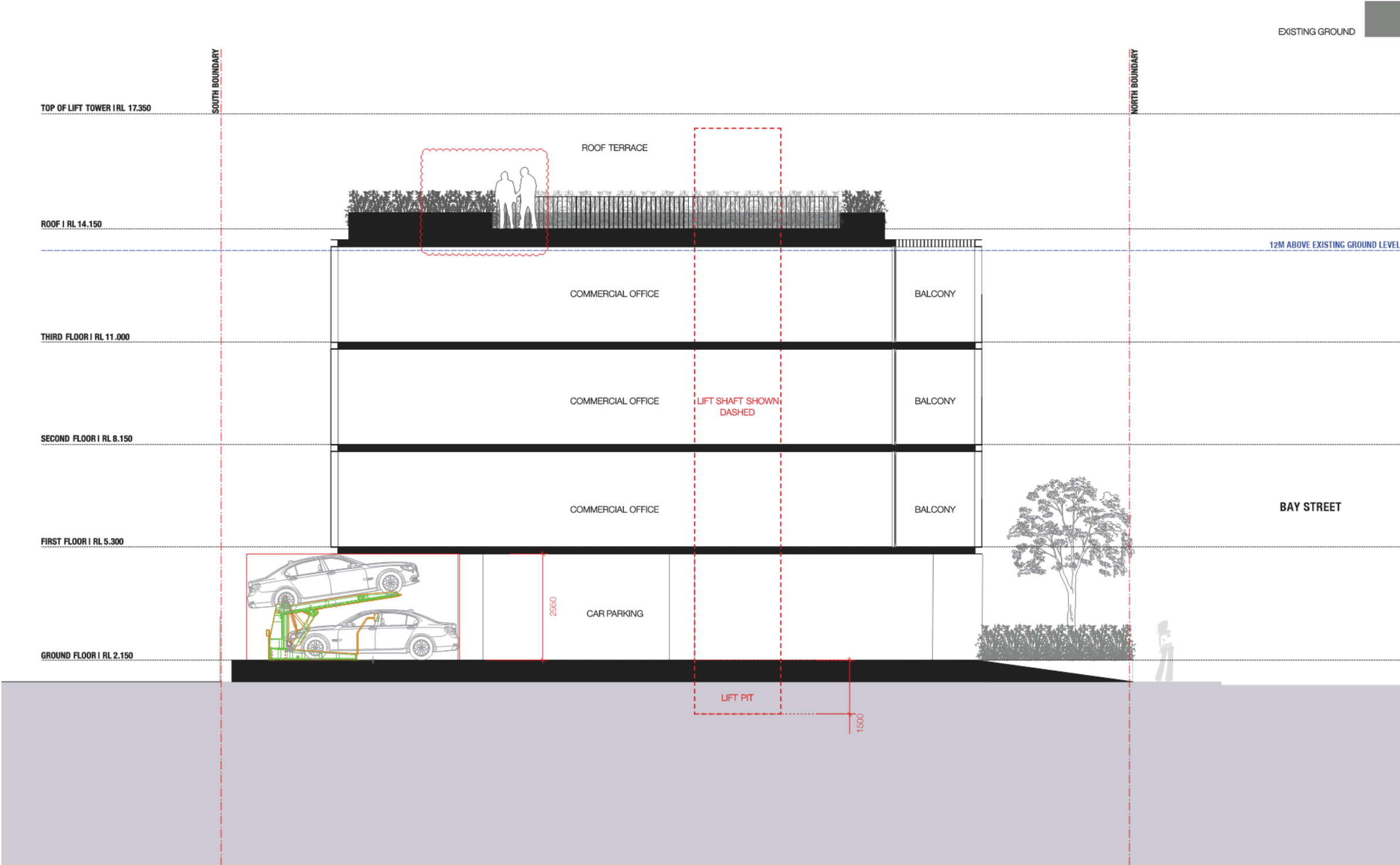
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NORTH ELEVATION

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ABN 76166117616





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B	170629	DA
C	170801	DA
D	180212	SECTION 96
E	180827	SECTION 96

REVISION
1. BALUSTRADES AMENDED TO METAL 2. LIFT OVERUN REDUCED
1. RL'S AMENDED
1. ROOF GARDEN ADDED, LIFT AND STAIR EXTENDED TO ROOF LEVEL
1. ROOF TERRACE REDUCED BY 1M ON SOUTH SIDE AND 0.5M ON WEST SIDE

PROJECT	21 BAY STREET BOTANY
STAGE	SECTION 96
CLIENT	MALEX DEVELOPMENTS PTY LTD
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CHECKED BY	CH

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ANNEXURE B

Clause 4.6 Variation - Building Height



Clause 4.6 variation statement – maximum height (clause 4.3)

1. Height control

Clause 4.3 (2) of BBLEP 2013 relates to the maximum height requirements and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 12m. Building height is defined as:

"building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

2. Proposed variation to Height requirement

As indicated in the elevation included in Figure 1 below, the proposed roof terrace and the extension of the stair and lift core will breach the maximum height. The height breach is a maximum of 3.8m which occurs at the north eastern corner of the approved building for the extension of the stair and lift core.

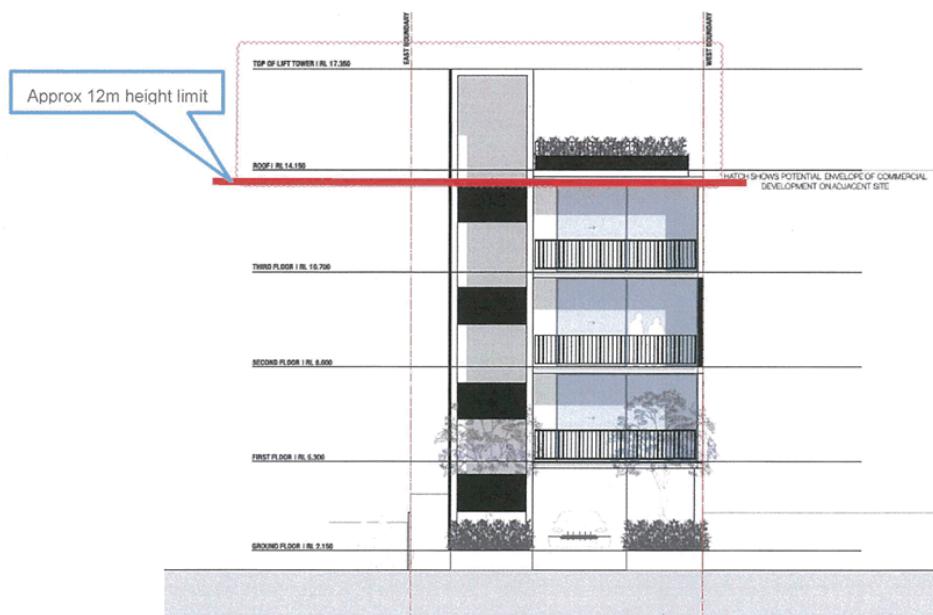


Figure 1: Northern elevation detailing the extent of non-compliance

That maximum height control is a "development standard" to which exceptions can be granted pursuant to clause 4.6 of the LEP.

3. Clause 4.6 to BBLEP 2013

The objectives and provisions of clause 4.6 are as follows:

"4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Director-General has been obtained.*
- (5) In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone 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 4.3A (2)."*

The development standards in clause 4.3 are not "expressly excluded" from the operation of clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate to Council that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, subclause 4.6(6).

Objective 1(b) of clause 4.6 is addressed later in this request.

The objectives and relevant provisions of clause 4.3 are as follows, *inter alia*:

- "4.3 Height of buildings*
- (1) The objectives of this clause are as follows:*
 - (a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
 - (b) to ensure that taller buildings are appropriately located,*
 - (c) to ensure that building height is consistent with the desired future character of an area,*
 - (d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
 - (e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

The Height of Buildings Map nominates a maximum height of 12m for the site. It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit a maximum height of 15.8m for the proposed development.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of clause 4.4 are addressed in turn below.

Objective (a): "to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner"

The *Height of Buildings Map* indicates that the 12m height limit that applies to the subject site also applies to all land in the immediate vicinity within Zone B7. Zone B7 extends eastward to the Botany Local Centre where building height transitions up to 14m. At present, the built form within the block is characterised by a combination of older housing stock and more recent commercial and industrial development and as such building heights are varied and few take up the maximum building height of 12m.

The approved building extends above the maximum building height of 12m by 620mm. The maximum height of the proposal is 15.8m when measured to the top of the stair and lift core and 13.5m when measured to the top of the roof

terrace balustrade. The extension to the stair and lift core is set back 4.2m from the Bay Street boundary and through the use of glazing presents as a recessive element that is vertically proportioned and adds visual interest to the locality. Furthermore, the maximum non-compliance for the stair and lift core is limited to an area of 21sqm in the north-eastern corner of the site and represents only 9.7% of the total site area.

The development application assessment report for DA173/2016 stated the following:

Although the design may not satisfy the prevailing streetscape pattern, when considering the strategic direction and anticipated future development for the area the proposal is satisfactory as it has adequately addressed the key issues, namely solar and visual privacy impacts to the adjoining residential properties.

It is anticipated that zoning changes and more generous building height and density controls implemented by BBLEP 2013 will be a catalyst for redevelopment of land in the locality. Redevelopment will typically accord with the new controls (or be marginally non-compliant as described in the previous paragraph) and therefore building heights will become more coordinated and cohesive over time. It is submitted that the proposal, although greater in height than its neighbours, is compatible with the height of development envisaged by the LEP and, over time, will form part of a coordinated and cohesive streetscape in terms of building height.

Accordingly, the proposal satisfies objective (a).

Objective (b): "to ensure that taller buildings are appropriately located"

The function of the *Height of Building Map* is, as suggested by objective (b), to identify appropriate locations for taller buildings. The *Height of Buildings Map* indicates that the maximum building height for the site is 12m and is therefore identified as a location where 'taller' buildings are appropriate. The proposal does not strictly comply with this requirement (hence the request to vary the development standard), however is not substantially taller than the height of buildings anticipated in this location. It is submitted that the proposal, which may be considered a 'taller' building, is appropriately located.

Accordingly, the proposal satisfies objective (b).

Objective (c): "to ensure that building height is consistent with the desired future character of an area"

Much of the discussion provided against objective (a) is also relevant to this objective. In brief, the desired future character of an area is, to some degree, determined by the building envelope provisions that apply to the site. In this case, it is conceivable that future development in the locality will have a building height of 12m or more depending on the topography and constraints of the site. It is also conceivable that many sites with similar flood affectation will seek to vary building height to account for the degree by which ground floor levels will need to be raised. It is considered that the proposal, although non-compliant with building height, is consistent with the desired future character of the area, noting that the term 'consistent' does not necessarily mean 'the same as'.

Accordingly, the proposal satisfies objective (c).

Objective (d): "to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development"

Despite the non-compliance, the proposal is designed and located to minimise visual impact, disruption of views, loss of privacy and loss of solar access to neighbouring development as described below:

- The extension to the stair and lift core is set back 4.2m from the Bay Street boundary and through the use of glazing presents as a recessive element that is vertically proportioned and adds visual interest to the locality. Furthermore, the maximum non-compliance for the stair and lift core is limited to an area of 21sqm in the north-eastern corner of the site and represents only 9.7% of the total site area. The approved building attains a maximum



height of 12.62m which, whilst non-compliant, does not contribute significantly to the visual bulk of the development. It is submitted that the difference between the approved development and the proposed development will be negligible when viewed from the streetscape.

- There are no significant views obtained from or through the site that will be obscured by the non-compliant aspect of the building. The heritage item to the west is situated a sufficient distance from the proposed additions so as not to impinge on its setting and to allow for reasonable views to and from the item.
- The proposed roof terrace will be setback 1.5-4m from the approved building footprint of the uppermost level. As detailed in the SEE, the proposal will not result in any significant additional overlooking within 12m of the roof terrace. Furthermore, the roof terrace is for the communal use of the commercial tenancies which is only expected to be used during business hours and not in periods of inclement weather (given there is no weather protection proposed).
- Solar access diagrams have been prepared and are submitted with the development application. The diagrams demonstrate that, although the building is non-compliant in terms of building height, solar access to neighbouring properties is not unreasonably reduced. The shadows of the proposal generally fall over the roof of existing built structures or make a negligible difference to the extent of overshadowing when compared to the approved development. It is pertinent to note that the building to the south at 10 Erith Street is used for a commercial / industrial purpose.

Accordingly, the proposal satisfies objective (d).

As described above, although non-compliant with building height, the proposal is designed and located to minimise visual impacts, disruption of views, loss of privacy and overshadowing and therefore achieves the objective.

Objective (e): "to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities"

It is anticipated that the locality will undergo a period of transition as properties are redeveloped to take advantage of the zoning changes and generous height and density controls introduced through the BBLEP. As previously discussed, the height of the proposal is considered to be compatible with the anticipated future character of the locality and in this regard makes a positive contribution to the desired streetscape character. Until such time as neighbouring and adjoining sites are also developed, the proposal will be a prominent element in the immediate streetscape however will not be evident in the skyline in the same way as a residential tower is visible from a distance.

The proposed development is therefore consistent with the objectives for the height development standard, despite the numeric non-compliance.

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of Zone B7 Business Part are as follows:

- "To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To encourage uses in the arts, technology, production and design sectors."

The proposal will provide additional communal facilities for the approved commercial building. The proposed communal roof terrace will increase the ability of the owner to attract tenants including uses in the arts, technology, production



and design sectors and therefore generate employment opportunities on a site that is otherwise underutilised. It is submitted that the proposed alterations and additions will satisfy the objectives of the B7 zone.

For these reasons the development proposal meets the relevant objectives for development in Zone B7.

4. Sufficient environmental planning grounds

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite the non-compliance with the height standard, the proposed height and subsequent form are compatible with the emerging and anticipated character of the business park B7 zone and the locality. Furthermore, it is considered that there is an absence of significant impacts arising from the non-compliance in terms of the amenity of future building occupants, on the character of the locality and on neighbouring properties.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is considered that the proposal provides for a communal open space for the commercial tenants that cannot be provided at ground level due to the constraints. The proposed roof terrace will have a maximum area of 36sqm, be recessed 1.5-4m from the approved building footprint and will be predominantly used during business hours and not in periods of inclement weather. In addition, the extension of the lift core will enable a person with a disability full access to the communal roof terrace / break out area which would not be accommodated if insisting on full compliance with the height development standard.

In terms of amenity, the proposed roof terrace will not have an adverse impact on the visual and acoustic privacy of adjoining properties nor will it result in the loss of any significant views. As demonstrated by the shadow diagrams, the proposed roof terrace and extension of the stair and lift core will not have an adverse impact on solar access to adjoining buildings and ensures compliance with the BBDCP controls.

The merits of the proposal on "environmental planning grounds" need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The proposed development will result in the provision of a communal area of open space / break out area for the tenants of the approved commercial building that otherwise would not be obtainable on the ground level due to the site constraints.

The approved and proposed development have been designed to provide a high quality urban outcome with the integration of a communal open space into the commercial building. The approved development did not comply with the height development standard and insisting on full compliance would return the building to its approved state and result in the loss of a communal open space / break out area for the tenants. Furthermore, there would be no gain in terms of neighbouring amenity but a significant reduction in amenity to the approved commercial building.

The minor variations apply to the roof terrace and extension to the stair and lift core. Despite the non-compliance, the proposal will not undermine or dismiss the relevance of the building height control. The proposed built form will not set an undesirable precedent for the locality undergoing change.

To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits. The proposal results in a high quality commercial development which is suited to the site, is consistent with the emerging character of the locality and will not have an adverse impact on the amenity of adjoining properties in terms of privacy, solar access, views and bulk and scale.

5. Insistence on compliance is unreasonable and unnecessary

In regards to Clause 4.6(3)(a), in *Wehbe v Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

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

Having regard to all of the above, it is our opinion that compliance with the height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone.

On environmental planning grounds and in addition to the relevant LEP objectives, the proposed alterations and additions to the approved commercial building will provide a level of communal open space / break out area which cannot be provided on the ground level. The proposal also demonstrates design excellence by achieving compliance with all applicable design controls in the BBLEP and BBDCP and will not have an adverse impact on the amenity of adjoining properties.

Therefore, insistence upon strict compliance with the height development standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied and Council has the power to grant variation to the Height development standard as proposed.

Bayside Local Planning Panel

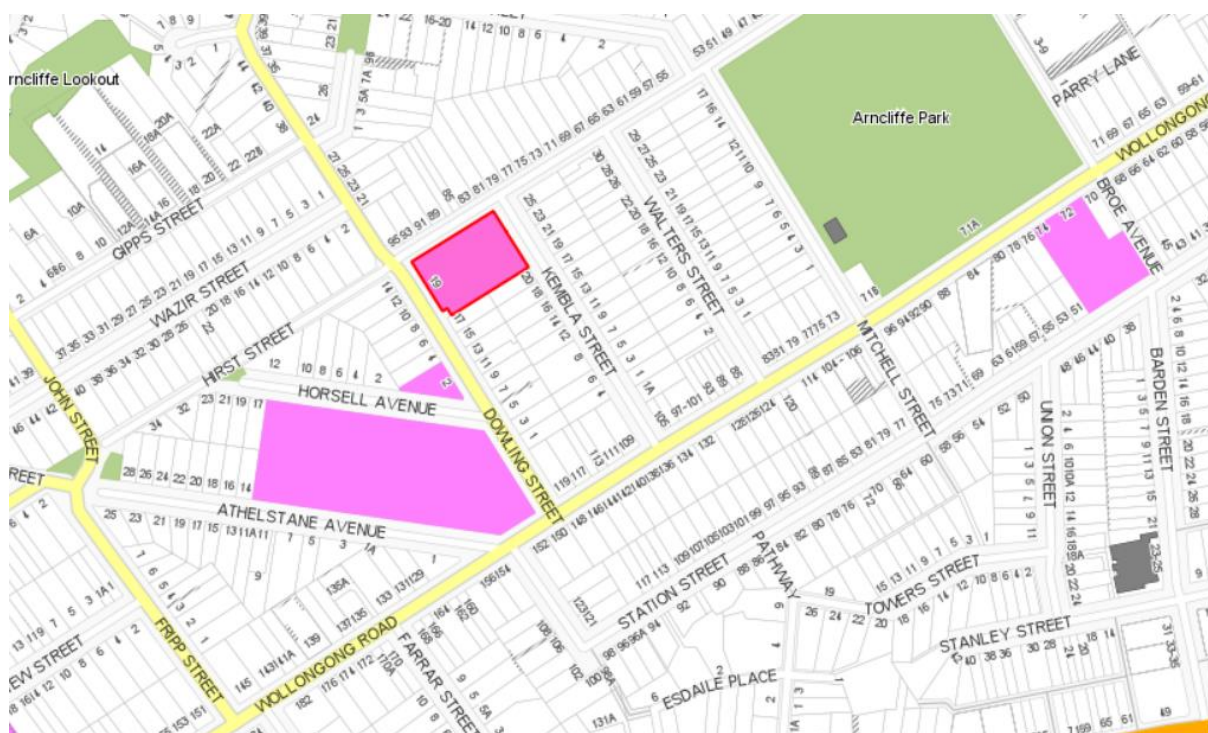
11/12/2018

Item No	6.7
Application Type	Development Application
Application No	DA-2016/68
Lodgement Date	19/08/2015
Property	19 Dowling Street, Arncliffe
Ward	Mascot
Owner	Life Centre International Limited
Applicant	Life Centre International Limited
Proposal	Demolition of existing small hall, retention of the existing Auditorium and heritage dwelling, extension of existing basement carpark and addition of a new two storey building to accommodate 6 new classrooms for a maximum of 200 students to the existing school and continued church use.
No. of Submissions	Thirteen (13) submissions from 11 individuals / families objecting to the proposal in response to the initial notification period. Thirteen (13) individual submissions objecting to the amended proposal.
Cost of Development	\$2,982,007
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the panel considers the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the height standard contained in Clause 4.3 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
 - 2 That the panel considers the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the FSR standard contained in Clause 4.4 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
 - 3 That the Bayside Local Planning Panel approve the proposal for demolition of the existing small hall, retention of the existing Auditorium and heritage dwelling, and addition of a new two storey school building for a maximum of 200 children to the existing school and continued use of the church at 19 Dowling Street, Arncliffe, subject to recommended conditions.
 - 4 That the objectors be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Draft Notice of Determination [↓](#)
- 3 Original Planning Assessment Report (submitted to Panel on 23 October 2018) [↓](#)
- 4 Amended Traffic Management Plan [↓](#)
- 5 Option B - Traffic / Parking Management Plans (extract from Traffic Management Plan dated 28 November 2018) [↓](#)
- 6 Option A - Traffic / Parking Management Plans (extract from Traffic Management Plan dated 28 November 2018) [↓](#)
- 7 Basement Plan - Extended beneath proposed building [↓](#)
- 8 Clause 4.6 - Floor Space Ratio [↓](#)
- 9 Clause 4.6 - Building Height [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	DA-2016/68
Date of Receipt:	19/08/2015
Property:	19 Dowling Street, Arncliffe (Lot 100 DP 859517)
Owners:	Life Centre International Limited
Applicant:	Life Centre International Limited
Proposal:	Demolition of existing small hall, retention of the existing Auditorium and heritage dwelling, extension of existing basement carpark and addition of a new two storey building to accommodate 6 new classrooms for a maximum of 200 students to the existing school and continued church use
Recommendation:	Approval
No. of Submissions:	Thirteen (13) submissions from 11 individuals / families objecting to the proposal in response to the first notification period Thirteen (13) individual submissions objecting to the amended proposal
Cost of Development:	\$2,982,007.00
Author:	Pascal van de Walle, Coordinator Development Assessment
Date of Report:	26 November 2018

Key Issues

On 23 October 2018, the Bayside Planning Panel (the Panel) considered this development application and resolved:

- 1 The Panel considers the applicant should be given the opportunity to reconsider the car parking provision layout and drop off and pick up area to accommodate a school for 200 students of varying ages between K to Year 12. This includes the provision of basement parking under the new wing facing Kembla Street. The Management Plan needs to specifically address the parking drop off / pick up for the school in a detailed manner. The Management Plan is to also include consideration of management of the use of the rooftop and maximum numbers of students gathered at any one time.*
- 2 The applicant is to submit amended plans and other documentation to the Council within 3 weeks for assessment and referral to the Panel in a timely manner for final determination.*
- 3 That the objectors be advised of the Bayside Local Planning Panel's decision.*

The Panel's reason for determination was as follows:

"The Panel considers further consideration of options needs to be investigated to accommodate and manage the pick-up and drop off of students and the Plan of Management is to be more detailed and site specific".

The applicant has reconsidered the car parking provision layout and drop off and pick up area as requested by the Panel, including consideration of the provision of parking below the new school building facing Kembla Street.

An amended Traffic Management Plan dated 28 November 2018 has been submitted and is attached to this report. It includes two options for proposed traffic and car parking management. Option A is the original scheme presented to the Panel on 23 October 2018. Option B is an amended scheme which addresses the car parking layout, drop off and pick up issues raised by the Panel (i.e. a kiss and ride option).

Both the original scheme and the amended design are found to be an acceptable solution and are both presented for the Panel's consideration.

The application is accompanied by draft conditions for the proposed development including Traffic Management Option A. However, **Appendix A** of this Supplementary Report includes required amendments to the draft conditions that would permit approval of the proposed development utilising Option B should the Panel prefer this option.

The amended parking layout does not result in any physical changes to the building, only changes to the line-marking and signposting at basement level would be required.

The proposal continues to be accompanied by the Clause 4.6 variations to height and to FSR. The Clause 4.6 variations are well founded and the variations supported in this case.

Recommendation

- 1 That the panel considers the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the height standard contained in Clause 4.3 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
- 2 That the panel considers the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the FSR standard contained in Clause 4.4 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
- 3 That the Bayside Planning Panel approve the proposal for demolition of the existing small hall, retention of the existing Auditorium and heritage dwelling, and addition of a new two storey school building for a maximum of 200 children to the existing school and continued use of the church at 19 Dowling Street, Arncliffe, subject to recommended conditions.
- 4 That the objectors be notified of the Bayside Planning Panel's decision.

Proposal

There is no change to the description of the proposed development as provided in the Planning Assessment Report submitted to the Panel on 23 October 2018.

Assessment of the Panel's deferment

At the Bayside Planning Panel meeting of 23 October 2018, the Panel resolved:

- 1 *The Panel considers the applicant should be given the opportunity to reconsider the car parking provision layout and drop off and pick up area to accommodate a school for 200 students of varying ages between K to Year 12. This includes the provision of basement parking under the new wing facing Kembla Street. The Management Plan needs to specifically address the parking drop off / pick up for the school in a detailed manner. The Management Plan is to also include consideration of management of the use of the rooftop and maximum numbers of students gathered at any one time.*
- 2 *The applicant is to submit amended plans and other documentation to the Council within 3 weeks for assessment and referral to the Panel in a timely manner for final determination.*
- 3 *That the objectors be advised of the Bayside Local Planning Panel's decision.*

Compliance with the Panel's resolution is discussed below:

1. **Item 1 of the Panel's resolution has been separated into the following four (4) parts:**

- (i) *The Panel considers the applicant should be given the opportunity to reconsider the car parking provision layout and drop off and pick up area to accommodate a school for 200 students of varying ages between K to Year 12.*

The applicant has submitted an amended Traffic Management Plan which included the following two options for proposed car parking and traffic management:

- Option A - the original scheme presented to the Panel on 23 October 2018.
- Option B - the amended scheme which addresses the car parking layout, drop off and pick up issues raised by the Panel (i.e. a kiss and ride option).

A meeting was held between the applicant and relevant Council officers to review the amended parking design.

Both the original scheme and the amended design are found to be an acceptable solution. GTA Consultant's have provided the following conclusion in their final version of the Traffic Management Plan dated 28 November 2018:

"Upon our preparation and review of the Option A and Option B pick-up /drop-off arrangement, it is considered that both options can function in a satisfactory manner and provide sufficient capacity to accommodate the forecasted volume of vehicular traffic based on different mode share scenarios".

The application is accompanied by draft conditions that would permit approval of the scheme with traffic and parking Option A. However should the Panel consider that Option B is the preferred solution, **Appendix A** of this Supplementary Report includes required amendments to draft conditions that would permit approval of the proposed development including Option B.

The amended parking layout does not result in any physical changes to the building, only changes to the line-marking and signposting at basement level would be required.

- (ii) *This includes [consideration of] the provision of basement parking under the new wing facing Kembla Street; and,*

Plans showing the basement extending underneath the new school building fronting Kembla Street have been submitted to Council (**Figure 1**).

The plans demonstrate that four additional parking spaces could be achieved when compared to the proposal presented to the Panel on 23 October 2018.

The amended basement plan has been considered by the Applicant's Traffic Consultant (GTA Consultants), who are of the opinion that the possible extension of the basement would not reduce traffic / parking impacts as it does not offer additional pick-up / drop-off capacity. Their rationale is provided below:

"An extended basement option plan has been prepared by Fuse Architects and reviewed by GTA. The layout reviewed has found that the modified basement option, which aligns with the footprint of the building on Ground level will only provide an increase of four parking spaces in comparison to the design submitted as part of the application.

Due to the geometry and layout, the additional carpark is considered to be suitable for long stay parking only and does not offer any additional pick-up / drop-off capacity to the school.

Therefore, we are of the opinion that the extended basement option offers limited value to the proposed school expansion".

The amendment was also accompanied by an 'Indicative Cost Estimate' and a letter to the Panel from Ben Irawan, Senior Pastor for Life Centre International. The estimated costs associated for the additional basement construction is \$513,972.00. The Senior Pastor considers that the large cost does not justify the gains, with each car space costing \$128,493.00. Furthermore, the Senior Pastor advises that it would be a major challenge to obtain the additional cost on top of the existing works.

The applicant has therefore considered the amended basement plan and does not consider it to be feasible or provide a real benefit based on the additional cost. Council Officers agree with this position.

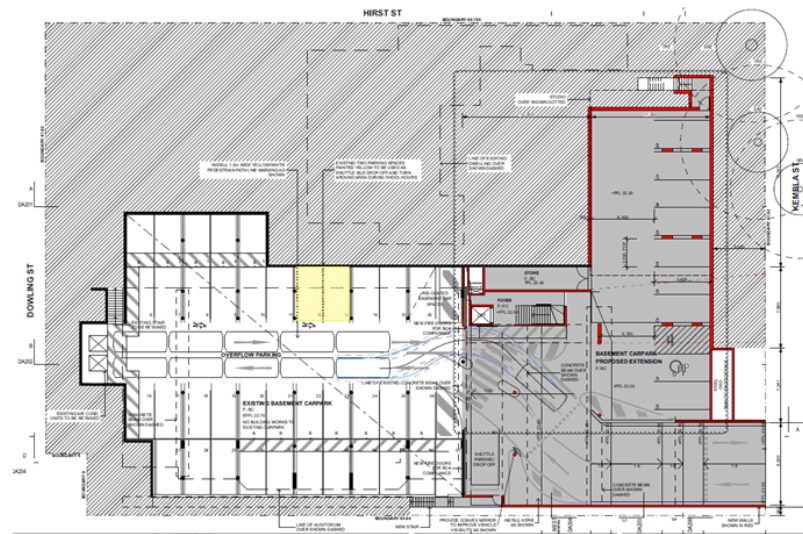


Figure 1 – Extension of basement parking below the proposed school building.

- (iii) *The Management Plan needs to specifically address the parking drop off / pick up for the school in a detailed manner.*

The applicant has submitted an amended Traffic Management Plan dated 28 November 2018 which addresses traffic and parking management.

Draft condition No.64 has been amended to require that the 'Plan of Management' for the site be updated to include the traffic and parking management requirements from the amended Traffic Management Plan prior to issue of any Occupation Certificate.

- (iv) *The Management Plan is to also include consideration of management of the use of the rooftop and maximum numbers of students gathered at any one time.*

The use of the roof top terrace was restricted in accordance with the submitted Noise Management Plan (NMP) to passive play associated with the approved school use only for a maximum of 2 hours between 8:30am and 3:30pm on school days. This restriction was included in Condition 12(a)(iii) of the draft Notice of Determination submitted to the Panel on 23 October 2018.

The applicant has now also committed to a maximum of 50 students being permitted to utilise the roof top level at any one time. Condition 12(a)(iii) and Condition 64 relating to the Plan of Management and NMP have therefore been amended in the draft Notice of Determination provided with this Supplementary Report.

2. *The applicant is to submit amended plans and other documentation to the Council within 3 weeks for assessment and referral to the Panel in a timely manner for final determination.*

The applicant submitted the amended basement layout plan (including extension underneath the proposed building) on 1 November 2018 and the alternative pick up

and drop off scheme on 6 November 2018. A meeting was held with the applicant on 6 November 2018 and further amendments were submitted to address issues raised. The applicant has complied with this requirement.

3. *That the objectors be advised of the Bayside Local Planning Panel's decision.*

Objectors are notified of the Panel meeting and will also be notified of the Panel's determination.

Conclusion

The issues identified in the Panel's resolution from their meeting of 23 October 2018 have been addressed. It is recommended that the Panel consider the amended plans and information and approve the application.

APPENDIX A –**Modifications to draft Notice of Determination to accommodate Option B of the submitted Traffic Management Plan**

The following amendments **marked in red** would be required to the draft Notice of Determination should the Panel choose to approve the development with 'Option B' of the submitted Traffic Management Plan (TMP) prepared by GTA Consultants, dated 28 November 2018:

- Amend Condition 2 – Replace reference to plans for Option A of the approved Traffic Management Plan with plans for Option B of the approved Traffic Management Plan, as follows:***

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA001 (Rev B) Site Plan	Fuse Architecture	08/06/18	19/08/15
DA002 (Rev B) Material Board	Fuse Architecture	30/05/18	08/06/18
DA111 (Rev B) Demolition - Basement	Fuse Architecture	14/08/15	19/08/15
DA112 (Rev B) Demolition – Ground Floor	Fuse Architecture	14/08/15	19/08/15
DA113 (Rev B) Demolition – First Floor	Fuse Architecture	14/08/15	19/08/15
DA114 (Rev B) Demolition - Roof	Fuse Architecture	14/08/15	19/08/15
DA-121 (Rev G) New - Basement	Fuse Architecture	21/9/18	11/10/18
DA122 (Rev G) New – Ground Floor	Fuse Architecture	19/07/18	20/07/18
DA223 (Rev B) New – First Floor	Fuse Architecture	01/02/18	08/02/18
DA124 (Rev D) New – Roof	Fuse Architecture	30/05/18	08/06/18
DA203 (Rev C) Section – C	Fuse Architecture	30/05/18	08/06/18
DA204 (Rev D) Section – D	Fuse Architecture	30/05/18	08/06/18
DA205 (Rev D) Section – Driveway Profile	Fuse Architecture	30/05/18	08/06/18
DA206 (Rev A) Section - E	Fuse Architecture	30/05/18	08/06/18
DA301 (Rev D)	Fuse Architecture	21/9/18	11/10/18

Elevation – East			
DA302 (Rev C) Elevation – North	Fuse Architecture	30/05/18	08/06/18
DA303 (Rev D) Elevation – West	Fuse Architecture	30/05/18	08/06/18
DA304 (Rev C) Elevation – West Internal	Fuse Architecture	30/05/18	08/06/18
DA305 (Rev C) Elevation - South	Fuse Architecture	30/05/18	08/06/18
DA307 (Rev 01) Elevation – North	Fuse Architecture	21/9/18	11/10/18
DA308 (Rev 01) Elevation - South	Fuse Architecture	21/9/18	11/10/18
Landscape & Fencing Plans			
Existing Tree Plan Dwg No. DA-01	Fiona Robbe	July 2015	08/06/18
Planting Schedule Dwg No. DA-04 D	Fiona Robbe	April 2018	08/06/18
Concept Plan 2 – Roof Dwg No. DA-03 D	Fiona Robbe	April 2018	08/06/18
Fencing Plan – Plan No. DA-05	Fiona Robbe	October 2018	11/10/18
Basement Parking – ‘Option B’ Operational Plans (Appendix B of Traffic Management Plan prepared by GTA Consultants, dated 28 November 2018)			
Sheet 1 of 3 (Issue 9) Dwg No. N150370-01-01	GTA Consultants	11 October 2018	28/11/18
Sheet 2 of 3 (Issue 9) Dwg No. N150370-01-02	GTA Consultants	11 October 2018	28/11/18
Sheet 3 of 3 (Issue 9) Dwg No. N150370-01-03	GTA Consultants	11 October 2018	28/11/18
Stormwater Plans – Project No. 2015-0241			
Site Plan & Legend Drawing No. HDA01 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Ground Floor Plan Drawing No. HDA03 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Basement Floor Plan Drawing No. HDA02 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Roof Plan Drawing No. HDA04 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Detail Sheet No. 1 Drawing No. HDA05 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Detail Sheet No. 2 Drawing No. HDA06 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018

2. Amend Condition 13 to replace references to 'Option B' as follows:

- (i) Car parking must be provided and carried out in accordance with:
 - (a) the approved plans listed in Condition 2,
 - (b) *Option B of the approved Traffic Management Plan; and*
 - (c) the approved Plan of Management (see Conditions 12 & 17).
- (ii) Car parking and basement access shall be provided and carried out in accordance with the following key requirements:
 - (a) Church Operations - A total of 44 car parking spaces (including one accessible space) and ten (10) overflow parking spaces must be made available for use by church patrons in accordance with the approved plans.
 - (b) *School Operations – Parking, drop-off and pick-up for the school will be provided in accordance with 'Option B' contained within the approved Traffic Management Plan referenced in (i)(b) above as follows:*
 - (A) *15 staff parking spaces;*
 - (B) *Drop-off and pick-up spaces within the northern aisle;*
 - (C) *One (1) accessible space; and*
 - (D) *One (1) shuttle drop-off / pick-up space.*
 - (c) Basement security door / shutter
 - (A) The basement carpark security door / shutter must be open for use by visitors / patrons to the site during peak times to ensure unrestricted access to car parking during key site operations. The basement carpark must be secured by way of a locked gate or door at all times outside of the approved operating times, and may be closed outside of peak times for the church and school for security purposes.
 - (B) The basement security door / shutter must, at minimum, be open during the following times:
 - i. between 8:00am and 9:30am and 2:30 - 4:00pm on school days;
 - ii. from 8:00am until end of services on Sundays;
 - iii. at least 30 minutes prior to, and at least 30 minutes after the start and finish times of major events.
 - (d) An intercom system must be provided at the entry to the basement car park to permit access to the car park outside of peak times. The intercom system must be installed prior to issue of any Occupation Certificate, and maintained in working order at all times.
 - (e) 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.

3. Amend Condition 69(i) to include correct parking numbers for 'Option B' as follows:

Prior to issue of any Occupation Certificate:

- (a) The width of the double driveway at the boundary shall be a maximum of 6 metres.
- (b) The basement driveway ramp shall have a 2.2m height clearance in accordance with AS2890.1:2004.
- (c) The driveway profile and crest level at the boundary shall be maintained in accordance with the approved plans, to reduce the risk of flood inundation.
- (d) Line marking and signage of basement - must be clear and maintained for the lifetime of the development, and shall include (at minimum):

- (i) Basement line marking, signage, speed humps and kerb to be carried out in accordance with the approved Signage and Linemarking Plan (refer to Condition 2);
- (ii) Each parking bay to be clearly marked & signposted for 'church' and/or 'school' use.
- (e) Bollards to be provided in accordance with the Plan of Management to ensure safe pedestrian movement in the basement.
- (f) The forty four (44) off-street car spaces (including one accessible space and one shared shuttle bus / parking space) shall be provided in accordance with the submitted plan and shall be sealed and linemarked in accordance with the relevant Australian Standard.

The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

The parking spaces shall be colour coded and clearly sign-posted / marked for the church and school uses as shown in the approved plans submitted by GTA Consultants and listed in Condition 2, including:

- (i) **School (Option B of the approved Traffic Management Plan)**
 - A. 15 staff parking spaces;
 - B. Drop-off and pick-up spaces within the northern aisle;
 - C. One (1) accessible space; and
 - D. One (1) shuttle drop-off / pick-up space.
- (ii) **Church**
 - A. Church parking space (42 spaces)
 - B. Accessible church parking space (1 space)
 - C. Shuttle-bus parking (1 space)

Our Ref: DA-2016/68
 Contact: Pascal van de Walle 9562 1666

Life Centre International Limited
 19 Dowling St
 ARNCLIFFE NSW 2205

NOTICE OF DETERMINATION

Issued in accordance with section 4.18(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2016/68
Property: 19 Dowling Street, ARNCLIFFE (Lot 100 DP 859517)
Proposal: Demolition of existing small hall, retention of the existing Auditorium and heritage dwelling, extension of existing basement carpark and addition of a new two storey building to accommodate 6 new classrooms for a maximum of 200 students to the existing school and continued church operations
Authority: Delegated to Bayside Planning Panel
Determination: Approved
Date of determination:
Date consent commences:
Date consent lapses:

The above development is approved subject to the following conditions:

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA001 (Rev B) Site Plan	Fuse Architecture	08/06/18	19/08/15

DA002 (Rev B) Material Board	Fuse Architecture	30/05/18	08/06/18
DA111 (Rev B) Demolition - Basement	Fuse Architecture	14/08/15	19/08/15
DA112 (Rev B) Demolition – Ground Floor	Fuse Architecture	14/08/15	19/08/15
DA113 (Rev B) Demolition – First Floor	Fuse Architecture	14/08/15	19/08/15
DA114 (Rev B) Demolition - Roof	Fuse Architecture	14/08/15	19/08/15
DA-121 (Rev G) New - Basement	Fuse Architecture	21/9/18	11/10/18
DA122 (Rev G) New – Ground Floor	Fuse Architecture	19/07/18	20/07/18
DA223 (Rev B) New – First Floor	Fuse Architecture	01/02/18	08/02/18
DA124 (Rev D) New – Roof	Fuse Architecture	30/05/18	08/06/18
DA203 (Rev C) Section – C	Fuse Architecture	30/05/18	08/06/18
DA204 (Rev D) Section – D	Fuse Architecture	30/05/18	08/06/18
DA205 (Rev D) Section – Driveway Profile	Fuse Architecture	30/05/18	08/06/18
DA206 (Rev A) Section - E	Fuse Architecture	30/05/18	08/06/18
DA301 (Rev D) Elevation – East	Fuse Architecture	21/9/18	11/10/18
DA302 (Rev C) Elevation – North	Fuse Architecture	30/05/18	08/06/18
DA303 (Rev D) Elevation – West	Fuse Architecture	30/05/18	08/06/18
DA304 (Rev C) Elevation – West Internal	Fuse Architecture	30/05/18	08/06/18
DA305 (Rev C) Elevation - South	Fuse Architecture	30/05/18	08/06/18
DA307 (Rev 01) Elevation – North	Fuse Architecture	21/9/18	11/10/18
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Planting Schedule Dwg No. DA-04 D	Fiona Robbe	April 2018	08/06/18

Concept Plan 2 – Roof Dwg No. DA-03 D	Fiona Robbe	April 2018	08/06/18
Fencing Plan – Plan No. DA-05	Fiona Robbe	October 2018	11/10/18
Basement Parking – ‘Option A’ Operational Plans (Appendix A of Traffic Management Plan prepared by GTA Consultants, dated 28 November 2018)			
Sheet 1 of 3 (Issue 9) Dwg No. N150370-01-01	GTA Consultants	11 October 2018	28/11/18
Sheet 2 of 3 (Issue 9) Dwg No. N150370-01-02	GTA Consultants	11 October 2018	28/11/18
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Detail Sheet No. 2 Drawing No. HDA06 / B	AJ Whipps Consulting Group	13 June 2015	19 August 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. All of the works required to be carried out under the conditions of this Consent being maintained at all times in good order and repair and to the satisfaction of Council. *[Condition 3 of DA-1992/55]*
6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes:
 - (i) the provision of a electricity substation (if required);
 - (ii) any changes to fencing and landscaping that would impact on the views and the heritage value of the heritage dwelling 'Mimosa' as determined in Conditions 9 and 10 of the Land and Environment Court approval (DA-1992/55) and as committed to in this application (refer to Heritage Letter Report prepared by Weir Phillips Heritage, dated 25 May 2018). This includes amendments to boundary fencing, installation of play equipment and landscape treatment along the north-western side of the site (Dowling Street & Hirst Street).
7. This application does not approve any signage. All signs being subject to a separate Development Application, unless permitted to be erected as 'exempt' or 'complying' development.

8. Roof Terrace - No further structures permitted

The roof top terrace shall not be enclosed at any time in future without prior development consent. In addition, no structures, other than those shown in the approved plans, may be constructed on the roof top terrace without prior development consent. This includes any shade structures, mesh netting, lighting, umbrellas and/or any other temporary or permanent structure.

Note: Operational restrictions for roof terrace provided in Condition 12.

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.

Development specific conditions

The following conditions are specific to the Development Application proposal.

11. Amendments / Additional Information Required

The following items must be addressed in plans and/or documentation submitted with the Construction Certificate Application, and must be to the satisfaction of the Principal Certifier or Council (as specified):

- (a) Fencing - Plans submitted with the construction certificate must comply with the approved plans listed in Condition 2, and the following:
 - (i) The proposed palisade boundary fence to Kembla Street must be stepped and have a maximum height of 2.0m at any point.
 - (ii) The Fencing Plan submitted by Fiona Robbe (DA-05, dated May 2018) must be consistent with the fencing shown in the architectural plans.
- (b) The driveway area being treated with a variation of paving to give a visual break to these areas with details of materials to be included in the amended architectural plans.
[Condition 7 of DA-1993/55]
- (c) Removable and adjustable bollards shall be provided to protect the proposed pedestrian paths within the basement to the satisfaction of the Principal Certifying Authority.
- (d) Fire Boosters - Any fire hydrant booster valves must be integrated within the development and enclosed in a cabinet to minimise visual impacts on the streetscape. The cabinet must be provided with appropriate locks and signage in accordance with AS2419.1.
- (e) Substation - where a substation is required the proposed location must be subject to a s4.55 application. It must be provided in an location that does not adversely impact the value of the heritage item nor adversely impact the streetscape appearance.
- (f) Mechanical ventilation - Any mechanical ventilation system for the basement car park, buildings and / or other elements of the development must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2, as well as the Acoustic Reports and Noise Management Plan submitted with this application. The vents for any system must be located within the roof top level and must be appropriately designed and screened from view.

- (g) Privacy screening to a minimum height of 1.8m to be provided along the southern side of the ground level planter box that is located to the "Entry" area of the approved ground floor plan to minimise privacy impacts to the adjoining residence at 20 Kembla Street. Such privacy screening to be installed prior to issue of the Occupation Certificate and maintained for the lifetime of the development.
- (h) If an access gate is required from the trafficable section of the roof terrace to maintain the existing airconditioning plant, the gate must be locked and only used for maintenance purposes, to ensure access to the non-trafficable area cannot be obtained school children and users of the roof terrace area.
- (i) Deletion of the building parapet for that part of the buildings southern elevation located beyond 3m from the front setback of the site (i.e. the first 3m of the parapet as measured from the front elevation in a westerly direction to be retained). A safety barrier / fence / balustrade with a maximum height of 1m may be erected, if required to ensure safety of persons maintaining the roof top and/or plant provided at roof top level, however this structure must be located at least 1m north of the buildings southern edge. This requirement is to minimise overshadowing impacts to No. 20 Kembla Street.
- (j) Waste Management - Plans shall be submitted to, and approved by, Council's Director of City Futures prior to issue of any Construction Certificate for a waste bin enclosure to the Dowling Street frontage of the site. The enclosure must accommodate the number of bins required by the submitted Waste Management Plan (dated April 2018), must be of appropriate materials, design and colours to ensure impacts to the streetscape and the existing buildings on site.

12. Operational Management

Operations at the site must be undertaken in accordance with the submitted Plan of Management dated August 2018 (Version 4.0), received by Council on 27 August 2018, as amended in accordance with the requirements of Condition 64 of this consent. In particular, the site must comply with the following key operational requirements:

(a) Hours of operation

- (i) Church - Hours of operation to be restricted as follows:
[Condition 8 of DA-1993/55, as modified by this consent DA-2016/68]
 - (A) 8:00am - 10:00pm, seven days, with all non-residents having left the site or the vicinity of the site by 10:00pm except visitors to the pastor's residence [Condition 8 of DA-1993/55];
 - (B) Notwithstanding (A) above:
 - (1) The school and church uses must not be carried out concurrently at any time.
 - (2) Noise Generating Activities permitted only between 10:00am - 10:00pm, e.g. bands, music and singing [Condition 44 of DA-1993/55];
 - (3) No more than two services on Sundays [Condition 43 of DA-1993/55].
 - (4) For church operations, the existing Auditorium, existing dwelling and classrooms / studio rooms not being used concurrently [Condition 44 of DA-1993/55, as modified];
- (ii) School - hours of operation restricted to between the following hours:

- (A) 8:30am and 3:30pm, Mondays to Fridays, with no operations on Saturdays, Sundays and Public Holidays.
 - (B) Parent Teacher Nights - Maximum two (2) times per year outside of standard school hours, but no later than 10:00pm.
 - (C) Presentation Nights - Maximum four (4) times per calendar year (one per school term), but not later than 10:00pm.
- (iii) Roof Terrace - Restricted to passive play associated with the approved school use only for a maximum of 2 hours between 8:30am and 3:30pm on school days in accordance with the submitted Noise Management Plan. In addition, a maximum of 50 students may be on the roof terrace at any one time.
- (b) Capacity - the maximum number of persons attending the site for each use is restricted as follows:
 - (i) Church - Seating and the number of persons permitted within the proposed and existing buildings being limited to a total of 380 persons at any one time *[Condition 42 of DA-1993/55, as modified by this consent]*.
 - (ii) School
 - (A) Maximum 200 students, including 150 students of primary school age (Kindergarten to Year 6) and fifty (50) students of high school age;
 - (B) Maximum 10 teaching / support staff.
- (c) Waste Collection / Deliveries
 - (i) Waste collection and/or deliveries must be undertaken between 7:00am and 6:00pm Monday to Friday, with no deliveries and/or waste collection on weekends or public holidays.
- (d) No public use / commercial hire of premises -
 - (i) The church, church hall, residence and all school buildings not to be let out for any commercial purpose *[Condition 47 of DA-1993/55, as modified]*;
 - (ii) The facilities contained on Number 19 Dowling Street must not be hired out to the general public *[Condition 43 of DA-1993/55]*;
- (e) Incidental Uses to Church Operations -
 - (i) No use which is not ordinarily incidental or subsidiary to the church use being permitted without prior consent of the Council, and within the approved hours of operation detailed in (a)(ii) above, other than *[Condition 46 of DA-1993/55]*:

* Creche (nursery);	* Sunday school;
* Bible training;	* Christian training;
* prayer meetings;	* kids' club;
* fellowship activities;	* library;
* general storage;	* residence for pastor;
* carparking;	* sporting activities;
* social activities;	* office/study/counselling area;
* Church band practice;	* Church concert;
* toilets.	
 - (ii) Before and after school care is not ordinarily incidental or subsidiary to the church use and must not be provided by the church operation.

Separate development approval is required for school related uses after 3:30pm on Mondays to Fridays and/or on weekends with the exception of parent teacher nights.

13. Car Parking - Provision and Ongoing Management

- (i) Car parking must be provided and carried out in accordance with:
 - (a) the approved plans listed in Condition 2,
 - (b) Option A of the approved Traffic Management Plan; and
 - (c) the approved Plan of Management (refer to Condition 12 & 17).
- (ii) Car parking and basement access shall be provided and carried out in accordance with the following key requirements:
 - (a) Church Operations - A total of 44 car parking spaces (including one accessible space) and ten (10) overflow parking spaces must be made available for use by church patrons in accordance with the approved plans.
 - (b) School Operations - Parking, drop-off and pick-up for the school will be provided in accordance with 'Option B' contained within the approved Traffic Management Plan referenced in (i)(b) above as follows:
 - (A) eight (8) spaces for school staff;
 - (B) seventeen (17) spaces for drop-off / pick-up purposes, including one (1) accessible space; and
 - (C) one (1) shuttle drop-off / pick-up space
 - (c) Basement security door / shutter
 - (A) The basement carpark security door / shutter must be open for use by visitors / patrons to the site during peak times to ensure unrestricted access to car parking during key site operations. The basement carpark must be secured by way of a locked gate or door at all times outside of the approved operating times, and may be closed outside of peak times for the church and school for security purposes.
 - (B) The basement security door / shutter must, at minimum, be open during the following times:
 - i. between 8:00am and 9:30am and 2:30 - 4:00pm on school days;
 - ii. from 8:00am until end of services on Sundays;
 - iii. at least 30 minutes prior to, and at least 30 minutes after the start and finish times of major events.
 - (d) An intercom system must be provided at the entry to the basement car park to permit access to the car park outside of peak times. The intercom system must be installed prior to issue of any Occupation Certificate, and maintained in working order at all times.
 - (e) 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.

14. Noise Management & Minimisation

- (a) Adopt and implement all recommendations contained in the acoustic report

prepared by AECOM Australia Pty Ltd for KCCS – Development Application - 19 Dowling Street Arncliffe Doc No. 60318564-ARPT02.04 dated the 18 August 2016.

- (b) Compliance with the submitted Noise Management Plan prepared by AECOM Australia Pty Ltd (dated 25 January 2018, except as amended and approved by Council) at all times, particularly with regards to the following:
 - (i) No amplified music / assembly speeches permitted in outdoor areas;
 - (ii) Outdoor play areas to be used for a maximum of 2 hours per day;
 - (iii) Roof terrace to be used for passive recreation only (refer also to Condition 12 for limitations on use of roof terrace);
 - (iv) Outdoor play areas to be monitored at all times with a minimum of 1 staff member to 30 children.
- (c) Compliance with the Plan of Management, prepared by CPS, dated August 2018 (as amended and approved by Council - see Conditions 12 & 17);
- (d) The roof terrace being used for school purposes only, unless separate approval is obtained.
- (e) All activity being conducted on the site to ensure that noise levels emitted from the site are no greater than 5dB(A) above background noise level measured at the boundary of the nearest residential property [*Condition 4 of DA-1993/55, approved by the Land and Environment Court*].
- (f) No amplified/ stereo/music/ speakers/ assembly speeches are permitted in all outdoor play areas.
- (g) 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.
- (h) 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.
- (i) Noise Monitoring & Modifications to NMP
 - (A) Noise Monitoring to be carried out in accordance with the Noise Management Plan listed in (b) above. Monitoring also to be carried out at 20 Kembla Street, and to include consideration of (a) to (h) above, at the following occasions:
 - (i) after four (4) months of the commencement of operations and within the first six (6) months of operation
 - (ii) within three (3) months of the school reaching 85% capacity.
 - (B) Within two (2) months of completion of the noise monitoring required by (i)(A) above, the Noise Management Plan (NMP) listed in (b) above must be updated and submitted to Council's Director of City Futures. The amended plan must be approved by Council and implemented. The amended plan is to:
 - A. include any required amendments to ensure compliance with the NMP and Acoustic Report listed in (a) above;
 - B. updated to include reference to relevant conditions of this consent;

- C. address complaints received from neighbouring property owners;

15. Traffic Refuge Island

Prior to issue of any Construction Certificate, a detailed design must be submitted to, and approved by, the Local Traffic Committee for the traffic refuge island required by the Local Traffic Development Advisory Committee. The Committee identified the need for a traffic refuge island and associated works in Kembla Street east of Hirst Street.

The approved traffic refuge island and associated works shall be constructed prior to issue of any Occupation Certificate at no cost to council.

A permit is required to be approved by council prior to the works being undertaken.

16. Trees

- (a) The Canary Island Date Palm identified as Tree 1 in the Existing Tree Plan prepared by Fiona Robbe Landscape Architecture dated July 2015 may be transplanted on site as indicated in the Existing Tree Plan. Transplanting of the palm shall be undertaken by a specialist Tree Transplanting Contractor.
- (b) Trees numbered 4, 7, 8, and 25 in the Existing Tree Plan and the Fig (Tree 23) growing in the fork of Tree No.22 may be removed.
- (c) No other trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- (d) 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.
- (e) 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.
- (f) Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- (g) Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
- (h) Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines where possible around each tree or group of trees which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
- (i) 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.

17. Plan of Management - Implementation and Review

- (a) The site must be operated in accordance with the approved Plan of Management at all times.
- (b) The submitted Plan of Management dated August 2018 (Version 4.0), received by Council on 27 August 2018, as amended in accordance with the requirements of Condition 64 of this consent, must be reviewed after six (6) months of commencement of operations and before nine (9) months from commencement of operations.
- (c) Within one (1) month of completion of the review required by (a) above, the Plan of Management must be updated and submitted to, and approved by, Council's Director of City Futures. The amended plan is to consider, at minimum:
 - (i) include any required amendments to ensure compliance with the NMP and Acoustic Report listed in Condition 14;
 - (ii) updated to include reference to relevant conditions of this consent;
 - (iii) address complaints received from neighbouring property owners;

18. 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.

19. 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.
20. Dewatering not permitted
Temporary dewatering of the site to construct the subsurface structure is not permitted.
21. Lighting of Premises
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.
22. Landscape Maintenance - Ongoing Requirements
 - (a) The approved completed landscape works shall be maintained for a period not less than 12 months.
 - (b) On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.
23. Landscape Planting
The approved landscape plans must be updated prior to issue of the Construction Certificate to address the following matters:
 - (1) Planter pots shall be replaced with built in planter boxes.
 - (2) Screen hedge along south-eastern boundary adjacent of 20 Dowling Street shall be planted with advanced shade tolerant specimens. Minimum pot size supplied shall be 45 Litres to ensure growth of shrubs between fence and development, where sun access is limited.
 - (3) 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.
 - (4) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 800mm and 1000mm wide to allow screen planting. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within

the planter.

- (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
 - (f) Planter boxes shall be fully automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.
- (5) Plant species selection shall provide acoustic and visual privacy. Leaves shall be small and dense, to reach a minimum of 1.8 meters from terrace RL. Some recommended screen plants for this location are: Callistemon viminalis Better John, Red Alert, Captain Cook, Metrosideros excelsa Lemon Twist, Westringia Ozbreed, Rhiphiolopsis indica.

Prior to issue of the construction certificate

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

- 24. 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 \$70,996.00. 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.
- 25. 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.
- 26. 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.

27. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:

- i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
- ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.

2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

Note: This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

28. Parking & Basement Design

The plans submitted with the Construction Certificate must comply with the following requirements:

- (a) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- (b) All pick up and drop off parking spaces must be 2.6m wide in accordance with AS2890.1:2004.
- (c) Removable and adjustable bollards shall be provided to protect the proposed pedestrian paths within the basement in accordance with the approved plans and the *Transport and Parking Impact Assessment Review* dated 14 August 2018.
- (d) The overflow parking spaces shall be allocated in a way that they can feasibly manoeuvre safely in and out of the basement.
- (e) Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking. Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to protrude 1100mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.
- (f) Appropriate lighting shall be provided in the basement in accordance with RMS guidelines.

29. A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.

30. Sydney Water Approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.

31. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.

32. Food Act Requirements

The proposed development shall be operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".

33. Hand Basins

All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic micro-organisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.

34. Stormwater Drainage

Prior to the issue of the Construction Certificate a detailed stormwater drainage management plan for the disposal of all roof-water, surface water and subsoil water from the site shall be submitted and approved by the Principal Certifier. The drainage management plan for the Construction Certificate shall comply with the requirements as detailed in the Rockdale Stormwater Technical guidelines.

The following amendments must be included in the design:

- (i) The design shall be generally in accordance with the approved plans;
- (ii) All stormwater surface pits must have a surface level higher than the top of kerb level. Basement pits must not connect directly to the kerb pit to eliminate potential basement inundation.
- (iii) The OSD system is to be designed as a two stage storage in accordance with section 6 of Rockdale Technical Specification Stormwater management.

35. Flood Management Plan

Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided to the Principal Certifying Authority. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:

- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
- (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
- (c) Flood warning signs/depth indicators for areas that may be inundated.
- (d) A flood evacuation strategy.
- (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

36. All surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

37. Surrender of development consent

- (a) The surrender of Development Consent No. 1992/55 approved by the Land and Environment Court (*Noel Bell, Ridley Smith & Partners v Rockdale Municipal Council* [1993] NSWLEC 103) and Development Consent No. 2014/295 must be undertaken prior to the issue of a Construction Certificate

pursuant to Section 4.63 of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulation 2000.

- (b) Details demonstrating compliance with the requirements of this condition must be submitted to the satisfaction of the Principal Certifier prior to the issue of any Construction Certificate.

Prior to commencement of works

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

38. Ausgrid

- (a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements and to determine whether an electricity substation is required, including written confirmation of Ausgrid's requirements for installation. (Note: if a substation is required and cannot be provided in the location shown in the approved plans, a Section 96 Application will be required for the amended location).
- (b) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006), for development in proximity to overhead power lines.
- (c) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010).

39. Telstra

Written confirmation from Telstra that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant / developer.

40. Dilapidation Survey

A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

41. Soil and Water Management Plan

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

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

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

42. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Access to the site for construction purposes via Hirst Street and Dowling Street is not permitted.

Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

Copies of the CMP and TMP shall be submitted to Council.

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

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

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

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

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

A copy of any written direction required by this condition must be provided to the

Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

44. 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.
45. 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.
46. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
47. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place,

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

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

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

structure is greater than half the height of the structure.

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

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

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

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

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

- 48. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

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

- 49. 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.
- 50. 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.
- 51. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
- 52. 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.

53. 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.

54. 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.

55. The sandstone kerb and gutter shall be retained and protected during construction. The following works are required:

- i. A footpath protection pad shall be constructed over Council's footpath at the point of entry onto the building site and extend over the kerb and gutter.
- ii. Any damaged sandstone kerb and gutter shall be replaced with sandstone of equal dimensions. Note: A stockpile of sandstone is kept at Council's Works Depot, 10 Rye Avenue, Bexley. Please phone Council's Work Depot on 9562 1670 to enquire whether any sandstone is currently available and to make arrangements for collection. If no sandstone kerbing is available from Council's Works Depot, sandstone shall be purchased from an accredited supplier.
- iii. Sandstone removed for the construction of the driveway is Council property and shall be taken to Council's Works Depot at 10 Rye Avenue, Bexley for stockpiling. Note: Only damaged or broken pieces may be discarded.

- iv. To protect the remaining section of sandstone kerb and gutter, a barricade of star pickets and parawebbing fencing or similar material shall be erected on a 600mm setback from the sandstone kerb. Note: Star pickets shall be painted either white or fluorescent in colour so they are visible to pedestrians at night.
56. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
57. 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.
58. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.

- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

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

Prior to issue of occupation certificate or commencement of use

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

- 60. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.

61. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
62. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
63. 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.
64. Plan of Management - to be amended prior to issue of any Occupation Certificate
The submitted Plan of Management (PoM), dated August 2018 (Version 4.0), received by Council on 27 August 2018, must be updated / amended prior to issue of any Occupation Certificate. The amended PoM must also be submitted to, and approved by, Council's Director of City Futures prior to issue of any Occupation Certificate, including the following:
 - (i) Reference to all relevant conditions of consent from the original church approval relating to number of services permitted on Sundays, restriction on noise generating activities, etc.;
 - (ii) Updated to ensure consistency with relevant conditions of this consent (i.e. Condition 12; Condition 13 - Car parking; Condition 14 - Noise Management; Condition 11(j) - Waste Management; Compliance with mechanical noise, etc.);
 - (iii) Commitment to a maximum of 100 of persons attending the site after school hours each school day (i.e. between 3:30pm and 10:00pm on school days);
 - (iv) Include a section for 'Waste Management' - refer to Condition 11(j) and the submitted Waste Management Plan;
 - (v) Include a section for litter / rubbish collection in the street immediately in front of the site;
 - (vi) Update the 'car parking management' section to include that the parking of vehicles must be supervised by suitably qualified staff / church / school members to ensure that the basement parking is utilised. This is to ensure that impacts to surrounding residents are minimised [*Condition 49 of DA-1993/55, as amended by this consent*].
 - (vii) Update to include and/or refer to the approved Traffic Management Plan (Option A or Option B as approved - refer to Condition 13);
 - (viii) Provide a method for ensuring that people for each part of the Plan of Management know of its contents;
 - (ix) Include a procedure for updating and changing the Plan of Management, including approval by Council and advertising any changes.
65. 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.
66. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
67. Landscape Completion & Maintenance

- (a) All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
 - (b) 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.
68. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council prior to issue of any Occupation Certificate.
69. Basement access, parking and line-marking
Prior to issue of any Occupation Certificate:
- (a) The width of the double driveway at the boundary shall be a maximum of 6 metres.
 - (b) The basement driveway ramp shall have a 2.2m height clearance in accordance with AS2890.1:2004.
 - (c) The driveway profile and crest level at the boundary shall be maintained in accordance with the approved plans, to reduce the risk of flood inundation.
 - (d) Line marking and signage of basement - must be clear and maintained for the lifetime of the development, and shall include (at minimum):
 - (i) Basement line marking, signage, speed humps and kerb to be carried out in accordance with the approved Signage and Linemarking Plan (refer to Condition 2);
 - (ii) Each parking bay to be clearly marked & signposted for 'church' and/or 'school' use.
 - (e) Bollards to be provided in accordance with the Plan of Management to ensure safe pedestrian movement in the basement.
 - (f) The forty four (44) off-street car spaces (including one accessible space and one shared shuttle bus / parking space) shall be provided in accordance with the submitted plan and shall be sealed and linemarked in accordance with the relevant Australian Standard.

The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

The parking spaces shall be colour coded and clearly sign-posted / marked for the church and school uses as shown in the approved plans submitted by GTA Consultants and listed in Condition 2, including:

- (i) School ('Option A' of the approved Traffic Management Plan)
 - A. School pick-up / Drop-off (17 spaces)
 - B. School staff parking (8 spaces)
 - C. Shuttle bus drop-off and parking (1 space)
 - D. Accessible space (1 space)
- (ii) Church
 - A. Church parking space (42 spaces)
 - B. Accessible church parking space (1 space)

C. Suttle-bus parking (1 space)

70. 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 occupation of the development.
71. 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.
72. Noise Impacts - Compliance with Acoustic Report
The noise reduction measures specified in the noise report prepared by AECOM Australia Pty Ltd for KCCS – Development Application - 19 Dowling Street Arncliffe Doc No. 60318564-ARPT02.04 dated the 18 August 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.
73. A certificate of playground safety installation compliance shall be submitted to Council prior to release of the Occupation Certificate.
74. 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.
75. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
76. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
77. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
78. 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.
79. Prior to issue of the Occupation Certificate, compliance is required with all relevant

conditions of this consent including (but not limited to):

- (a) Removable and adjustable bollards must be provided within the basement to protect the proposed pedestrian paths shown in the approved plans;
- (b) Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking.
- (c) Bicycle parking must be provided in accordance with the approved plans listed in Condition 2.

Roads Act

80. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- (a) construction of required portion of the concrete footpath along the frontage of of Kembla street fronting the site.
 - (b) construction of a new fully constructed concrete vehicular entrance;
 - (c) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - (d) construction of the traffic refuge island in Kembla Street east of Hirst Street.
81. 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.
82. 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.
83. 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.
84. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. 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.
- c. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the

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

d. *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.

e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

f. 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 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".
- i. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

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 Pascal van de Walle on 9562 1666

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/68
Date of Receipt:	19 August 2015
Property:	19 Dowling Street, ARNCLIFFE (Lot 100 DP 859517)
Owner:	Life Centre International Limited
Applicant:	Life Centre International Limited
Proposal:	Demolition of existing small hall, retention of the existing Auditorium and heritage dwelling, extension of existing basement carpark and addition of a new two storey building to accommodate 6 new classrooms for a maximum of 200 students to the existing school and continued church operations
Recommendation:	Approved
No. of submissions:	Thirteen (13) submissions from 11 individual / families objecting to the proposal in response to the initial notification period. Thirteen (13) individual submissions objecting to the proposal in response to the amended proposal.
Author:	Pascal van de Walle
Date of Report:	11 October 2018

Key Issues

The key issues related to this application are:

- Intensification of the use of the site located within the R2 Low Density Residential zone;
- Car parking, particularly during peak drop off / pick-up times for school children;
- Traffic generation;
- Safety issues, particularly safety of pick-up and drop-off for school children in the basement parking area;
- Noise impacts resulting from site operations, including the proposed roof top terrace.
- Heritage - Impacts to the existing local heritage item (I7) known as 'Mimosa' or 'The Fairleigh Dwelling';
- Design and appearance of the building;

- Overshadowing of adjoining dwelling houses, particularly No. 20 Kembla Street;
- Flooding and stormwater;
- Surrender of existing consents and consolidation of existing church and school approvals into one single consent; and,
- Significant concerns raised by the local community.

Recommendation

- (1) That the panel consider the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the height standard contained in Clause 4.3 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
- (2) That the panel consider the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4 of the RLEP 2011 and that it be satisfied that the variation will result in consistency with the objectives of the FSR standard contained in Clause 4.4 and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
- (3) That the Development Application No. DA-2016/68 for the demolition of existing small hall, retention of the existing Auditorium and heritage dwelling, extension of existing basement carpark and addition of a new two storey building to accommodate 6 new classrooms for a maximum of 200 students for use by the existing school and continued church operations at 19 Dowling Street, Arncliffe, 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.
- (4) That the objectors be advised of the Bayside Planning Panel's / Council's decision.

Background

History

The following applications have previously been considered by Council and are relevant in relation to the subject property and the proposed development:

- (1) **DA-1992/55** - New brick and tile hall for the existing church use - Refused by Council on 10 December 1992.
- (2) **Land and Environment Court Appeal of DA-1992/55** - *Noel Bell, Ridley Smith & Partners v Rockdale Municipal Council* [1993] NSWLEC 103.

The appeal was upheld and approval granted by the Court on 14 July 1993 for retention of the existing church hall and erection of a larger hall serving multiple functions, provision of surface and underground parking and retention of the existing heritage residence (Mimosa) for accommodation for the pastor.

The key modifications made throughout the Court process was in relation to the setbacks of the

church hall to minimise impacts to the adjoining properties to the south, including No. 17 Dowling Street. The judgement required a minimum set-back of 2.5m (at the closest point to the common boundary) increasing to a setback of 3.5m on each vestry wing.

The Court approval included the following key operational requirements / restrictions:

- (i) maximum 400 persons at any one time (Condition 42);
 - (ii) Hours of operation -
 - (a) 8:00am - 10:00pm, with all non-residents having left the site or the vicinity of the site by 10:00pm except visitors to the pastor's residence (Condition 8);
 - (b) 10:00am - 10:00pm for all noise generating activities, e.g. bands, music and signing (Condition 44);
 - (c) No more than two services on Sundays (Condition 43).
 - (iii) Car Parking:
 - (a) 47 parking spaces (Condition 5). Note: parking reduced to 46 spaces by DA-1992/55/A;
 - (b) 10 overflow parking spaces in addition to those spaces required by Condition 5 (Condition 9);
 - (c) parking of vehicles to be supervised to minimise impacts from those attending the site (Condition 49);
 - (d) *Note:* The commissioner found, in his judgement, that combined with 22 on-street spaces, 79 car spaces would be available for the church use.
 - (iv) No use which is not ordinarily incidental or subsidiary to the church use being permitted without prior consent of the Council, other than (Condition 46):

* <i>Creche (nursery);</i>	* <i>Sunday school;</i>
* <i>Bible training;</i>	* <i>Christian training;</i>
* <i>prayer meetings;</i>	* <i>kids' club;</i>
* <i>fellowship activities;</i>	* <i>library;</i>
* <i>general storage;</i>	* <i>residence for pastor;</i>
* <i>carparking;</i>	* <i>sporting activities;</i>
* <i>social activities;</i>	* <i>office/study/counselling area;</i>
* <i>Church band practice;</i>	* <i>Church concert;</i>
* <i>toilets.</i>	
 - (v) The church, church hall or residence not to be let out for any commercial purpose (Condition 47) or facilities not hired out to the general public (Condition 43);
 - (vi) The mission building and the existing church being and existing dwelling not being used concurrently (Condition 44);
- (3) **BA-1993/803** - Church Two Storey Class 9 – Approved 18 October 1994.
 - (4) **DA-2000/864** - Modify Existing Portion of Church Hall for Radio Broadcasting Studio - Approved 18 October 2000.
 - (5) **DA-2000/1247** - Construction of a new 1.8 metre brick boundary fence - Approved on 28 August 2001;
 - (6) **CC-2000/939** - Relating to DA-2000/1247 - Approved on 19 April 2001;
 - (7) **DA-2000/864** - Modification the existing portion of the Church Hall for purposes of a radio broadcasting studio - Approved ;

- (8) **CC-2000/646** - Relating to DA-2000/864 - Approved on 28 October 2000;
- (9) **DA-2014/295** - Extension of church use to include utilisation of auditorium as a school for Kindergarten to Year 6 - Approved on 23 July 2014.

The school was approved with a maximum capacity of 60 children and operated Monday to Friday from 8:30am to 3:30pm. The use involved the use of 39 car parking spaces, including those at basement level and one (1) accessible space within the front setback to Kembla Street.

The applicant advises Council in their Statement of Environmental Effects that Kingdom Culture Christian School (KCCS) commenced operations in 2015.

- (10) **DA-1992/55/A** - Modification to L&E Court Approval including amendment of Condition 5 reducing the total car parking from 47 to 46 spaces - Approved on 30 October 2014.

The applicant considered that this was to correct an error in relation to the number of spaces to be provided within the site as one car space must be dedicated as a 'shared zone' adjacent to an existing space to provide for people with a disability. The report concluded that the loss of parking was acceptable and Condition 5 was amended to read as follows:

5. A total of forty-six (46) car parking spaces being provided in accordance with plan marked Exhibit 10 and with a notice to be displayed requiring all cars parking in the north western corner of the site to park with their lights away from Kembla Street.:

- (11) **DA-2014/295/A** - Modification of Condition 15 relating to the number of off-street parking spaces - Approved on 30 October 2014;
- (12) **DA-2014/295/B** - Modification to include Years 7 and 8 students - Approved on 7 July 2015.

Proposal

The proposal includes alterations and additions to the approved church and school including demolition of the existing small hall (including existing storage rooms), construction of a new two (2) storey building and extension of the basement level car park to increase capacity of the school from 60 to 200 students from Kindergarten to Year 12. The school will operate between the hours of 8:30am to 3:30pm, Monday to Friday.

The proposal includes retention of the existing Auditorium building and heritage dwelling (known as 'Mimosa' or 'The Farleigh Dwelling' and which is approved as a residence for the Pastor).

The proposal also includes continued operation of the approved church operations on the site, however with a reduction in the maximum capacity of the church use from 400 to 380 patrons and a reduction in the hours of the church use so that the school and church uses will not be carried out concurrently. The applicant has agreed to surrender the existing church and school approvals and to operate under a single consolidated consent as part of this proposal.

Specifically, the proposal includes:

Demolition

Demolition of the following:

- small hall, including associated storage rooms, located immediately east of the existing

- Auditorium building;
- foyer to Auditorium building;
- ramp & driveway; and
- walls and stairs to basement level.

Tree removal and relocation

- Removal of five (5) site trees;
- Relocation of existing palm tree;

Excavation

- Excavation to a depth of up to 1.5 metres to accommodate an extended basement level car park area and additional storage space.

Construction

Construction of the following new building works:

- Entry forecourt to Kembla Street;
- Stairs and access ramp from Kembla Street to new open entry portico (school building cantilevered above);
- New black palisade perimeter fencing to Kembla Street, parts of Hirst Street and Dowling Street. Retention of remainder of the existing boundary fencing;
- Extension to existing basement, including provision of five additional parking spaces, lift, foyer, detention tank and store room;
- Construction of a two (2) storey building with rooftop terrace to Kembla Street including:
 - Ground Floor Level
 - Foyer to Auditorium;
 - Two (2) studios / classrooms (studios 1 & 2) and associated break-out spaces;
 - Lift and stairs between all levels;
 - terrace and stairs to new playground;
 - toilet & store rooms adjacent to foyer;
 - First Floor Level
 - Four (4) studios / classrooms (studios 3 - 6)
 - Balconies / break-out spaces
 - Toilet & store area
 - Roof top outdoor passive outdoor space;
- Outdoor playgrounds at ground level;

Access and Car Parking

- Relocation of existing vehicular access driveway to the south adjacent to No. 20 Kembla Street. The applicant advises that the driveway relocation is to resolve the existing conflict between pedestrians and vehicular traffic resulting from the location and design of the basement access.
- Basement parking for 44 vehicles and new storage areas.
(Note: The site currently accommodates 46 car spaces plus 10 overflow spaces in accordance with DA-1992/55 (as modified), which was approved by the Land and Environment Court).

Landscape Planting

- Associated landscaping and playground design in accordance with the submitted landscape plan;

School Operations

- Increase from 60 children to a maximum of 200 students, including 150 children from Kindergarten to Year 6 and fifty (50) children from Year 7 to Year 12;
- Hours of operation - 8:30am to 3:30pm.

The proposal does not include before or after school care, or any other school related uses outside of the school hours. Activities that are ordinarily incidental or subsidiary to the approved 'place of public worship' use will, however, be available to students outside of approved school times.

The applicant has also requested approval for two parent teacher nights and a maximum of four (4) presentation nights per calendar year.

Existing Place of Public Worship (Church) Use (DA-1992/55) as amended by this application - Key Operational Conditions

The applicant has advised that approved church and proposed school uses will not operate concurrently, and that the maximum number of church patrons is to be reduced from 400 to 380. The approved church use, as amended by this proposal, is therefore proposed to operate as follows:

- (a) Capacity - Maximum 380 persons at any one time;
- (b) Hours of operation:
 - (i) 8:00am - 10:00pm, seven days, with all non-residents having left the site or the vicinity of the site by 10:00pm except visitors to the pastor's residence [Condition 8 of DA-1992/55];
 - (ii) Notwithstanding (i) above:
 - A. The school and church uses will not be carried out concurrently at any time;
 - B. Noise Generating Activities permitted only between 10:00am - 10:00pm, e.g. bands, music and singing [Condition 44 of DA-1992/55];
 - C. No more than two services on Sundays [Condition 43 of DA-1992/55].
- (c) Car Parking
 - (a) 44 parking spaces [a reduction of 2 car spaces from DA-1992/55];
 - (b) 10 overflow parking spaces in addition to those spaces required by [Condition 9 of DA-1992/55];
 - (c) Parking of vehicles to be supervised to minimise impacts from those attending the site [Condition 49 of DA-1992/55].
- (d) Incidental Uses - No use which is not ordinarily incidental or subsidiary to the church use being permitted without prior consent of the Council, other than [Condition 46 of DA-1992/55]:

* Creche (nursery);	* Sunday school;
* Bible training;	* Christian training;
* prayer meetings;	* kids' club;
* fellowship activities;	* library;
* general storage;	* residence for pastor;
* carparking;	* sporting activities;
* social activities;	* office/study/counselling area;
* Church band practice;	* Church concert;
* toilets.	
- (e) No public use / commercial hire of premises - The church, church hall or residence not to be let out for any commercial purpose [Condition 47 of DA-1992/55] or facilities not hired out to the

general public [Condition 43 of DA-1992/55];

- (f) No concurrent uses - The mission building and the existing church building and existing dwelling not being used concurrently [Condition 44 of DA-1992/55];

Refer to the 'History' section above for further details regarding the approved church operations.

Site location and context

The subject site is formally identified as Lot 100 DP 859517, and commonly known as 19 Dowling Street. It has three (3) street frontages including Dowling Street (41.82m), Kembala Street (47.82m) and Hirst Street (69.795m). The site has a total site area of 3,315sqm (by Survey) and is currently occupied by three (3) buildings being 'Mimosa' (heritage dwelling), the church hall and the auditorium (which are connected). The site also contains associated structures, basement level car parking accommodating 38 vehicles and the remaining eight (8) parking spaces and ten (10) overflow parking spaces provided at the north-eastern corner of the site. The topography of the site is generally flat with a 2.75 metre cross fall in an easterly direction towards Kembala Street.

The existing local heritage item (I7) known as 'Mimosa' or 'The Fairleigh Dwelling' abuts Hirst Street and is approved for use as a residence for the Pastor. The Heritage Impact Assessment (HIA) describes the building as follows: *"Mimosa" is a free standing Victorian period dwelling with a single storey Federation addition to the front (western side) and an Inter-war addition to the rear (eastern side)... Further ad-hoc rear additions have taken place since 1943 including a pergola to connect the earlier outbuildings and an addition to convert a portion of the service wing into a single garage".* Commissioner J Stein in his 1992 judgement found the item to be 'a handsome element in the local landscape' and determined it 'necessary that the church respect the residence and not impair its presentation to the surrounding locality'. The commissioner found that 'it's most attractive aspect is undoubtedly the western facade and verandah facing Dowling Street'.

Surrounding development is characterised predominantly of single and two-storey residential dwellings located within the R2 Low Density Residential zone. South of the subject site is the Kinderroo Child Care Centre (2 Dowling Street) and Athelstane Public School (Athelstane Avenue). Approximately 275 metres north east of the site is Arncliffe Park and north is the M5 East Motorway Tunnel. Wollongong Road, a 'Classified Road', is approximately 160 metres south of the site and contains a mix of uses including residential dwellings; shop top housing and various commercial and retail developments.



Figure 1 - Site Plan

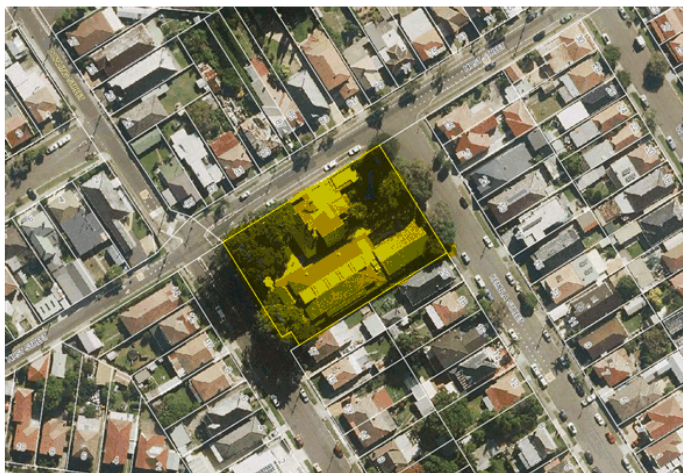


Figure 2 - Aerial photo of the site

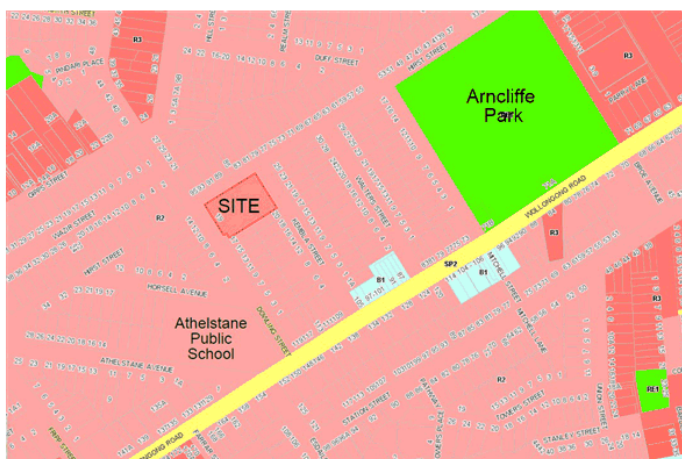


Figure 3 - Site zoning context

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 (Infrastructure) 2007

Division 3 - Educational Establishments

The application was lodged before *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Educational Establishments SEPP) came into force. The new SEPP does not apply to this development in accordance with the savings provisions contained in Clause 1(1) of Schedule 5 of the SEPP. Therefore the relevant controls and guidelines in *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) are applicable for the development and expansion of this education establishment.

Nevertheless, the applicant has considered the seven (7) design quality principles established within Schedule 4 of the SEPP. This has been considered further below and in the '*Public Interest*' section of this report.

The relevant aims of the SEPP (Infrastructure) are as follows:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*

Clause 32(2) of the SEPP (Infrastructure) states the following:

(2) Before determining a development application for development for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this Policy):

- (a) School Facilities Standards - Landscape Standard - Version 22 (March 2002),*
- (b) Schools Facilities Standards - Design Standard (Version 1/09/2006),*
- (c) School Facilities Standards - Specification Standard (Version 01/11/2008).*

(3) If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.

(4) Copies of the standards referred to in subclause (2) are available for inspection by the public at the head office of the Department of Planning and such other offices of the Department (if any) as the Director-General may determine.

Council has received written confirmation from Mr Robert Fraser, Manager of Education Facilities Standards at the Department of Education and Communities (DEC), which confirms that the above mentioned development compliance documents are no longer issued by the DEC, nor is it a requirement they be taken into consideration of a development application for the purposes of a school. The applicant submits in the accompanying SEE the DEC is currently in consultation with the NSW Department of Planning in relation to amending the SEPP (Infrastructure) and 'the above controls have been replaced by the "*Education and Facilities Standards and Guidelines*". Where appropriate, the applicant submits the replacement Guidelines have been considered in the proposed development, although it has little determinative weight.

The applicant has now also provided an assessment against the seven (7) design quality principles established under the new Educational Establishments SEPP. In summary, the applicant considers that:

- the proposal has been designed to respond appropriately to its setting, landscape and heritage.
- measures have been incorporated to reduce water consumption and minimise waste as demonstrated by the submitted Water Management Statement prepared by Whipps Consulting Group and the WMP submitted by FUSE architecture.
- the design is accessible and inclusive of people with differing needs and capabilities as demonstrated by the submitted DA Access Report prepared by Wall to Wall Design + Consulting which concludes that the design is capable of complying with the BCA and relevant policies.
- the design optimises health, safety and security within its boundaries and the surrounding public domain, while ensuring the site remains accessible.
- a high level of amenity will be provided to future students while minimising impacts to the amenity of adjacent development and the local neighbourhood.
- the buildings will be aesthetically pleasing and achieves a built form that has good proportions and a balanced composition of elements.

Consideration has been given to potential impacts to adjoining properties, the streetscape and other impacts elsewhere in the report, which have been found to be acceptable following amendments made. The proposal is considered to provide an acceptable streetscape outcome and be of an acceptable intensity for the site, however at the sites maximum limits of intensity. The proposed development is therefore acceptable with regards to the relevant provisions of Division 3 of the Infrastructure SEPP.

Clause 104 Traffic-generating development

The application is considered under the remit of Clause 104 of the SEPP (Infrastructure) which, at the time of lodgement, required educational establishments with 50 or more students to be referred to the Roads and Maritime Services (RMS) for concurrence. RMS has reviewed the development application and associated documentation and granted concurrence to the proposed development by letter dated 23 September 2015.

Before determining the application, Council is also required to take into consideration the following matters contained in Clause 104(b)(ii) & (iii) of the Infrastructure SEPP:

- (ii) the accessibility of the site concerned, including:*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) any potential traffic safety, road congestion or parking implications of the development.*

Assessment:

The proposal will increase traffic generation to and within the local road network. The site is also located nearby other traffic generating uses, including Athelstane Public School and Kinderroos child care centre. Traffic impacts have therefore been a key issue raised by local residents in their submissions. One submission includes photos of cars currently double parked in the street during peak school drop-off / pick-up times.

An existing 40km/hour school zone currently exists in surrounding streets including Kembla Street, Dowling Street and Hirst Street to improve the safety of children. This was established under the original approval for the school at the site. Other nearby / surrounding streets are all subject to school zone speed limits for Athelstane Public School.

The application was accompanied by a Traffic and Parking Impact Assessment Report prepared by ML Traffic Engineers. Amended reports have been submitted to address issues raised. The final report prepared by GTA Consultants was submitted to Council on 11 October 2018.

As noted above, the application was identified as traffic generating development under the Infrastructure SEPP and referred to Roads and Maritime (RMS) for their concurrence. RMS raised no objection to the proposal.

The proposal has been referred to Council's Traffic Development Advisory Committee. In response, the applicant's Traffic Assessment Report was amended to include comparison with similar schools, and recommended conditions require construction of a pedestrian refuge island in Kembla Street east of Hirst Street. The Traffic Development Advisory Committee recommended exploring bus parking and parking for Provisional drivers. The applicant advises that they have an existing arrangement to utilise Arncliffe Park for sporting activities and will only utilise larger buses for swimming & athletics carnivals and for some excursions. Shuttle bus parking is provided in the basement. Therefore, provision of a bus parking area is not considered warranted in this case. In addition, parking for Provisional drivers was not found to be necessary due to the low number of high school age students.

The applicant has also provided the following assessment regarding traffic impacts from the proposal to be acceptable:

"The proposed use will generate additional traffic to and from the site that is not considered likely to reduce road safety or the free flow of traffic within the surrounding road network. In this regard, the proposal is not considered likely to result in any adverse traffic impacts and the anticipated traffic volumes can easily be accommodated within the surrounding road network."

The proposal will include 39 car parking spaces within the basement parking level and use of 1 disabled space at natural ground level in front of the existing dwelling house on the site (Mimosa). A Traffic and Parking report was submitted with the application which concluded that "the proposed school is a moderate traffic generating development" and will have "adequate parking for the school and the Church staff". The report further concludes that "the additional development trips can be accommodated in the nearby intersection without significantly affecting the performance with any noticeable delays or queues." The application was referred to Council's Development Engineer who raised no objection to the provision of car parking on the site subject to the recommended conditions of development consent to be imposed on the scheme.

It is acknowledged that in considering the application to construct the auditorium, the original Court judgement states "In addition to the site itself, it is agreed that 22 on street spaces are available on the 3 street frontages adjoining to the land without taking up any spaces outside dwellings. It is also conceivable that additional parking will be able to be leased or licensed from the nearby public school, although no formal agreement has been entered at this time." This acknowledgement of the parking provision on the site and surrounds for the auditorium (the subject of the then application) confirms that the use of the building in addition to church purposes is sustainable and not likely to

result in any adverse impacts on the surrounding locality in respect to parking.

Given the above, it is acknowledged that the proposed use is not likely to result in any adverse impacts on the availability of car parking on the site and surrounding lands during the week. Similarly, it will not impact on these properties during the weekend given the school will not operate during this time. As such, the proposal is considered acceptable in respect to traffic and parking".

Detailed consideration has been given to parking impacts separately below in response to Clause 4.4.6 of RDCP 2011, which demonstrates that parking impacts will occur but are found to be acceptable subject to compliance with the recommended conditions, including the submitted management plans which are required to be reviewed following commencement of site operations.

Council's Engineers, Local Traffic Development Advisory Committee and the RMS have considered the proposal and provided relevant requirements and recommended conditions of consent. The proposal has been amended, where necessary, and the school will utilise a mini bus to reduce car dependency. Potential traffic impacts, road safety, road congestion and parking implications of the development are therefore found to be acceptable.

Subject to imposition of recommended conditions, the proposed development is acceptable with regards to Clause 104 of the SEPP (Infrastructure).

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 site contains trees that are subject to approval by Council under clause 4.1.7 of Rockdale Development Control Plan 2011, conferred by:

- (a) development consent, or
- (b) a permit granted by Council.

Consideration has been given to the impacts of the proposed development in relation to the preservation of trees and vegetation on the subject site. Accordingly, the development was referred to Council's Tree Management Officer for review and comment. In particular, the existing Canary Island Date Palm is identified as being of significance and is approved to be transplanted on site. Approval has also been granted for the removal of five (5) trees identified in the 'Existing Tree Plan' as being for removal. Many significant trees on site will be retained and those proposed to be removed were found to be in fair to poor condition only, are inappropriately located near more significant trees or located within the area of the proposed works. The trees proposed to be removed are identified as trees 4, 7, 8, 23 and 25 in the Existing Tree Plan.

The remaining 20 site and street trees are proposed to be retained including the prominent 18m tall Norfolk Island Pine located to the north-eastern corner of the site and the trees to the north-western corner and the western (Dowling Street) frontage.

It is noted that since lodgement of this application, some trees within the site have already been pruned in accordance with a Permit issued by Council.

Council's Heritage Officer has also confirmed that the trees to be removed do not appear to have any heritage impact, and would not need to be included in the heritage report.

Council's Tree Management Officer has recommended appropriate conditions that have been imposed

in the draft Notice of Determination, regarding the protection and retention of existing trees and the removal of site trees subject to suitable replacement trees being planted in appropriate locations. Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP2011

State Environmental Planning Policy No 55—Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application. The applicant has provided the following consideration of SEPP 55 in their SEE:

"Given the development is located within an existing residential area which is historically detailed within the submitted Heritage Impact Assessment it is considered unlikely that the subject site is likely to have contamination".

The likelihood of encountering contaminated soils on the subject site is considered to be extremely low, given the following, and therefore the site is considered to be suitable for the ongoing use as a school and place of public worship:

1. The site appears to have been continuously used for residential and place of public worship purposes;
2. The adjoining and adjacent properties are currently zoned and 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.

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 - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - 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
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater		
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 proposed development is defined as an *educational establishment*, which is a permissible form of development, with Council consent. The objectives of the 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 first objective relates to the provision of additional housing and is not relevant for this proposal. The proposed development, as amended, is consistent with the remaining two objectives of the zone as the expanded educational establishment provides additional facilities to respond to the needs of residents, in a manner which, subject to recommended conditions, minimises potential impacts on the character and amenity of the immediate and surrounding area. Detailed consideration has been given to character and potential impacts of the development throughout the report, including cumulative impacts associated with the intensification of the use of this site in the R2 Low Density Residential zone.

2.7 Demolition requires consent

The application is accompanied by the following Demolition Plans:

- Demolition - Basement, Drawing No. DA111, Revision B and dated 14.08.2015;
- Demolition - Ground Floor, Drawing No. DA112, Revision B and dated 14.08.2015;
- Demolition - First Floor, Drawing No. DA113, Revision B and dated 14.08.2015; and
- Demolition - Roof, Drawing No. DA114, Revision B and dated 14.08.2015.

The above mentioned Demolition Plans identify existing structures which are nominated for demolition in accordance with the provisions of this Clause. The proposed development is acceptable in this regard.

4.3 Height of buildings

Clause 4.3 permits a maximum building height of 8.5 metres as measured from NGL (existing). The objectives of the Clause are as follows:

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

The proposed development seeks consent for a maximum building height of 9.87m (+1.37m) to the top of the parapet at the southern (lower) side of the site and a maximum height of 11.9m (+3.4m) to the top of the lift & overrun providing access to the roof terrace. The proposal therefore fails to satisfy the numerical provisions of this Clause. The applicant has submitted a written request to justify contravening the development standard in accordance with Clause 4.6 of the RLEP 2011, the merits of which are discussed below in consideration of clause 4.6 of RLEP 2011.

4.4 Floor space ratio - Residential zones

A maximum FSR of 0.5:1 applies to the subject site. This equates to a maximum gross floor area (GFA) of 1,657.5m² based on the site area of 3,315m². The proposal has a GFA of 1,690m² and a corresponding FSR of 0.5098:1, which exceeds the maximum FSR by 32.5m² (1.9%). The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed variation to

Clause 4.4 of RLEP 2011 which has been addressed in the consideration of Clause 4.6 in this report. The proposal subject to conditions is deemed to be consistent with the objectives of clause 4.4 FSR.

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. The written request must deal adequately with the requirements of Clause 4.6, particularly with regards to Clause 4.6(3) which reads as follows:

(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 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 of the following matters in Clause 4.6(4):

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request 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, and*
- (b) *the concurrence of the Secretary has been obtained.*

In accordance with clause 4.6(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 in accordance with clause 4.6(5)(b) the public benefit of maintaining the development standard.

The assessment of Clause 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118***. While the applicant's requests to vary the 'height' and 'FSR' development standards were prepared prior to this case, they have been found to address the relevant matters established in the case.

The height and FSR variations are discussed separately below:

1. Proposed variation to 'height'

The proposal exceeds the maximum 8.5m building height permitted under Clause 4.3 of RLEP 2011 as follows:

- Top of the parapet at south-eastern side = 9.87m (+ 1.37m)
- The height of the lift overrun = 11.9m (+3.4m).

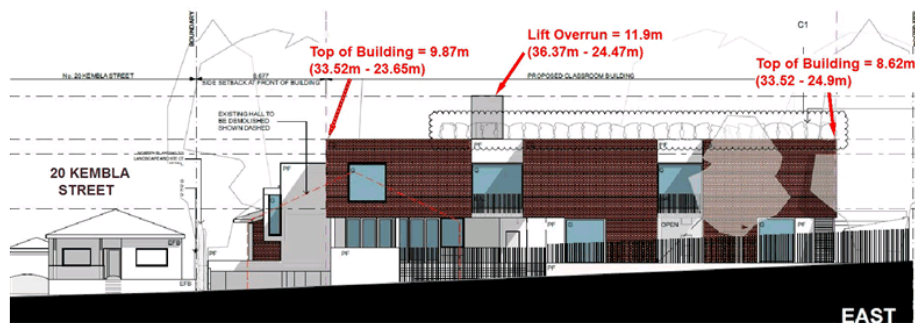


Figure 4 - Eastern elevation showing height of proposed building

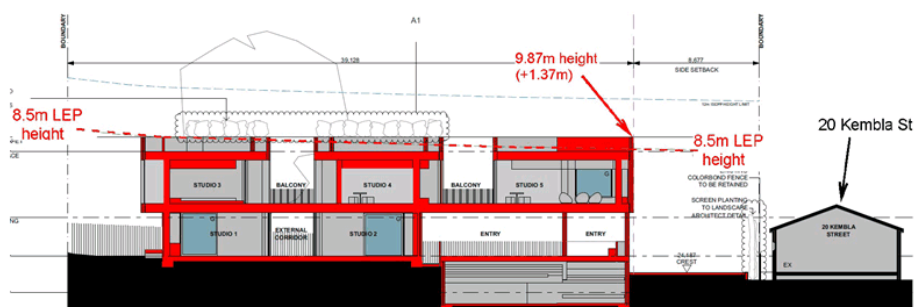


Figure 5 - Section showing height of building & maximum 8.5m LEP Height

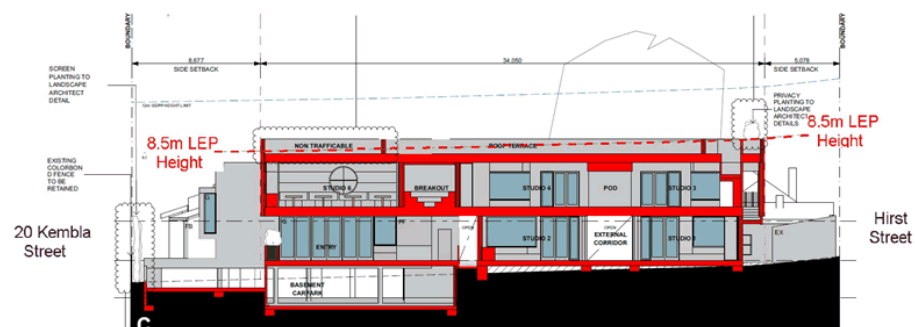


Figure 6 - Section showing height of building & maximum 8.5m LEP Height

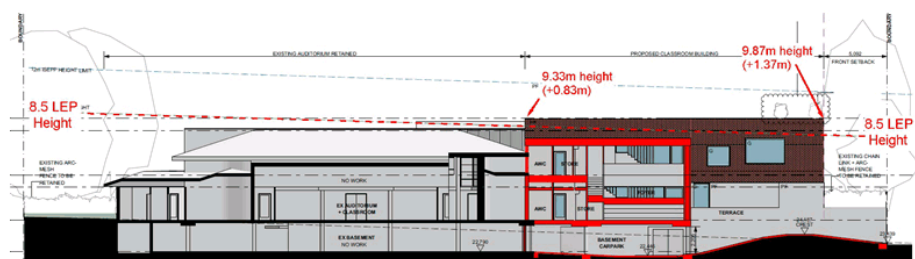


Figure 7 - Section showing height of building & maximum 8.5m LEP Height

- Objectives of 'Height' Clause 4.3

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

- Applicant's Submission

The applicant has submitted a detailed justification to the proposed variation of the height development standard in accordance with Clause 4.6 of RLEP 2011.

The submission was prepared prior to the recent *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* case, however has been found to address all matters identified in the Chief Judge's decision.

A summary of the key rationale provided by the applicant includes:

- The proposal is consistent with the objects of the Height development standard for the following key reasons:
 - The components of the building which breach the building height limit do not contribute to the floor space ratio of the development. This is because the offending elements of the building which breach the buildings height limit are confined to the lift overrun and the planter boxes/balustrades for the roof terrace area.
 - The proposal will result in a built form outcome that is sympathetic to the local area, including the flat roof which is consistent with other non-residential development in the locality. In addition planting in the roof top planter boxes will contribute positively to the buildings aesthetic presentation.
 - The proposal will obtain good solar access and have minimal impacts on solar access to adjoining properties.
 - The proposed building height maintains a two storey built form across the site. The proposed building is positioned over 8m from the adjoining residential boundary, and as such is considered to represent sufficient separation to allow an orderly transition of the built form from the north to the south. The former 'special uses' zone was not subject to a numerical control and the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 permits buildings up to 12m high being undertaken as complying development.
- The proposal is consistent with the objectives of the R2 Low Density Residential Zone (refer to previous discussion in response to the R2 zone)
- Strict compliance with the numerical height standard is unreasonable and unnecessary in this case for the following key reasons:
 - It has been demonstrated that the variation to the building height development standard does not result in any additional impacts on the amenity afforded to neighbouring properties, and does not contribute negatively to the cohesiveness of the streetscape. While it is acknowledged that even a development complying with this development standard may otherwise result in the same impacts, it is important nonetheless to establish the level of impact resulting from the variation is not significantly greater, and no more than what a potentially complying building height would achieve if it were positioned closer to the southern boundary. This clause 4.6 written request has demonstrated this with regard to traffic and parking, solar

- access/overshadowing, visual and acoustic privacy, noise impacts and outlook.
- By allowing the construction of a new building on the subject site, the school is able to meet the demand for new placements without having to augment the existing heritage buildings. This means that the heritage buildings are able to be preserved without being subjected to more intense school uses that may otherwise impede on the fabric of these heritage buildings.
- If it were not for a heritage item being located on the site, the complying development provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 would prescribe that a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably greater shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.'
- Consideration of the principles established in the ***Wehbe v Pittwater Council [2007] NSWLEC 827*** case demonstrate that strict compliance with the control is unreasonable and unnecessary in this case, particularly as the proposal complies with the objectives of the height standard. In addition, the zone of the land is unreasonable or inappropriate for the land. The site was previously zoned 'special uses' and has been amended to an R2 Low Density Residential Zone.
- That there are sufficient environmental planning grounds to support the variation, particularly the absence of undue impacts, the use is of an appropriate intensity for the site and retention of the existing heritage dwelling.
- The proposal will result in a public benefit through the ability to meet demand for school placements and in that the proposal satisfies the objectives of the zone.

- Consideration of Height Variation

The applicant's written submission adequately deals with the requirements of clause 4.6 in accordance with the principles established by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. Particularly, the applicant's submission:

- demonstrates why compliance with the development standard is unreasonable or unnecessary, including use of the *Wehbe* test; and
- includes sufficient environmental planning grounds to justify contravening the development standard.

Consideration may therefore be given to merits of the request.

The proposed variation to the height standard is supported in this case in context of clause 4.6 for the following reasons:

- The proposed height variation is restricted to the lift, which is located centrally within the site, and to a minor portion of the top parapet for part of the building which is setback from the main building alignment by 5m and setback 8m from the adjoining neighbour at 20 Kembla Street;

- The additional height proposed is minor in the context of the development and is not considered to result in a detrimental environmental planning outcome as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site or to neighbouring properties.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011, in that the development retains appropriate sky exposure and solar access on site and to neighbouring properties.
- The proposal is consistent with the relevant objectives of the R2 Low Density Residential zone, providing school services to meet the needs of the residents while minimising impacts to adjoining residents.
- Compliance with the standard is unreasonable and unnecessary in the circumstances of this case for the reasons provided above, particularly in that the proposal will satisfy the objectives height development standard notwithstanding the variation. This meets the first of the Wehbe tests.
- There are sufficient environmental planning grounds to support the variation. The proposed building(s) must match the existing basement and ground floor levels on the site and the parapet forms an integral part of the building design and lowering this would impact on the streetscape appearance with no real benefit. In addition, the proposed lift provides equitable access to the roof top level to permit this area to be used by all school students. Consideration has been given to the elements of the development that contravenes the development standard, not the development as a whole, in accordance with the principles established in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* to determine whether there are sufficient environmental planning grounds to vary the control.
- The proposal will be in the public interest because it is consistent with the objectives of the height standard and the objectives of the R2 Low Density Residential zone in which the site is located. Consistency with the standard and the zone objectives has been dealt with previously (refer above to assessment of the R2 zone and clause 4.4 of RLEP 2011).
- The proposal exceeds the maximum 10% variation to the height standard and Council may not assume the Secretary's concurrence in accordance with Planning Circular PS 18-003 dated 21 February 2018. However, this restriction does not apply to the Bayside Planning Panel, an independent hearing and assessment panel, who are not required to obtain the concurrence of the Secretary.
- The proposal will provide a public benefit in that it will provide additional places for students.
- *Conclusion - height variation*

It is considered that, in this instance, the applicant's clause 4.6 variation to the 'height' development standard is well founded and adequately deals with the requirements of clause 4.6 in accordance with the principles established by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. The proposal variation is would be in the public interest because it is consistent with the objectives of the height standard and the objectives for development within the R2 zone. The variation to the maximum 8.5m height standard is therefore found to be acceptable in this case.

2. Proposed variation to 'FSR'

The proposal has an FSR of 0.5098:1 which exceeds the maximum 0.5:1 FSR permitted under Clause 4.4 of RLEP 2011 by 32.5m² (1.9%). The proposed GFA is 1,690m², while the maximum GFA permitted is 1657.5m² for this site with an area of 3,315m².

- *Objectives of 'FSR' Clause 4.4*
 - (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,*
- Applicant's Submission

The applicant has submitted a detailed justification to the proposed variation of the FSR development standard in accordance with Clause 4.6 of RLEP 2011. The submission was prepared prior to the recent *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* case, however has been found to address all matters identified in the Chief Judge's decision.

A summary of the key rationale provided by the applicant includes:

- The proposal is consistent with the objects of the Floor Space Ratio development standard for the following key reasons (Assessing officer's note: the reasons below are summarised):
 - All existing services required to operate the new school buildings are available;
 - Public transport services are available in vicinity to the site;
 - The updated *Traffic and Parking Impact Assessment Review* prepared by GTA Consultants demonstrates that proposal is capable of satisfying the objective of the development standard, particularly in that car parking and traffic for the proposed expansion can be effectively managed on-site and accommodated in the road network immediately surrounding the site if required without any adverse impacts, that there is sufficient on-site parking available, that the amended car park layout has been amended to improve the safety and operation of the basement car park, and that overflow parking required for the church can be provided within the basement.
 - *"A considerable amount of floor space accross the site is attributable to the underutilised area of the heritage listed villa (341.7m2 or 20.6% of the allowable GFA). In this regard when offsetting the 32.59m2 or 1.95% variation to the control agains the 341.7m2 or 20.6% of the underutilised area of the site, it is evident the proposed variation does not contribute to the intensity of the school or church land use on the site".*
 - Adverse impacts on adjoining properties have been minimised.
 - The proposed development is of an appropriate scale and appearance so as to be compatible with the surrounding streetscape based on the planning principles contained wihtin *Project Venture Development v Pittwater Council [2005] NSWLEC 191 "whereby compatibility was summarised as meaning 'capable of existing together in harmony'.*
 - The variation helps support retention of the heritage buildings on the site.
- The proposal is consistent with the objectives of the R2 Low Density Residential Zone (refer to previous discussion in response to the R2 zone).

- Strict compliance with the numerical height standard is unreasonable and unnecessary in this case for the following key reasons:
 - the level of impact resulting from the variation is no greater than a development that is compliant with the maximum FSR;
 - the construction of new buildings on the site allows the school to meet demand for new placements without having to augment the existing heritage buildings;
 - SEPP Infrastructure 2007 would permit a building with a maximum height of 22m to be constructed on the site as Complying Development if it were not for a the heritage item being located on the site;
- Consideration of the principles established in the *Wehbe v Pittwater Council* [2007] NSWLEC 827 case demonstrate that strict compliance with the control is unreasonable and unnecessary in this case, particularly as the proposal complies with the objectives of the FSR standard. In addition, the zone of the land is unreasonable or inappropriate for the land. The site was previously zoned 'special uses' and has been amended to an R2 Low Density Residential Zone.
- That there are sufficient environmental planning grounds to support the variation, particularly the absence of undue adverse impacts, the church would not operate concurrently with the school, the church operations have been reduced from 400 to 380 patrons, and the use is of an appropriate intensity for the site and retention of the existing heritage dwelling.
- The proposal will result in a public benefit through the ability to meet demand for school placements and in that the proposal satisfies the objectives of the zone.
- The proposal will result in a public benefit through provision of additional school placements.
- Consideration of FSR Variation

The applicant's written submission adequately deals with the requirements of clause 4.6 in accordance with the principles established by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. Particularly, the applicant's submission:

- (i) demonstrates why compliance with the development standard is unreasonable or unnecessary, including use of the *Wehbe* test; and
- (ii) includes sufficient environmental planning grounds to justify contravening the development standard.

Consideration may therefore be given to merits of the request.

The proposed variation to the FSR standard is supported in this case in context of clause 4.6 for the following reasons:

- The additional 1.9% FSR proposed is minor in the context of the development and is not considered to result in a detrimental environmental planning outcome as it does not give rise to any additional adverse solar access, view loss or visual or acoustic privacy impacts on site or to neighbouring properties.
- The proposal is consistent with the objectives of Clause 4.4 – Floor Space Ratio of Rockdale LEP 2011 as discussed previously in response to Clause 4.4.
- The proposal is consistent with the relevant objectives of the R2 Low Density Residential zone, providing school services to meet the needs of the residents while minimising impacts to adjoining residents.

- Compliance with the standard is unreasonable and unnecessary in the circumstances of this case for the reasons provided above, particularly in that the proposal will satisfy the objectives of the FSR development standard notwithstanding the variation. This meets the first of the Wehbe tests.
 - There are sufficient environmental planning grounds to support the variation. The proposal permits the reuse of existing buildings, and does not use the heritage building to its capacity. Consideration has been given to the element of the development that contravenes the development standard, not on the development as a whole, in accordance with the principles established in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* to determine whether there are sufficient environmental planning grounds to vary the control.
 - The proposal will be in the public interest because it is consistent with the objectives of the FSR standard and the objectives of the R2 Low Density Residential zone in which the site is located. Consistency with the standard and the zone objectives has been dealt with previously (refer above to assessment of the R2 zone and clause 4.4 of RLEP 2011).
 - The proposed variation to FSR does not exceed the maximum 10% and Council could assume the Secretary's concurrence in accordance with Planning Circular PS 18-003 dated 21 February 2018. However, the proposal is required to be determined by the Bayside Planning Panel, and they are not required to obtain the concurrence of the Secretary for any variations to development standards.
 - The proposal will provide a public benefit in that it will provide additional places for students.
- *Conclusion - FSR variation*

It is considered that, in this instance, the applicant's clause 4.6 variation to the 'FSR' development standard is well founded and adequately deals with the requirements of clause 4.6 in accordance with the principles established by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. The proposal variation would be in the public interest because it is consistent with the objectives of the height standard and the objectives for development within the R2 zone. The 1.9% variation to the maximum 0.5:1 FSR standard is therefore found to be acceptable in this case.

5.10 Heritage conservation

The subject site contains a locally listed heritage item, known as 'Mimosa' - Item I7, as contained within Schedule 5 of the Rockdale Local Environmental Plan and is therefore considered under the remit of Clause 5.10 - Heritage conservation. Accordingly, the application is accompanied by a Heritage Impact Statement dated July 2015 and prepared by Weir Phillips Heritage which has been prepared to assess the potential impacts of the proposed development in relation to the heritage value of 'Mimosa'.

A further Heritage Letter Report prepared by Weir Phillips Heritage (dated 25 May 2018) and a Letter report from Fiona Robbe Landscape Architect addresses compliance with Condition 9 and Condition 10 of the LEC Approval (DA-1992/55). Condition 9 required that site landscaping plans ensure the open view of "Mimosa" from the Dowling and Hirst Street frontage between the dwelling and Dowling Street, while Condition 10 requires the ground level between the existing residence on the land and Dowling Street to be at a level which maintains the existing steps from the verandah of Mimosa to this area and preserves the existing ground levels so far as reasonably practicable. In addition, landscaping of this area should be provided and maintained, so far as practicable, to provide public viewing of Mimosa from surrounding streets.

The application, associated Heritage Impact Statement and additional Letter Report were referred to Council's Heritage Advisor for comment and review. Council's Heritage Adviser concludes that the value of the heritage item is significant and that the proposed development, including proposed landscaping, is acceptable on the basis of the below:

- There is sufficient building separation between the heritage item and proposed development;
- The proposed development does not seek to alter the existing heritage item and its significant fabric shall be retained;
- The proposed development does not impact upon views to Dowling Street; and
- The contemporary detailing is clearly distinguishable from the architectural detailing of the heritage item.
- The proposed landscape plan and playground is not supported due to the adverse heritage impact upon the significance of the heritage item, Mimosa. The plan should be redesigned to be more sympathetic with the Victorian character of Mimosa.
- Details of the fence should be provided – including elevations showing materials and dimensions.

It is noted that the landscape plans have been amended to delete play equipment that may impact on the significant views of the heritage item and impact compliance with Conditions 9 and 10 of the previous LEC approval. In addition, fencing details have been provided and existing fencing will be retained in this part of the site and repaired where necessary.

The proposed development is therefore acceptable with regards to 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

Earthworks including excavation are required on site for extension of the basement and footings for the new buildings. 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.

6.6 Flood Planning Land

The site and surrounding street is affected by flooding and the proposal has therefore been designed to ensure that the driveway crest level, building floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter and subsequent assessment. The plans have been assessed by Council's Development Engineer and Flooding Engineers, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

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 relevant draft EPI's in relation 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	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes - see discussion
4.4.2 Solar Access - General Controls	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.6 Noise Impact - Non-residential	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Provisions - Alterations and additions	Yes	Yes
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion

4.1.1 Views and Vista

The siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

4.1.4 Soil Management

The application is accompanied by a Soil and Water Management Plan, Drawing No. DA623, Revision

A and dated 14 August 2015. The Plan provides general erosion and sediment control strategies to ensure that the potential for impact on adjoining land and surrounding waterways is minimised. Subject to conditions, the proposed development is acceptable with regards to the provisions of this Clause.

4.2 Streetscape and Site Context - General

The proposal includes new non-residential buildings with a flat roof design. Control 4 of Part 4.2 of RDCP 2011, requires that roof forms and architectural styles have regard to surrounding development. This clause reads as follows:

"The building design and use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape".

The architect has addressed this non-compliance in their written letter dated 1 June 2018, and the consultant town planner has provided the following justification in their submission dated 6 June 2018:

"A detailed response has been provided by the project architect in response to the flat roof design of the proposed development. This is contained in their written letter dated 1 June 2018. Their submission includes numerous examples of flat roofed buildings within the local area, notably all within the R2 Low Density Residential Zone.

Notably, there is a general distinction between residential land uses and non-residential land uses when it comes to roof design. As evidenced in the photographs contained within the architect's submission, the neighbourhood shop on Kembla Street, the neighbourhood shop on Dowling Street, and the newly constructed child care centre on Dowling Street all include flat roofs. This helps support the notion that a flat roof design for non-residential buildings is a defining characteristic of the local area.

In this regard, it is contended that the proposed development is consistent with the provisions of Control 4 of Part 4.2 of RDCP2011 in that the proposed school building design, particularly in terms of its roof design, is an architectural style that will be compatible with non-residential buildings in the local areas, and similarly ensure cohesiveness in the streetscape".

Comment:

The proposal is for a non-residential land use located within the R2 Low Density Residential zone. The primary frontage for the additional built form is to Kembla Street, with no real changes apparent when viewed from the Dowling Street frontage and for parts of the Hirst Street frontage of the site.

The proposed development utilises a mix of materials, including face brick, which respect materials used in residential dwellings in the area. The proposed building is setback between 4.2m - 8.8m from the adjoining residential dwelling at 20 Kembla Street and provides a 5m setback to Kembla Street and Hirst Street which provides adequate space to retain the existing 18m Norfolk Island Pine and the 8m Peppercorn tree that will retain the character of the corner position and soften the new development. The front facade to Kembla Street is broken up into three (3) face brick sections which is generally respectful of the width and pattern of residential dwellings in the street.

The proposed roof form is flat and is not in character with the surrounding development. The applicant's submission is generally agreed with in this case, being that the proposal is non-residential and this reflects the nature and design of other non-residential development in the area with flat roof designs. Strict conditions are proposed that would prevent the applicant from erecting any further elements at

roof top level, including shade cloth structures for the proposed roof terrace area.

Front fencing has been given detailed consideration and the applicant's amended plans show that existing fencing is retained for Dowling and Hirst Streets, and that fencing to Kembla Street will be open form black palisade style fencing which is considered acceptable for the proposed use in this context.

Therefore, while the proposal does not include all architectural elements of the adjoining dwelling houses, the building has been designed so that it adequately relates to its surrounding context. The proposal meets the objectives of the controls and is acceptable in this case.

4.2 Streetscape and Site Context - Fencing

New black palisade fencing is proposed to the Kembla Street frontage (2.2m height). Existing fencing will be retained for all other site boundaries as shown in the submitted plans (**Figure 8**).

The proposed open form palisade fencing to Kembla Street will permit passive surveillance to and from the site, not restrict overland flows and is generally acceptable in the context of the site for the proposed use subject to a recommended condition restricting the height to a maximum of 2.0m. This proposed maximum height matches the height of the existing Hirst Street fencing, better respect the low density residential character of the surrounding area and will permit the fence to be stepped with the slope of the land. The fence will generally be less than 2.0m due to the slope of the land.

The retention of existing low scale fencing at the corner of Hirst Street and Dowling Street is important to ensure sight lines are, to some extent through existing boundary planting, retained to the existing heritage dwelling. This has been discussed previously in response to the LEP Heritage provisions.

In summary, fencing is as follows:

- Kembla Street
black (reduced to max. 2m by condition) - New Palisade fencing, 2.2m
- Southern Boundary (adjacent 20 Kembla St & 17 Dowling Street)
(timber paling, colorbond & low brick) - Retain existing fencing
- Hirst Street
mesh, chainlink & brick wall) - Retain existing fencing (arc
- Dowling Street
mesh). - Retain existing fencing (arc

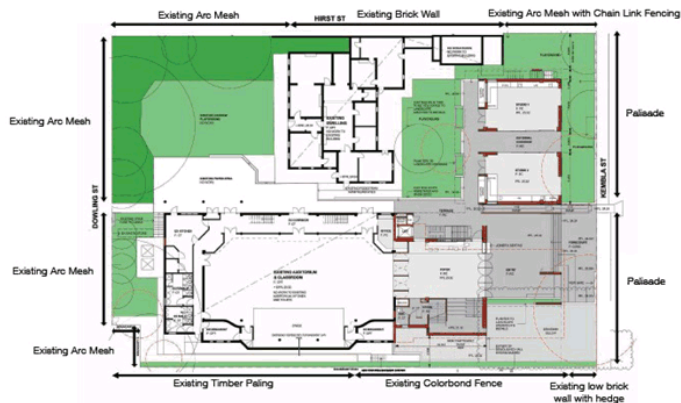


Figure 8 - Proposed boundary fencing

Subject to imposition of the recommended condition, the proposed fencing is satisfactory with regards to RDCP 2011.

4.3.1 Open Space and Landscape Design

The application was accompanied by a Landscape Plan prepared by a qualified Landscape Architect. The proposal retains landscaping to 50% of the sites Kembla Street frontage, and does not affect existing landscape planting along the Dowling Street and Hirst Street frontages. A majority of existing site trees are retained. The landscape plan has been amended to address heritage concerns, include planter boxes at roof top level, and recommended conditions require planting of suitable screen species along the sites southern boundary adjacent to No. 20 Kembla Street. The additional area of basement car park will, with exception of the new driveway access, be located beneath the building footprint. The proposal is considered satisfactory with regards to landscape provision and design.

4.4.2 Solar Access - General Controls

The proposal will result in additional overshadowing to windows located in the northern elevation of the adjoining residence, No. 20 Kembla Street, Arncliffe. The existing dwelling is impacted by overshadowing resulting from existing buildings located on the site.

Part 4.4.2 of RDCP 2011 requires that proposed developments be designed to minimise the extent of shadows that it casts on adjoining properties, and particularly the private open space areas and habitable rooms within dwellings on adjoining sites. Windows to habitable rooms and 50% of the private open space area are required to retain 3 hours solar access at mid-winter. Where existing adjoining properties currently received less sunlight than these standards, sunlight must not be reduced by more than 20%.

The applicant has provided the following justification for the additional impacts:

"The subject development will slightly reduce solar access to the neighbouring dwelling to the south at No. 20 Kembla Street. However, as demonstrated within the set of submitted shadow diagrams any existing living areas to the rear of the dwelling would currently be in shadow for 100% of the time between 9am and 3pm. An analysis of the rear yard has revealed that it currently receives 50% (3hrs) solar access to 50% of the private open space area."

The shadow diagrams illustrate that there will be a minor reduction in solar access to the internal living areas of the dwelling at 20 Kembla Street on 21 June.

In terms of solar access to the rear private open space of 20 Kembla Street an analysis of the existing and proposed shadows has revealed that the existing private open space receives approximately 3 hours sunlight on 21 June to 50% of the rear yard. The proposed new building has been assessed to slightly reduce the solar access to the rear yard by 16.6% to approximately 41.66% or 2.5hrs, this is less than the 20% maximum reduction specified within the RDCP2011.

The existing shadows are being cast by the existing hall on the subject site (to be demolished) which has a height RL31.27 and is approximately 10.5m from the boundary. The proposed shadows are increased because the overall parapet height has been increased by approximately 2.25m to the top of the 1m safety balustrades and approximately 8.72m from the boundary. It is considered that lift overrun which rises to an overall height of 11.9m, is a relatively minor component of the non-compliance and its location (18m from the southern boundary) is not considered to contribute to this increase in overshadowing.

This reduction in solar access is considered justifiable for the following reasons.

- *The proposed building does not significantly reduce the level of existing solar access to habitable areas within the dwelling – refer to Figure 3 below which includes an elevation shadow diagram of the adjoining property at 20 Kembla Street.*
- *The increase in overshadowing to the rear yard is less than the 20% maximum reduction specified within the RDCP2011.*
- *The roofline has been stepped from the boundary to provide greater setbacks to the upper levels from this side boundary,*
- *If it were not for the heritage item located on the site, the development could potentially be undertaken as complying development pursuant to State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably great shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.*
- *At 8.72m the building setbacks provided to the upper levels of the proposed new school building to the southern boundary are greater than 5m which is permitted under the aforementioned SEPP.*

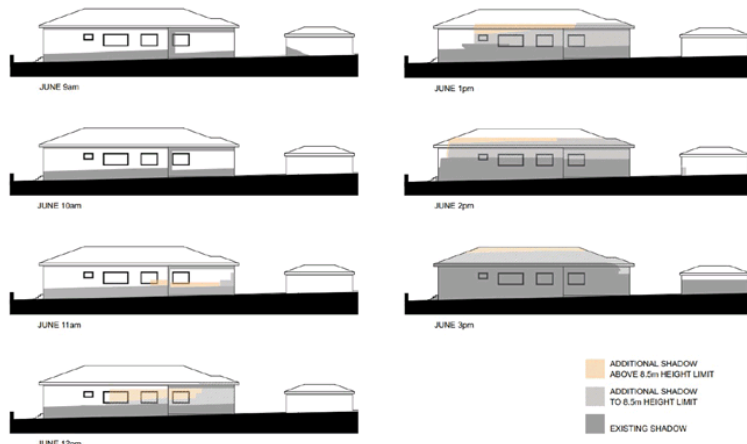


Figure 10 - Overshadowing plans in elevation on No. 20 Kembla Street at mid-winter

Assessment

The neighbouring property at 20 Kembla Street is located immediately to the south of the subject site. The two storey element of the proposed development is setback between 4.2m and 8.7m from the sites southern boundary, however will result in some additional overshadowing impacts to the windows located in the northern elevation and the private open space area of this adjoining residential site as shown in the submitted overshadowing diagrams.

The windows located in the northern elevation of No. 20 Kembla Street that will be impacted include an ensuite bathroom, lounge room, dining room and kitchen.

At 9am at mid-winter, the existing windows located in the northern elevation of the dwelling are in full sun, however the dwelling on No. 20 overshadows approximately 75% of its own rear yard.

The windows in the northern elevation of No. 20 remain in full sunlight until approximately 11am, when overshadowing impacts commence. Therefore, the windows located in the dwellings northern elevation will continue to obtain at least 2 hours sunlight at mid-winter.

At midday, the kitchen, lounge and dining room windows in the northern elevation are overshadowed. These windows are overshadowed by that part of the development that exceeds the maximum height limit. The key element resulting in the non-compliance is the parapet that was originally used as a balustrade for the roof terrace. This area of roof is no longer trafficable and therefore a condition recommends its deletion beyond the front 3 metres. This will reduce overshadowing impacts and will permit the windows to achieve additional sunlight. The proposed development will also impact approximately 50% of the primary area of private open space at this time.

After 1pm at mid-winter all windows located in the northern elevation of No. 20 will be in shadow of the proposed development, and impacts to the rear yard of No. 20 continue to increase.

The proposal will, subject to imposition of the recommended condition to delete part of the parapet, continue to allow the windows in the northern elevation of No. 20 Kembla Street to receive in excess of 2 hours, and it is expected close to 3 hours, direct sunlight at mid-winter and additional impacts to the rear yard are less than 20% as permitted by RDCP 2011. In addition, the overshadowing plans at

equinox demonstrate that the windows and private open space area of the dwelling will not be impacted by the proposal until just before 3pm at March / September. The proposed building provides a large southern side setback of between 4.2m and 8.72m for the two storey element of the building and, as noted by the applicant, the developable area of the site is constrained by the existing heritage item. Furthermore, the kitchen window is located within the rear open plan portion of the dwelling which obtains daylight via windows from three elevations.

Therefore, despite the non-compliance with the 3 hours solar access required to habitable windows and 50% of the rear private open space area, the proposal is considered to satisfy to provide a satisfactory design response that minimises impacts and meets the objectives of the control and are acceptable in this case.

4.4.5 Visual privacy

The application retains the existing church hall and proposes new buildings primarily fronting the Kembla Street frontage. The primary neighbour that may be impacted by overlooking is No. 20 Kembla Street, located immediately south of the site. Impacts to this property have been minimised by proposed side setbacks of between 4.2m and 8.8m from this southern side, combined with deletion of the trafficable roof over the basement entrance and reduction of the trafficable portion of the roof top terrace away from this southern side. A proposed condition requires provision of a privacy screen along the southern side of the planter box adjacent to the new 'Entry' area which leads into the new Foyer and existing auditorium to minimise overlooking toward the southern neighbour. The southern elevation contains one toilet window at ground floor level and a toilet window and two (2) classroom windows at first floor level. These windows are located behind proposed benches and privacy impacts to the adjoining residence at 20 Kembla Street is considered minimal due to the height and setback of the windows. The applicant's Noise Management Plan also commits to keeping the windows in the southern elevation closed during noisy operations. Subject to imposition of recommended conditions the proposal is considered to be acceptable in terms of visual privacy.

4.4.6 Noise Impact - Non-residential

The proposal includes the expansion of the existing school from 60 to 200 children. External play areas are provided at three (3) ground floor locations and at roof top level, and the driveway access is relocated to the sites southern boundary adjacent to No. 20 Kembla Street. Balconies to classrooms face toward Kembla Street and Hirst Street. Significant concerns have been raised by surrounding residents with regards to potential adverse noise impacts.

Control 3, Part 4.4.6 of RDCP 2011 requires that non-residential development "*not adversely affect the amenity of adjacent residential development as a result of noise, hours of operation and/or service deliveries*".

The applicant has submitted an amended Acoustic Report prepared by AECOM (dated 18 August 2016), a Noise Management Plan prepared by AECOM (dated 25 January 2018), a letter report regarding noise from vehicles accessing the site prepared by AECOM (dated 24 May 2018), and a Plan of Management prepared by CPS (dated August 2018).

The acoustic reports have considered the potential impacts of noise on the locality, including noise from the use of the external play areas (including use of the roof top area), noise impacts from the driveway adjacent to the residential cottage at No. 20 Kembla Road, and noise from mechanical plant and equipment.

The applicant has provided the following additional response with regards to noise impacts from the facility:

“Submitted with the DA was an acoustic report prepared by AECOM dated 9 September 2015. This report included an assessment of the existing noise environment by undertaking continuous measurements over the course of a week in March 2015 at two sample locations at the site.

In order for the proposal to be satisfactory when having regard to the established environmental noise criteria, a suite of recommendations have been included within the acoustic report covering all aspects of environmental noise emission. These include recommendations on noise emissions from plant, car-parking, road traffic, internal activities, and external activities (including the roof-top terrace).

The acoustic report also outlines noise control recommendations be incorporated into management procedures at the school, along with advice on complaint management.

Supplementary to the acoustic report, the applicant has prepared and submitted a detailed Noise Management Plan dated 28 January 2018. The noise management plan outlines in more detail the management strategies that will be implemented to mitigate noise emission to the surrounding environment, and proposes management practices/administrative measures to assist in reducing operational noise impact upon surrounding properties. The conclusions of the acoustic assessment outline that with the recommendations implemented, then it is unlikely that nearby residents will be adversely affected by noise from the proposal.

Having regard to the above, it is therefore considered the acoustic impact of the development on the existing residential amenity is acceptable.

As part of Council’s correspondence dated 3 April 2018, it was requested that the acoustic consultant consider the potential noise impacts resulting from vehicles entering and leaving the site and provide a statement/comments that the proposed new driveway and vehicle noises entering and exiting of the premises will not impact on the surrounding neighbours.

Submitted as part of the additional information response is an updated acoustic report prepared by AECOM. The findings of this report are that the proposed development is capable of achieving consistency with the assessment criteria, therefore appropriating the proposed development in the context of the local area from a noise perspective”.

Council's Environmental Health Team have assessed the submitted reports and found that the impacts from the proposal would be acceptable subject to imposition of relevant conditions of consent, including compliance with the Noise Management Plan.

The reports commit to the roof top area being used for ‘passive play’ only, and that this area would be supervised at a minimum of 1 staff member to 30 children. The reports find that the acoustic impacts from outdoor play areas would be reduced if the roof terrace is utilised as a result of lower student numbers in the ground floor play areas and noise mitigation provided by the balustrade of the terrace and the geometry of the building. An additional condition recommends restricting use of the roof top area to a maximum of 50 school children. Furthermore, a condition restricts use of the roof top area for the school to between 8:30am and 3:30pm and to between 10am and 6pm for church operations (with maximum 50 persons).

The key recommendations contained in the Acoustic Report and Noise Management Plan (NMP) are

as follows:

- Hours of the carpark gate / shutter will be minimised to secured hours only;
- Metal drainage grates must be mounted on resilient pads to reduce impact noise as vehicles pass over them.
- No amplified/ stereo/ music/ speakers/ assembly speeches are permitted in outdoor play areas.
- Outdoor play areas to be used for a maximum of 2 hours per school day.
- Outdoor play areas to be supervised by staff at all times.
- Roof terrace to be used for passive recreation only.
- The maximum number of students in the outdoor play areas will be 50 (north-east), 50 (central courtyard) and 100 (north-west);
- Louder activities must be directed to the central play area where feasible and reasonable;
- Parents and guardians will be informed of the importance of noise minimisation when entering the site, dropping off or picking up students;

The NMP commits to noise monitoring within the first six (6) months to assess compliance with the established noise emission criteria, and includes a complaints handling procedure.

The relevant noise conditions from original church approval (DA-1993/55, approved by the Land and Environment Court) have also been included in the consent, including the following:

All activity being conducted on the site to ensure that noise levels emitted from the site are no greater than 5dB(A) above background noise level measured at the boundary of the nearest residential property.

Noise from waste collection will be minimised, with waste collected from the Dowling Street frontage in accordance with the current operations. Deliveries will be by van only and will take place at basement level.

An additional recommended condition requires that the Noise Management Plan, and the overall Plan of Management for the site, be reviewed within the first six (6) months of operation, updated where required and submitted to Council for approval. The review is to consider any complaints received.

Based on the above it is found that the proposed noise impacts from the site will be minimised in accordance with RDCP 2011 objectives and requirements.

4.5.2 Social Equity - Equitable Access

The proposal was accompanied by an Access Report prepared by Wall to Wall Design and Consulting. The proposal includes an accessible parking space at basement level, lift access to all levels and accessible toilet facilities. The report concludes that the proposed design is capable of complying with the relevant performance requirements of the BCA and the DDA (Access to Premises - Buildings) Standards. Relevant conditions are included in the consent, including compliance with the BCA. Therefore, the proposal is satisfactory in this regard.

4.6 Car Park Location and Design

The proposal includes the extension of the existing basement car park, relocation of the basement entry, continued use by the church and intensified use of the site by the school. The proposal also results in the loss of existing at-grade parking at the north-eastern corner of the site, including the ten (10) overflow parking spaces required by the original church approval.

The applicant has submitted an amended Transport and Parking Impact Assessment Review which includes detailed plans and operational procedures for both church and school operations to minimise

parking and traffic impacts in the local streets. The detailed plans included in the report show parking allocation for each use, line marking, signage, installation of kerb and speed humps, and other measures which aim to maximise use of the basement car park and minimise impacts to nearby residents. In addition, the plan has been prepared to maximise safety of children and users of the basement car park.

Proposed parking will be provided as follows:

- Church Operations

The proposed basement, as amended, will provide forty-four (44) parking spaces (including one accessible space) and 10 overflow parking spaces for the church operations. This is a reduction of two (2) off-street parking spaces when compared to the existing church approval and, as a result, the applicant proposes a reduction to the maximum number of church patrons from 400 to 380.

A number of church members will be trained to manage on-site parking, including overflow parking once all parking in the basement is filled, in accordance with the Plan of Management. A recommended condition also requires that the Plan of Management be updated to include a requirement that the applicant supervise the parking of vehicles in accordance with Condition 49 of the original church approval, which reads as follows:

"The applicant to supervise the parking of vehicles on and in the vicinity of the site and to minimize the impact and use of vehicles of those attending the site".

Council's Engineers have assessed the proposal and found it to be acceptable, including the use of the aisles for overflow car parking. The Applicant's swept path analysis has demonstrated that vehicles can all access and leave the site in a forward direction, including those using the aisle for overflow parking.

- School Operations

Parking for the proposed school will be provided as follows:

- eight (8) spaces for school staff;
- seventeen (17) spaces for drop-off / pick-up purposes, including one (1) accessible space; and
- one (1) shuttle drop-off / pick-up space.

During school times, two (2) parking spaces shall operate as dedicated 'turn-around' bays, and parking within the shuttle bus space will not be permitted. The proposed basement will be line-marked, sign-posted, and include kerb and speed humps to clearly identify parking spaces and maximise safety of children and other users of the basement car park. For example, the proposal includes line-marking safe paths for children to utilise to move from the drop-off spaces into the school building, and these paths are protected by bollards that are to be in place prior to commencement of school operations each day. In addition, an appropriately trained traffic controller will be situated at the pedestrian crossing at the basement level during before and after school times to maximise safety of children and permit vehicles to enter and leave the basement car park. An additional condition recommends that an appropriately trained staff member be present at the entry to the basement during peak times to guide parents into the basement car park.

The applicant, in their Plan of Management, has committed to:

- providing parents of students with an email and/or information sheet at the start of each term that details drop-off / pick-up arrangements, shuttle bus arrangements (Page 11);

- a shuttle service between local train stations and the subject site (to be booked in advance by parents).

Basement access gates are proposed to be kept open during all peak times to permit unrestricted access into and out of the basement. The applicant intends to close the basement access gate out of peak times to control access of unrelated persons to the site, particularly during school times. An intercom system is proposed to be installed at the basement entry to permit access for persons outside of peak times, including for deliveries to the site. A proposed condition requires that the Plan of Management be updated to address basement access operations.

Furthermore, the submitted Transport and Parking Impact Assessment Report also includes an additional parking demand survey undertaken on Tuesday 1 May 2018 between 8am and 9am which identified a total of 124 on-street spaces (including 116 spaces that were unrestricted during business hours) within local streets.

Council's Engineers have reviewed the amended report and plans for the basement level and have found the proposed arrangement for the site operations to be acceptable. While it is acknowledged that the proposed increase in student numbers will have an impact on available on-street parking, the proposal has been designed to minimise impacts by accommodating parking and drop-off / pick-up within the site. In addition, there is capacity within the local road network (particularly along the site frontages) to accommodate additional vehicle parking demand which will be short term, and primarily confined to school drop-off and pick-up times.

Therefore, while the proposal will result in some impacts to on-street parking, it is considered that impacts resulting from the school operations will be minimised and acceptable within the confines of the original approval and the requirements and objectives of RDCP 2011 subject to compliance with recommended conditions.

4.7 Air Conditioning and Communication Structures

Relevant conditions are included in the consent to ensure that impacts of any mechanical plant and/or equipment are minimised in accordance with the relevant standards and the applicant's acoustic report.

4.7 Waste Storage and Recycling Facilities

The applicant has submitted a Waste Management Plan with the proposal. Garbage bins are currently stored and collected from the Dowling Street frontage using a private contractor, and the applicant intends to continue with these existing arrangements. The proposal is acceptable in this regard.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

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

Intensification of the use of the site

The site is located within the R2 Low Density Residential zone and currently has approval to operate as

a church with capacity for 400 patrons (7:00am and 10:00pm, seven days), and a school with capacity of 60 children from Kindergarten to Year 8 (8:30am - 3:30pm, Monday to Friday).

The proposed expansion of the school use, including construction of new classrooms and school buildings and an increase in student numbers to 200, results in an intensification of the use of this site in the R2 Low Density Residential zone, particularly during the weekdays while the church operations will continue to be at their maximum intensity during the weekends. Therefore the proposal will result in a development that will have a potential for 200 - 400 persons to be present at the site seven (7) days a week.

The site is also located within 100m of the Athelstane Public School and Kinderroos Childcare Centre, and consideration must be given to these nearby operations when considering the acceptability of the proposed intensified site operations.

This has been a key issue in the assessment of this proposal, and is an issue raised by local residents in their submissions who consider that the proposed intensification of the use of the site will result in an unacceptable level of amenity impacts.

The applicant's additional letter report prepared by CPS Planning (dated 6 June 2018) is the first time that the issue of intensification has been properly considered (see Annexure A of that report). In order to establish whether the proposal is actually an enlargement, expansion or intensification of the use of the site the applicant has provided a detailed analysis of approved uses and undertaken an assessment against the relevant Planning Principles established by the Land and Environment Court in *Randall Pty Ltd v Leichhardt Council* [2004] NSWLEC 277 as revised in *Davies v Penrith City Council* [2013] NSWLEC 1141 at [116] to [121].

The submission provides some clarity to the applicants position on the matter and reasonableness of intensification of the use of the site, and provides a proper framework for the assessing the potential impacts.

The applicant characterises the current intensity of site operations as follows:

- *"The LEC approval permits 400 persons at any one time using the then proposed or existing church hall between 8.00am and 10.00pm Monday to Saturday. These uses can also include church related social activities, sporting activities, band practice, concerts, kids clubs and a library etc.*
- *The consents under DA-1992/55 and DA-2014/255 operate concurrently, meaning that a total of 460 people are permitted on-site at any one time. As such, any intensification of the permitted land uses must be assessed in the context of the current approved arrangements for the site – being an increase in the total number of people from 460 to 600.*
- *It is important not to misconceive the current use of the site for the approved use of the site. It is evident the existing church is operating well within the intensity permitted under the LEC approval, as previously covered by FUSE in Table 1 of their letter to Council dated 1 February 2018".*

The applicant considers that, based on commitments made to reduce church patrons from 400 to 380, to ensure that church and school operations are not carried out concurrently (e.g. the church operations

will not be carried out between 8:30 and 3:30pm on school days), and subject to conditions and proper management in accordance with submitted management plans, that the proposal goes beyond a commensurate reduction in the site's current approved usage intensity by reducing the current number of persons on-site from a maximum of 460 to a maximum of 200 between 8:30am and 3:30pm on school days.

There is some disagreement about the applicant's characterisation of intensification, particularly the cumulative impacts and the ability for the church operation to provide activities for school students after school hours and intensify the church use beyond that anticipated by the Commission in the original approval. For example, if there were no school then it would be unlikely that the church would attract up to 200 people to the site during weekdays and/or to participate in church activities after school hours. Also, a larger school with a increased range and older age of students may permit a more diverse range of activities to be offered by the church before and after school hours - e.g school band, sports, kids club, and other uses that are permitted in accordance with Condition 9 of the existing church approval. These uses could be characterised as church related and could operate up to 10:00pm at night. It would be impossible for Council or the local community to reasonably distinguish between the uses, and it would be open for the church to characterise the use as church related despite it being offered to students that would otherwise not be in attendance at the site.

In addition, consideration is given to the fact that the initial school use for 60 children utilised the existing buildings and was considered a low intensity operation that was provided for within the existing church buildings. The applicant has indicated that the site was not operating at its capacity, and this may be the result of using buildings not designed for the school purpose. The proposal now involves redevelopment of the site to provide state of the art classrooms with break out spaces to permit a proper school operation. It is therefore reasonable to expect that the school will attract the maximum number of students to the site.

Therefore, to minimise potential impacts the applicant has also agreed to the following:

- (i) Limit the number of church patrons / persons attending the site on weekday evenings to a maximum of 100. This is a 280 person reduction from the potential 380 persons. It will be included in the Plan of Management for the site.
- (ii) Consolidate the two existing consents for the church and school operations into a single consent. Therefore, all operational conditions including hours of operation, noise requirements, parking and so on, will be contained within a single consent. This will assist the applicant, community and Council to understand, and ensure compliance with, the approved site operations.

The application has also been accompanied by a Noise Management Plan and a Plan of Management for the operation of both the church and school uses, and recommended conditions require the review of the Plan of Management and Noise Management Plan after six months of operations, and before nine months of operations. A second review will be required once the school reaches 90% capacity. The reviews will include noise monitoring in accordance with the submitted Noise Management Plan, and will require consideration of any complaints received. The reviews will require updates to be made to the Management Plans which must also be submitted to, and approved by, Council and then implemented during ongoing operations.

Based on the above, and consideration of other issues elsewhere in the report (e.g. traffic and parking), it is considered that the site is capable of operating at the proposed capacity. The site is, however, considered to be at its maximum intensity for a site located within the R2 Low Density Residential zone

and which contains an existing heritage item.

Safety and Security

Safer by Design principles of crime prevention through environmental design are incorporated into Rockdale's DCP and this aspect is included in the assessment of this proposal. The proposal includes appropriate open form fencing along boundaries, and basement access will be managed to ensure that on-site parking is while preventing unauthorised access to the site. The proposed development will provide an open relationship with Kembla Street to ensure passive surveillance to and from the site. The proposal is therefore considered acceptable in this regard.

Construction

The development will involve demolition, excavation and construction works in proximity to adjoining residences. Standard conditions are proposed regarding hours of construction, stabilising adjoining properties and other measures to minimise impacts to surrounding residents and the locality.

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 was notified in accordance with the provisions of Rockdale DCP 2011 on 8 September 2015 for a 14 day period and Council and 13 submissions were received from 11 individual / families objecting to the proposal. The amended application was notified on 14 March 2018 and 13 individual submissions were received. The issues raised in the submission are discussed below:

Issue 1: *Parking – adverse impacts on availability of on-street parking for local residents, particularly in regards to:*

- *Reduction in on-site parking due to loss of 16 at above ground spaces (including the 10 overflow spaces required by the Land and Environment Court).*
- *Basement design will not be able to function adequately to accommodate the school use, and will result in student drop-offs and pick-ups being carried out on the street.*
- *Bus zone will reduce parking availability in surrounding streets*
- *Parents will park in driveways, which is currently an issue.*
- *People using the trains, Sydney Airport and other church uses in the area park in the local streets which causes impacts at present.*

Comment: This matter has been addressed in detail in the assessment of Part 4.4.6 of Rockdale Development Control Plan (RDCP) 2011. As discussed, it is considered that the proposal as amended provides adequate, and safe, parking and drop-off space within the basement for school and church operations, subject to compliance with recommended conditions and the submitted Plan of Management (PoM). This includes the ten (10) overflow parking spaces required by the Land and environment Court for the church approval. The school has committed to utilising a minivan to collect children from the local train stations, and on-street bus zones are not proposed. The applicant has

committed to providing a copy of the PoM to parents and educating them on appropriate drop-off and pick-up protocol to minimise impacts to neighbouring properties, including not parking in driveways. Parking in front of driveways is a compliance matter and Council Rangers may need to be contacted in these cases. While some impacts will occur, the proposal is found to be acceptable in this regard. Refer to Part 4.4.6 of RDCP 2011 for further details.

Issue 2: *Traffic impacts – adverse impacts resulting from increased traffic generation, particularly in regards to:*

- *The existing school already causes congestion and traffic problems, including double parking in Kembla Street, and the proposal will worsen the existing problem where police are routinely called to ensure the free flow of traffic. One submission included a photo of a vehicle double parked.*
- *Cumulative impacts from proximity of existing Athelstaine Public School and adjacent child care centre will result in unacceptable traffic impacts in the local streets including entry and exit points from Arncliffe which are already congested and unsafe.*
- *Nowhere for safe bus drop-off, truck delivery & garbage / skip bin removal;*
- *Buses from Athelstane Public School have double parked in Kembla Street with engines running. Where will buses for this school park?*

Comment: These issues have been addressed previously in the assessment of *State Environmental Planning Policy (Infrastructure) 2007*. The proposal will result in additional traffic generation, however the impacts have been found to be acceptable subject to compliance with recommended conditions.

Issue 3: *Noise Impacts resulting from the intensification of the use of the site, particularly in regards to:*

- *Additional use of the outdoor play areas, including play area in the Kembla Street setback;*
- *Use of the roof top level for outdoor play;*
- *Noise from balconies fronting Kembla Street & Hirst Street;*
- *The position and intensity of the use of the vehicle ramp to the basement car park, particularly resulting from the elevated crest level of the driveway*
- *Existing noise impacts from the church operations commencing at 8:00am on Sundays.*

Comment: This matter has been addressed in response to Clause 4.4.6 of RDCP 2011. Noise impacts have been found to be acceptable subject to recommended conditions, including management of the site in accordance with the submitted Noise Management Plan (NMP) and Plan of Management.

Issue 4: *Over-development of the site. The large block of land originally contained only an old weatherboard church hall. Subsequently the Auditorium / church for 400 people was approved with underground parking, and then the school for 60 pupils added.*

Comment: Thorough consideration has been given to the issue of overdevelopment and intensification of the use of the site. It is considered that the proposal will result in a development that is at its maximum intensity. The proposal marginally exceeds Council's policies for Floor Space Ratio (FSR) and height. The applicant has reduced the maximum number of church patrons from 400 to 380, and committed to a maximum of 100 persons being present during the weekday evenings. The amended plans demonstrate that the proposal can provide adequate car parking within the site, and that the development will result in an acceptable built form in the streetscape. The proposal has been considered by Council's Heritage Officer who has found that the development will not result in adverse amenity impacts to the existing heritage item. Further issues have also been considered previously in

the report. The proposal is considered satisfactory subject to recommended conditions.

Issue 5: *Intensification of the use of the site - This will result in unacceptable adverse impacts to neighbouring properties and the locality within the R2 Low Density Residential zone. If the application is approved to "increase to 200 pupils this would increase the capacity of use to 600 people at any given time", and operations would be carried out seven (7) days per week.*

Comment: The residents' position has been given substantial consideration in the assessment as previously discussed in the report (Refer to previous discussion under Section 4.15(c) of the EP&A Act 1979). School and church operations will not be carried out at the same time, and the maximum number of church patrons has been reduced to 380. In addition, the applicant has agreed to a maximum of 100 persons being present at the site in the evenings on school days. On balance it has been found that the potential impacts of the proposed development have been minimised or can be satisfactorily managed to minimise impacts to surrounding residents and the locality. The applicant has submitted an operational Plan of Management and a Noise Management Plan that are required to be reviewed and amended following commencement of operations, and they have agreed to consolidate the existing church and school approvals with the current proposal so that there is a single consent that would manage all site operations. This will provide the applicant, community and Council with a clearer understanding of approved site operations. Based on the above, and the previous considerations in the report, the proposal is considered to be of an acceptable intensity for the site.

Issue 6: *Development creep – use of the site continues to intensify. "What is going to happen when the 150 [primary school age] students get to high school age? Will they then want to increase the size and use of their buildings again?"*

Comment: The applicant has advised Council officers that they do not intend to intensify the use of the site, however Council cannot prevent the applicant from lodging a further application which must be considered on its merit.

Issue 7: *The proposal will result in an unsafe environment for road users, particularly pedestrians (including children and persons in a wheelchair), and children being dropped off in the basement car park.*

Comment: The proposal includes a recommended condition requiring installation of a pedestrian island in Kembla Street east of Hirst Street to improve safety of pedestrians crossing at this intersection (including persons with prams and/or persons in wheel chairs). The local streets are already subject to 40km/h school day speed restrictions that were imposed under the previous application for the school. The proposal has been significantly amended to improve safety in the basement car park as discussed previously in the report, including provision of pedestrian paths that protected from vehicles by bollards. It is unlikely that the pedestrian movements would meet the criteria to allow installation of a pedestrian crossing, however this could be considered in future if required. Safety impacts associated with the development have also been addressed in the body of the report, and it is considered that the proposal would not result in an unsafe environment for motorists, pedestrians and/or persons utilising the basement car park subject to compliance with the recommended conditions.

Issue 8: *Streetscape / Character - The proposed buildings do not fit with the existing character of the street and locality.*

Comment: This matters has been addressed in response to Part 4.2 of RDCP 2011. The proposal is found to be acceptable in this regard.

Issue 9: *Stormwater, flooding and overland flow impacts - One submitter advises that flooding has been a problem in the area for well of 95 years, including flooding of the dwelling and / or private open space areas of 18 Kembla Street and the street on numerous occasions. In addition, the existing drain can't cope with the intact of stormwater and water spurts out of it on occasion, and overland flows travel down Kembla Street from Hirst Street.*

Comment: This issue has been considered in detail during the assessment. The driveway crest level has been raised to prevent flood waters entering the basement, the proposed development includes an on-site stormwater detention system that will retain stormwater and minimise impacts on existing flooding in the area. The system is generally in accordance with Council's guidelines and relevant conditions require that it be constructed and certified prior to issue of any Occupation Certificate. Relevant conditions require submission of a Flood Management Plan. Therefore, Council's Engineers are satisfied that the proposal will not result in any real change to the existing situation, and that the proposal will not be adversely impacted by stormwater from major storm events.

Issue 9: *Adverse impacts to the existing heritage item*

Comment: This matter has been addressed previously in response to Clause 5.10 of RLEP 2011. In summary, Council's Heritage Advisor has found that the proposed development will not have adverse impacts on the setting of the item and that the proposal will permit compliance with the relevant conditions imposed in the Land and Environment Court approval.

Issue 10: *Privacy impacts, particularly from the outdoor terraces and the roof terrace*

Comment: The outdoor terrace at the southern side ground level has been deleted and the trafficable portion of the roof terrace reduced in size and relocated to the northern side of the site. A recommended condition includes screening adjacent to the entrance terrace and

Issue 11: *Overshadowing impacts of No. 20 Kembla Street (adjacent property)*

Comment: This matters has been addressed previously in the assessment of Part 4.5.5 of RDCP 2011. The building has been stepped at the southern side and overshadowing impacts were found to be acceptable in the circumstances of this case.

Issue 12: *Inadequate outdoor play area and classroom space for use by the additional school student numbers. Use of the entry foyer would appear to be inappropriate for use as a classroom, and studies recommend a minimum of 5m² per child as an adequate outdoor play area, requiring a total of 1,000m² of outdoor play area.*

Comment: Policies exist for the minimum provision of outdoor and indoor space for child care centres, but not for schools. Therefore, this is a matter for the applicant and the Department of Education.

Issue 13: *Inadequate space for physical education on site that will place addition demand on other local parks / sporting facilities and/or require buses to transport students to off-site recreation areas. Several submissions object strongly to the increased use of Arncliffe Park for school sporting*

activities.

Comment: Kingdom Culture Christian School currently has a regular Friday booking for the upper part of Arncliffe Park between 1pm and 3pm. Schools are currently not permitted to utilise the oval section of the park due to potential damage to the grass, however the oval will be resurfaced with synthetic turf in the near future and will then be available for use by schools and other users. On this basis, and based on discussions with Council's Community Services team, there is no reason to believe that the school use will result in over-utilisation of the park.

Issue 14: *Inadequate toilet provision for the proposed number of children and staff.*

Comment: The Building Code of Australia (BCA) includes requirements for toilet provision, and is based on the number of male students / employees and female students / employees and also includes deemed to satisfy provisions. Therefore this matter is dealt with at the Construction Certificate stage, however it is possible the number of toilets provided could comply with the BCA requirements.

Issue 15: *Headlights from vehicles exiting the basement will impact the dwelling at 19 Kembla Street across the road.*

Comment: The existing driveway is located opposite No. 21 Kembla Street. The proposed driveway is opposite No. 19 Kembla Street. Impacts from headlights during the night time hours will therefore move from No. 21 to No. 19. The intensification of the school use will have minimal additional impacts in terms of car headlights as operations are primarily between 8:30am and 3:30pm. There are no known measures that can be implemented within the site to minimise impacts, only measures within the street verge and/or property of No. 21 (e.g. landscape planting). Conditions are not able to be imposed to require such off-site works. The proposal will therefore result in impacts from headlights to No. 21 during night time hours, however overall impacts are not expected to increase when compared to the approved development. The proposal is therefore found to be acceptable and this is not adequate reason to refuse the development.

Issue 16: *Visual Impact – the proposed buildings will block sight of the old home from Kembla Street which has always been part of the community.*

Comment: The proposal retains the primary view of the heritage dwelling being from Dowling & Hirst Streets, and Council's Heritage Officer has not objected to the proposed development. The proposal will increase development on the site and block views of the dwelling from Kembla Street, however the proposal is generally in accordance with Council's policy requirements in terms of height and scale, and is found to be acceptable in this regard.

Issue 17: *Additional structures will be erected at roof top level if this area is permitted to be used for outdoor play, including shade structures, mesh to prevent objects being thrown over the edge and other structures that would cause further shadow and be an eyesore.*

Comment: The applicant intends to use the roof top area for passive recreation purposes in accordance with the submitted Plan of Management and Noise Management Plan. A minimum of 1 teacher per 30 students is proposed to monitor the children. A recommended condition restricts the erection of further structures at roof top level, including mesh and shade structures (including temporary structures). Therefore it is considered that no additional structures will be erected at the roof top level to

increase the height / scale of the proposed development.

Issue 18: *Litter – currently residents have to collect rubbish on a daily basis*

Comment: The applicant has prepared an operational Plan of Management (PoM) for the site. A condition has been proposed requiring that the PoM be updated to include collection of litter around the street in front of their site.

Issue 19: *Property values will be adversely impacted*

Comment: The matter of devaluation is not a consideration for Council in the assessment of a development application against the provisions of S79C of the Environmental Planning & Assessment Act, 1979.

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 proposal provides additional places for school students and does not create unacceptable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

S7.12 Fixed development consent levies

Section 94A of the Environmental Planning and Assessment Act 1979 (as amended) applies to the proposal. In this regard, a standard condition of development consent has been imposed in respect to a levy applied under this section.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA001 (Rev B) Site Plan	Fuse Architecture	08/06/18	19/08/15

DA002 (Rev B) Material Board	Fuse Architecture	30/05/18	08/06/18
DA111 (Rev B) Demolition - Basement	Fuse Architecture	14/08/15	19/08/15
DA112 (Rev B) Demolition – Ground Floor	Fuse Architecture	14/08/15	19/08/15
DA113 (Rev B) Demolition – First Floor	Fuse Architecture	14/08/15	19/08/15
DA114 (Rev B) Demolition - Roof	Fuse Architecture	14/08/15	19/08/15
DA-121 (Rev G) New - Basement	Fuse Architecture	21/9/18	11/10/18
DA122 (Rev G) New – Ground Floor	Fuse Architecture	19/07/18	20/07/18
DA223 (Rev B) New – First Floor	Fuse Architecture	01/02/18	08/02/18
DA124 (Rev D) New – Roof	Fuse Architecture	30/05/18	08/06/18
DA203 (Rev C) Section – C	Fuse Architecture	30/05/18	08/06/18
DA204 (Rev D) Section – D	Fuse Architecture	30/05/18	08/06/18
DA205 (Rev D) Section – Driveway Profile	Fuse Architecture	30/05/18	08/06/18
DA206 (Rev A) Section - E	Fuse Architecture	30/05/18	08/06/18
DA301 (Rev D) Elevation – East	Fuse Architecture	21/9/18	11/10/18
DA302 (Rev C) Elevation – North	Fuse Architecture	30/05/18	08/06/18
DA303 (Rev D) Elevation – West	Fuse Architecture	30/05/18	08/06/18
DA304 (Rev C) Elevation – West Internal	Fuse Architecture	30/05/18	08/06/18
DA305 (Rev C) Elevation - South	Fuse Architecture	30/05/18	08/06/18
DA307 (Rev 01) Elevation – North	Fuse Architecture	21/9/18	11/10/18
DA308 (Rev 01) Elevation - South	Fuse Architecture	21/9/18	11/10/18
Landscape & Fencing Plans			
Existing Tree Plan Dwg No. DA-01	Fiona Robbe	July 2015	08/06/18
Planting Schedule Dwg No. DA-04 D	Fiona Robbe	April 2018	08/06/18

Concept Plan 2 – Roof Dwg No. DA-03 D	Fiona Robbe	April 2018	08/06/18
Fencing Plan – Plan No. DA-05	Fiona Robbe	October 2018	11/10/18
Basement Parking – ‘Option A’ Operational Plans (Appendix A of Traffic Management Plan prepared by GTA Consultants, dated 28 November 2018)			
Sheet 1 of 3 (Issue 9) Dwg No. N150370-01-01	GTA Consultants	11 October 2018	28/11/18
Sheet 2 of 3 (Issue 9) Dwg No. N150370-01-02	GTA Consultants	11 October 2018	28/11/18
Sheet 3 of 3 (Issue 9) Dwg No. N150370-01-03	GTA Consultants	11 October 2018	28/11/18
Stormwater Plans – Project No. 2015-0241			
Site Plan & Legend Drawing No. HDA01 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Ground Floor Plan Drawing No. HDA03 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Basement Floor Plan Drawing No. HDA02 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Roof Plan Drawing No. HDA04 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Detail Sheet No. 1 Drawing No. HDA05 / B	AJ Whipps Consulting Group	13 June 2015	19 August 2018
Detail Sheet No. 2 Drawing No. HDA06 / B	AJ Whipps Consulting Group	13 June 2015	19 August 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. All of the works required to be carried out under the conditions of this Consent being maintained at all times in good order and repair and to the satisfaction of Council. *[Condition 3 of DA-1992/55]*
6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes:
 - (i) the provision of a electricity substation (if required);
 - (ii) any changes to fencing and landscaping that would impact on the views and the heritage value of the heritage dwelling 'Mimosa' as determined in Conditions 9 and 10 of the Land and Environment Court approval (DA-1992/55) and as committed to in this application (refer to Heritage Letter Report prepared by Weir Phillips Heritage, dated 25 May 2018). This includes amendments to boundary fencing, installation of play equipment and landscape treatment along the north-western side of the site (Dowling Street & Hirst Street).
7. This application does not approve any signage. All signs being subject to a separate Development Application, unless permitted to be erected as 'exempt' or 'complying' development.

8. Roof Terrace - No further structures permitted

The roof top terrace shall not be enclosed at any time in future without prior development consent. In addition, no structures, other than those shown in the approved plans, may be constructed on the roof top terrace without prior development consent. This includes any shade structures, mesh netting, lighting, umbrellas and/or any other temporary or permanent structure.

Note: Operational restrictions for roof terrace provided in Condition 12.

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.

Development specific conditions

The following conditions are specific to the Development Application proposal.

11. Amendments / Additional Information Required

The following items must be addressed in plans and/or documentation submitted with the Construction Certificate Application, and must be to the satisfaction of the Principal Certifier or Council (as specified):

- (a) Fencing - Plans submitted with the construction certificate must comply with the approved plans listed in Condition 2, and the following:
 - (i) The proposed palisade boundary fence to Kembla Street must be stepped and have a maximum height of 2.0m at any point.
 - (ii) The Fencing Plan submitted by Fiona Robbe (DA-05, dated May 2018) must be consistent with the fencing shown in the architectural plans.
- (b) The driveway area being treated with a variation of paving to give a visual break to these areas with details of materials to be included in the amended architectural plans.
[Condition 7 of DA-1993/55]
- (c) Removable and adjustable bollards shall be provided to protect the proposed pedestrian paths within the basement to the satisfaction of the Principal Certifying Authority.
- (d) Fire Boosters - Any fire hydrant booster valves must be integrated within the development and enclosed in a cabinet to minimise visual impacts on the streetscape. The cabinet must be provided with appropriate locks and signage in accordance with AS2419.1.
- (e) Substation - where a substation is required the proposed location must be subject to a s4.55 application. It must be provided in an location that does not adversely impact the value of the heritage item nor adversely impact the streetscape appearance.
- (f) Mechanical ventilation - Any mechanical ventilation system for the basement car park, buildings and / or other elements of the development must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2, as well as the Acoustic Reports and Noise Management Plan submitted with this application. The vents for any system must be located within the roof top level and must be appropriately designed and screened from view.

- (g) Privacy screening to a minimum height of 1.8m to be provided along the southern side of the ground level planter box that is located to the "Entry" area of the approved ground floor plan to minimise privacy impacts to the adjoining residence at 20 Kembla Street. Such privacy screening to be installed prior to issue of the Occupation Certificate and maintained for the lifetime of the development.
- (h) If an access gate is required from the trafficable section of the roof terrace to maintain the existing airconditioning plant, the gate must be locked and only used for maintenance purposes, to ensure access to the non-trafficable area cannot be obtained school children and users of the roof terrace area.
- (i) Deletion of the building parapet for that part of the buildings southern elevation located beyond 3m from the front setback of the site (i.e. the first 3m of the parapet as measured from the front elevation in a westerly direction to be retained). A safety barrier / fence / balustrade with a maximum height of 1m may be erected, if required to ensure safety of persons maintaining the roof top and/or plant provided at roof top level, however this structure must be located at least 1m north of the buildings southern edge. This requirement is to minimise overshadowing impacts to No. 20 Kembla Street.
- (j) Waste Management - Plans shall be submitted to, and approved by, Council's Director of City Futures prior to issue of any Construction Certificate for a waste bin enclosure to the Dowling Street frontage of the site. The enclosure must accommodate the number of bins required by the submitted Waste Management Plan (dated April 2018), must be of appropriate materials, design and colours to ensure impacts to the streetscape and the existing buildings on site.

12. Operational Management

Operations at the site must be undertaken in accordance with the submitted Plan of Management dated August 2018 (Version 4.0), received by Council on 27 August 2018, as amended in accordance with the requirements of Condition 64 of this consent. In particular, the site must comply with the following key operational requirements:

(a) Hours of operation

- (i) Church - Hours of operation to be restricted as follows:
[Condition 8 of DA-1993/55, as modified by this consent DA-2016/68]
 - (A) 8:00am - 10:00pm, seven days, with all non-residents having left the site or the vicinity of the site by 10:00pm except visitors to the pastor's residence *[Condition 8 of DA-1993/55]*;
 - (B) Notwithstanding (A) above:
 - (1) The school and church uses must not be carried out concurrently at any time.
 - (2) Noise Generating Activities permitted only between 10:00am - 10:00pm, e.g. bands, music and singing *[Condition 44 of DA-1993/55]*;
 - (3) No more than two services on Sundays *[Condition 43 of DA-1993/55]*.
 - (4) For church operations, the existing Auditorium, existing dwelling and classrooms / studio rooms not being used concurrently *[Condition 44 of DA-1993/55, as modified]*;
- (ii) School - hours of operation restricted to between the following hours:

- (A) 8:30am and 3:30pm, Mondays to Fridays, with no operations on Saturdays, Sundays and Public Holidays.
 - (B) Parent Teacher Nights - Maximum two (2) times per year outside of standard school hours, but no later than 10:00pm.
 - (C) Presentation Nights - Maximum four (4) times per calendar year (one per school term), but not later than 10:00pm.
- (iii) Roof Terrace - Restricted to passive play associated with the approved school use only for a maximum of 2 hours between 8:30am and 3:30pm on school days in accordance with the submitted Noise Management Plan. In addition, a maximum of 50 students may be on the roof terrace at any one time.
- (b) Capacity - the maximum number of persons attending the site for each use is restricted as follows:
 - (i) Church - Seating and the number of persons permitted within the proposed and existing buildings being limited to a total of 380 persons at any one time *[Condition 42 of DA-1993/55, as modified by this consent]*.
 - (ii) School
 - (A) Maximum 200 students, including 150 students of primary school age (Kindergarten to Year 6) and fifty (50) students of high school age;
 - (B) Maximum 10 teaching / support staff.
- (c) Waste Collection / Deliveries
 - (i) Waste collection and/or deliveries must be undertaken between 7:00am and 6:00pm Monday to Friday, with no deliveries and/or waste collection on weekends or public holidays.
- (d) No public use / commercial hire of premises -
 - (i) The church, church hall, residence and all school buildings not to be let out for any commercial purpose *[Condition 47 of DA-1993/55, as modified]*;
 - (ii) The facilities contained on Number 19 Dowling Street must not be hired out to the general public *[Condition 43 of DA-1993/55]*;
- (e) Incidental Uses to Church Operations -
 - (i) No use which is not ordinarily incidental or subsidiary to the church use being permitted without prior consent of the Council, and within the approved hours of operation detailed in (a)(ii) above, other than *[Condition 46 of DA-1993/55]*:

* Creche (nursery);	* Sunday school;
* Bible training;	* Christian training;
* prayer meetings;	* kids' club;
* fellowship activities;	* library;
* general storage;	* residence for pastor;
* carparking;	* sporting activities;
* social activities;	* office/study/counselling area;
* Church band practice;	* Church concert;
* toilets.	
 - (ii) Before and after school care is not ordinarily incidental or subsidiary to the church use and must not be provided by the church operation.

Separate development approval is required for school related uses after 3:30pm on Mondays to Fridays and/or on weekends with the exception of parent teacher nights.

13. Car Parking - Provision and Ongoing Management

- (i) Car parking must be provided and carried out in accordance with:
 - (a) the approved plans listed in Condition 2,
 - (b) Option A of the approved Traffic Management Plan; and
 - (c) the approved Plan of Management (refer to Condition 12 & 17).
- (ii) Car parking and basement access shall be provided and carried out in accordance with the following key requirements:
 - (a) Church Operations - A total of 44 car parking spaces (including one accessible space) and ten (10) overflow parking spaces must be made available for use by church patrons in accordance with the approved plans.
 - (b) School Operations - Parking, drop-off and pick-up for the school will be provided in accordance with 'Option B' contained within the approved Traffic Management Plan referenced in (i)(b) above as follows:
 - (A) eight (8) spaces for school staff;
 - (B) seventeen (17) spaces for drop-off / pick-up purposes, including one (1) accessible space; and
 - (C) one (1) shuttle drop-off / pick-up space
 - (c) Basement security door / shutter
 - (A) The basement carpark security door / shutter must be open for use by visitors / patrons to the site during peak times to ensure unrestricted access to car parking during key site operations. The basement carpark must be secured by way of a locked gate or door at all times outside of the approved operating times, and may be closed outside of peak times for the church and school for security purposes.
 - (B) The basement security door / shutter must, at minimum, be open during the following times:
 - i. between 8:00am and 9:30am and 2:30 - 4:00pm on school days;
 - ii. from 8:00am until end of services on Sundays;
 - iii. at least 30 minutes prior to, and at least 30 minutes after the start and finish times of major events.
 - (d) An intercom system must be provided at the entry to the basement car park to permit access to the car park outside of peak times. The intercom system must be installed prior to issue of any Occupation Certificate, and maintained in working order at all times.
 - (e) 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.

14. Noise Management & Minimisation

- (a) Adopt and implement all recommendations contained in the acoustic report

prepared by AECOM Australia Pty Ltd for KCCS – Development Application - 19 Dowling Street Arncliffe Doc No. 60318564-ARPT02.04 dated the 18 August 2016.

- (b) Compliance with the submitted Noise Management Plan prepared by AECOM Australia Pty Ltd (dated 25 January 2018, except as amended and approved by Council) at all times, particularly with regards to the following:
 - (i) No amplified music / assembly speeches permitted in outdoor areas;
 - (ii) Outdoor play areas to be used for a maximum of 2 hours per day;
 - (iii) Roof terrace to be used for passive recreation only (refer also to Condition 12 for limitations on use of roof terrace);
 - (iv) Outdoor play areas to be monitored at all times with a minimum of 1 staff member to 30 children.
- (c) Compliance with the Plan of Management, prepared by CPS, dated August 2018 (as amended and approved by Council - see Conditions 12 & 17);
- (d) The roof terrace being used for school purposes only, unless separate approval is obtained.
- (e) All activity being conducted on the site to ensure that noise levels emitted from the site are no greater than 5dB(A) above background noise level measured at the boundary of the nearest residential property [*Condition 4 of DA-1993/55, approved by the Land and Environment Court*].
- (f) No amplified/ stereo/music/ speakers/ assembly speeches are permitted in all outdoor play areas.
- (g) 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.
- (h) 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.
- (i) Noise Monitoring & Modifications to NMP
 - (A) Noise Monitoring to be carried out in accordance with the Noise Management Plan listed in (b) above. Monitoring also to be carried out at 20 Kembla Street, and to include consideration of (a) to (h) above, at the following occasions:
 - (i) after four (4) months of the commencement of operations and within the first six (6) months of operation
 - (ii) within three (3) months of the school reaching 85% capacity.
 - (B) Within two (2) months of completion of the noise monitoring required by (i)(A) above, the Noise Management Plan (NMP) listed in (b) above must be updated and submitted to Council's Director of City Futures. The amended plan must be approved by Council and implemented. The amended plan is to:
 - A. include any required amendments to ensure compliance with the NMP and Acoustic Report listed in (a) above;
 - B. updated to include reference to relevant conditions of this consent;

- C. address complaints received from neighbouring property owners;

15. Traffic Refuge Island

Prior to issue of any Construction Certificate, a detailed design must be submitted to, and approved by, the Local Traffic Committee for the traffic refuge island required by the Local Traffic Development Advisory Committee. The Committee identified the need for a traffic refuge island and associated works in Kembala Street east of Hirst Street.

The approved traffic refuge island and associated works shall be constructed prior to issue of any Occupation Certificate at no cost to council.

A permit is required to be approved by council prior to the works being undertaken.

16. Trees

- (a) The Canary Island Date Palm identified as Tree 1 in the Existing Tree Plan prepared by Fiona Robbe Landscape Architecture dated July 2015 may be transplanted on site as indicated in the Existing Tree Plan. Transplanting of the palm shall be undertaken by a specialist Tree Transplanting Contractor.
- (b) Trees numbered 4, 7, 8, and 25 in the Existing Tree Plan and the Fig (Tree 23) growing in the fork of Tree No.22 may be removed.
- (c) No other trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- (d) 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.
- (e) 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.
- (f) Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- (g) Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
- (h) Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines where possible around each tree or group of trees which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
- (i) 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.

17. Plan of Management - Implementation and Review

- (a) The site must be operated in accordance with the approved Plan of Management at all times.
- (b) The submitted Plan of Management dated August 2018 (Version 4.0), received by Council on 27 August 2018, as amended in accordance with the requirements of Condition 64 of this consent, must be reviewed after six (6) months of commencement of operations and before nine (9) months from commencement of operations.
- (c) Within one (1) month of completion of the review required by (a) above, the Plan of Management must be updated and submitted to, and approved by, Council's Director of City Futures. The amended plan is to consider, at minimum:
 - (i) include any required amendments to ensure compliance with the NMP and Acoustic Report listed in Condition 14;
 - (ii) updated to include reference to relevant conditions of this consent;
 - (iii) address complaints received from neighbouring property owners;

18. 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.

19. 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.
20. Dewatering not permitted
Temporary dewatering of the site to construct the subsurface structure is not permitted.
21. Lighting of Premises
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.
22. Landscape Maintenance - Ongoing Requirements
- (a) The approved completed landscape works shall be maintained for a period not less than 12 months.
 - (b) On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.
23. Landscape Planting
The approved landscape plans must be updated prior to issue of the Construction Certificate to address the following matters:
- (1) Planter pots shall be replaced with built in planter boxes.
 - (2) Screen hedge along south-eastern boundary adjacent of 20 Dowling Street shall be planted with advanced shade tolerant specimens. Minimum pot size supplied shall be 45 Litres to ensure growth of shrubs between fence and development, where sun access is limited.
 - (3) 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.
 - (4) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 800mm and 1000mm wide to allow screen planting. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within

- the planter.
- (c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
 - (f) Planter boxes shall be fully automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.
- (5) Plant species selection shall provide acoustic and visual privacy. Leaves shall be small and dense, to reach a minimum of 1.8 meters from terrace RL. Some recommended screen plants for this location are: *Callistemon viminalis* Better John, Red Alert, Captain Cook, *Metrosideros excelsa* Lemon Twist, *Westringia Ozbreed*, *Rhaphiolepis indica*.

Prior to issue of the construction certificate

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

24. 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 \$70,996.00. 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.
25. 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.
26. 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.

27. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:
- i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
 - ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.

2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

Note: This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

28. Parking & Basement Design

The plans submitted with the Construction Certificate must comply with the following requirements:

- (a) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- (b) All pick up and drop off parking spaces must be 2.6m wide in accordance with AS2890.1:2004.
- (c) Removable and adjustable bollards shall be provided to protect the proposed pedestrian paths within the basement in accordance with the approved plans and the *Transport and Parking Impact Assessment Review* dated 14 August 2018.
- (d) The overflow parking spaces shall be allocated in a way that they can feasibly manoeuvre safely in and out of the basement.
- (e) Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking. Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to protrude 1100mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.
- (f) Appropriate lighting shall be provided in the basement in accordance with RMS guidelines.

29. A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.

30. Sydney Water Approval

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.

31. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.

32. Food Act Requirements

The proposed development shall be operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".

33. Hand Basins

All hand basins shall be provided with soap and a towel dispenser for dispensing single use towels or other means of drying hands and arms which prevents the transfer of pathogenic micro-organisms to the hands or arms (air dryers as the only means of drying hands shall not be permitted). A receptacle for used towels shall be provided at the hand wash basin.

34. Stormwater Drainage

Prior to the issue of the Construction Certificate a detailed stormwater drainage management plan for the disposal of all roof-water, surface water and subsoil water from the site shall be submitted and approved by the Principal Certifier. The drainage management plan for the Construction Certificate shall comply with the requirements as detailed in the Rockdale Stormwater Technical guidelines.

The following amendments must be included in the design:

- (i) The design shall be generally in accordance with the approved plans;
- (ii) All stormwater surface pits must have a surface level higher than the top of kerb level. Basement pits must not connect directly to the kerb pit to eliminate potential basement inundation.
- (iii) The OSD system is to be designed as a two stage storage in accordance with section 6 of Rockdale Technical Specification Stormwater management.

35. Flood Management Plan

Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided to the Principal Certifying Authority. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:

- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
- (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
- (c) Flood warning signs/depth indicators for areas that may be inundated.
- (d) A flood evacuation strategy.
- (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

36. All surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

37. Surrender of development consent

- (a) The surrender of Development Consent No. 1992/55 approved by the Land and Environment Court (*Noel Bell, Ridley Smith & Partners v Rockdale Municipal Council* [1993] NSWLEC 103) and Development Consent No. 2014/295 must be undertaken prior to the issue of a Construction Certificate

pursuant to Section 4.63 of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulation 2000.

- (b) Details demonstrating compliance with the requirements of this condition must be submitted to the satisfaction of the Principal Certifier prior to the issue of any Construction Certificate.

Prior to commencement of works

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

38. Ausgrid

- (a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements and to determine whether an electricity substation is required, including written confirmation of Ausgrid's requirements for installation. (Note: if a substation is required and cannot be provided in the location shown in the approved plans, a Section 96 Application will be required for the amended location).
- (b) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006), for development in proximity to overhead power lines.
- (c) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010).

39. Telstra

Written confirmation from Telstra that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant / developer.

40. Dilapidation Survey

A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

41. Soil and Water Management Plan

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

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

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

42. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Access to the site for construction purposes via Hirst Street and Dowling Street is not permitted.

Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

Copies of the CMP and TMP shall be submitted to Council.

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

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

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

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

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

A copy of any written direction required by this condition must be provided to the

Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

44. 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.
45. 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.
46. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
47. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place,

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

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

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

structure is greater than half the height of the structure.

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

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

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

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

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

- 48. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

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

- 49. 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.
- 50. 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.
- 51. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
- 52. 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.

53. 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.

54. 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.

55. The sandstone kerb and gutter shall be retained and protected during construction. The following works are required:

- i. A footpath protection pad shall be constructed over Council's footpath at the point of entry onto the building site and extend over the kerb and gutter.
- ii. Any damaged sandstone kerb and gutter shall be replaced with sandstone of equal dimensions. Note: A stockpile of sandstone is kept at Council's Works Depot, 10 Rye Avenue, Bexley. Please phone Council's Work Depot on 9562 1670 to enquire whether any sandstone is currently available and to make arrangements for collection. If no sandstone kerbing is available from Council's Works Depot, sandstone shall be purchased from an accredited supplier.
- iii. Sandstone removed for the construction of the driveway is Council property and shall be taken to Council's Works Depot at 10 Rye Avenue, Bexley for stockpiling. Note: Only damaged or broken pieces may be discarded.

- iv. To protect the remaining section of sandstone kerb and gutter, a barricade of star pickets and parawebbing fencing or similar material shall be erected on a 600mm setback from the sandstone kerb. Note: Star pickets shall be painted either white or fluorescent in colour so they are visible to pedestrians at night.
56. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
57. 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.
58. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.

- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

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

Prior to issue of occupation certificate or commencement of use

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

- 60. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.

61. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
62. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
63. 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.
64. Plan of Management - to be amended prior to issue of any Occupation Certificate
The submitted Plan of Management (PoM), dated August 2018 (Version 4.0), received by Council on 27 August 2018, must be updated / amended prior to issue of any Occupation Certificate. The amended PoM must also be submitted to, and approved by, Council's Director of City Futures prior to issue of any Occupation Certificate, including the following:
 - (i) Reference to all relevant conditions of consent from the original church approval relating to number of services permitted on Sundays, restriction on noise generating activities, etc.;
 - (ii) Updated to ensure consistency with relevant conditions of this consent (i.e. Condition 12; Condition 13 - Car parking; Condition 14 - Noise Management; Condition 11(j) - Waste Management; Compliance with mechanical noise, etc.);
 - (iii) Commitment to a maximum of 100 of persons attending the site after school hours each school day (i.e. between 3:30pm and 10:00pm on school days);
 - (iv) Include a section for 'Waste Management' - refer to Condition 11(j) and the submitted Waste Management Plan;
 - (v) Include a section for litter / rubbish collection in the street immediately in front of the site;
 - (vi) Update the 'car parking management' section to include that the parking of vehicles must be supervised by suitably qualified staff / church / school members to ensure that the basement parking is utilised. This is to ensure that impacts to surrounding residents are minimised [*Condition 49 of DA-1993/55, as amended by this consent*].
 - (vii) Update to include and/or refer to the approved Traffic Management Plan (Option A or Option B as approved - refer to Condition 13);
 - (viii) Provide a method for ensuring that people for each part of the Plan of Management know of its contents;
 - (ix) Include a procedure for updating and changing the Plan of Management, including approval by Council and advertising any changes.
65. 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.
66. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
67. Landscape Completion & Maintenance

- (a) All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
 - (b) 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.
68. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council prior to issue of any Occupation Certificate.
69. Basement access, parking and line-marking
Prior to issue of any Occupation Certificate:
- (a) The width of the double driveway at the boundary shall be a maximum of 6 metres.
 - (b) The basement driveway ramp shall have a 2.2m height clearance in accordance with AS2890.1:2004.
 - (c) The driveway profile and crest level at the boundary shall be maintained in accordance with the approved plans, to reduce the risk of flood inundation.
 - (d) Line marking and signage of basement - must be clear and maintained for the lifetime of the development, and shall include (at minimum):
 - (i) Basement line marking, signage, speed humps and kerb to be carried out in accordance with the approved Signage and Linemarking Plan (refer to Condition 2);
 - (ii) Each parking bay to be clearly marked & signposted for 'church' and/or 'school' use.
 - (e) Bollards to be provided in accordance with the Plan of Management to ensure safe pedestrian movement in the basement.
 - (f) The forty four (44) off-street car spaces (including one accessible space and one shared shuttle bus / parking space) shall be provided in accordance with the submitted plan and shall be sealed and linemarked in accordance with the relevant Australian Standard.

The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

The parking spaces shall be colour coded and clearly sign-posted / marked for the church and school uses as shown in the approved plans submitted by GTA Consultants and listed in Condition 2, including:

- (i) School ('Option A' of the approved Traffic Management Plan)
 - A. School pick-up / Drop-off (17 spaces)
 - B. School staff parking (8 spaces)
 - C. Shuttle bus drop-off and parking (1 space)
 - D. Accessible space (1 space)
- (ii) Church
 - A. Church parking space (42 spaces)
 - B. Accessible church parking space (1 space)

C. Suttle-bus parking (1 space)

70. 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 occupation of the development.
71. 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.
72. Noise Impacts - Compliance with Acoustic Report
The noise reduction measures specified in the noise report prepared by AECOM Australia Pty Ltd for KCCS – Development Application - 19 Dowling Street Arncliffe Doc No. 60318564-ARPT02.04 dated the 18 August 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.
73. A certificate of playground safety installation compliance shall be submitted to Council prior to release of the Occupation Certificate.
74. 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.
75. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
76. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
77. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
78. 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.
79. Prior to issue of the Occupation Certificate, compliance is required with all relevant

conditions of this consent including (but not limited to):

- (a) Removable and adjustable bollards must be provided within the basement to protect the proposed pedestrian paths shown in the approved plans;
- (b) Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking.
- (c) Bicycle parking must be provided in accordance with the approved plans listed in Condition 2.

Roads Act

- 80. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
 - (a) construction of required portion of the concrete footpath along the frontage of of Kembla street fronting the site.
 - (b) construction of a new fully constructed concrete vehicular entrance;
 - (c) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - (d) construction of the traffic refuge island in Kembla Street east of Hirst Street.
- 81. 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.
- 82. 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.
- 83. 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.
- 84. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. 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.
- c. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the

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

d. *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.

e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

f. 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 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".
- i. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



Reference: #N150370

28 November 2018

Life Centre International
19 Dowling Street
ARNCLIFFE NSW 2205

Attention: Mr. Ben Irawan (Director)

Dear Ben

**RE: KINGDOM CULTURE CHRISTIAN SCHOOL
TRAFFIC MANAGEMENT PLAN
APPLICATION DA-2016/68**

This letter has been prepared in response to the Bayside Planning Panel (The Panel) meeting minutes, dated 23 October 2018¹, as it relates to the proposed expansion of the Kingdom Culture Christian School (KCCS) located at 19 Dowling Street, Arncliffe.

This letter should be read in conjunction with the KCCS Traffic and Parking Assessment Review prepared by GTA Consultants dated 14 August 2018².

This letter references plans for the proposed development prepared by Fuse Architects, Drawing Number DA 121, Revision F, dated 7 May 2018.

I trust the enclosed is consistent with your expectations. Should you have any questions or require any further information, please do not hesitate to contact me in our Sydney office on (02) 8448 1800.

Yours sincerely

GTA CONSULTANTS

Dora Choi
Associate Director

encl.

Bayside Planning Panel Comment
Response

Attachment 1 – Option A and Option B Sketch

¹ Minutes of Bayside Local Planning Panel, Bayside Council, 23 October 2018

² Transport and Parking Impact Assessment Review - Application DA-2016/68, GTA Consultants, 14 August 2018

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Bayside Planning Panel Comment

The Panel raised concerns regarding the plan of management for the proposed car park. Specifically, the items raised and considered in this letter includes:

- (1) *The Panel considers the applicant should be given the opportunity to reconsider the car parking provision layout and drop off and pick up area to accommodate a school for 200 students of varying ages between K to Year 12. This includes the provision of basement parking under the new wing facing Kembala Street. The Management Plan needs to specifically address the parking drop off / pick up for the school in a detailed manner. The Management Plan is to also include consideration of management of the use of the rooftop and maximum numbers of students gathered at any one time.*

Response

Extended Basement Option

An extended basement option plan has been prepared by Fuse Architects and reviewed by GTA. The layout reviewed has found that the modified basement option, which aligns with the footprint of the building on Ground level will only provide an increase of four parking spaces in comparison to the design submitted as part of the application.

Due to the geometry and layout, the additional carpark is considered to be suitable for long stay parking only and does not offer any additional pick-up / drop-off capacity to the school.

Therefore, we are of the opinion that the extended basement option offers limited value to the proposed school expansion.

Traffic Management Options

In consultation with Council, GTA has prepared two traffic management option sketches proposed for the basement car park for the school drop off and pick up period. The options are as follows:

- Option A: Dedicate 17 car parking spaces within the basement car park for short term use by parents, with two car parking spaces used as a turnaround area
- Option B: Operate a 'kiss and ride' style arrangement through the car park, with 5 spaces for pick-up / drop off, and 5 spaces on-site for queuing.

Expected Number of Vehicles and Sensitivity Analysis

To calculate the expected number of vehicles present during the school drop off and pick up period, the Proposed Kingdom Culture Christian School Expansion Traffic and Parking Impact Assessment Report, prepared by ML Traffic Engineers dated July 2015 assumed the following:

- 30 per cent mode share of students traveling to and from school via a car mode
- average number of students per vehicle as 1.54 student, based on transport mode surveys from Arncliffe Public School.

More recently, assessment undertaken based on the current enrolment data and information provided by the Kingdom Culture Christian School, it is projected that much of the vehicles travelling to / from the school are expected to carry between two to three students, based on most of the children already attending the school have siblings that are also likely to attend the school. Furthermore, it is likely that there will be some daily variance in mode share.

Considering the above, accounting for mod share variances, we have updated our assessment based on varying car based mode share, formulated on the basis of:



- 30 per cent/ 50 per cent/ 70 per cent and 100 per cent mode share of students traveling to and from school via car mode; and
- average number of students per vehicle as 2 students for 50 per cent of students, and 1.54 students for the remaining 50 per cent.

Application of the above to 200 students results in the following number of vehicles being present during the drop off and pick up period for the proposed school:

- 60 students and 34 vehicles based on a 30 per cent car mode share scenario
- 100 students and 57 vehicles based on a 50 per cent car mode share scenario
- 140 students and 80 vehicles based on a 70 per cent car mode share scenario
- 200 students and 115 vehicles based on a 100 per cent car mode share scenario.

Traffic Management Procedures

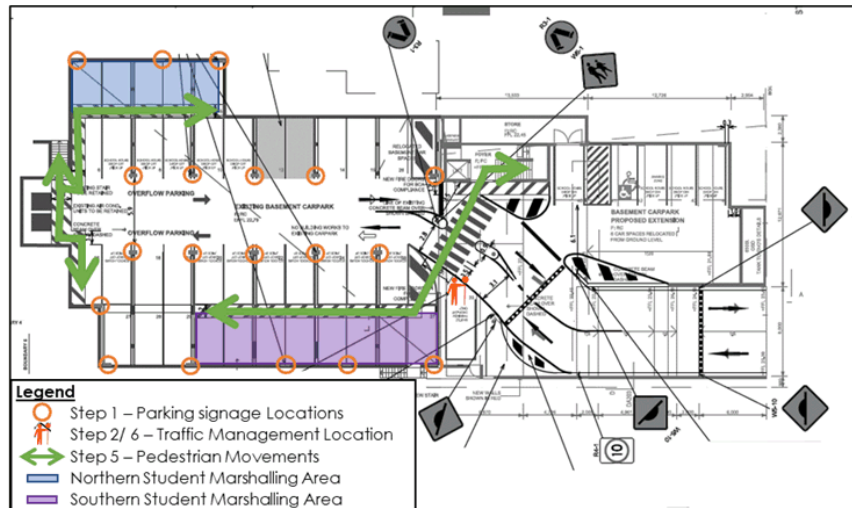
Option A

The proposed traffic management procedures for the implementation of Option A arrangement are as follows:

1. 45 minutes prior to school opening time / pick-up time, a staff member that is rostered for traffic management duties for the day will check and ensure the correct parking signage arrangement are displayed prior to drop-off / pick-up time.
2. The staff member will position themselves at the shuttle bus parking area / pedestrian crossing point prior to vehicles arriving on-site.
3. Parents are expected to commence arrival from approximately 30 minutes prior to school time for drop off and 10 minutes prior to pick up time. Pick-up time will be staggered, with each of the family informed of their designated arrival time slot.
4. On entry, parents will be directed to park in one of the 17 pick-up / drop-off bays identified in Option A.
5. During the AM drop off period, it is expected that children will exit the vehicle, walk along the marked walkway to access the school either via the stair case located along the Dowling Street end of the basement, or via the lift foyer of the new building.
6. The staff member assigned with Traffic Management duties will have a 'Stop/Slow' bat and will monitor the level of parking available within the pick-up/drop-off bays and hold vehicles on entry where necessary to ensure there is no double parking within the parking area. The staff member concerned will also be responsible for the management of the pedestrian crossing.
7. During the PM pick up period, children will be grouped, with families assigned designated time and parking zone for pick up. This will allow for staff members to escort children in two groups into the basement parking area. The group of children escorted via the Dowling Street stairs will be picked up via the pick-up / drop-off spaces to the north of the access aisle. Children to be picked up via the spaces to the south of the access aisle will be escorted to await parents from the unused spaces, marked blue and purple in Figure 1.
8. During the PM period, it is expected that a total of three staff members will manage the pick-up arrangements, with two staff members responsible for managing the children, and one staff member with traffic management duties.
9. Parents are directed to exit the site in a safe and as soon as practicable manner.

The traffic management procedures for Option A are illustrated in Figure 1.

Figure 1: Traffic Management Procedures – Option A

**Option B**

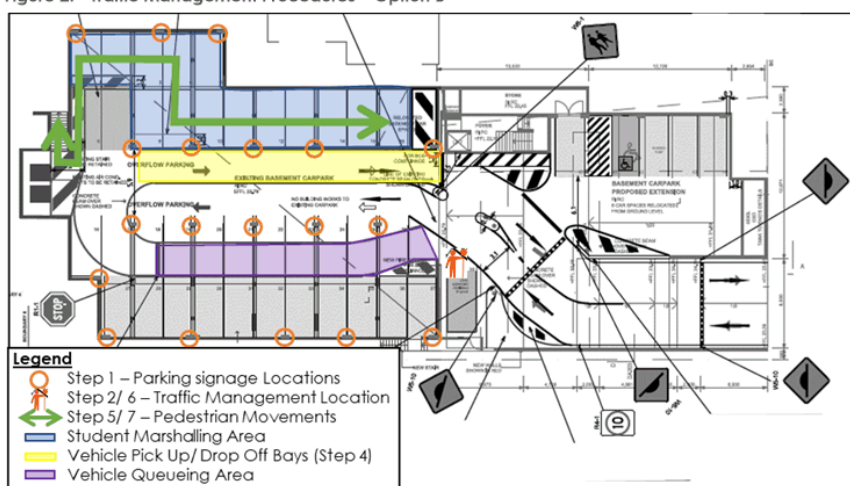
The proposed traffic management procedures for the implementation of Option B arrangement are as follows:

1. 45 minutes prior to school opening time / pick-up time, a staff member that is rostered for traffic management duties for the day will check and ensure the correct parking signage arrangement are displayed prior to drop-off / pick-up time.
2. The staff member will position themselves near the shuttle bus parking area / pedestrian crossing point prior to vehicles arriving on-site.
3. Parents are expected to commence arrival from approximately 30 minutes prior to school time for drop off and 10 minutes prior to pick up time. Families will be advised of their designated pick-up time slots.
4. On entry, parents will be directed to follow the line marking arrangement and drive to the five spaces to the north of the access aisle for drop off. A total of 5 dependent access pick-up / drop-off bays are identified in Option B.
5. During the AM drop off period, it is expected that children will exit the vehicle, walk along the space being parking bays 8 to 15 and space 26 in order to access the school either via the stair case located along the Dowling Street end of the basement, or via the lift foyer of the new building.
6. The staff member assigned with Traffic Management duties will have a 'Stop/Slow' bat and will monitor the pick-up/drop-off bays and hold vehicles on entry where necessary to ensure there is no double parking within the parking area, and ensure an efficient and safe circulation of vehicles through the basement.
7. During the PM pick up period, children will be grouped, with families assigned designated time for pick up. This will allow for staff members to escort children in a single group into the basement parking area and pre-positioned in the marshalling area marked blue in Figure 2 below at least 5 minutes prior the first assigned pick-up time. Children will be positioned within the basement based on their families designated pickup time slot, with children expected to be picked up first positioned closest to the pick-up spaces.

8. During the PM period, it is expected that a total of three staff members will manage the pick-up arrangements, with two staff members responsible for managing the children, and one staff member with traffic management duties monitoring compliance with the traffic management system and safety.
9. Parents are directed to exit the site in a safe and as soon as practicable manner.

The traffic management procedures for Option B are illustrated in Figure 2.

Figure 2: Traffic Management Procedures – Option B



Each of the above-mentioned management arrangement requires KCCS to provide:

- o At least four staff members with 'Implement Traffic Control Plans' and 'Traffic Control' Certificate to be available at each of the pick-up / drop-off time;
- o Provide and ensure that equipment such as stop/slow bat, safety vest, parking signage and line-marking are in good order and replace where required;
- o Regular communication with families to reinforce the traffic management arrangements and provide regular updates on any identified safety issues;
- o If necessary, engage suitably qualified and experienced practitioner to review and revise the traffic management arrangement on a regular basis.

Total Drop Off/ Pick Up Period Required

Considering the traffic management procedures proposed for each Option, the following has been conservatively assumed for calculating the total period required to accommodate all drop off/ pick up activities:

- o Option A:
 - o A two-minute total drop off/ pick up time per vehicle
 - o Only 50 per cent of spaces (8 spaces) are used efficiently for drop off/ pick up activities.
- o Option B:
 - o A 60 second total drop off/ pick up time per vehicle
 - o Assumed 100 per cent of spaces (5 spaces) are used efficiently for drop off/ pick up activities.



In accordance with the above, the total drop-off/ pick-up period required for each mode share scenario is outlined in Table 1.

Table 1: Total Drop off/ Pick Up Period Required

Mode Share Scenario	Total Number of Vehicles	Total Drop off/ Pick up time Required	
		Option A	Option B
30 per cent	34 vehicles	8 minutes	7 minutes
50 per cent	57 vehicles	13 minutes	11 minutes
70 per cent	80 vehicles	18 minutes	16 minutes
100 per cent	115 vehicles	26 minutes	23 minutes

Table 1 indicates that Option A and Option B can accommodate all vehicles in each mode share scenario within the 30 minute drop off/ pick up period.

Conclusion

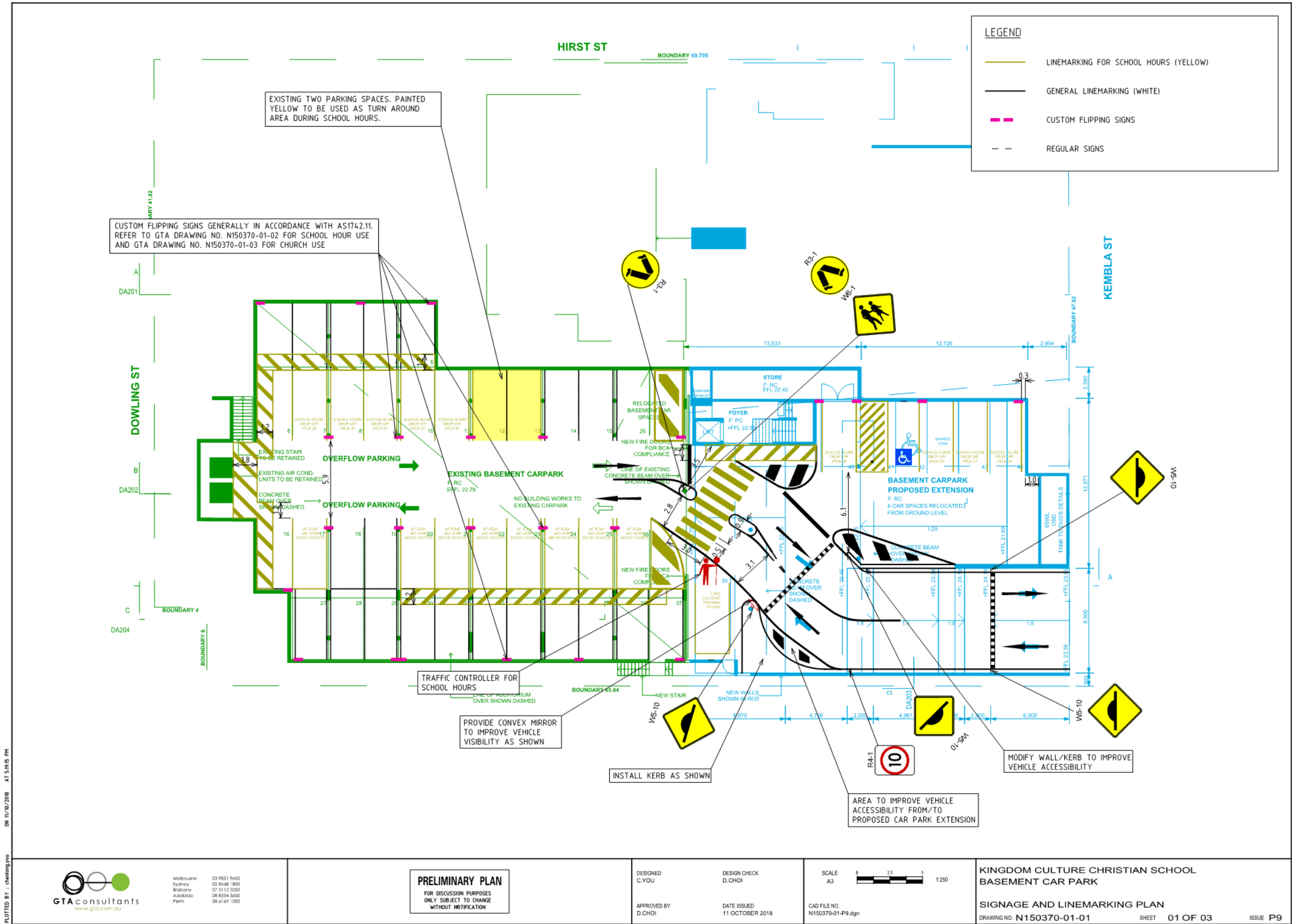
Upon our preparation and review of the Option A and Option B pick-up /drop-off arrangement, it is considered that both options can function in a satisfactory manner and provide sufficient capacity to accommodate the forecasted volume of vehicular traffic based on different mode share scenarios.

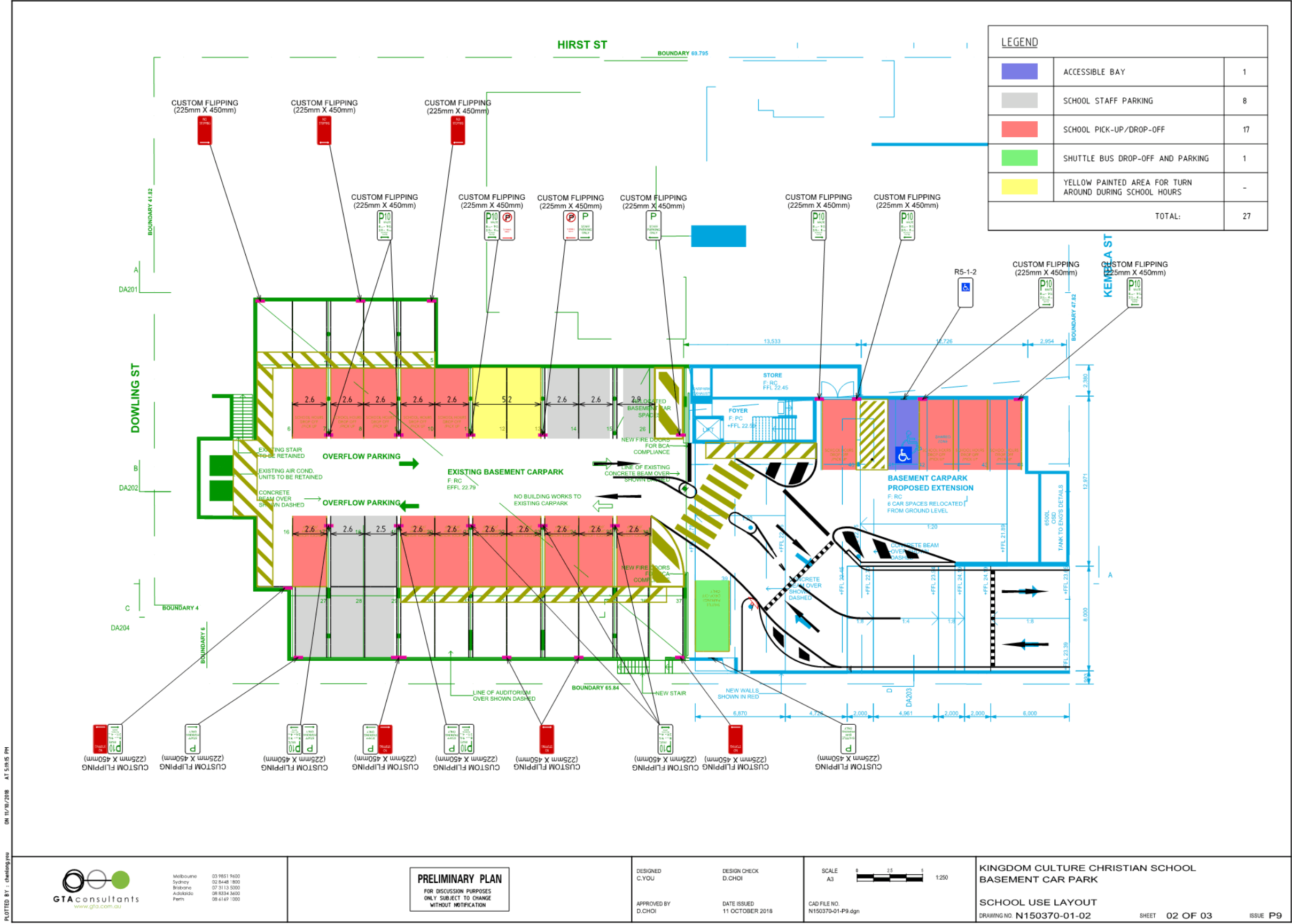


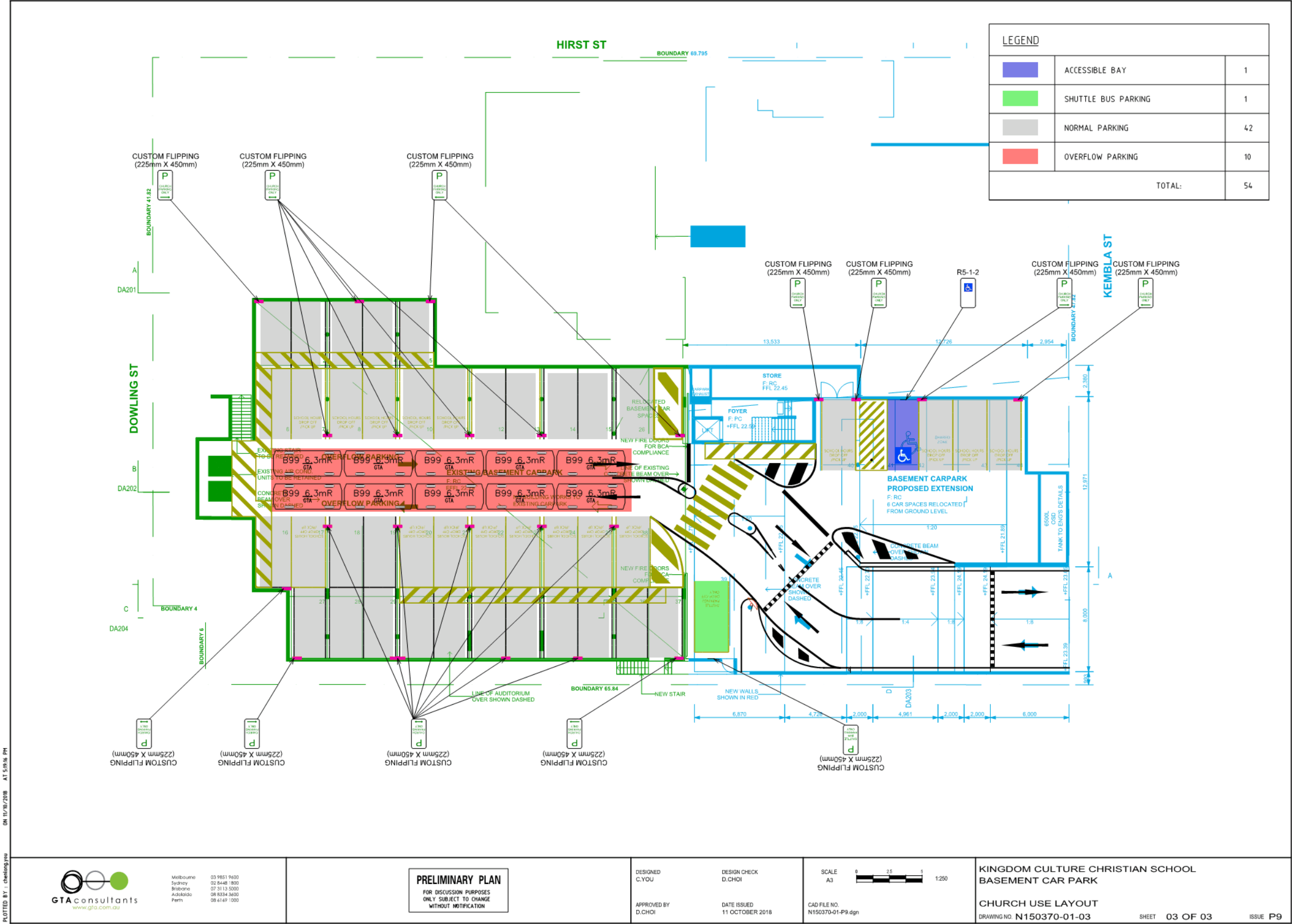
Appendix A



Option A

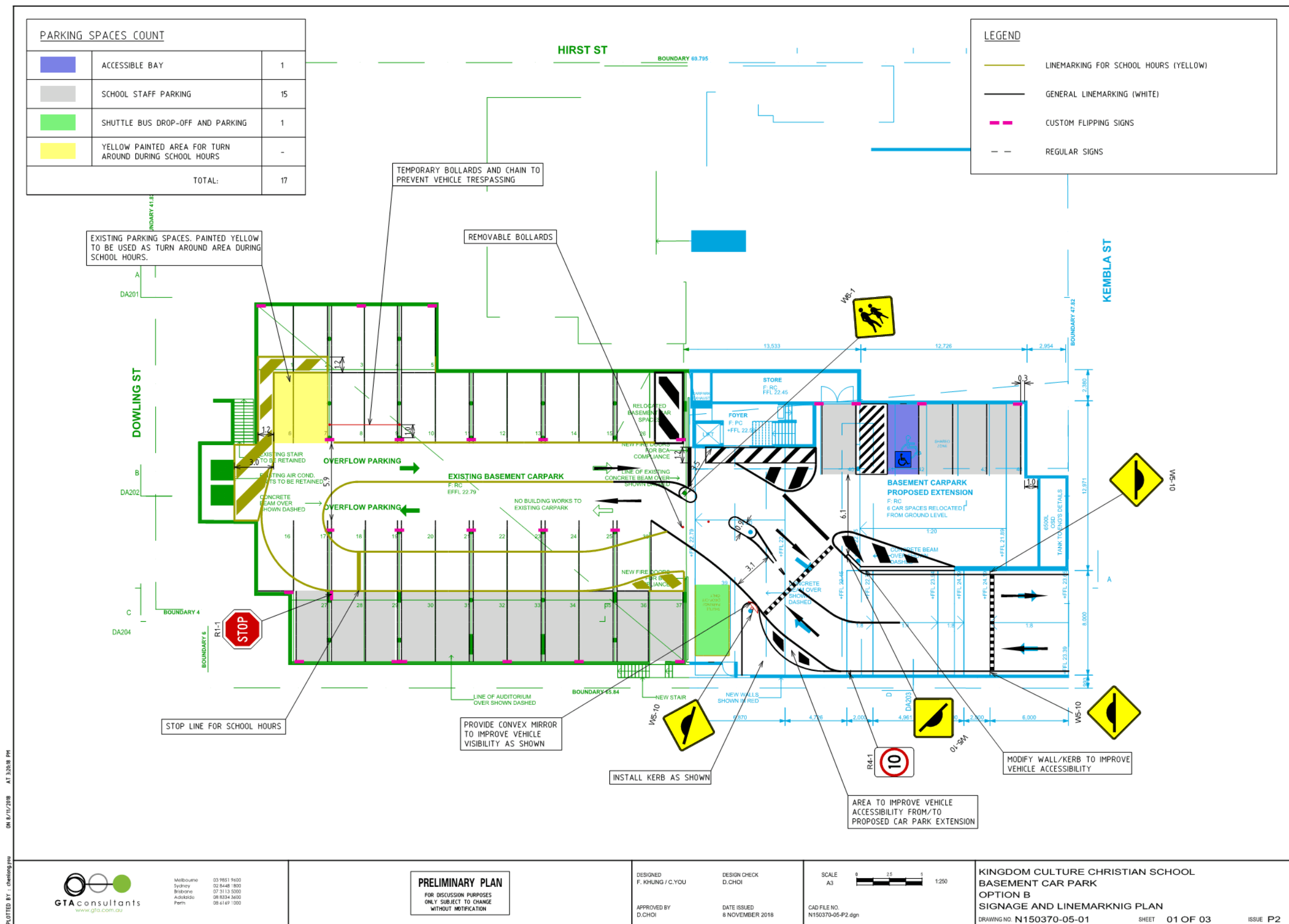




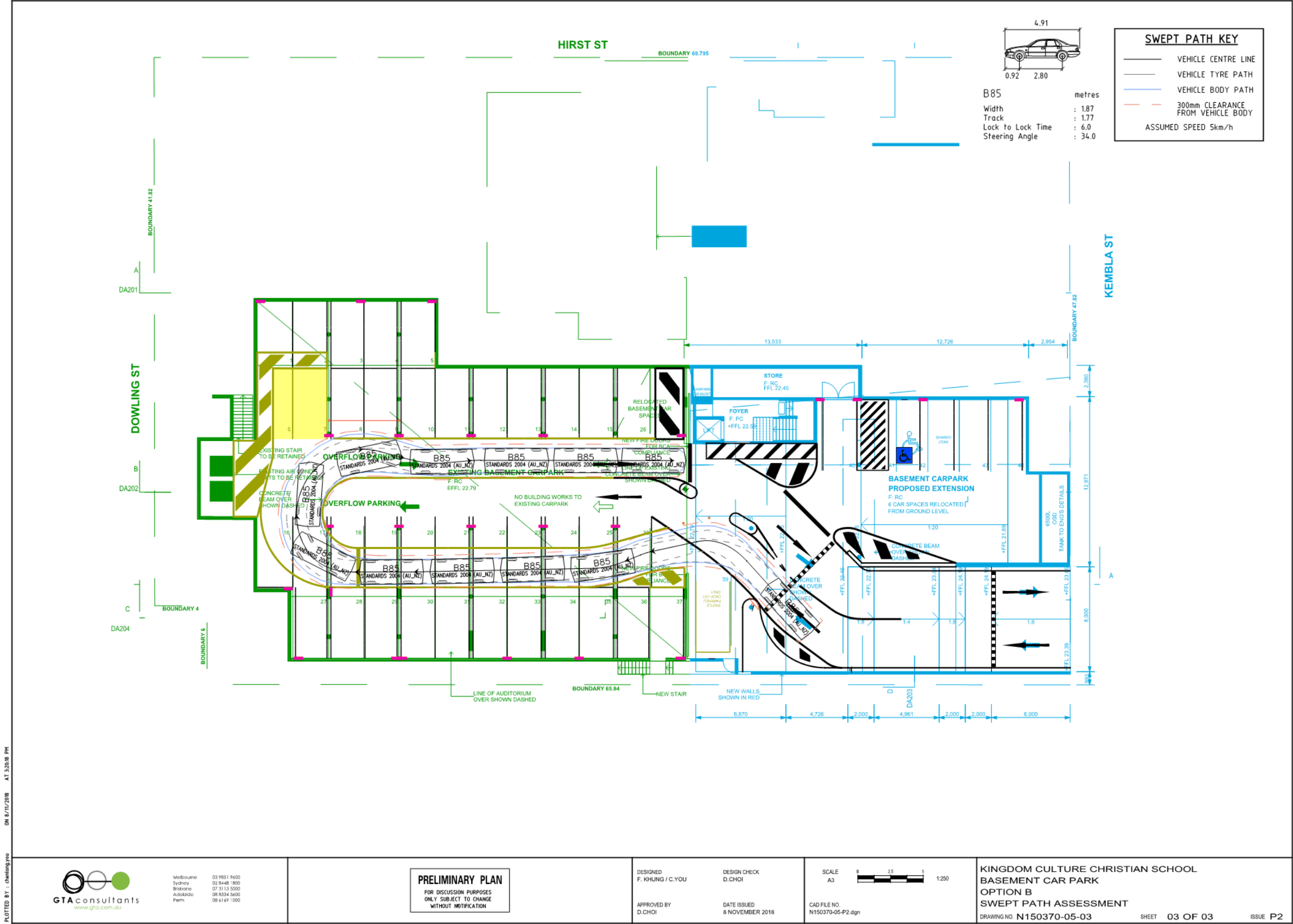


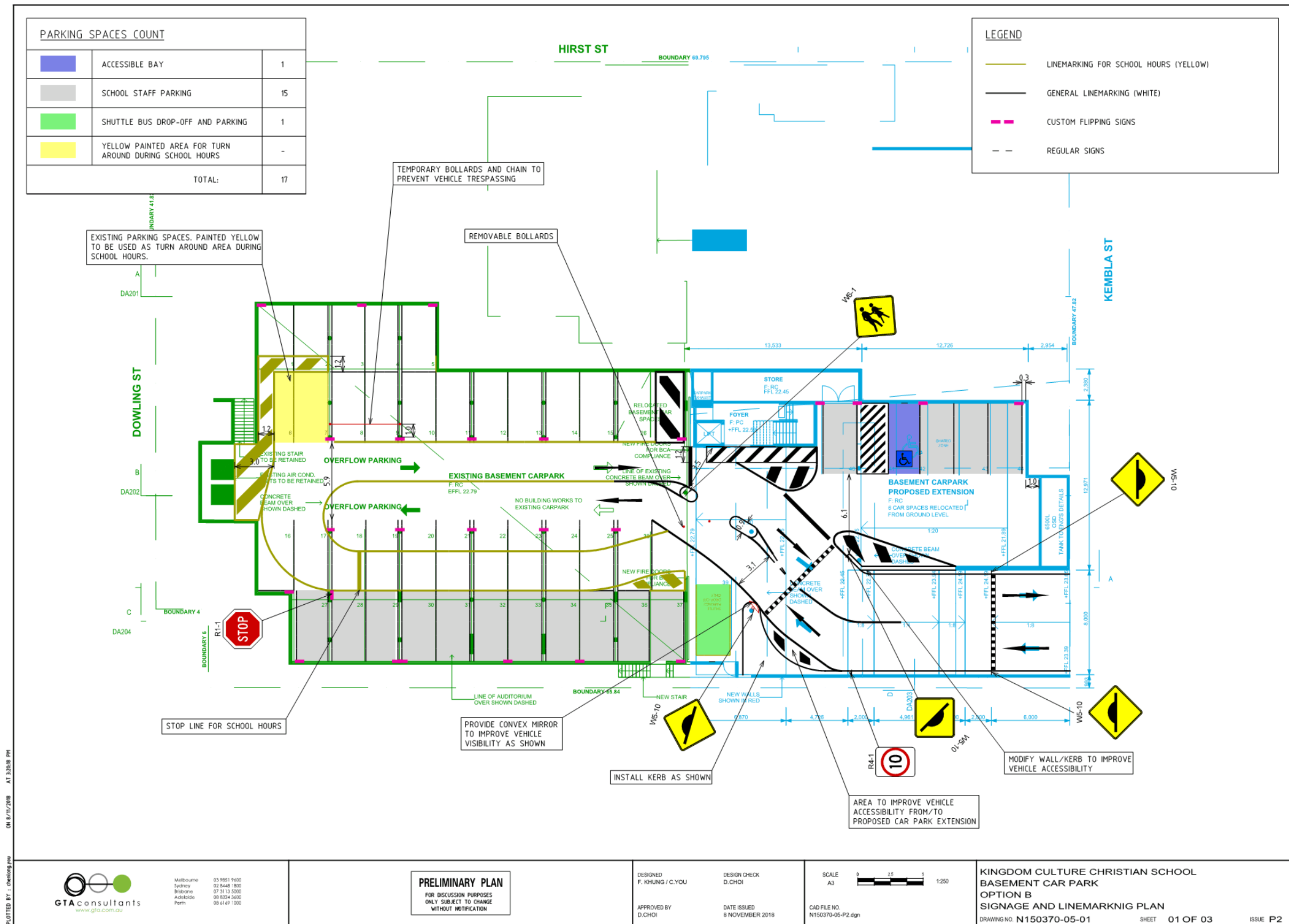


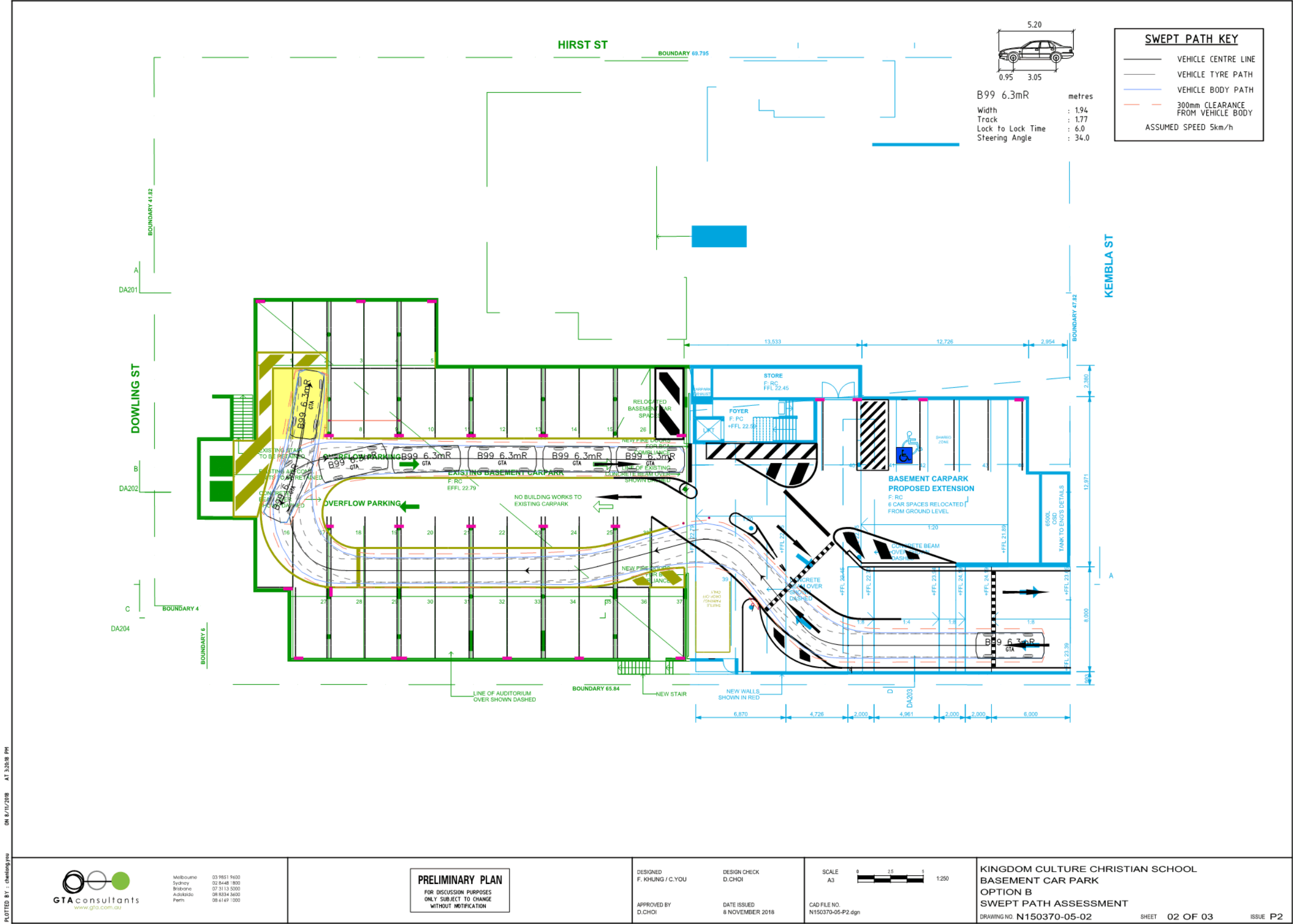
Option B



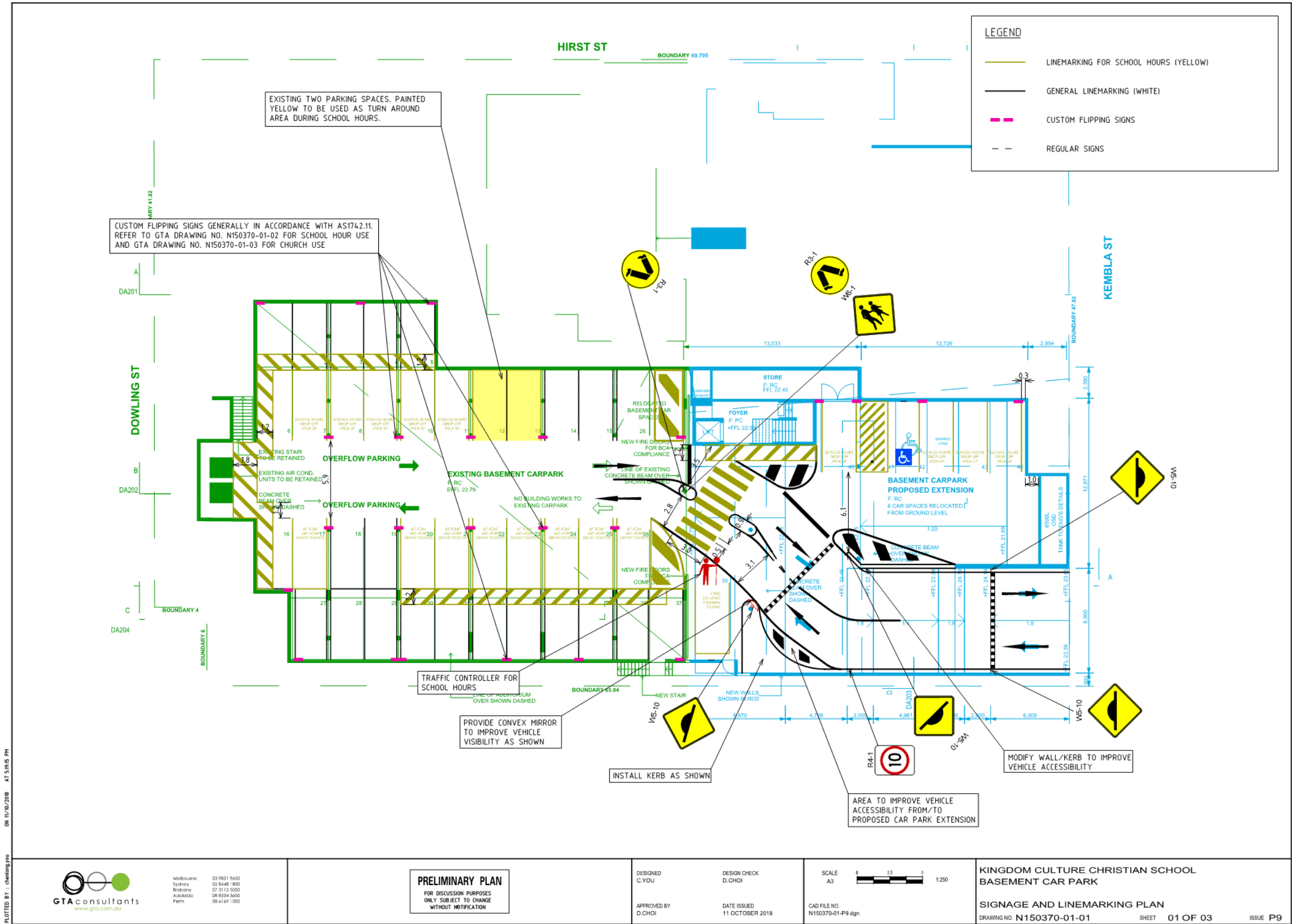


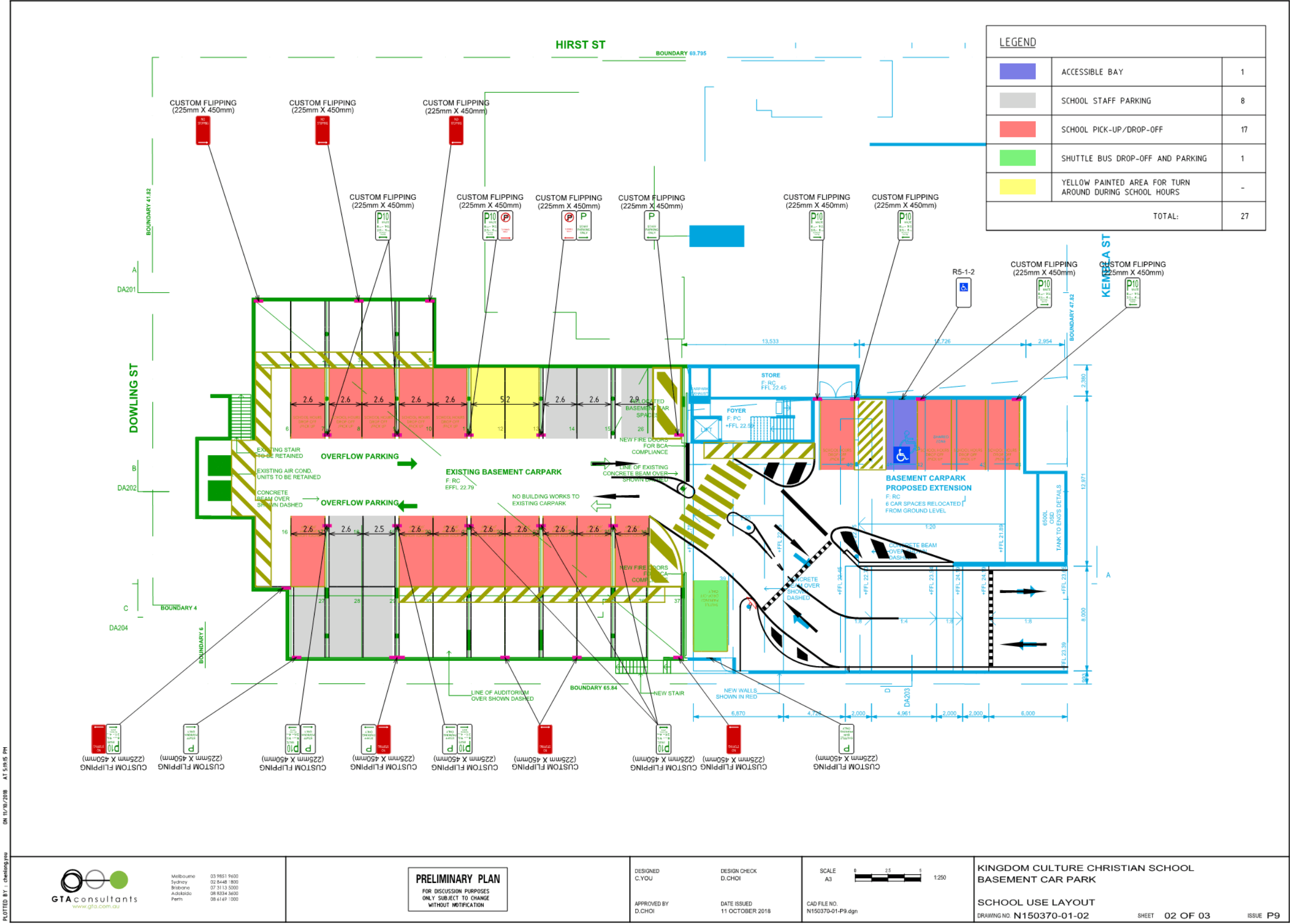


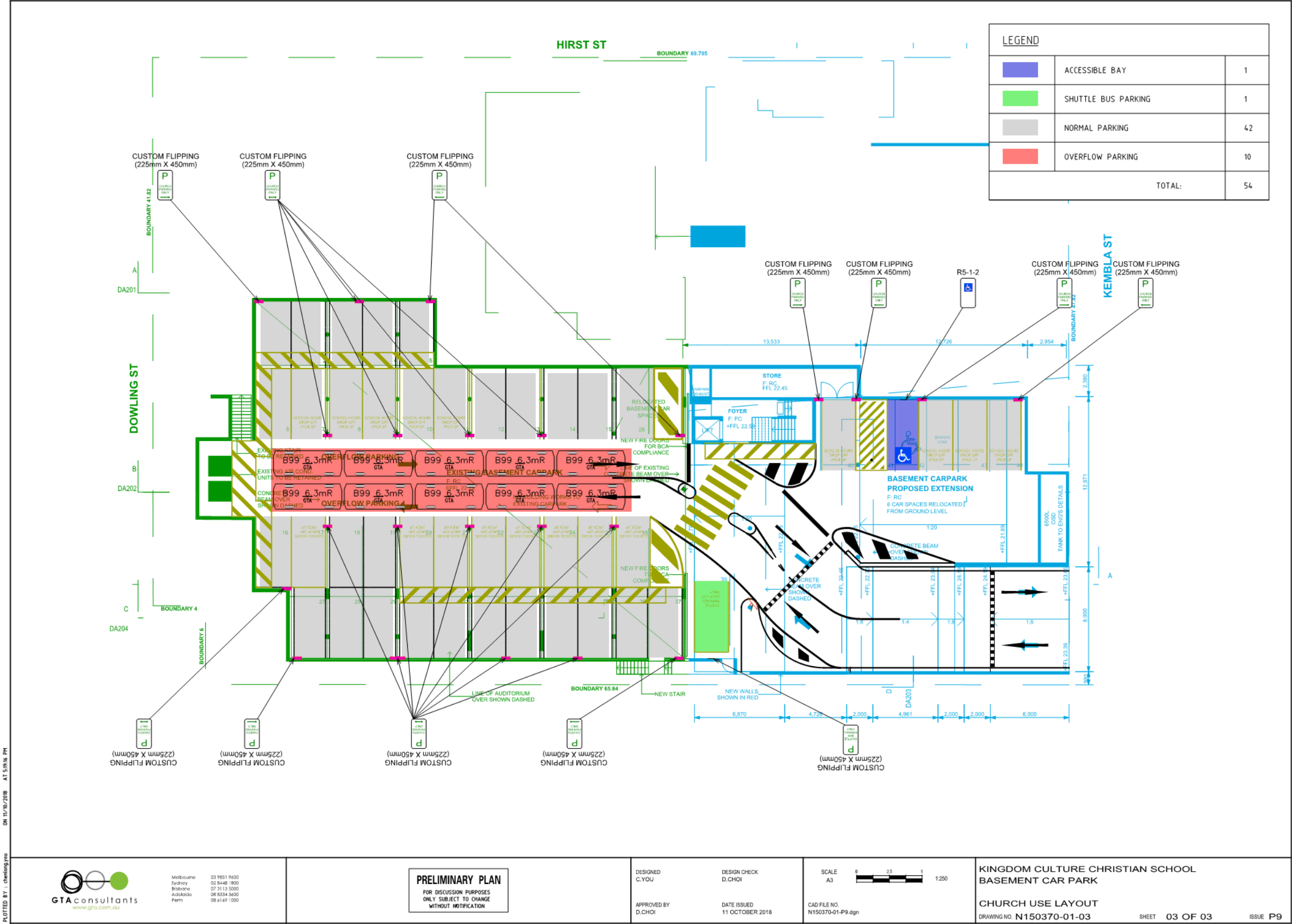


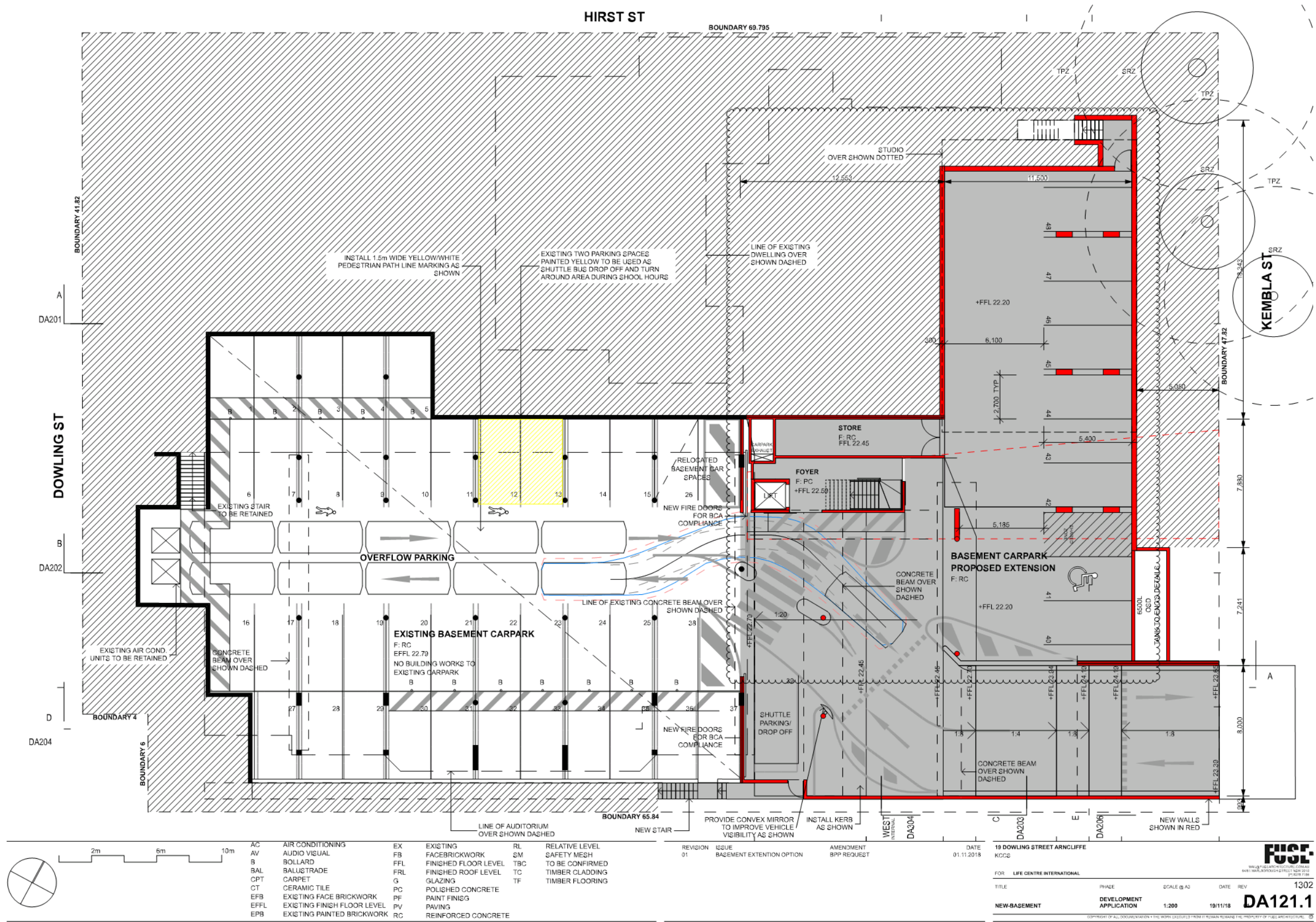












ANNEXURE B

Clause 4.6 Written Request – Floor Space Ratio

Clause 4.6 Exception to Development Standards (Compulsory)**Rockdale Local Environmental Plan 2011**

Applicant's name: Kingdom Culture Christian School Pty Limited

Site address: 19 Dowling Street Arncliffe

Proposal: The proposed development consists of the partial demolition of some existing buildings and structures associated the subject site and the construction of a new two storey addition with basement car parking and storage.

Introduction

At the time of writing, the case law relevant to the preparation of this Clause 4.6 variation request are as follows:

- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2five No 3')
- Winten Property Group Ltd v North Sydney Council [2001] NSWLEC 46
- Zhang and Anor v Council of the City of Ryde [2016] NSWLEC 1179
- Micaul Holdings Pty Ltd v Randwick City Council [2016] NSWLEC 7
- Moskovich v Waverley Council [2016] NSWLEC 1015

The findings and principles set out in these cases have been considered in the preparation of this Clause 4.6 variation request.

In accordance with clause 4.6, and as guided by the above case law, this clause 4.6 variation request:

- a. identifies the development standard to be varied (Section 1);
- b. identifies the extent of the variation sought (Section 2);
- c. establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances because the objective of the FSR development standard is achieved notwithstanding non-compliance with the standard (Section 3 and Section 4);
- d. demonstrates that there are sufficient environmental planning grounds to justify the variation (Section 4 below);
- e. demonstrates that the consent authority can be satisfied that the proposal is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the B4 Mixed Use zone (Section 4 below);

- f. demonstrates that the variation of the maximum FSR development standard does not raise any matter of significance for State or regional planning (Section 4 below); and
- g. demonstrates that there is no public benefit in maintaining the numerical FSR development standard in this instance (Section 4 below).

1. Name of the applicable planning instrument which specifies the development standard:

Rockdale Local Environmental Plan 2011

The number of the relevant clause therein:

Clause 4.4 – Floor space ratio

The relevant subclause states:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

2. The nature of Development Standard sought to be varied and details of variation:

As outlined above, Clause 4.4 of the Rockdale Local Environmental Plan 2011 (RLEP2011) prescribes that a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. As indicated in the RLEP2011 Floor Space Ratio Map extract below (**Figure 1**), the maximum floor space ratio shown for the subject site on the Floor Space Ratio Map is partially 0.5:1

With a gross floor area (GFA) of 1,690.09m² and a site area of 3,315m², the proposed development has an overall floor space ratio of 0.5098:1. This fails to comply with the maximum FSR of 0.5:1 and therefore results in a 1.95% variation to the development standard for this portion of the site.

A 1.95% variation is considerably less than the 10% departure that would otherwise trigger the determination of the DA being made by the Bayside Planning Panel.

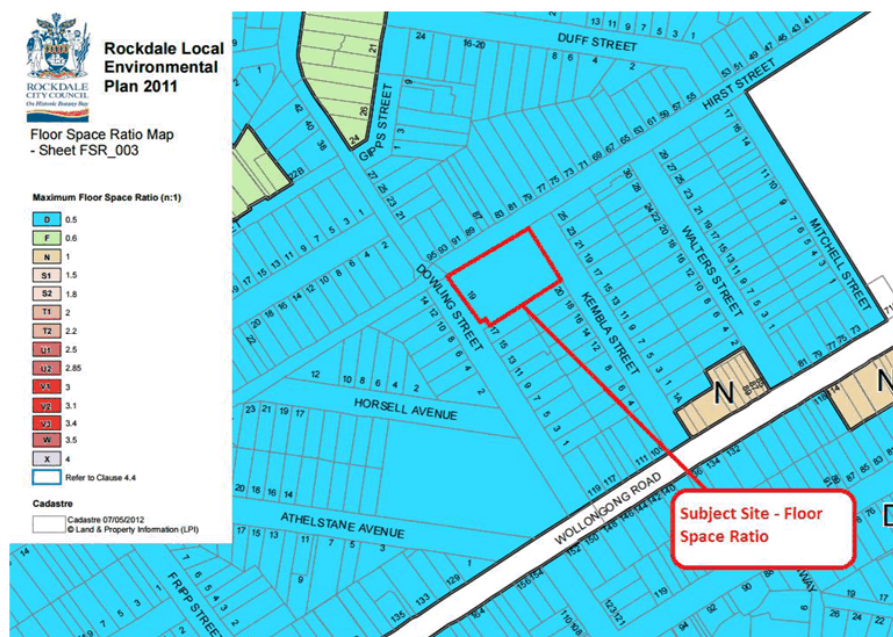


Figure 1 – Extract of FSR Map from RLEP2012 indicating the 0.5:1 FSR limit.
Source: legislation.nsw.gov.au

3. Assessment of Clause 4.6 Variation

3.1 Consistency with Objectives of Floor Space Ratio Development Standard:

Clause 4.4(1) of the RLEP2011 includes the following specific objectives for controlling the height of buildings:

(1) 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.

The following is an explanation as to how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objective of the development standard.

- Objective 1(a) of the development standard outlined in Section 3 of this report is achieved due to the following reasons:

To establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,

The proposal seeks a 1.95% variation to the FSR development standard.

Having regard to the objective, the question is then whether this 1.95% variation in FSR is sustainable when considering the availability of infrastructure and any additional generation of vehicular and pedestrian traffic that may result from the development.

Regarding infrastructure specifically, it is noted that all available services required for operating the new school buildings are available, owing to the existing use of the site as a school and church. Additional infrastructure such as access to public transport services is also available within close vicinity of the subject site. On this point reference is made to the reports prepared by ML Traffic Engineers and also GTA Consultants.

Submitted within the response to Council's additional information request is a traffic and parking assessment which serves as an updated traffic and parking assessment of the proposed modifications to the development. The concluding comments of the assessment are:

- It is expected that car parking demand for the proposed expansion can be effectively managed on-site and accommodated in the road network immediately surrounding the site if required, without any adverse impacts.
- It is proposed that the number of church patrons be reduced to 380 patrons.
- The level of on-site parking provision proposed is sufficient to support the proposed expansion of the school to 200 students, with sufficient on-site parking.
- The car park layout has been amended to improve the safety and operation of the basement car park.
- The car parking provisions for the site have been reduced to 44 spaces designed for use by the church. During school operations, use of the car park is reduced to 42 spaces, where two spaces will be used as a turnaround area, further improving the safety operation of the car park.

- The overflow parking for church use can be provided via stack parking arrangements.
- By implementing traffic management arrangements and via parking allocation arrangements, the safety of the basement car parking can be improved.

Having regard to the conclusions of the GTA assessment, it is evident the proposal is capable of satisfying the objective of the development standard which seeks to ensure generation of vehicular and pedestrian traffic achieves the desired future character of Rockdale.

Reference is also made to Annexure A of this response to Council's additional information request which includes acceptance of a consent condition that will ensure church services will not be held during school hours. The acceptance of this condition helps support the notion that the density and intensity of land uses on the site remain acceptable with regard to the desired future character of the local area.

It is also important to also note that a considerable amount of floor space across the site is attributable to the underutilised area of the heritage listed villa (341.7m² or 20.6% of the allowable GFA). In this regard, when offsetting the 32.59m² or 1.95% variation to the control against the 341.7m² or 20.6% of the underutilised area of the site, it is evident the proposed variation does not contribute to the intensity of the school or church land use on the site.

- Objective 1(b) of the development standard outlined in Section 3 of this report is achieved due to the following reasons:

To minimise adverse environmental effects on the use or enjoyment of adjoining properties,

It is considered that adverse environmental impact on adjoining properties has been minimised. The subject site has three (3) frontages to the surrounding road network. Only the south eastern boundary adjoins residential properties. The majority of built form along this south eastern boundary is existing as such it is considered that the perceived additional impacts of the development will be minimal.

The proposed new building has been assessed to slightly reduce the solar access to the rear yard by 16.6% to approximately 41.66% or 2.5hrs, this is less than the 20% maximum reduction specified within the RDCP2011.

The existing shadow is being cast by the existing hall on the development site (to be demolished) which has a height RL31.27 and is approximately 10.5m from the

boundary. The proposed shadows are increased because the parapet height has been increased in general by approximately 2.25m to the top of the 1m safety balustrades and approximately 8.72m from the boundary. It is considered that the lift overrun which rises to 11.9m is a relatively minor portion of the non-compliance and is not considered to contribute to this increase in overshadowing. This reduction in solar access is considered justifiable for the following reasons.

- The proposed building does not significantly reduce the level of existing solar access to habitable areas within the dwelling – refer to *Figure 3* below which includes an elevation shadow diagram of the adjoining property at 20 Kembla Street.
- The increase in overshadowing to the rear yard is less than the 20% maximum reduction specified within the RDCP2011.
- The roofline has been stepped from the boundary to provide greater setbacks to the upper levels from this side boundary,
- If it were not for the heritage item located on the site, the development could potentially be undertaken as complying development pursuant to *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably great shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.
- At 8.72m the building setbacks provided to the upper levels of the proposed new school building to the southern boundary are greater than 5m which is permitted under the aforementioned SEPP.

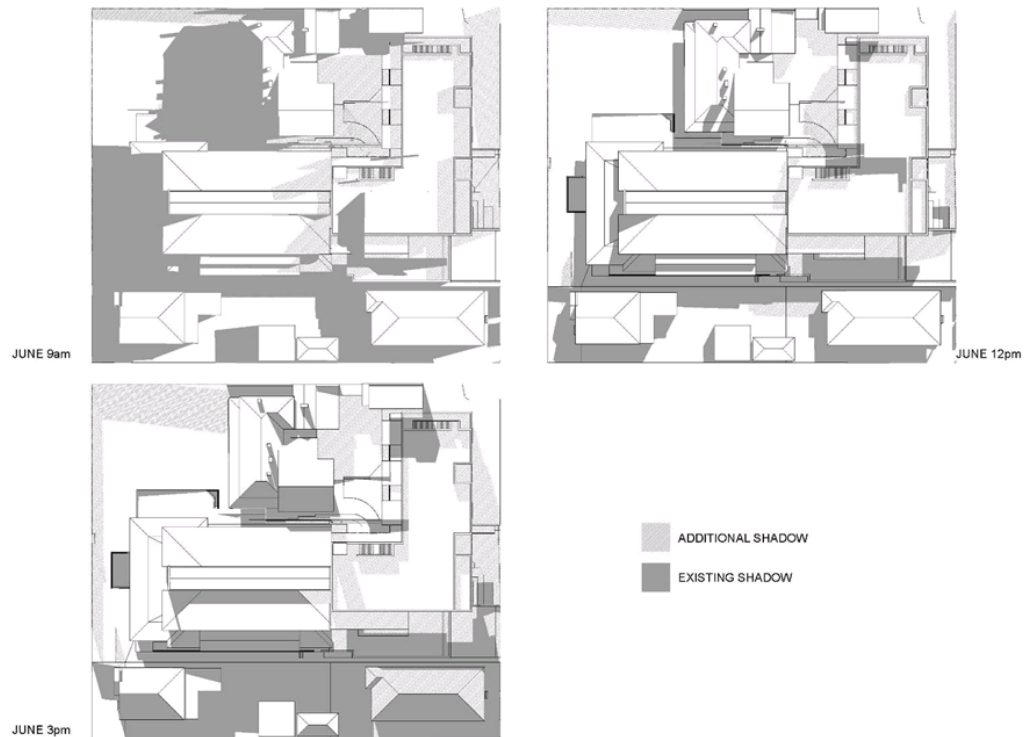


Figure 2 – Submitted shadow diagrams showing extent of existing and proposed shadows.

Source: FUSE Architecture

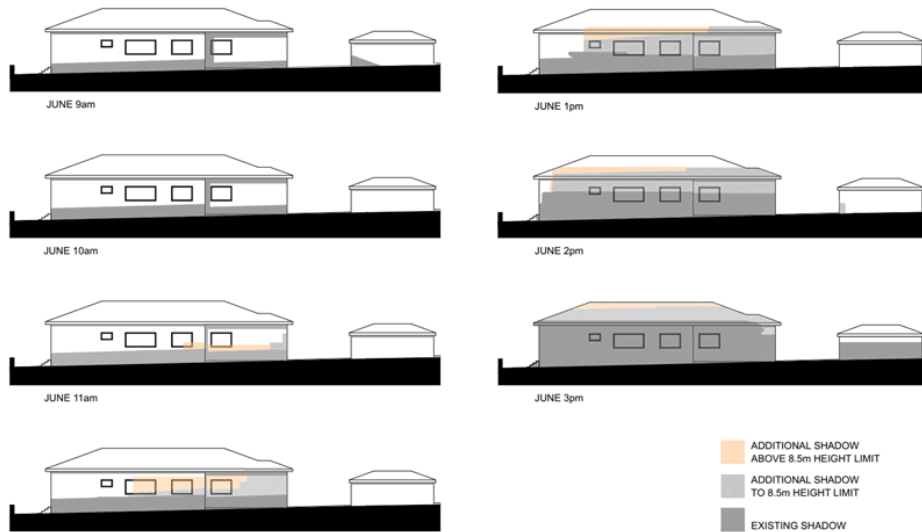


Figure 3 – Submitted elevation shadow diagrams showing extent of existing and proposed shadows, along with the difference of a building with a compliant building height and that proposed under the latest amendment to the plans.
Source: FUSE Architecture

In terms of visual privacy, the design provides for an increased setback for the first storey and proposed rooftop terrace which along with the proposed orientation will minimise opportunities for overlooking into the neighbours private open space.

The latest amendment to the plans introduces a non-trafficable area to the rooftop terrace to ensure users of the rooftop are placed further away from the southern boundary with the adjoining dwelling house at 20 Kembla Street. In addition, the planter boxes on the rooftop have been doubled in size so as to sustain better landscape planting and reduce overlooking potential.

It is also noted that the times for recess and lunch will be two 30 min periods per day, as such the level of time that this elevated terrace will be in use for active playground play will be one (1) hour in the mid-morning and early afternoon respectively.

Given the availability of outdoor play areas on the ground floor not all students will utilise the elevated terrace area for recess and lunch activities. The submitted acoustic report states the following in terms of the use of the outdoor areas within the school.

Children will spend recess and lunch breaks within the outdoor play areas and west facing balconies where they will eat their food and play. Sporting activities

will occur off-site at other facilities. The east facing balconies are expected to be used for low noise activities only, such as hanging of artwork to dry and quiet reading.

Recess and lunch will occur at the following indicative times:

- Recess: 10:30 am to 10:00 am
- Lunch: 12:30 pm to 1:00 pm

It is considered that the above operations will form part of the updated noise management plan for the school and as such become part of normal day to day operations. Given that 'play' activities will occur on the west facing balconies and the adjacent residences are to the east and south east to which quiet activities will be orientated it is considered that opportunities for overlooking will be minimised.

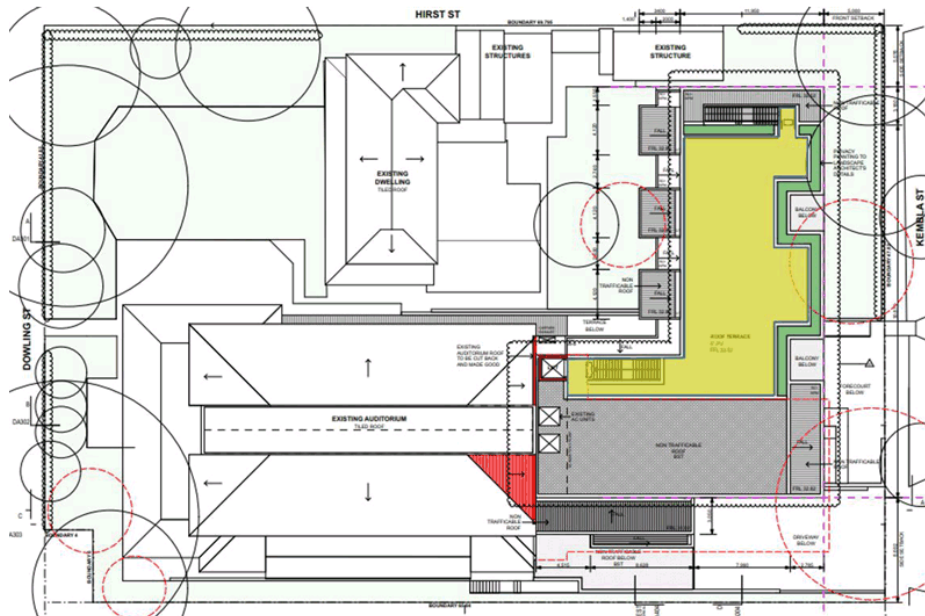


Figure 3 – Extract of the amended Roof Plan showing the area of the rationalised rooftop terrace highlighted in yellow. Noted in this image is how the reduction in the size of the roof terrace has come about by increasing the size of the non-trafficable area on the southern edge of the roof, thus meaning the usable area of the roof terrace is not positioned a further 8.2m from the nearest adjoining property.

Source: FUSE Architecture edited for use by CPS

- Objective 1(c) of the development standard outlined in Section 3 of this report is achieved due to the following reasons:

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.

Despite the non-compliance with the RLEP2011 FSR development standard, the proposed development is considered to be of an appropriate scale and visual appearance so as to be compatible with the surrounding streetscape. Appropriate built form massing has ensured the development appears as a relatively modest building when viewed from the streetscape and the surrounding allotments.

Where possible, increased setbacks and physical separation from the upper levels has been provided to reduce the visual impact and appearance of the built form as well as increase privacy and amenity. High levels of landscaping have been retained and new landscaping incorporated within the setback areas to further reduce the visual bulk and dominance of the building and maintain the front garden setting similar to the existing dwellings along Kembla Street. Landscaping has also been utilised to increase the level of inter-allotment privacy.

To determine compatibility with the local area guidance is taken from *Project Venture Development v Pittwater Council* [2005] NSWLEC 191 whereby compatibility was summarised as meaning 'capable of existing together in harmony'. Within this meaning, two key components were explored being the 'physical impacts' (noise, overlooking, overshadowing) and the 'visual impacts' (building height, bulk, scale, setbacks and landscaping).

In this regard it is considered that the proposed new buildings will present a modest change to the Kembla Street frontage, however on balance it is considered this change is capable of existing together in harmony with surrounding development.

To help support this notion, reference is made to the submitted acoustic assessments undertaken by AECOM which essentially find the acoustic performance of the proposal as being compliant with the relevant assessment criteria.

Reference is also made to the earlier discussions within this assessment regarding overlooking/privacy and overshadowing.

When considering the appropriateness of the 1.95% variation to the development standard on the grounds of bulk, scale and setbacks, and importantly its ability to exist in harmony with surrounding development, reference is once again made to the argument that the variation helps support retention of the heritage buildings on the site by avoiding alterations or additions to these buildings in lieu of new school buildings. In this regard it is contended that the proposal exists more harmoniously with surrounding development than the alternative which may

necessitate the augmentation of a heritage item in order to achieve the same gross floor area required by the applicant.

Given the above, it is considered the proposed development is compatible and improves the visual appearance of the surrounding area by providing a building which exists in harmony with the existing surrounding development and replaces an ageing church hall with new school building of high amenity, architectural integrity and modern presentation.

3.2 Consistency with the Objectives of the R2 Low Density Residential Zone

The objectives of the R2 Low Density Residential Zone under the RLEP2011 are as shown below in italics, followed by a comment on how the objectives of the zone are achieved despite the variation to the floor space ratio development standard:

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

Comment: The proposal is for a non-residential land use that is nonetheless a permissible form of development within the zone. As such, this objective is considered to have limited applicability to the proposal. Despite this it is considered that the proposed development does not limit the ability of adjoining land to continue to provide for the housing needs of the community within a low density residential environment. This is because it has been demonstrated within the clause 4.6 written request that the impact of the proposal on adjoining land are such that they do not unduly impact on the redevelopment potential of this land.

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

Comment: The demand for additional placements at the school is evidence that there is a need for the proposed school expansion in order to meet the day to day requirements 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.

Comment: As demonstrated by the submitted consultant reports including Acoustic, Traffic and Parking and Heritage the proposed school demonstrates that it is able to minimise additional impacts on the character and amenity of the low density residential area. As well as this, this proposal has undergone a number of amendments to improve visual privacy from the roof terrace to minimise overlooking potential by reducing trafficable areas.

Changes to the playground configuration have also brought about an improved relationship between the proposed building and the existing heritage items on the site. Reference is made to the supporting comments by the project team's heritage consultant, Weir Phillips Heritage in their letter dated 25 May 2018.

Having regard to the above, it is contended that the proposal will now be carried out in a context and setting that minimises impacts on the character and amenity of the area.

3.3 Unreasonable or Unnecessary

For the following reasons it is considered unreasonable and unnecessary to enforce strict compliance with the numerical floor space requirements of Clause 4.4 of the RLEP2011:

- It has been demonstrated that the 1.95% variation to the development standard does not result in any additional impacts on the amenity afforded to neighbouring properties, and does not contribute negatively to the cohesiveness of the streetscape. While it is acknowledged that even a development complying with this development standard may otherwise result in the same impacts, it is important nonetheless to establish the level of impact resulting from the variation is no greater. This clause 4.6 written request has demonstrated this with regard to traffic and parking, solar access/overshadowing, visual and acoustic privacy, noise impacts and outlook.
- By allowing the construction of new building on the subject site, the school is able to meet the demand for new placements without having to augment the existing heritage buildings. This means that the heritage buildings are able to be preserved without be subjected to more intense school uses.
- If it were not for a heritage item being located on the site, the complying development provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* would prescribe that a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably greater shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.

3.4 Consideration of *Wehbe v Pittwater Council* [2007] NSWLEC 827

The Chief Judge of the NSW Land and Environment Court (NSWLEC) delivered this influential judgment in relation to variations under SEPP 1, which held that variations to development standards may be well founded in a variety of ways

At [42], it was noted that the most common way to establish that compliance with a development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved despite non-compliance with the control.

The Court elaborated on the rationale of this approach, noting at [43]:

Development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The question that this raises is as follows:

1. *Would the proposal, despite a numerical non-compliance, be consistent with the relevant environmental or planning objectives?*

Section 4.1 and 4.2 above demonstrate that, despite the numerical non-compliance, the proposal is consistent with the objectives of the Floor Space Ratio standard and R2 Low Density Residential zone.

The Court outlined four other methods for establishing that compliance with a development standard is unreasonable or unnecessary:

2. *Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.*

Comment: The underlying objectives of the FSR standard and R2 zone are relevant to this proposal and as such this consideration is not relevant in this case.

3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.*

Comment: The underlying objective or purpose of the development standard would not be defeated or thwarted if strict compliance with the development standard was required. However this written request has demonstrated that the underlying objective or purpose of the development standard can still be achieved with the proposed 1.95% variation to the development standard.

4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable.*

Comment: Bayside Council has not abandoned the development standard. This consideration is not relevant.

5. *Establish that the zoning of particular land was unreasonable or inappropriate so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Comment: The use of the subject site as a church was in existence when the site was zoned "special uses" and not subject to a maximum numerical FSR control.

The zoning change to R2 Low Density Residential brought about by the gazettal of RLEP2011 resulted in a maximum FSR development standard being applied to the subject site. The uses on the site however are more consistent with its previous zoning which offered greater flexibility in the controls for developing buildings for a specific purpose (e.g. church, school etc.) without the inherent burden of prescriptive numerical development standards.

Although this written request does not rely upon it, there is an argument that the current R2 Low Density Residential zoning is unreasonable and inappropriate when having regard to *Wehbe v Pittwater Council [2007] NSW LEC 827* which establishes 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.

This is because the current approved uses on the site are more akin to the previous zoning (special use). It is thus considered that the 0.5:1 FSR development standard is more appropriate to control the bulk and scale of low density residential accommodation within the R2 Residential Zone. It is therefore considered that the application of the standard to this development could be argued as unreasonable and unnecessary and that this particular parcel of land should not have been included in the R2 zone.

To further support the above argument, it is again reiterated that under the provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, that complying developments for schools are not subjected to a floor space ratio limit which places further questions over the appropriateness of a 0.5:1 floor space ratio limit for the site.

3.5 Sufficient Environmental Planning Grounds

It is considered that there are sufficient environmental planning grounds to support the variation as follows:

- The 1.95% variation to the development standard does not manifest in any undue impacts on the amenity of adjoining development by way of overshadowing, loss of visual or acoustic privacy, noise impacts, traffic or parking impacts, nor visual outlook.
- The applicant has accepted conditions by Council that would see no church services being undertaken during school hours. Furthermore, the applicant acknowledges the outcomes of the GTA traffic and parking report which require a reduction in the number of church patrons. These reductions in the use of the site will reduce the level of density and intensity associated with the development and offset the 1.95% variation to the development standard in terms of the additional gross floor area over that prescribed by the development standard.
- Through the construction of new buildings on the subject site, the school is able to meet the demand for new placements without having to augment the existing heritage buildings. This means that the heritage buildings are able to be preserved without be subjected to more intense school uses.

3.6 Any Matter of Significance

The non-compliance does not raise any matter of significance for state or regional environmental planning.

3.7 Public Benefit

The proposal will result in significant public benefit through the ability to meet demand for school placements currently experienced by Kingdom Culture Christian School. Furthermore it is considered to be in the public interest that the objectives of the development standard and zone are upheld, irrespective of whether numerical compliance with the development standard is met.

On balance it is therefore considered that strict maintenance of the standard in this instance is not in the public interest.

ANNEXURE C

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Clause 4.6 Exception to Development Standards (Compulsory)**Rockdale Local Environmental Plan 2011**

Applicant's name: Kingdom Culture Christian School Pty Limited

Site address: 19 Dowling Street Arncliffe

Proposal: The proposed development consists of the partial demolition of some existing buildings and structures associated the subject site and the construction of a new two storey addition with basement car parking and storage.

Introduction

At the time of writing, the case law relevant to the preparation of this Clause 4.6 variation request are as follows:

- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2five No 3')
- Winten Property Group Ltd v North Sydney Council [2001] NSWLEC 46
- Zhang and Anor v Council of the City of Ryde [2016] NSWLEC 1179
- Micaul Holdings Pty Ltd v Randwick City Council [2016] NSWLEC 7
- Moskovich v Waverley Council [2016] NSWLEC 1015

The findings and principles set out in these cases have been considered in the preparation of this Clause 4.6 variation request.

In accordance with clause 4.6, and as guided by the above case law, this clause 4.6 variation request:

- h. identifies the development standard to be varied;
- i. identifies the extent of the variation sought;
- j. establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances because the objective of the FSR development standard is achieved notwithstanding non-compliance with the standard;
- k. demonstrates that there are sufficient environmental planning grounds to justify the variation;
- l. demonstrates that the consent authority can be satisfied that the proposal is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the R2 Low Density Residential zone;

- m. demonstrates that the variation of the maximum FSR development standard does not raise any matter of significance for State or regional planning; and
- n. demonstrates that there is no public benefit in maintaining the numerical FSR development standard in this instance.

4. Name of the applicable planning instrument which specifies the development standard:

Rockdale Local Environmental Plan 2011

The number of the relevant clause therein:

Clause 4.3 – Height of buildings

The relevant subclause states:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map

5. The nature of Development Standard sought to be varied and details of variation:

Clause 4.3 of the *Rockdale Local Environmental Plan 2011* (RLEP2011) prescribes that a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. As indicated in the RLEP2011 Height of Buildings Map extract below (*Figure 1*), the maximum building height shown for the subject site on the Height of Buildings Map is 8.5m

The proposed development has a maximum building height of 11.9m (RL36.67), it is noted that the maximum building height exceedance generally pertains to the top of the proposed lift overrun. Other non-compliant elements include the proposed safety balustrading/planter boxes demonstrated within *Figures 2*. It is acknowledged that the amended plans have reduced the trafficable area of the rooftop by recessing the planter boxes on the southern side of the roof terrace. Therefore the extent of the building height non-compliance has been reduced with the amended plans.

The above represents a variation of 40%, or 3.4m, and would therefore trigger the determination of the DA being made by the Bayside Planning Panel.

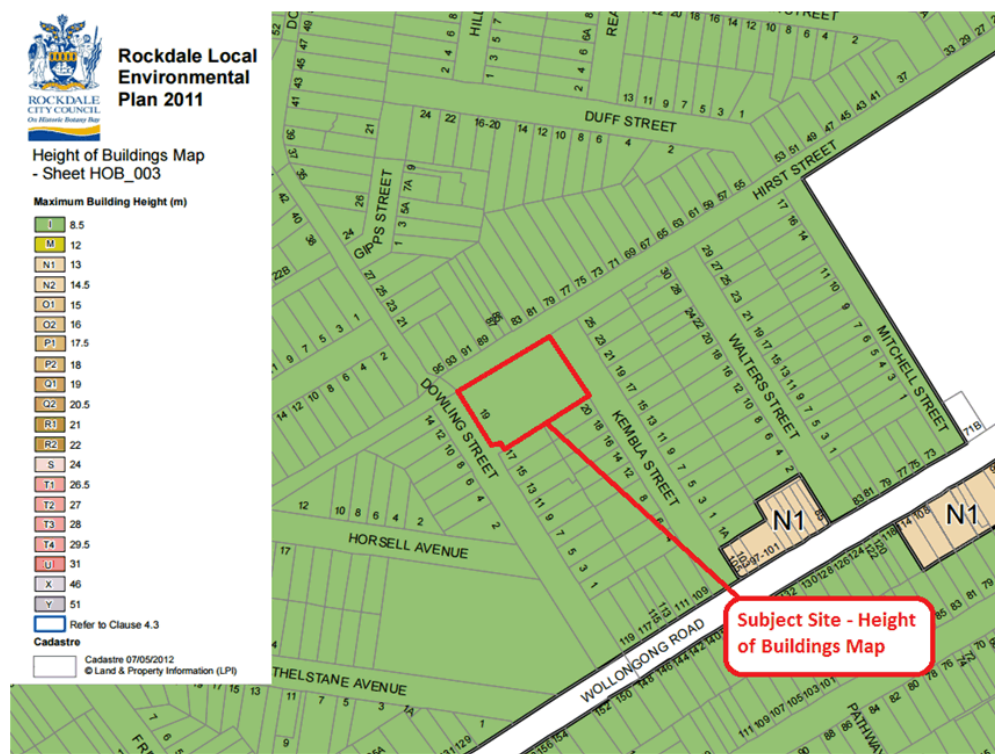


Figure 1 – Height of Buildings Map extract from RLEP2011. Maximum building height for the subject site is 8.5m.
Source: www.legislation.nsw.gov.au

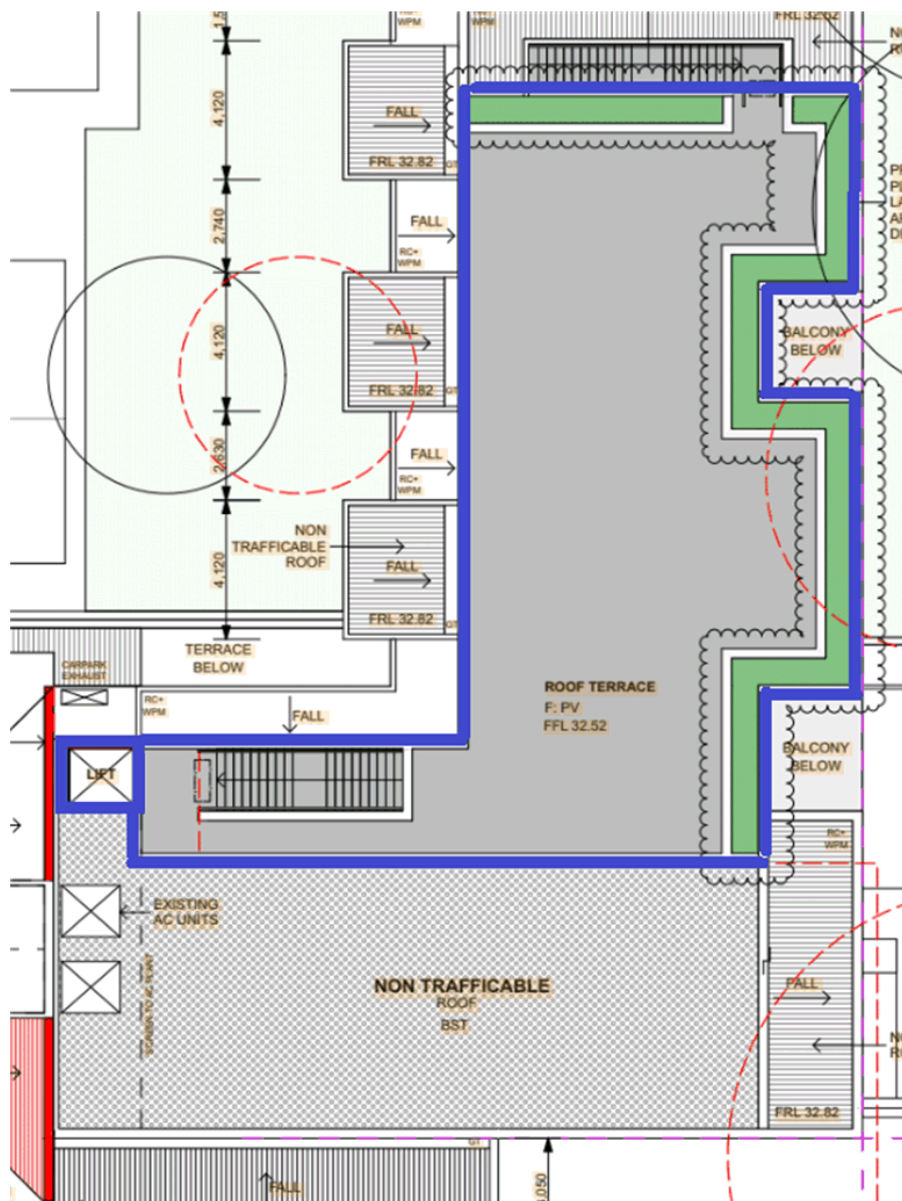


Figure 2 – Roof Plan diagram of the proposed development indicating non-compliant elements highlighted in blue. Notably this pertains to the lift overrun and planter boxes on the perimeter of the building.

Source: Fuse + CPS

6. Assessment of Clause 4.6 Variation

3.8 Consistency with Objectives of Floor Space Ratio Development Standard:

Clause 4.3(1) of the RLEP2011 includes the following specific objectives for controlling the height of buildings:

(1) *The objectives of this clause are as follows:*

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

The following is an explanation as to how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objective of the development standard. Each of the objectives are provided in *italics* and underlined the planner's comment following.

to establish the maximum limit within which buildings can be designed and floor space can be achieved,

The components of the building which breach the building height limit do not contribute to the floor space ratio of the development. This is because the offending elements of the building which breach the buildings height limit are confined to the lift overrun and the planter boxes/balustrades for the roof terrace area.

Neither of these components contribute to the building's gross floor area when having regard to the relevant definitions in the Dictionary of the RLEP2011. The lift is considered to be common vertical circulation, and therefore excluded under part (d) of the gross floor area definition. The roof terrace is located outside of the external walls of the building, and by definition also does not constitute gross floor area.

Given the non-compliance elements do not impact on the ability of the building to be designed and floor space ratio achieved, it is considered the proposal satisfied this objective.

to permit building heights that encourage high quality urban form

The proposal will result in a built form outcome that is sympathetic to the local area. As evidenced in the written submission provided by FUSE dated 1 June 2018, non-residential development in the surrounding area is characterised by flat roof designs. Attention is drawn to the photographs submitted by FUSE architecture in their submission which shows neighbourhood shops and child care centres within the vicinity of the site all including flat roofs rather than pitched roofs which are more commonly found on dwelling houses. In these circumstances it is contended that the proposed flat roof design for the new school building is appropriate in its context and therefore contributes positively to the urban form of the locality.

It is reiterated that those elements which breach the height limit are generally limited to the lift overrun and the planter boxes on the roof of the building. Given the lift overrun is centrally located within the building/site, its discernibility from the street is diminished. Furthermore, it can be argued that the roof top planter boxes will enable vegetation planting on the roof that will contribute positively to the building's aesthetic and therefore its ability to present a higher quality urban form than a traditional roof which does not include vegetation planting.

to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain.

Good solar access is achieved by the proposed new building due to its location and orientation on the site. The new building exhibits an ideal northerly orientation as demonstrated in the accompanying shadow diagrams and enables the capture of both winter sun and summer breezes. In addition to the above the proposed new buildings will provide 3m+ ceiling heights that will allow for a high level of solar access and natural ventilation. This will reduce the reliance on mechanical heating and cooling within the proposed school buildings.

The subject development will slightly reduce solar access to the neighbouring dwelling to the south at No. 20 Kembla Street. However, as demonstrated within the set of submitted shadow diagrams any existing living areas to the rear of the dwelling would currently be in shadow for 100% of the time between 9am and 3pm. An analysis of the rear yard has revealed that it currently receives 50% (3hrs) solar access to 50% of the private open space area.

The shadow diagrams illustrate that there will be a minor reduction in solar access to the internal living areas of the dwelling at 20 Kembla Street on 21 June.

In terms of solar access to the rear private open space of 20 Kembla Street an analysis of the existing and proposed shadows has revealed that the existing private open space receives approximately 3 hours sunlight on 21 June to 50% of the rear yard. The proposed new building has been assessed to slightly reduce the solar access to the rear yard by 16.6% to approximately 41.66% or 2.5hrs, this is less than the 20% maximum reduction specified within the RDCP2011.

The existing shadows are being cast by the existing hall on the subject site (to be demolished) which has a height RL31.27 and is approximately 10.5m from the boundary. The proposed shadows are increased because the overall parapet height has been increased by approximately 2.25m to the top of the 1m safety balustrades and approximately 8.72m from the boundary. It is considered that lift overrun which rises to an overall height of 11.9m, is a relatively minor component of the non-compliance and its location (18m from the southern boundary) is not considered to contribute to this increase in overshadowing.

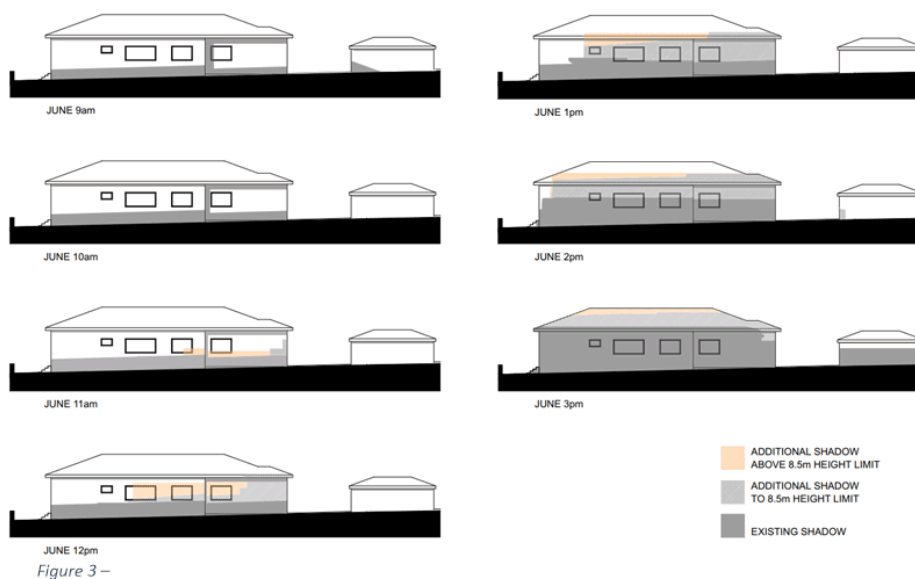
This reduction in solar access is considered justifiable for the following reasons.

- The proposed building does not significantly reduce the level of existing solar access to habitable areas within the dwelling – refer to *Figure 3* below which includes an elevation shadow diagram of the adjoining property at 20 Kembla Street.
- The increase in overshadowing to the rear yard is less than the 20% maximum reduction specified within the RDCP2011.
- The roofline has been stepped from the boundary to provide greater setbacks to the upper levels from this side boundary,
- If it were not for the heritage item located on the site, the development could potentially be undertaken as complying development pursuant to *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably great shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.
- At 8.72m the building setbacks provided to the upper levels of the proposed new school building to the southern boundary are greater than 5m which is permitted under the aforementioned SEPP.



Figure 2 –

Source:



Source:

to nominate heights that will provide an appropriate transition in built form and land use intensity.

As discussed the proposed building height maintains a two storey built form across the site. The exceedances in the building height relate mainly to safety balustrading and the lift overrun. The proposed height responds to the existing buildings on the subject site which were approved prior to RLEP2011 when the site was zoned "Special Uses" and not subject to a maximum numerical height control.

The zoning change to R2 Low Density Residential brought about by the gazettal of the RLEP2011 resulted in a maximum height development standard being applied to the subject site. The use however remains consistent with its previous zoning which offered more flexibility in the controls for developing buildings for a specific purpose (e.g. church etc.) without the inherent burden of the prescriptive numerical development standards required to control residential development within a low density residential zone.

Such burdens on building heights for schools are not reflected within State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 which permits buildings up to 22m high being undertaken as complying development. The trigger for such works not being able to be undertaken on the site as complying development is because of the existing heritage item located on the land. Therefore it can be accepted that the additional

building height does not negatively impact upon the heritage item, there is nothing therefore in the way of arguing the proposed building height is otherwise appropriate.

The proposed building is positioned over 8m from the adjoining residential boundary, and as such is considered to represent sufficient separation to allow or an orderly transition of the build form from the north to the south.

The content of the building height non-compliance must be considered in the context of other forms of development permissible within the R2 zone which could see a dwelling house constructed within 900mm of the side boundary and up to a height of 8.5m.

In this regard it is considered the intensity of the land use associated with the proposed development at 8m from the boundary is less than that of a building 8.5m high and only 900mm from the side boundary.

3.9 Consistency with the Objectives of the R2 Low Density Residential Zone

The objectives of the R2 Low Density Residential Zone under the RLEP2011 are as shown below in italics, followed by a comment on how the objectives of the zone are achieved despite the variation to the floor space ratio development standard:

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

The proposal is for a non-residential land use that is nonetheless a permissible form of development within the zone. As such, this objective is considered to have limited applicability to the proposal. Despite this it is considered that the proposed development does not limit the ability of adjoining land to continue to provide for the housing needs of the community within a low density residential environment. This is because it has been demonstrated within the clause 4.6 written request that the impact of the proposal on adjoining land is such that they do not unduly impact on the redevelopment potential of this land.

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

The demand for additional placements at the school is evidence that there is a need for the proposed school expansion in order to meet the day to day educational requirements of residents.

To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

As demonstrated by the submitted consultant reports including Acoustic, Traffic and Parking and Heritage the proposed school demonstrates that it is able to minimise additional impacts on the character and amenity of the low density residential area. As well as this, this proposal has undergone a number of amendments to improve visual privacy from the roof terrace to minimise overlooking potential by reducing trafficable areas.

Changes to the playground configuration have also brought about an improved relationship between the proposed building and the existing heritage items on the site. Reference is made to the supporting comments by the project team's heritage consultant, Weir Phillips Heritage in their letter dated 25 May 2018.

Having regard to the above, it is contended that the proposal will now be carried out in a context and setting that minimises impacts on the character and amenity of the area.

3.10 Unreasonable or Unnecessary

For the following reasons it is considered unreasonable and unnecessary to enforce strict compliance with the numerical floor space requirements of Clause 4.4 of the RLEP2011:

- It has been demonstrated that the variation to the building height development standard does not result in any additional impacts on the amenity afforded to neighbouring properties, and does not contribute negatively to the cohesiveness of the streetscape. While it is acknowledged that even a development complying with this development standard may otherwise result in the same impacts, it is important nonetheless to establish the level of impact resulting from the variation is not significantly greater, and no more than what a potentially complying building height would achieve if it were positioned closer to the southern boundary. This clause 4.6 written request has demonstrated this with regard to traffic and parking, solar access/overshadowing, visual and acoustic privacy, noise impacts and outlook.
- By allowing the construction of a new building on the subject site, the school is able to meet the demand for new placements without having to augment the existing heritage buildings. This means that the heritage buildings are able to be preserved without being subjected to more intense school uses that may otherwise impede on the fabric of these heritage buildings.
- If it were not for a heritage item being located on the site, the complying development provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* would prescribe that a new school building could theoretically be built to a height of 22m within 10m of the boundary. The maximum height of this building has been

assessed to be 11.9m at the lift overrun which is a relatively minor portion of the roof, and according to the complying development provisions, such a building could be constructed within 5m of the boundary. Furthermore, under the provisions of the aforementioned SEPP no floor space ratio limits apply for complying development. In such circumstances a considerably greater shadow would be cast over adjoining development and deemed to be within acceptable limits by the complying development standards of the SEPP.

3.11 Consideration of *Wehbe v Pittwater Council* [2007] NSWLEC 827

The Chief Judge of the NSW Land and Environment Court (NSWLEC) delivered this influential judgment in relation to variations under SEPP 1, which held that variations to development standards may be well founded in a variety of ways

At [42], it was noted that the most common way to establish that compliance with a development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved despite non-compliance with the control.

The Court elaborated on the rationale of this approach, noting at [43]:

Development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The question that this raises is as follows:

6. *Would the proposal, despite a numerical non-compliance, be consistent with the relevant environmental or planning objectives?*

Section 4.1 and 4.2 above demonstrate that, despite the numerical non-compliance, the proposal is consistent with the objectives of the Building Height standard and R2 Low Density Residential zone.

The Court outlined four other methods for establishing that compliance with a development standard is unreasonable or unnecessary:

7. *Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.*

The underlying objectives of the Building Height standard and R2 zone are relevant to this proposal and as such this consideration is not relevant in this case.

8. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.*

The underlying objective or purpose of the development standard would not be defeated or thwarted if strict compliance with the development standard was required. However this written request has demonstrated that the underlying objective or purpose of the development standard can still be achieved with the proposed variation to the building height development standard.

9. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable.*

Bayside Council has not abandoned the development standard. This consideration is not relevant.

10. *Establish that the zoning of particular land was unreasonable or inappropriate so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The use of the subject site as a church was in existence when the site was zoned "special uses" and not subject to a maximum numerical FSR control.

The zoning change to R2 Low Density Residential brought about by the gazettal of RLEP2011 resulted in a maximum FSR development standard being applied to the subject site. The uses on the site however are more consistent with its previous zoning which offered greater flexibility in the controls for developing buildings for a specific purpose (e.g. church, school etc.) without the inherent burden of prescriptive numerical development standards.

Although this written request does not rely upon it, there is an argument that the current R2 Low Density Residential zoning is unreasonable and inappropriate when having regard to *Wehbe v Pittwater Council [2007] NSW LEC 827* which establishes 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.

This is because the current approved uses on the site are more akin to the previous zoning (special use). It is thus considered that the 8.5m building height development standard is more appropriate to control the bulk and scale of low density residential accommodation within the R2 Residential Zone, rather than select specialised land uses on larger allotment of land that accommodate schools and churches. It is therefore considered that the application of the standard to this development could be argued as unreasonable and unnecessary and that this particular parcel of land should not have been included in the R2 zone.

To further support the above argument, it is again reiterated that under the provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, that complying developments for schools are permitted with building heights up to 22m.

3.12 Sufficient Environmental Planning Grounds

It is considered that there are sufficient environmental planning grounds to support the variation as follows:

- The variation to the development standard does not manifest in any undue impacts on the amenity of adjoining development by way of overshadowing, loss of visual or acoustic privacy, noise impacts, traffic or parking impacts, nor visual outlook.
- The applicant has accepted conditions by Council that would see no church services being undertaken during school hours. Furthermore, the applicant acknowledges the outcomes of the GTA traffic and parking report which require a reduction in the number of church patrons. These reductions in the use of the site will reduce the level of density and intensity associated with the development and offset the variation to the development standard in terms of the additional building height over that prescribed by the development standard.
- Through the construction of new buildings on the subject site, the school is able to meet the demand for new placements without having to augment the existing heritage buildings. This means that the heritage buildings are able to be preserved without be subjected to more intense school uses.

3.13 Any Matter of Significance

The non-compliance does not raise any matter of significance for state or regional environmental planning.

3.14 Public Benefit

The proposal will result in significant public benefit through the ability to meet demand for school placements currently experienced by Kingdom Culture Christian School. Furthermore it is considered to be in the public interest that the objectives of the development standard and zone are upheld, irrespective of whether numerical compliance with the development standard is met.

On balance it is therefore considered that strict maintenance of the building height standard in this instance is not in the public interest.

Bayside Local Planning Panel

11/12/2018

Item No	6.8
Application Type	Modification Application
Application No	DA-2007/23/2/F
Lodgement Date	15/11/2018
Property	30-32 Guess Avenue & 4 Lusty Street, Wolli Creek
Ward	Mascot
Owner	30-32 Guess Avenue Wolli Creek Developments Pty Ltd
Applicant	Mr Eddy Haddad
Proposal	Modification to the volume of rainwater tanks - WSUD requirements, BASIX and Condition 99.
No. of Submissions	One (1)
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- That Application No. DA-2007/23/2/F, being a Section 4.55(1A) application to amend Development Consent Number DA-2007/23, for modifications to the volume of rainwater tanks - WSUD requirements, BASIX and Condition 99, at 30 - 32 Guess Avenue & 4 Lusty Street, WOLLI CREEK NSW 2205 be APPROVED and the consent amended in the following manner:

A. By Amending conditions 2, 6, 99 and 105 to read as follows:

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

Plan / Dwg No.	Drawn by	Dated	Received by Council
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
North Elevation A1020-A Revision B	Level 33 Architectural Division	-	11/10/2018
East Elevation A1021-A Revision B	Level 33 Architectural Division	-	11/10/2018
South Elevation A1022-A Revision B	Level 33 Architectural Division	-	11/10/2018
West Elevation A1023-A Revision B	Level 33 Architectural Division	-	11/10/2018
North Elevation A2022-B Revision B	Level 33 Architectural Division	-	11/10/2018
East Elevation A2023-B Revision B	Level 33 Architectural Division	-	11/10/2018
South Elevation A2024-B Revision B	Level 33 Architectural Division	-	11/10/2018
West Elevation A2025-B Revision B	Level 33 Architectural Division	-	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
<i>Drainage plans HDA01/P1, HDA04/P1, HDA05 / P1,HDA06 / P1HDA07 / P1HDA08 / P1,HDA09/P1</i>	<i>Whipps-Wood Consulting</i>	<i>August 2008</i>	<i>10 October 2008,</i>
<i>Concept drainage plans Job No 17061, issue B, DWG no. D1, D2, D3, D4, D5</i>	<i>EZE Hydraulic Engineers</i>	<i>November 2018</i>	<i>27 November 2018</i>
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]

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

6. *The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 214652M_03 other than superseded by any further amended consent and BASIX certificate.*

Note: Clause 145(1)(a) 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: -

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

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

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

[Amendment B — S96(2) amended on 17 May 2012]

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

99. *Details of proposed paving including levels and drainage pits are to be submitted to and approved by Council as part of a civil works approval, prior to the commencement of any associated civil works on site.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

105. *Prior to the issue of the Construction Certificate for each stage of construction, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. The detailed stormwater design plans must be designed in accordance with Rockdale Technical Specification Stormwater Management (with attention drawn to section 2.6.2), reflect the stormwater plans listed under condition 2 and include the provision for a minimum rainwater tank(s) capacity of 50000L, with a catchment of at least the entire roof area of the development, connected for internal stormwater re-use within the development consisting of at least all toilets, clothes washers and any external taps/landscape irrigation. The location of the rainwater tanks are to be located to ensure no negative impact to any proposed trees.*

A WSUD Strategy report and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement shall meet or exceed the targets as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.

Design certification, in the form specified in Council's Technical Specification — Stormwater Management and drainage design calculations are to be submitted with the plans. Council's Technical Specification — Stormwater Management sets out the minimum documentation requirements for detailed design plans. No approval is granted for public domain works, all public domain works are subject to a frontage works approval which must be obtained from Council upon payment of the relevant fee and Council assessment.

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

B. Addition of the following conditions:

- 141A. *A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater rainwater tank(s) and pump systems to provide for the maintenance of the rainwater tank(s) and pump systems.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

Reason for additional condition 141A is:

- *To reinforce detailed design requirements for stormwater management in accordance with Rockdale Technical Specification Stormwater Management.*
- 141B. *Prior to the issue of an Occupation Certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 50000L rainwater tank(s) 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 external taps/landscape irrigation on the site. Additionally, all pump systems, 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 Principal Certifier.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

Reason for additional condition 141A is:

- To ensure internal stormwater re-use is appropriately installed and that ongoing maintenance is provided by the future owner's corporation for stormwater systems.

2 That the objector be notified of the Bayside Local Planning Panel decision.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Information submitted by applicant [↓](#)
- 3 WSUD Report [↓](#)
- 4 Revised BASIX Certificate [↓](#)
- 5 Trunk Drainage Plan [↓](#)
- 6 Amended concept stormwater plans [↓](#)

BAYSIDE COUNCIL

Section 4.55(1A) – Planning Assessment Report

APPLICATION DETAILS

Application Number: DA-2007/23/2/F
 Date of Receipt: 15/11/2018
 Property: 30 - 32 Guess Avenue & 4 Lusty Street, WOLLI CREEK NSW 2205
 Lot 2 DP 802148, Lot 1 DP 802148, Lot 1 DP 1007505
 Owner: NR Wolli Creek Pty Ltd
 Applicant: Mr Eddy Haddad (Level 33)
 Proposal: Modification to the volume of rainwater tanks - WSUD requirements, BASIX and Condition 99
 Recommendation: Approval
 No. of submissions: One (1)
 Author: Fiona Prodromou – Senior Assessment Planner
 Date of Report: 29-Nov-2018

KEY ISSUES

The proposal results in the modification in the capacity of rainwater tanks on site from 120 000L to 50 000L.

The proposal is accompanied by a revised BASIX certificate which correlates with modified stormwater works.

The applicant further seeks to move the milestone of Condition 99, in relation to paving levels and drainage pits on site, from 'Prior to issue of CC' to prior to the commencement of any associated civil works on site. This is sought in order to enable the applicant to undertake the design of these items in conjunction with landscaping on site, as these matters are interrelated.

RECOMMENDATION

That Development Application No 2007/23/2/F, being a Section 4.55(1A) application to amend Development Consent Number 2007/23, for modifications to the volume of rainwater tanks - WSUD requirements, BASIX and Condition 99, at 30 - 32 Guess Avenue & 4 Lusty Street, WOLLI CREEK NSW 2205 be **APPROVED** and the consent amended in the following manner:

A. By Amending conditions 2, 6, 99 and 105 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
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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
North Elevation A1020-A Revision B	Level 33 Architectural Division	-	11/10/2018
East Elevation A1021-A Revision B	Level 33 Architectural Division	-	11/10/2018
South Elevation A1022-A Revision B	Level 33 Architectural Division	-	11/10/2018
West Elevation A1023-A Revision B	Level 33 Architectural Division	-	11/10/2018
North Elevation A2022-B Revision B	Level 33 Architectural Division	-	11/10/2018
East Elevation A2023-B Revision B	Level 33 Architectural Division	-	11/10/2018
South Elevation A2024-B Revision B	Level 33 Architectural Division	-	11/10/2018
West Elevation A2025-B Revision B	Level 33 Architectural Division	-	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, HDA04/P1, HDA05 / P1, HDA06 / P1, HDA07 / P1, HDA08 / P1, HDA09/P1	Whipps-Wood Consulting	August 2008	10 October 2008,
Concept drainage plans Job No 17061, issue B, DWG no. D1, D2, D3, D4, D5	EZE Hydraulic Engineers	November 2018	27 November 2018
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]

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

6. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 214652M_03 other than superseded by any further amended consent and BASIX certificate.

Note: Clause 145(1)(a) 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: -

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

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

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

[Amendment B — S96(2) amended on 17 May 2012]

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

99. *Details of proposed paving including levels and drainage pits are to be submitted to and approved by Council as part of a civil works approval, prior to the commencement of any associated civil works on site.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

105. *Prior to the issue of the Construction Certificate for each stage of construction, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. The detailed stormwater design plans must be designed in accordance with Rockdale Technical Specification Stormwater Management (with attention drawn to section 2.6.2), reflect the stormwater plans listed under condition 2 and include the provision for a minimum rainwater tank(s) capacity of 50000L, with a catchment of at least the entire roof area of the development, connected for internal stormwater re-use within the development consisting of at least all toilets, clothes washers and any external taps/landscape irrigation. The location of the rainwater tanks are to be located to ensure no negative impact to any proposed trees.*

A WSUD Strategy report and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement shall meet or exceed the targets as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011.

Design certification, in the form specified in Council's Technical Specification — Stormwater Management and drainage design calculations are to be submitted with the plans. Council's Technical Specification — Stormwater Management sets out the minimum documentation requirements for detailed design plans. No approval is granted for public domain works, all public domain works are subject to a frontage works approval which must be obtained from Council upon payment of the relevant fee and Council assessment.

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

B. Addition of the following conditions:

- 141A. *A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater rainwater tank(s) and pump systems to provide for the maintenance of the rainwater tank(s) and pump systems.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

Reason for additional condition 141A is:

- *To reinforce detailed design requirements for stormwater management in accordance with Rockdale Technical Specification Stormwater Management.*
- 141B. *Prior to the issue of an Occupation Certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 50000L rainwater tank(s) 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 external taps/landscape irrigation on the site. Additionally, all pump systems, 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 Principal Certifier.*

[Amendment F — Section 4.55(1A) amended on 11 December 2018]

Reason for additional condition 141A is:

- *To ensure internal stormwater re-use is appropriately installed and that ongoing maintenance is provided by the future owner's corporation for stormwater systems.*

C. That the objector be notified of the Bayside Planning Panel decision.

BACKGROUND

Stage 1 DA – 2007/23/1 Approved 13/12/2006
Concept development proposal comprising 2 x 8 storey residential buildings containing 145 apartments, basement & part ground floor car parking with capacity for 185 vehicles

S.96(2) Application Approved 27/03/2009
Modifications to Stage 1 consent including changes to the proposed unit mix, modification to building footprints and configuration of the above ground and basement levels, increase the number of units from 145 to 176, deletion of the pool and other related changes.

Stage 2 DA-2007/23/2 Approved 27/03/2009
Construction of 2 x 8 storey residential flat buildings containing a total of 176 units, basement and above ground car parking with capacity for 217 vehicles and associated landscape works

S.96 Modification to Stage 2 Approved 03/11/2009
Internal modification to the layout of the units to create additional toilet.

S96 Application Approved 29/05/2012
Modifications to approved residential flat building including changes to unit mix, unit sizes, parking allocation and building façade.

S96 Application Approved 05/06/2013
Modification to Condition 73

S96 Application Approved 08/01/2018
Modifications to conditions to enable staging of DA-2007/23/2 into two stages - Stage 1 – Car parking and Block A comprising 73 units and Stage 2 - Block B comprising 103 units

S4.55(1A) Approved 13/11/2018
Modification to change materials and finishes of external facades

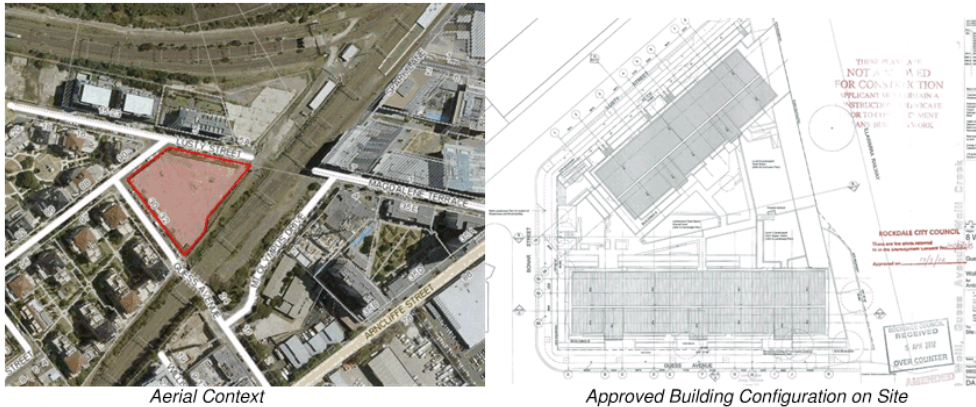
PROPOSAL

The proposal as modified seeks to modify the means of stormwater disposal and capacity on site, reducing the capacity of rainwater tanks from 120 000L to 50 000L. A revised BASIX accompanies the aforementioned.

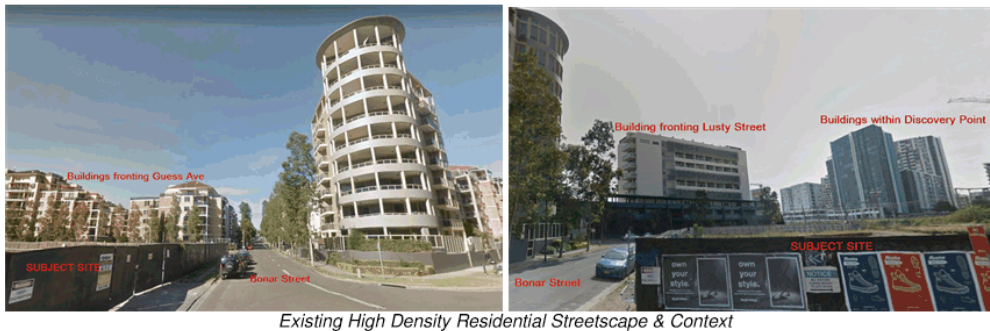
The proposal further seeks to move the milestone of Condition 99, in relation to paving levels and drainage pits on site, from 'Prior to issue of CC' to prior to the commencement of any associated civil works on site. This is sought in order to enable the applicant to undertake the design of these items in conjunction with landscaping on site, as these matters are interrelated.

SITE LOCATION AND CONTEXT

The subject site is an irregularly shaped allotment with a frontage to three local streets, being Lusty & Bonar Streets and Guess Avenue. The site has a frontage of 76.8m to Lusty Street, 48m to Bonar Street, 89.5m to Guess Ave and combined irregular frontage of 104.5m to the Illawarra Railway Line. The property has a total site area of over 3255sq.m and is zoned R4 high density residential.



The property is located in a high density residential area, surrounded by residential flat buildings 7 – 9 storeys in overall height and the railway line to the east of the site.



Construction is currently underway to erect the previously approved development. The configuration of the development is illustrated within the approved site plan above, detailing two building forms. Building A fronting Lusty Street, Building B fronting Guess Avenue. The development incorporates landscaped communal podium areas along the railway line and centrally on site.

STATUTORY CONSIDERATIONS

Environmental Planning and Assessment Act, 1979

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

S4.55 (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 proposal is minor in its overall nature and as discussed within this report 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: In determining whether the proposal is 'substantially the same development' consideration has been given to the Land & Environment Court Case 'Moto Projects No.2 Pty Limited v North Sydney Council [1999] NSWLEC 280', which at paragraphs 55 and 56, Commissioner Bignold described the process for consideration of a proposed modification of development as follows:

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

The proposal as modified proposes modifications to reflect a revised means of stormwater disposal for the site, reflect a revised BASIX demonstrating revised stormwater capacity and the shifting of the milestone of a condition in relation to paving and drainage pits.

Given the aforementioned the proposal as modified remains is essentially and materially the same as the approved development. As such, the proposal as modified is 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, in accordance with the provisions of Council's DCP 2011.

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

Comment: 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(1A) 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(1A) of the Environmental and Planning Assessment Act.

S4.15 (1) Matters for Consideration General

S4.15 (1)(a)(i) Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy – BASIX

As a result of proposed modifications to stormwater capacity on site, the application was accompanied by a revised BASIX Certificate, numbered 214652M_03.

The certificate confirms the proposal as modified achieves the required water score and therefore the modified means of stormwater management on site is satisfactory. Given the aforementioned, condition 6 is to be modified to reflect the revised BASIX certificate.

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

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

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

The proposal as modified was not referred to the Design Review Panel given the minor nature and scope of changes proposed. Notwithstanding, an assessment has been undertaken below of the proposal as modified in relation to the relevant principles of the SEPP.

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

The design quality principles relevant to the proposal as modified have been considered below.

Principle 4 - Sustainability

The proposal as modified incorporates provision for a minimum rainwater tank(s) capacity of 50000L, with a catchment of at minimum the entire roof area of the development. This is to be connected for internal stormwater re-use to toilets, clothes washers and any external taps/landscape irrigation.

The location of the proposed rainwater tanks are to be located so as to ensure no negative impact to any proposed trees. The proposal as modified will ensure appropriate stormwater management on site. Water reuse on site is a positive environmental sustainability measure.

The proposal as modified is satisfactory in regards to this principle.

c. The Apartment Design Guide / Residential Flat Design Code

The original development was assessed against the Residential Flat Design Code.

The proposal as modified does not result in changes to the previously approved building envelope, height, mass or scale. Modifications as proposed ensure the modified proposal remains satisfactory with the overall aims and intentions of these guidelines.

Rockdale Local Environmental Plan 2011 (RLEP 2011)

2.3 Zone

The subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified is defined as a residential flat building which constitutes a permissible development only with development consent. The proposal as modified remains consistent with the objectives of the zone.

4.3 - Height of buildings

A maximum 28m height limit applies to the subject site. The proposal as modified does not alter the previously approved height of the development and remains consistent with the objectives of this clause.

4.4 - FSR

A maximum 2.2:1 FSR applies to the subject site. The proposal as modified does not alter the previously approved density of the development and remains consistent with the objectives of this clause.

6.7 – Stormwater

Councils Engineer reviewed the revised stormwater plans submitted and noted that the modification complies with the objectives of the current stormwater specifications for the area, containing a significant volume of stormwater harvesting and re-use despite the reduction which will still provide benefit to the quality of stormwater run-off in the vicinity and reduce the developments impact on the water supply network.

Additionally, the inclusion of multiple Stormwater Quality Improvement Devices helps achieve WSUD requirements in line with the "Botany Bay & Catchment Water Quality Improvement Plan". The relocation of the rainwater tank locations helps avoid issues with servicing the development.

The proposal as modified satisfies the requirements and objectives 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 proposal as modified remains consistent with the relevant provisions of Rockdale DCP 2011 and associated technical specifications including the Rockdale Technical Specification Stormwater Management and Botany Bay & Catchment Water Quality Improvement Plan.

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

The provisions of the regulations had been considered in the assessment of this development proposal where relevant to this S4.55 application.

4.15(1)(b) - Likely Impacts of DevelopmentCondition 99

As existing condition 99 states as follows;

99. *Details of proposed paving including levels and drainage pits are to be provided to Council and subject to approval by Council's landscape architect prior to the issue of the Construction Certificates for Block A and/or Block B.*

[Amendment D — S96(1A) amended on 8 January 2014]

The applicant seeks to modify the milestone of this condition 99, in relation to paving levels and drainage pits on site, from 'Prior to issue of CC' to prior to the commencement of any associated civil works on site.

This is sought in order to enable the applicant to undertake the design of these items in conjunction with landscaping on site, as these matters are interrelated. The aforementioned modification is not unreasonable and is supported given the interrelationship of landscape and stormwater works on site.

S4.15(1)(c) – Suitability of the site

The relevant matters pertaining to the suitability of the site for the development were considered in the assessment of the original proposal. The suitability of the site has not altered since the original assessment and there are no further matters or constraints which have been identified, that would otherwise render the site unsuitable for the proposal as modified. The site is suitable for the proposal as modified.

S4.15(1)(d) – Public Submissions

The proposal as modified did not require public notification as per the provisions of Rockdale DCP 2011. Notwithstanding, one (1) submission was received in relation to the proposal. The following issue was raised;

Given the significant flooding issues in this area any changes to reduce the size of the tanks should be rejected.

Comment: The proposal results in the modification in the capacity of rainwater tanks on site from 120 000L to 50 000L. Council's Development Engineer reviewed the proposal as modified and noted that the revised scheme complies with the objectives of the current storm water specifications for the area, containing a significant volume of storm water harvesting and reuse despite the proposed reduction, which will still provide benefit to the quality of storm water runoff in the vicinity and reduce the developments impact on the water supply network. The revised means of storm water management is satisfactory.

S4.15(1)(e) – Public Interest

The proposal as modified 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 proposal as modified, the revised proposal remains compliant with relevant planning

instruments and does not create adverse impacts on site, nor to surrounding properties. The proposal as modified is deemed to be in the public interest.

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

Nil additional Section 7.11 Contributions are payable as a result of the proposal as modified.

EZE Hydraulic Engineers

Pty Ltd.

ACN 132 548 853 ABN: 57 132 548 853

CONSULTING ENGINEERS
CIVIL & STORMWATER MANAGEMENT

PO BOX 234

CONCORD NSW 2137

P: (02) 9706 7767

F: (02) 9475 4315

M: 0405507654

E: info@ezeeng.com.au

edgard@ezeeng.com.au

Wednesday, November 14, 2018

Job No.17061

Bayside Council

444-446 Princes Highway,
Rockdale NSW 2216

Attention: Christopher Thompson

Dear Christopher,

Re: RAINWATER TANKS-WSUD REQUIREMENT & BASIX
Proposed New High Rise Development
Property: No. 30-32 Guess Avenue, WOLLI CREEK NSW 2205

Further to your email dated 28 August 2018 whereby you state the following:

'Hi Edgard Zoghbi,

Apologies for the late reply, I have just received the old DA files for this subject development from our physical records storage and reviewed the BASIX approved for the development. The BASIX specifies the rainwater tank volume to be a total of 120000L (120m3) to be utilised for internal re-use for the development so it must be provided, I have seen the BASIX stipulate a similar rainwater tank volume on a more recent development so I suspected that was the case for this development. A section 4.55

modification will be required to vary the approved plans and BASIX certificate to change the required rainwater tank volume for the development.

Best regards,



Christopher Thompson Development Engineer

444-446 Princes Highway, Rockdale NSW 2216

T 02 9562 1605

E christopher.thompson@bayside.nsw.gov.au W www.bayside.nsw.gov.au

We have now adhered to your email advice and ensured that we comply with the requirements. Therefore Please find attached the following documentation in support of the Section 4.55 Modification:

- Amended BASIX Certificate number: 214652m_03 dated 1 November 2018 with the deletion of the 120,000 litres of rainwater tank storage whilst meeting all the targets;
- Amended WSUD Report & MUSIC Model incorporating 2 x 10,000 litre rainwater tanks to ensure the water quality objectives are met;
- Amended Stormwater Management Plans sheets D1 to D4 issue A for STAGE 1 of the development proposal i.e. ground floor drainage incorporating the WSUD Requirements and surface drainage accordingly; and
- Amended Trunk drainage extension incorporating a new sag gully pit within Guess Avenue but subject to minor variation once the Proposed Civil Works Design are approved by Council.

We therefore believe we have met Council's requirements and wish to have the documentation reviewed and approved accordingly.

Should you have any further queries, please contact our office and we would be happy to discuss.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Edgard Zoghbi".

EDGARD ZOGHBI

BE (CIVIL) DIP ENG PRAC

MIE Aust Peng #2840636

for EZE Hydraulic Engineers Pty Ltd

WSUD REPORT

REVISION A DATED 11 NOVEMBER 2018.

SITE CHARACTERISTICS	
SITE LOCATION:	30-32 GUESS AVE, WOLLI CREEK NSW 2205
DRINKING WATER CATCHMENT:	NOT PROVIDED
RAINFALL ZONE:	NOT PROVIDED
PET ZONE:	NOT PROVIDED
TOTAL SITE AREA:	.5847 Ha (SURVEY PROVIDED)
EXISTING SITE GRADIENT:	0.5%
SOIL LANDSCAPE:	REFER TO GEOTECHNICAL REPORT PREPARED BY OTHERS
EXISTING WATERCOURSE THROUGH THE SITE?	NO
OVERLAND FLOW DRAINING ONTO THE SITE?	YES
PRE-DEVELOPMENT DETAILS	
EXISTING DEVELOPMENT CHARACTERISTICS:	INDUSTRIAL WAREHOUSE SITE
EXISTING LAND USES AND AREAS:	INDUSTRIAL WAREHOUSE (0.5847Ha)
POST DEVELOPMENT DETAILS	
PROPOSED DEVELOPMENT CHARACTERISTICS	HIGH DENSITY RESIDENTIAL DEVELOPMENT - 176 UNITS

INTRODUCTION

Bayside Council has requested that a Music Model Report be prepared for the proposed medium density residential flat building development. EZE Hydraulic Engineers has been commissioned to undertake the analysis and design and therefore our firm has undertaken the Water Sensitive Urban Design Modelling and analysis. Below is an outline of the subject site and the assumptions that were adopted as part of setting up the MUSIC Model. The site area was determined from the survey provided and found to be 5847m² =0.5847ha.

CATCHMENT DETAILS

Catchment areas have been defined primarily considering the drainage flowpaths, location of proposed treatment measures and surface type distribution. The site has been divided into one catchment for pre-development condition (A1) and one catchment for the post development condition (B1). Refer to the table below for the breakdown of the Catchments.

LAND USE/ SURFACE TYPE	TOTAL AREA (ha)	SUB-CATCHMENT AREAS (ha)	
PRE-DEVELOPMENT		A1	
WAREHOUSE & CONCRETE AREAS	0.5847	0.5847	
TOTAL		0.5847	
		B1	
POST DEVELOPMENT			
RESIDENTIAL ROOFS	0.5300	0.5300	
HARD/SOFT LANDSCAPING	0.0400	0.0400	
TOTAL		0.5847	

EZE Hydraulic Engineers Pty Ltd has been commissioned and has modeled the catchment in MUSIC in accordance with the following guidelines & parameters. These are;

- Music version 6.0.2
- Rainfall Station 066037 SYDNEY AIRPORT, 6 minute time step from 1979 to 1988
- Sydney CMA Source Node(s) utilizing modified % impervious area, rainfall threshold, soil properties & pollutant concentrations Blacktown City Council approved Spel Treatment Nodes.
- No drainage routing between nodes.

For stormwater treatment in MUSIC, we have used the Blacktown City Council approved set of treatment nodes for our products. We have modelled the systems to meet current Bayside Council Water Quality Objectives of:

- 80% TSS Reduction
- 55% TP Reduction
- 40% TN Reduction.

Treatment Systems Required

Building A:

- 10kL RWT including 1kL/day reuse;
- One SPEL StormSack (SPELFilter pre-treatment); and
- Two SPELFilters housed in a 2 square meter vault.

Building B:

- 10kL RWT including 1kL/day reuse;
- One SPEL StormSack (SPELFilter pre-treatment); and
- Three SPELFilters housed in a 3 square meter vault.

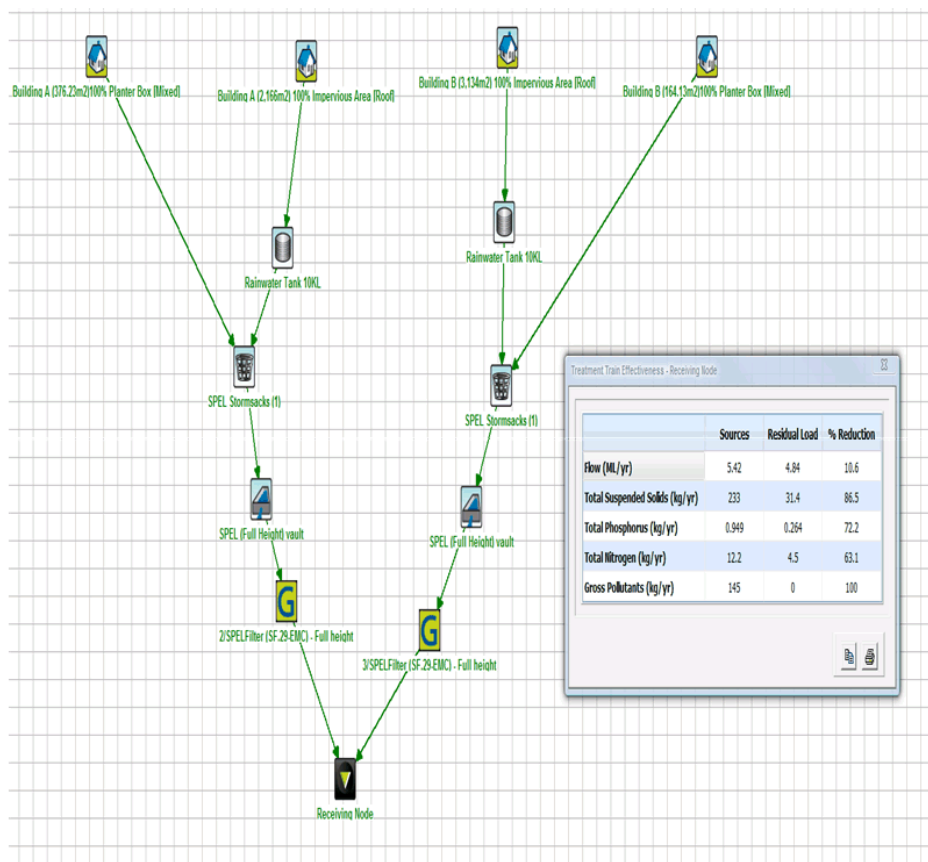


FIGURE 1- Music Model Results

END

BASIX[®]Certificate

Building Sustainability Index www.basix.nsw.gov.au

Multi Dwelling

Certificate number: 214652M_03

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 06/10/2017 published by the Department. This document is available at www.basix.nsw.gov.au

This certificate is a revision of certificate number 214652M lodged with the consent authority or certifier on 10 October 2008 with application DA-2007/23/2.

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000

Secretary

Date of issue: Thursday, 01 November 2018

To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary		
Project name	30-32 Guess Avenue and 4 Lusty Street_03	
Street address	30-32 Guess Avenue Wolli Creek 2205	
Local Government Area	Rockdale City Council	
Plan type and plan number	deposited 802148	
Lot no.	1	
Section no.	-	
No. of residential flat buildings	2	
No. of units in residential flat buildings	176	
No. of multi-dwelling houses	0	
No. of single dwelling houses	0	
Project score		
Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 24	Target 20

Certificate Prepared by	
Name / Company Name:	Windtech Consultants Pty Ltd
ABN (if applicable):	72 050 574 037

Description of project

Project address	
Project name	30-32 Guess Avenue and 4 Lusty Street_03
Street address	30-32 Guess Avenue Wolli Creek 2205
Local Government Area	Rockdale City Council
Plan type and plan number	deposited 802148
Lot no.	1
Section no.	-
Project type	
No. of residential flat buildings	2
No. of units in residential flat buildings	176
No. of multi-dwelling houses	0
No. of single dwelling houses	0
Site details	
Site area (m²)	5350
Roof area (m²)	1600
Non-residential floor area (m²)	0.0
Residential car spaces	182
Non-residential car spaces	37
Common area landscape	
Common area lawn (m²)	0.0
Common area garden (m²)	1070.0
Area of indigenous or low water use species (m²)	0.0
Assessor details	
Assessor number	20887
Certificate number	69602997
Project score	
Water	✓ 41 Target 40
Thermal Comfort	✓ Pass Target Pass
Energy	✓ 24 Target 20

Description of project

The tables below describe the dwellings and common areas within the project

Residential flat buildings - Building A, 73 dwellings, 8 storeys above ground

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
A101	2	86.0	0.0	0.0	0.0
A105	2	89.0	0.0	0.0	0.0
A109	2	86.0	0.0	0.0	0.0
A204	2	80.0	0.0	0.0	0.0
A208	2	87.0	0.0	0.0	0.0
A302	2	80.0	0.0	0.0	0.0
A306	2	89.0	0.0	0.0	0.0
A310	1	43.0	0.0	0.0	0.0
A404	2	80.0	0.0	0.0	0.0
A408	2	87.0	0.0	0.0	0.0
A502	2	80.0	0.0	0.0	0.0
A506	2	89.0	0.0	0.0	0.0
A510	1	43.0	0.0	0.0	0.0
A604	2	80.0	0.0	0.0	0.0
A608	2	87.0	0.0	0.0	0.0
AG02	2	80.0	0.0	0.0	0.0
AG06	2	89.0	0.0	0.0	0.0
AP03	2	84.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
A102	2	80.0	0.0	0.0	0.0
A106	2	89.0	0.0	0.0	0.0
A201	2	86.0	0.0	0.0	0.0
A205	2	89.0	0.0	0.0	0.0
A209	2	80.0	0.0	0.0	0.0
A303	2	80.0	0.0	0.0	0.0
A307	2	80.0	0.0	0.0	0.0
A401	2	86.0	0.0	0.0	0.0
A405	2	89.0	0.0	0.0	0.0
A409	2	82.0	0.0	0.0	0.0
A503	2	80.0	0.0	0.0	0.0
A507	2	80.0	0.0	0.0	0.0
A601	2	86.0	0.0	0.0	0.0
A605	2	89.0	0.0	0.0	0.0
A609	2	82.0	0.0	0.0	0.0
AG03	2	80.0	0.0	0.0	0.0
AG07	1	38.0	0.0	0.0	0.0
AP04	2	89.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
A103	2	80.0	0.0	0.0	0.0
A107	2	80.0	0.0	0.0	0.0
A202	2	80.0	0.0	0.0	0.0
A206	2	89.0	0.0	0.0	0.0
A210	1	39.0	0.0	0.0	0.0
A304	2	80.0	0.0	0.0	0.0
A308	2	87.0	0.0	0.0	0.0
A402	2	80.0	0.0	0.0	0.0
A406	2	89.0	0.0	0.0	0.0
A410	1	3.0	0.0	0.0	0.0
A504	2	80.0	0.0	0.0	0.0
A508	2	87.0	0.0	0.0	0.0
A602	2	80.0	0.0	0.0	0.0
A606	2	89.0	0.0	0.0	0.0
A610	1	43.0	0.0	0.0	0.0
AG04	2	80.0	0.0	0.0	0.0
AP01	2	89.0	0.0	0.0	0.0
AP05	3	125.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
A104	2	80.0	0.0	0.0	0.0
A108	1	39.0	0.0	0.0	0.0
A203	2	80.0	0.0	0.0	0.0
A207	2	80.0	0.0	0.0	0.0
A301	2	86.0	0.0	0.0	0.0
A305	2	89.0	0.0	0.0	0.0
A309	2	80.0	0.0	0.0	0.0
A403	2	80.0	0.0	0.0	0.0
A407	2	80.0	0.0	0.0	0.0
A501	2	86.0	0.0	0.0	0.0
A505	2	89.0	0.0	0.0	0.0
A509	2	82.0	0.0	0.0	0.0
A603	2	80.0	0.0	0.0	0.0
A607	2	80.0	0.0	0.0	0.0
AG01	2	86.0	0.0	0.0	0.0
AG05	2	89.0	0.0	0.0	0.0
AP02	2	87.0	0.0	0.0	0.0
AP06	3	125.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
AP07	3	127.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
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Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
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Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
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Residential flat buildings - Building B, 103 dwellings, 8 storeys above ground

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B101	2	77.0	5.0	0.0	0.0
B105	2	81.0	0.0	0.0	0.0
B109	2	80.0	0.0	0.0	0.0
B113	2	81.0	0.0	0.0	0.0
B203	1	38.0	0.0	0.0	0.0
B207	2	82.0	0.0	0.0	0.0
B211	1	64.0	0.0	0.0	0.0
B301	2	77.0	5.0	0.0	0.0
B305	2	81.0	0.0	0.0	0.0
B309	2	80.0	0.0	0.0	0.0
B313	2	77.0	5.0	0.0	0.0
B403	1	38.0	0.0	0.0	0.0
B407	2	82.0	0.0	0.0	0.0
B411	1	64.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B102	2	82.0	0.0	0.0	0.0
B106	2	89.0	0.0	0.0	0.0
B110	2	89.0	0.0	0.0	0.0
B114	2	90.0	0.0	0.0	0.0
B204	2	83.0	0.0	0.0	0.0
B208	2	81.0	0.0	0.0	0.0
B212	1	38.0	0.0	0.0	0.0
B302	2	82.0	0.0	0.0	0.0
B306	2	89.0	0.0	0.0	0.0
B310	2	89.0	0.0	0.0	0.0
B314	2	80.0	0.0	0.0	0.0
B404	2	83.0	0.0	0.0	0.0
B408	2	81.0	0.0	0.0	0.0
B412	1	38.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B103	1	38.0	0.0	0.0	0.0
B107	2	82.0	0.0	0.0	0.0
B111	2	80.0	0.0	0.0	0.0
B201	2	77.0	5.0	0.0	0.0
B205	2	81.0	0.0	0.0	0.0
B209	2	80.0	0.0	0.0	0.0
B213	2	77.0	5.0	0.0	0.0
B303	1	38.0	8.0	0.0	0.0
B307	2	82.0	0.0	0.0	0.0
B311	1	64.0	0.0	0.0	0.0
B401	2	77.0	5.0	0.0	0.0
B405	2	81.0	0.0	0.0	0.0
B409	2	80.0	0.0	0.0	0.0
B413	2	77.0	5.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B104	2	83.0	0.0	0.0	0.0
B108	2	81.0	0.0	0.0	0.0
B112	1	63.0	0.0	0.0	0.0
B202	2	82.0	0.0	0.0	0.0
B206	2	89.0	0.0	0.0	0.0
B210	2	89.0	0.0	0.0	0.0
B214	2	82.0	0.0	0.0	0.0
B304	2	83.0	0.0	0.0	0.0
B308	2	81.0	0.0	0.0	0.0
B312	1	38.0	0.0	0.0	0.0
B402	2	82.0	0.0	0.0	0.0
B406	2	89.0	0.0	0.0	0.0
B410	2	89.0	0.0	0.0	0.0
B414	2	82.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B501	2	77.0	5.0	0.0	0.0
B505	2	81.0	0.0	0.0	0.0
B509	2	80.0	0.0	0.0	0.0
B513	2	77.0	5.0	0.0	0.0
B603	1	38.0	0.0	0.0	0.0
B607	2	82.0	0.0	0.0	0.0
B611	1	64.0	0.0	0.0	0.0
BG01	2	77.0	5.0	0.0	0.0
BG05	1	64.0	0.0	0.0	0.0
BG09	2	89.0	0.0	0.0	0.0
BP04	2	81.0	0.0	0.0	0.0
BP08	3	120.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B502	2	82.0	0.0	0.0	0.0
B506	2	89.0	0.0	0.0	0.0
B510	2	89.0	0.0	0.0	0.0
B514	2	82.0	0.0	0.0	0.0
B604	2	83.0	0.0	0.0	0.0
B608	2	81.0	0.0	0.0	0.0
B612	1	38.0	0.0	0.0	0.0
BG02	2	82.0	0.0	0.0	0.0
BG06	2	83.0	0.0	0.0	0.0
BP01	2	89.0	0.0	0.0	0.0
BP05	2	88.0	0.0	0.0	0.0
BP09	3	120.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B503	1	38.0	0.0	0.0	0.0
B507	2	82.0	0.0	0.0	0.0
B511	1	64.0	0.0	0.0	0.0
B601	2	77.0	5.0	0.0	0.0
B605	2	81.0	0.0	0.0	0.0
B609	2	80.0	0.0	0.0	0.0
B613	2	77.0	5.0	0.0	0.0
BG03	2	83.0	0.0	0.0	0.0
BG07	2	82.0	0.0	0.0	0.0
BP02	2	84.0	0.0	0.0	0.0
BP06	2	85.0	0.0	0.0	0.0
BP10	3	120.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
B504	2	83.0	0.0	0.0	0.0
B508	2	81.0	0.0	0.0	0.0
B512	1	38.0	0.0	0.0	0.0
B602	2	82.0	0.0	0.0	0.0
B606	2	89.0	0.0	0.0	0.0
B610	2	89.0	0.0	0.0	0.0
B614	2	82.0	0.0	0.0	0.0
BG04	2	89.0	0.0	0.0	0.0
BG08	2	80.0	0.0	0.0	0.0
BP03	2	80.0	0.0	0.0	0.0
BP07	2	89.0	0.0	0.0	0.0

Description of project

The tables below describe the dwellings and common areas within the project

Common areas of unit building - Building A

Common area	Floor area (m ²)
Lift car (No. 1)	-
Ground floor lobby type (No. 2)	30.0

Common area	Floor area (m ²)
Lift car (No. 2)	-

Common area	Floor area (m ²)
Ground floor lobby type (No. 1)	30.0

Common areas of unit building - Building B

Common area	Floor area (m ²)
Lift car (No. 3)	-
Ground floor lobby type (No. 3)	35.0

Common area	Floor area (m ²)
Lift car (No. 4)	-
Ground floor lobby type (No. 4)	35.0

Common area	Floor area (m ²)
Lift car (No. 5)	-
Ground floor lobby type (No. 5)	35.0

Common areas of the development (non-building specific)

Common area	Floor area (m ²)
Car park area (No. 1)	4040.0
Garbage room (No. 1)	59.0
Plant or service room (No. 1)	37.0
Plant or service room (No. 4)	19.0
Hallway/lobby type (No. 1)	970.0

Common area	Floor area (m ²)
Car park area (No. 2)	920.0
Garbage room (No. 2)	31.0
Plant or service room (No. 2)	47.0
Plant or service room (No. 5)	41.0

Common area	Floor area (m ²)
Car park area (No. 3)	1100.0
Garbage room (No. 3)	33.0
Plant or service room (No. 3)	41.0
Storage Room (No. 1)	56.0

Schedule of BASIX commitments

1. Commitments for Residential flat buildings - Building A

(a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

(b) Common areas and central systems/facilities

- (i) Water
- (ii) Energy

2. Commitments for Residential flat buildings - Building B

(a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

(b) Common areas and central systems/facilities

- (i) Water
- (ii) Energy

3. Commitments for multi-dwelling houses

4. Commitments for single dwelling houses

5. Commitments for common areas and central systems/facilities for the development (non-building specific)

- (i) Water
- (ii) Energy

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

1. Commitments for Residential flat buildings - Building A

(a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on-demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "Hot water recirculation" column of the table below.		✓	✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

	Fixtures					Appliances		Individual pool				Individual spa		
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	3 star	3 star	3 star	3 star	-	3 star	-	-	-	-	-	-	-	-

Dwelling no.	Alternative water source							
	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
None	-	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below;		✓	

(ii) Energy						Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and							✓	✓
(cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.							✓	

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	central hot water system 1	individual fan, not ducted	manual switch on/off	individual fan, not ducted	manual switch on/off	individual fan, not ducted	manual switch on/off

	Cooling		Heating		Artificial lighting						Natural lighting	
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
All dwellings	-	-	-	-	0	0	yes	yes	yes	yes	0	-

	Individual pool		Individual spa		Appliances & other efficiency measures							
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	gas cooktop & electric oven	-	-	-	-	-	no	no

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.			
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.			
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Commitment (h) below, applies to the rooms or areas of a dwelling which are listed in the "Cross Ventilation" table below as comprising a breeze path for the dwelling.			
(h) The applicant must construct the dwelling so that at least one ventilation opening is provided in each such room or area. (If only one room or area of a dwelling is mentioned for a breeze path, then that room or area must have at least two ventilation openings).		✓	✓
(i) The two ventilation openings referred to in (h), must meet the following specifications: (aa) be located as specified for the breeze path in the table; (bb) not be more than 15 metres apart; (cc) if the dwelling is below the 10th storey of the building, be at least 1 square metre in size, or if the dwelling is on or above the 10th storey, be at least 0.5 square metres in size and be located above door head level in the room; and (dd) have only 1 doorway, or opening less than 2 square metres in size, located in the direct path between them.			

	Thermal loads		
Dwelling no.	Heating load (in MJ/m ² /yr)	Cooling load (in MJ/m ² /yr)	Corrected Cooling load (in MJ/m ² /yr)
A108	62.0	31.3	31.3

Dwelling no.	Thermal loads		
	Heating load (in mJ/m ² /yr)	Cooling load (in mJ/m ² /yr)	Corrected Cooling load (in mJ/m ² /yr)
A109	109.7	26.6	26.6
A204	77.3	26.6	26.6
A210	116.3	51.3	51.3
AG01	100.2	21.4	21.4
AG02	121.9	36.9	36.9
AG03	70.8	25.3	25.3
AG04	73.1	20.0	20.0
AG05	72.6	13.2	13.2
AG06	78.9	12.9	12.9
AG07	54.0	29.9	29.9
AP01	58.5	62.9	62.9
AP02	130.1	78.7	55.1
AP03	55.9	40.2	40.2
AP04	91.3	34.5	34.5
AP05	73.0	32.6	32.6
AP06	51.7	34.0	34.0
AP07	102.4	86.5	66.3
A310, A410, A510, A610	83.6	53.8	53.8
A104, A304, A404, A504, A604	77.3	23.6	23.6
A208, A308, A408, A508, A608	77.6	37.1	37.1
A209, A309, A409, A509, A609	75.2	28.7	28.7
A101, A201, A301, A401, A501, A601	77.7	24.3	24.3
A102, A202, A302, A402, A502, A602	100.7	41.8	41.8

Thermal loads			
Dwelling no.	Heating load (in mJ/m ² /yr)	Cooling load (in mJ/m ² /yr)	Corrected Cooling load (in mJ/m ² /yr)
A103, A203, A303, A403, A503, A603	70.4	29.3	29.3
A105, A205, A305, A405, A505, A605	80.5	18.0	18.0
A106, A206, A306, A406, A506, A606	88.8	17.0	17.0
All other dwellings	73.9	29.3	29.3

Cross ventilation				
Dwelling no.	Breeze path 1	Breeze path 2	Breeze path 3	Breeze path 4
AP02	main living to Bedroom1 Ventilation openings: >3 m apart and on adjacent external walls	main living to Bedroom2 Ventilation openings: >3 m apart and on adjacent external walls	-	-
AP07	main living to Bedroom2 Ventilation openings: >3 m apart and on adjacent external walls	main living to other space (not separate bathroom) Ventilation openings: >3 m apart and on adjacent external walls	-	-
All other dwellings	-	-	-	-

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Lift car (No. 1)	-	-	fluorescent	connected to lift call button	No
Lift car (No. 2)	-	-	fluorescent	connected to lift call button	No
Ground floor lobby type (No. 1)	air conditioning system	none ie. continuous	fluorescent	none	No
Ground floor lobby type (No. 2)	air conditioning system	none ie. continuous	fluorescent	none	No

Central energy systems	Type	Specification
Lift (No. 1)	gearless traction with V V V F motor	Number of levels (including basement): 8
Lift (No. 2)	gearless traction with V V V F motor	Number of levels (including basement): 8

2. Commitments for Residential flat buildings - Building B

(a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on-demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "Hot water recirculation" column of the table below.		✓	✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

Dwelling no.	Fixtures					Appliances		Individual pool				Individual spa		
	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	3 star	3 star	3 star	3 star	-	3 star	-	-	-	-	-	-	-	-

Dwelling no.	Alternative water source							
	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
None	-	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below;		✓	

(ii) Energy						Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and							✓	✓
(cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.							✓	

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	central hot water system 1	individual fan, not ducted	manual switch on/off	individual fan, not ducted	manual switch on/off	individual fan, not ducted	manual switch on/off

	Cooling		Heating		Artificial lighting						Natural lighting	
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
All dwellings	-	-	-	-	0	0	yes	yes	yes	yes	0	-

	Individual pool		Individual spa		Appliances & other efficiency measures							
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	gas cooktop & electric oven	-	-	-	-	-	no	no

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.			
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.			
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Commitment (h) below, applies to the rooms or areas of a dwelling which are listed in the "Cross Ventilation" table below as comprising a breeze path for the dwelling.			
(h) The applicant must construct the dwelling so that at least one ventilation opening is provided in each such room or area. (If only one room or area of a dwelling is mentioned for a breeze path, then that room or area must have at least two ventilation openings).		✓	✓
(i) The two ventilation openings referred to in (h), must meet the following specifications: (aa) be located as specified for the breeze path in the table; (bb) not be more than 15 metres apart; (cc) if the dwelling is below the 10th storey of the building, be at least 1 square metre in size, or if the dwelling is on or above the 10th storey, be at least 0.5 square metres in size and be located above door head level in the room; and (dd) have only 1 doorway, or opening less than 2 square metres in size, located in the direct path between them.			

	Thermal loads		
Dwelling no.	Heating load (in MJ/m ² /yr)	Cooling load (in MJ/m ² /yr)	Corrected Cooling load (in MJ/m ² /yr)
B111	123.4	25.3	25.3

Dwelling no.	Thermal loads		
	Heating load (in mJ/m ² /yr)	Cooling load (in mJ/m ² /yr)	Corrected Cooling load (in mJ/m ² /yr)
B112	97.0	21.4	21.4
B113	90.2	19.1	19.1
B114	132.6	28.7	28.7
BG01	131.2	90.8	63.6
BG02	133.9	42.9	42.9
BG03	119.8	20.3	20.3
BG04	112.8	10.1	10.1
BG05	135.0	28.4	28.4
BG06	125.0	20.1	20.1
BG07	116.8	20.0	20.0
BG08	130.9	22.7	22.7
BG09	116.4	20.2	20.2
BP01	119.4	75.1	50.7
BP02	43.7	60.6	60.6
BP03	44.8	65.5	65.5
BP04	100.6	68.9	68.9
BP05	72.5	55.5	55.5
BP06	44.5	49.0	49.0
BP07	73.8	61.2	61.2
BP08	74.4	79.5	51.7
BP09	41.8	42.8	42.8
BP10	96.5	81.5	57.0
B211, B311, B411, B511, B611	84.9	28.8	28.8
B212, B312, B412, B512, B612	39.0	33.1	33.1
B213, B313, B413, B513, B613	126.3	81.6	61.2

Thermal loads			
Dwelling no.	Heating load (in mJ/m ² /yr)	Cooling load (in mJ/m ² /yr)	Corrected Cooling load (in mJ/m ² /yr)
B214, B314, B414, B514, B614	135.3	50.1	50.1
B101, B201, B301, B401, B501, B601	124.4	89.7	62.8
B102, B202, B302, B402, B502, B602	136.0	69.2	51.9
B103, B203, B303, B403, B503, B603	59.0	31.9	31.9
B104, B204, B304, B404, B504, B604	106.5	35.9	35.9
B105, B205, B305, B405, B505, B605	115.9	35.3	35.3
B106, B206, B306, B406, B506, B606	109.2	19.5	19.5
B107, B207, B307, B407, B507, B607	97.1	24.0	24.0
B108, B208, B308, B408, B508, B608	91.7	21.6	21.6
B109, B209, B309, B409, B509, B609	112.7	24.6	24.6
All other dwellings	109.3	20.9	20.9

Cross ventilation				
Dwelling no.	Breeze path 1	Breeze path 2	Breeze path 3	Breeze path 4
BP08	main living to Bedroom2 Ventilation openings: opposite external walls	main living to Bedroom3 Ventilation openings: opposite external walls	-	-
BP10	main living to Bedroom1 Ventilation openings: >3 m apart and on adjacent external walls	main living to Bedroom2 Ventilation openings: >3 m apart and on adjacent external walls	main living to Bedroom3 Ventilation openings: >3 m apart and on adjacent external walls	main living to other space (not separate bathroom) Ventilation openings: >3 m apart and on adjacent external walls

Dwelling no.	Cross ventilation			
	Breeze path 1	Breeze path 2	Breeze path 3	Breeze path 4
B113, B114, B214	-	-	-	-
B213, B313, B413, B513, B613	main living to Bedroom2 Ventilation openings: >3 m apart and on adjacent external walls	-	-	-
B101, B201, B301, B401, B501, B601, BG01	main living to Bedroom1 Ventilation openings: >3 m apart and on adjacent external walls	main living to Bedroom2 Ventilation openings: >3 m apart and on adjacent external walls	-	-
B102, B202, B302, B402, B502, B602, BP01	main living to Bedroom1 Ventilation openings: >3 m apart and on adjacent external walls	-	-	-
All other dwellings	-	-	-	-

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Lift car (No. 3)	-	-	fluorescent	connected to lift call button	No
Lift car (No. 4)	-	-	fluorescent	connected to lift call button	No
Lift car (No. 5)	-	-	fluorescent	connected to lift call button	No
Ground floor lobby type (No. 3)	air conditioning system	none ie. continuous	fluorescent	none	No
Ground floor lobby type (No. 4)	air conditioning system	none ie. continuous	fluorescent	none	No
Ground floor lobby type (No. 5)	air conditioning system	none ie. continuous	fluorescent	none	No

Central energy systems	Type	Specification
Lift (No. 3)	gearless traction with V V V F motor	Number of levels (including basement): 8
Lift (No. 4)	gearless traction with V V V F motor	Number of levels (including basement): 8
Lift (No. 5)	gearless traction with V V V F motor	Number of levels (including basement): 8

5. Commitments for common areas and central systems/facilities for the development (non-building specific)

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Car park area (No. 1)	ventilation (supply + exhaust)	carbon monoxide monitor + VSD fan	fluorescent	time clock and motion sensors	No
Car park area (No. 2)	no mechanical ventilation	-	fluorescent	time clock and motion sensors	No
Car park area (No. 3)	no mechanical ventilation	-	fluorescent	time clock and motion sensors	No
Garbage room (No. 1)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Garbage room (No. 2)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Garbage room (No. 3)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Plant or service room (No. 1)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Plant or service room (No. 2)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Plant or service room (No. 3)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Plant or service room (No. 4)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Plant or service room (No. 5)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Storage Room (No. 1)	no mechanical ventilation	-	fluorescent	manual on / manual off	No
Hallway/lobby type (No. 1)	no mechanical ventilation	-	fluorescent	none	No

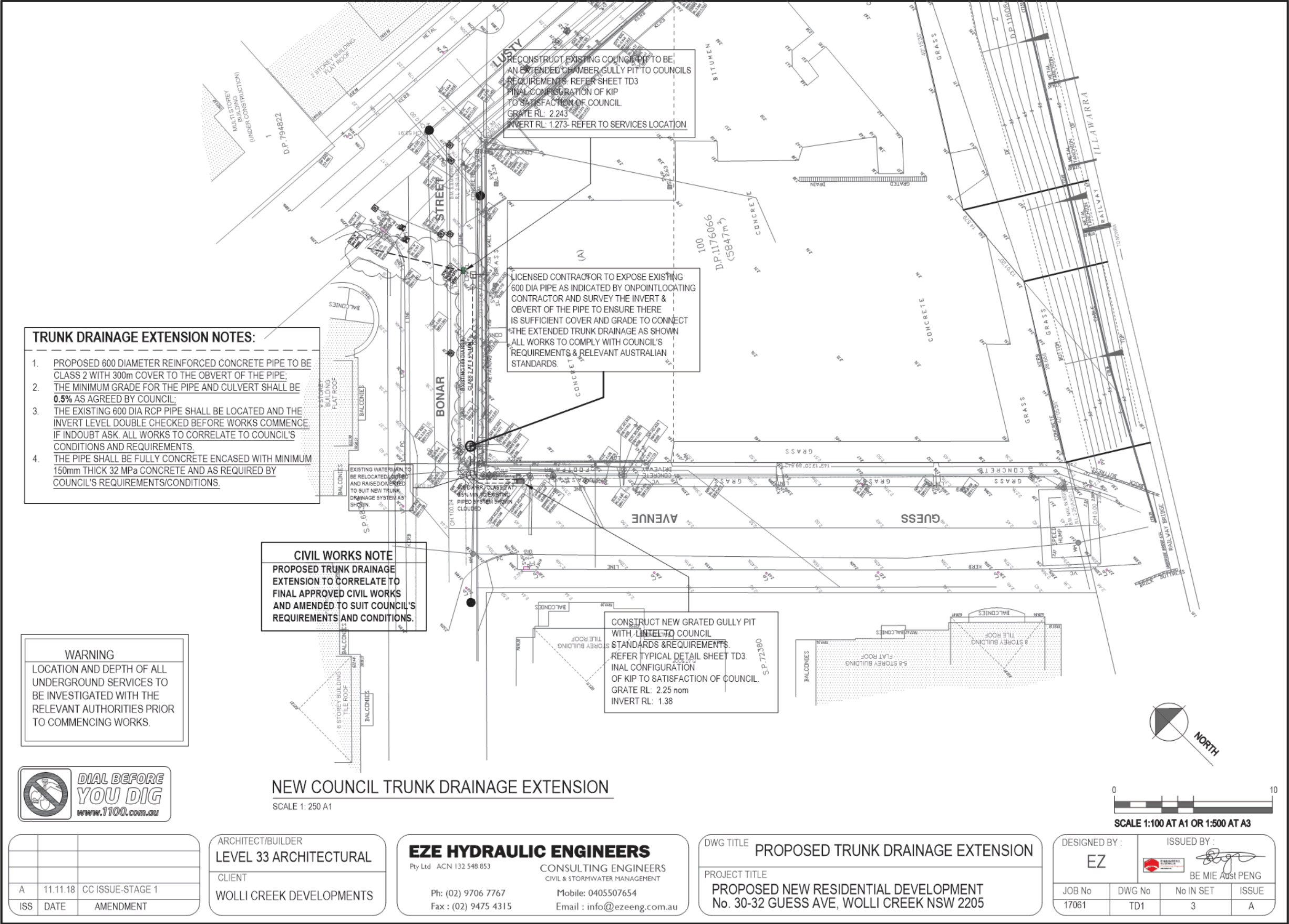
Central energy systems	Type	Specification
Central hot water system (No. 1)	gas-fired boiler	Piping insulation (ringmain & supply risers): (a) Piping external to building: R0.3 (~13 mm); (b) Piping internal to building: R0.3 (~13 mm)

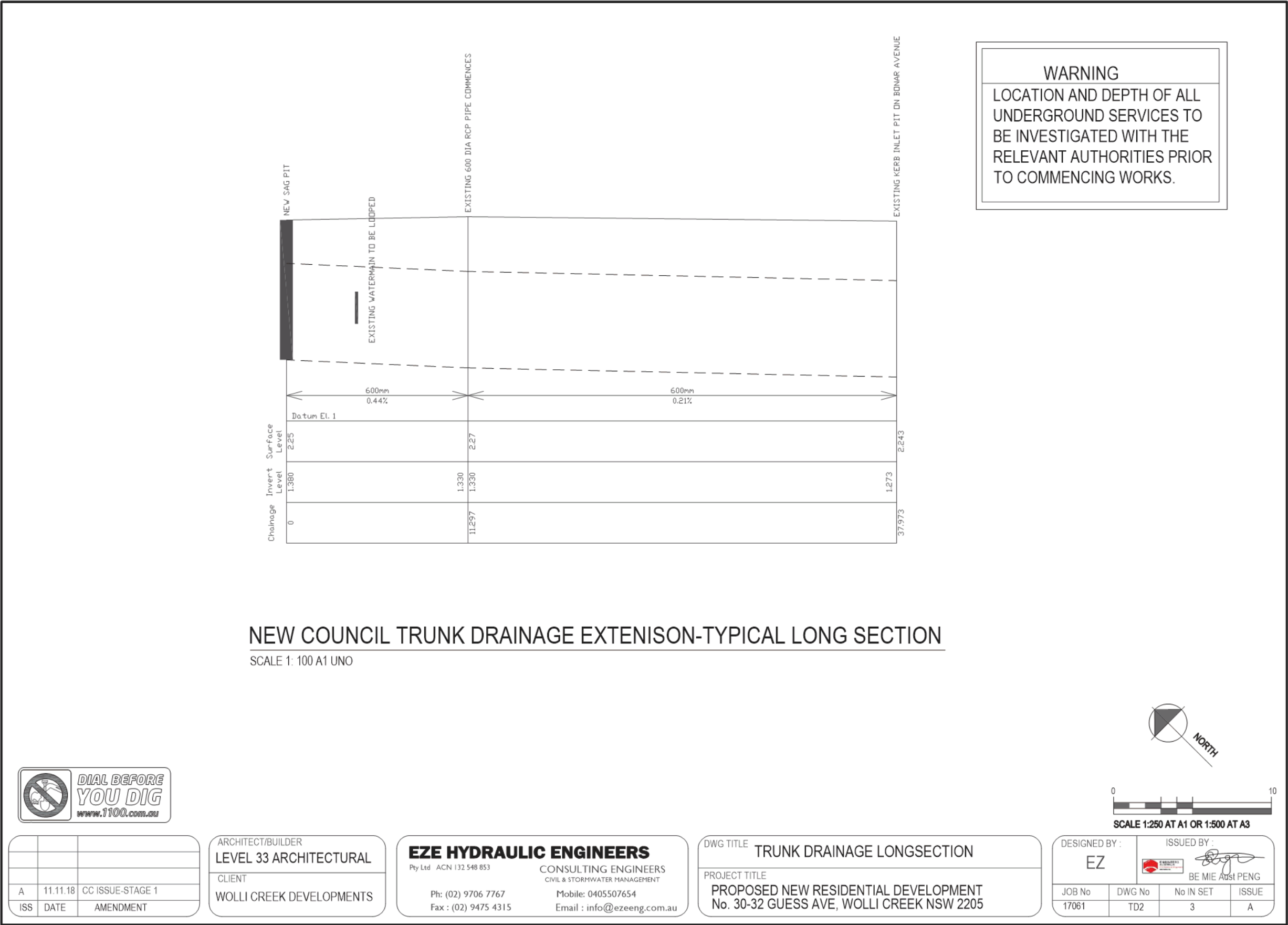
Notes

1. In these commitments, "applicant" means the person carrying out the development.
2. The applicant must identify each dwelling, building and common area listed in this certificate, on the plans accompanying any development application, and on the plans and specifications accompanying the application for a construction certificate / complying development certificate, for the proposed development, using the same identifying letter or reference as is given to that dwelling, building or common area in this certificate.
3. This note applies if the proposed development involves the erection of a building for both residential and non-residential purposes (or the change of use of a building for both residential and non-residential purposes). Commitments in this certificate which are specified to apply to a "common area" of a building or the development, apply only to that part of the building or development to be used for residential purposes.
4. If this certificate lists a central system as a commitment for a dwelling or building, and that system will also service any other dwelling or building within the development, then that system need only be installed once (even if it is separately listed as a commitment for that other dwelling or building).
5. If a star or other rating is specified in a commitment, this is a minimum rating.
6. All alternative water systems to be installed under these commitments (if any), must be installed in accordance with the requirements of all applicable regulatory authorities. NOTE: NSW Health does not recommend that stormwater, recycled water or private dam water be used to irrigate edible plants which are consumed raw, or that rainwater be used for human consumption in areas with potable water supply.





Legend

1. Commitments identified with a "✔" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
2. Commitments identified with a "✔" in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
3. Commitments identified with a "✔" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled. (Note: a certifying authority must not issue an occupation certificate (either interim or final) for a building listed in this certificate, or for any part of such a building, unless it is satisfied that each of the commitments whose fulfilment it is required to monitor in relation to the building or part, has been fulfilled).





LEGEND

	GRATED INLET PIT
450x450	450mm SQUARE INTERNAL
GRT 75.54	GRATE LEVEL = RL 75.54
IL 75.12	INVERT LEVEL = RL 75.12
◦ ID	INSPECTION OPENING CAP
◦ DP	PROPOSED DOWNPIPE 150 DIA MIN UNO
	EXISTING TREE
	GRATED TRENCH DRAIN
 BO 100	GRATED ROUND OUTLET 100mm DIAMETER
♾	PROPOSED DOWNPIPE SPREADER
— · — · —	ROOF DRAINAGE ONLY- 150 DIA PIPE UNO
— — — —	STORMWATER DRAINAGE
○ _{VR}	PROPOSED VERTICAL RISER 80mm CLASS 12 UNO
○ _{VP}	PROPOSED 150 DIA VERTICAL PIPE

DESIGN CODE: ROCKDALE TECHNICAL SPECIFICATION STORMWATER MANAGEMENT ADOPTED 4 MAY 2011

PROPOSED DEVELOPMENT: NEW RESIDENTIAL DEVELOPMENT

SITE AREA= 5487m²

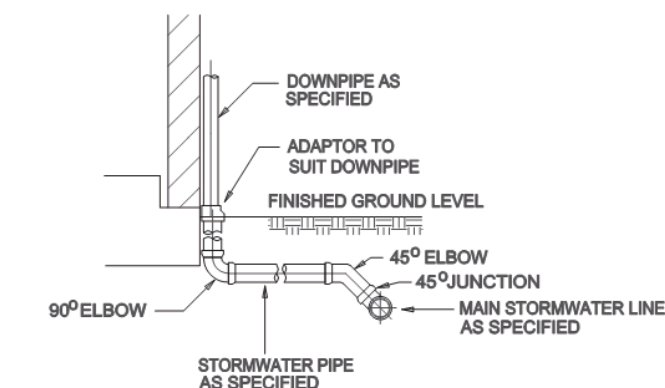
SUBJECT PROPERTY LOCATED FORMS PART OF THE WOLLI CREEK DCP NO.62 THEREFORE NO OSD REQUIRED

RUNOFF FROM THE MAJORITY OF THE NEW ROOF AREA WILL DRAIN TO TWO (2) X 10000 LITRE RAINWATER TANKS LOCATED IN THE CENTRAL AREA OF THE SITE WITH THE OVERFLOW DRAINING VIA PITS & PIPES BY DISCHARGING TO THE EXISTING COUNCIL PIT ON BONAR STREET AND A NEW PIT ON GUESS AVENUE VIA A SPEL FILTRATION UNIT AS SHOWN.

REFER TO WSUD REPORT & MUSIC MODEL PREPARED BY EZE HYDRALIC ENGINEERS PTY LTD

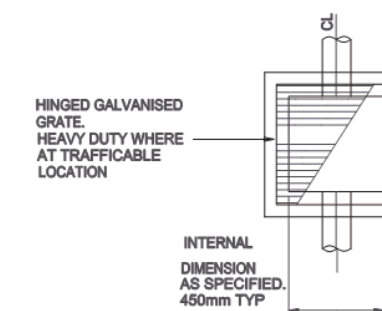
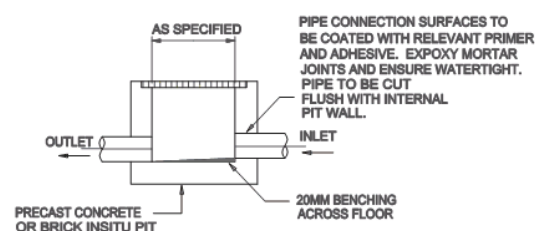
DESIGN BASED ON AR & R. AS3500 & ABOVE STORMWATER MANAGEMENT CODE

1. FINAL LOCATION OF NEW DOWNPIPES TO BE DETERMINED BY BUILDER/ARCHITECT AT TIME OF CONSTRUCTION.
2. THESE DRAWINGS TO BE READ IN CONJUNCTION WITH ARCHITECTS AND OTHER CONSULTANTS DRAWINGS. ANY DISCREPANCIES TO BE REFERRED TO THE ENGINEER BEFORE PROCEEDING WITH WORK.
3. ALL MATERIALS AND WORKMANSHIP TO BE IN ACCORDANCE WITH AS/NZS 3500.3:2003 STORMWATER DRAINAGE, BCA AND LOCAL COUNCIL POLICY/CONSENT/REQUIREMENTS.
4. ALL DIMENSIONS AND LEVELS TO BE VERIFIED BY BUILDER ON-SITE PRIOR TO COMMENCEMENT OF WORKS. THESE DRAWINGS ARE NOT TO BE SCALED FOR DIMENSIONS NOR TO BE USED FOR SETOUT PURPOSES.
5. ALL SURVEY INFORMATION AND PROPOSED BUILDING AND FINISHED SURFACE LEVELS SHOWN IN THESE DRAWINGS ARE BASED ON LEVELS OBTAINED FROM DRAWINGS BY OTHERS.
6. THESE DRAWINGS DEPICT THE DESIGN OF SURFACE STORMWATER RUNOFF DRAINAGE SYSTEMS ONLY AND DO NOT DEPICT ROOF DRAINAGE OR SUBSOIL DRAINAGE SYSTEMS UNLESS NOTED OTHERWISE. THE DESIGN OF ROOF AND SUBSOIL DRAINAGE SYSTEMS IS THE RESPONSIBILITY OF OTHERS.
7. ALL STORMWATER DRAINAGE PIPES ARE TO BE 100mm DIAMETER uPVC AT MINIMUM 1% GRADE UNLESS NOTED OTHERWISE.
8. IT IS THE CONTRACTORS RESPONSIBILITY TO LOCATE AND LEVEL ALL EXISTING SERVICES OR OTHER STRUCTURES WHICH MAY AFFECT/BE AFFECTED BY THIS DESIGN PRIOR TO COMMENCEMENT OF WORKS.
9. ALL PITS WITHIN DRIVEWAYS TO BE 150mm THICK CONCRETE OR EQUAL.
10. THIS PLAN IS THE PROPERTY OF EZE HYDRAULIC ENGINEERS AND MAY NOT BE USED OR REPRODUCED WITHOUT WRITTEN PERMISSION FROM EZE HYDRAULIC ENGINEERS.



TYPICAL DETAIL - DOWNPIPE CONNECTION

NOT TO SCALE



TYPICAL DETAIL - STANDARD PIT

NOT TO SCALE

B	26.11.18	COUNCIL EMAIL
A	11.11.18	CC ISSUE-STAGE 1
ISS	DATE	AMENDMENT

ARCHITECT/BUILDER
LEVEL 33 ARCHITECTURAL

CLIENT
WOLLI CREEK DEVELOPMENTS

EZE HYDRAULIC ENGINEERS

Pty Ltd ACN 132 548 853

CONSULTING ENGINEERS
CIVIL & STORMWATER MANAGEMENT

Ph: (02) 97067767

Mobile: 0405507654

Fax: (02) 94754315 Email : info@ezeeng.com.au

DWG TITLE COVER SHEET & CALCULATIONS

PROJECT TITLE

PROPOSED RESIDENTIAL FLAT BUILDING DEVELOPMENT
No. 30-32 GUESS AVENUE, WOLLI CREEK NSW 2205

DESIGNED BY :

EZ

ISSUED BY :

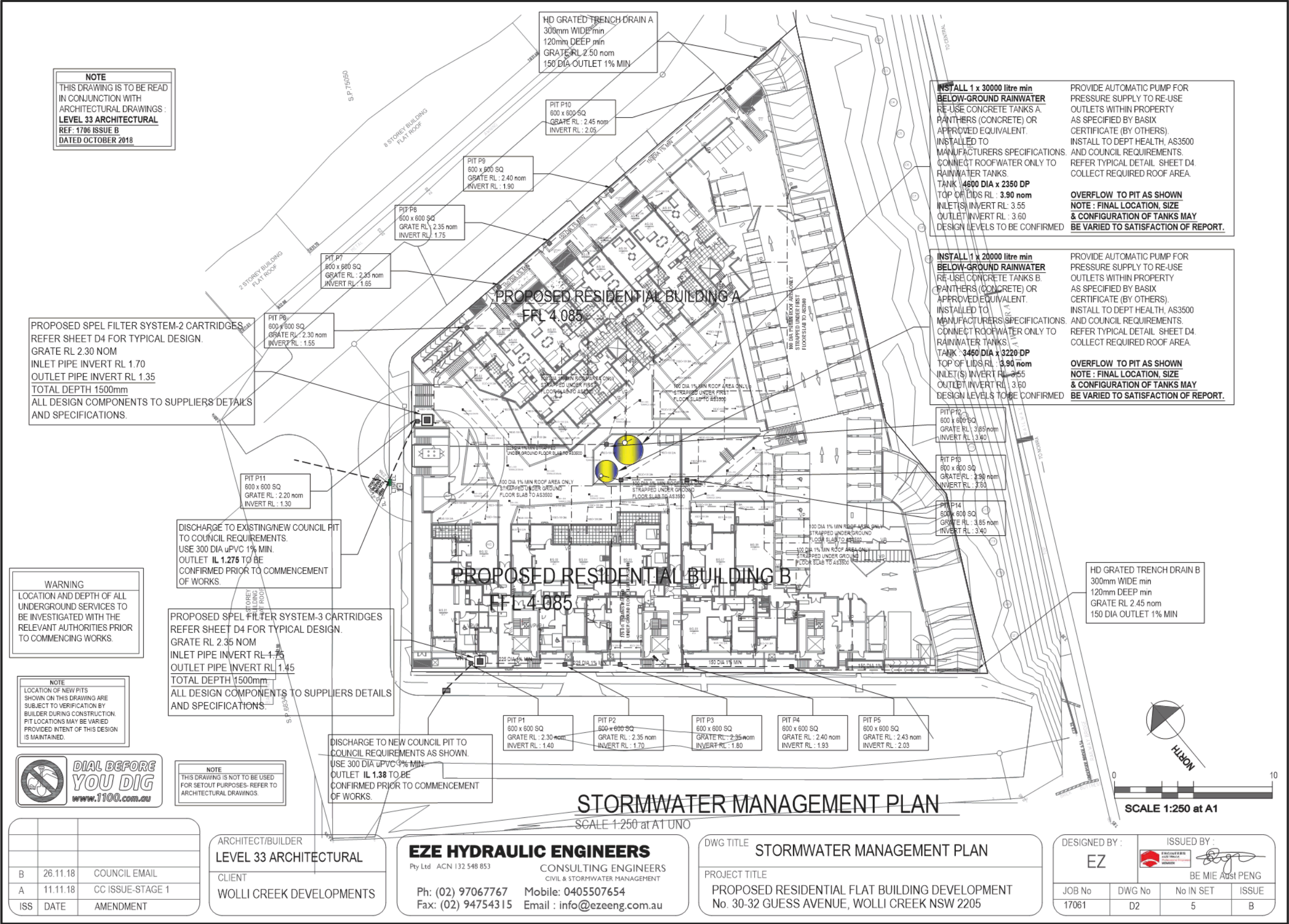


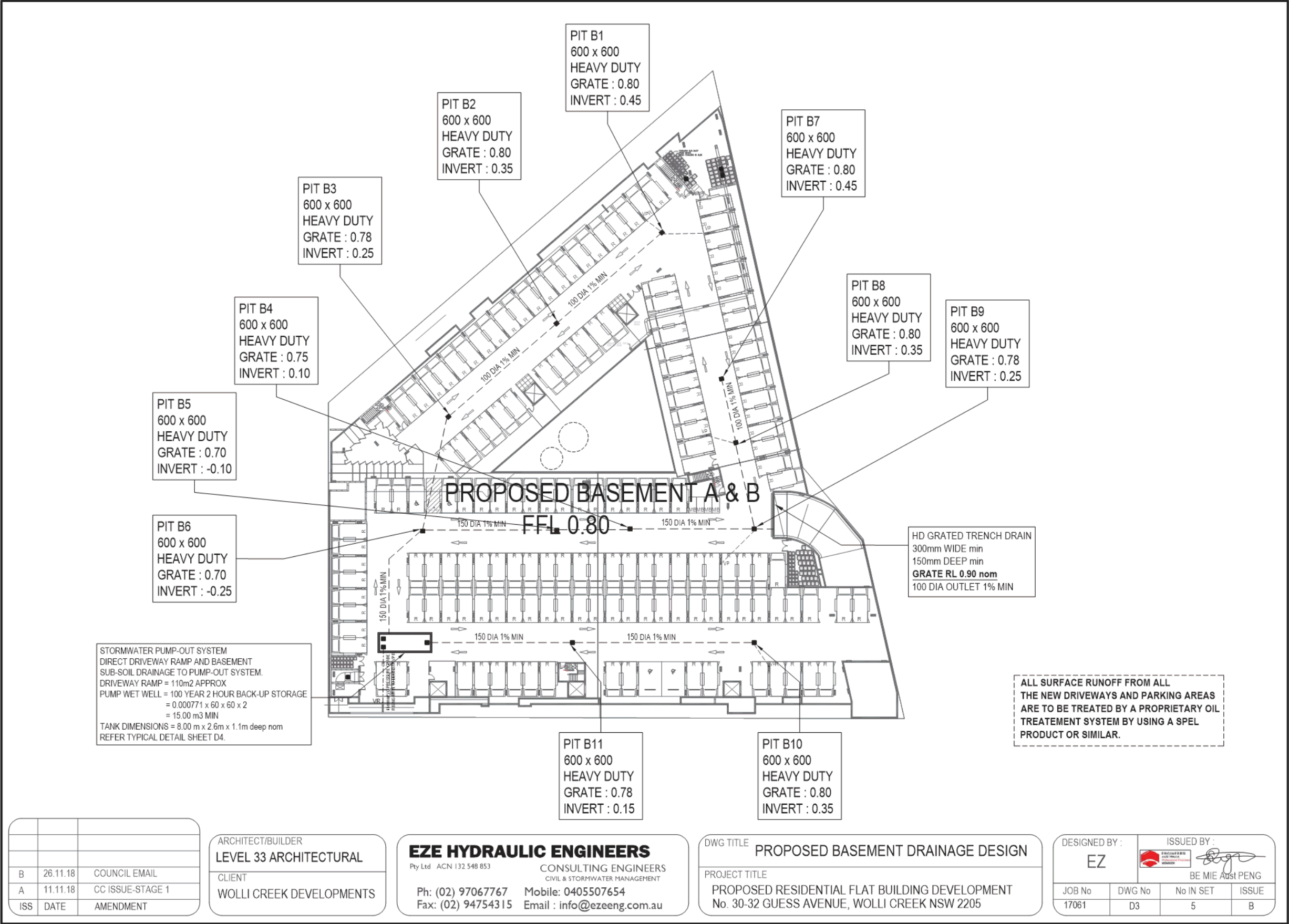
JOB No
17061

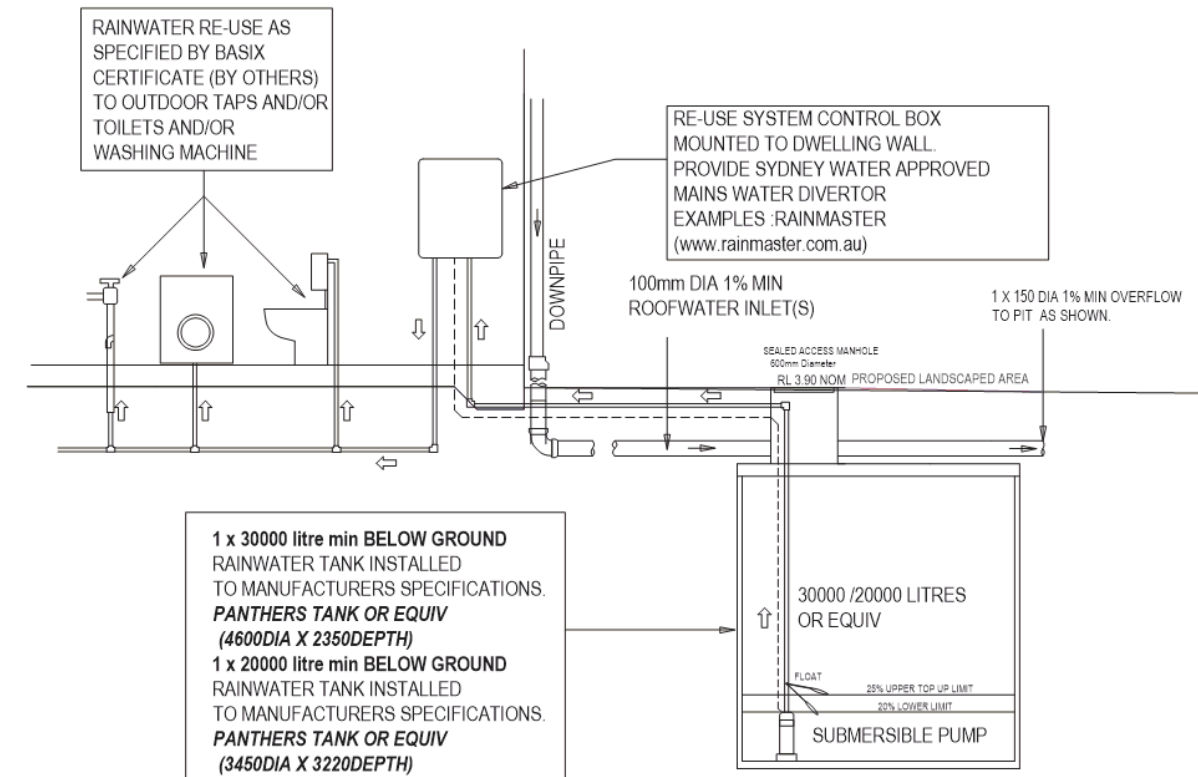
DWG No
D1

	No IN
	5

	ISSU
	B





[illegible]

900 SQUARE ACCESS GRATE
RL 0.60
WITH CHILD PROOF LOCK

INLET PIPE(S)
DRIVEWAY RUNOFF AND
SUBSOIL DISCHARGE ONLY

STEP IRONS

BOTH ON 0.00

RL 0.30

ONE ON -1.10

SUBMERSIBLE PUMPS
REFER TO SPECIFICATION
IN PUMP-OUT CALCULATION BOX

5mm uPVC PRESSURE GRADE
USING MAIN TO BOUNDARY PIT
S SHOWN

PUMP CONTROL
FLOAT SWITCH
BOTH OFF

RL -1.40

1% GRADE

2600 mm


1100 mm

TANK TO SEPARATE STRUCTURAL
ENGINEERS DETAIL

PUMP-OUT WET-CELL CHAMBER
INTERNAL DIMENSIONS:
8000 long x 2600 wide x 1100 deep
= 15.0m³ MINIMUM

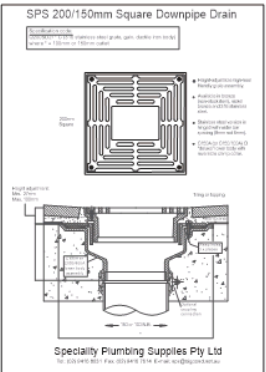
TYPICAL DETAIL - BASEMENT PUMP-OUT TANK

TYPICAL DETAIL - BASEMENT PUMP-OUT TANK

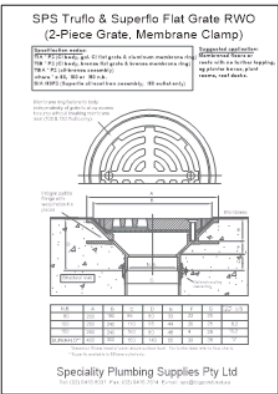
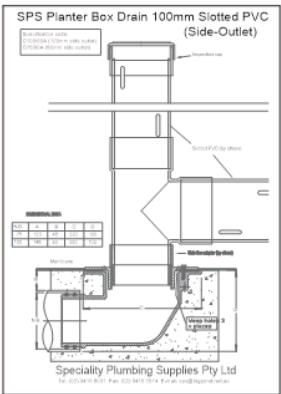
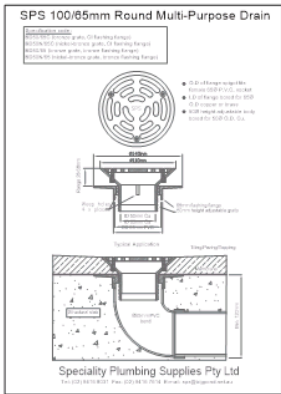
DESIGNED BY : EZ		ISSUED BY :  BE MIE AUST PENG	
JOB No 17061	DWG No D4	No IN SET 5	ISSUE B

ALL VERTICAL/DOWN PIPES TO BE 100 DIA uPVC SEWER GRADE UNLESS NOTED OTHERWISE.

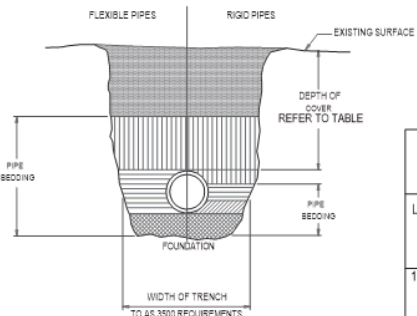
VP	100/150mm DIA uPVC SEWER GRADE VERTICAL DOWNPIPE
PBDO-100 DIA	100mm DIA PLANTER BOX DRAIN
800-100 DIA	100mm DIA BALCONY DRAINAGE OUTLET
200 x 200 TERRACE DRAIN	200 x 200 TERRACE DRAIN SYSTEM
200 x 200 RDO	200 x 200 ROOF DRAINAGE SYSTEM



TYPICAL DETAIL - SQUARE DOWNPIPE DRAIN
NOT TO SCALE



TYPICAL DETAILS- PLANTER BOX, BALCONY & TERRACE GRATE
NOT TO SCALE



NOTE A
STORMWATER DRAINS CONSTRUCTED OF OTHER THAN CAST IRON, DUCTILE IRON OR GALVANISED STEEL, HAVING COVER LESS THAN THAT SPECIFIED IN TABLE SHALL BE COVERED WITH AT LEAST 50mm OVERLAY AND SHALL BE PAVED WITH AT LEAST —
(a) 100mm THICKNESS OF REINFORCED CONCRETE WHERE SUBJECT TO HEAVY VEHICULAR LOADING

LEGEND - TRENCH BACKFILL			
SYMBOL	FLEXIBLE PIPES	RIGID PIPES	
[Pattern]	BACKFILL		
[Pattern]	PIPE OVERLAY		
[Pattern]	PIPE SIDE SUPPORT	SIDE ZONE	
[Pattern]		HAUNCH ZONE	
[Pattern]	PIPE UNDERLAY	BED ZONE	

MINIMUM PIPE COVER (FROM FINISHED SURFACE TO TOP OF PIPE)		
LOCATION	MINIMUM COVER (mm)	
	CAST/DUCTILE IRON GAL STEEL	OTHER AUTHORISED PRODUCTS (*)
1. NOT SUBJECT TO VEHICULAR LOADING:		
A. WITHOUT PAVEMENT:		
i. FOR SINGLE DWELLINGS -	0	100
ii. OTHER THAN SINGLE DWELLINGS -	0	300
B. WITH PAVEMENT OF BRICK/UNREINFORCED CONCRETE -	0 (**)	50 (**)
2. SUBJECT TO VEHICULAR LOADING:		
A. OTHER THAN ROADS:		
i. WITHOUT PAVEMENT -	300	450
ii. WITH PAVEMENT OF:		
- REINF. CONC. FOR HEAVY VEHICLES -	0 (** #)	100 (** #)
- BRICK/UNREINF. CONC LIGHT VEHICLES -	0 (** #)	75 (** #)
B. ROADS		
i. SEALED	300	500 (#)
ii. UNSEALED	300	500 (#)
3. SUBJECT TO CONSTRUCTION VEHICLES OR IN EMBANKMENT CONDITIONS	300	500 (#)
(*) INCLUDES OVERLAY ABOVE THE TOP OF THE PIPE OF NOT LESS THAN 50mm THICK (**) BELOW THE UNDERSIDE OF THE PAVEMENT (#) SUBJECT TO COMPLIANCE WITH AS1762, AS2033, AS/NZS 2566.1, AS3725 OR AS 4080		

B	26.11.18	COUNCIL EMAIL
A	11.11.18	CC ISSUE-STAGE 1
ISS	DATE	AMENDMENT

ARCHITECT/BUILDER
LEVEL 33 ARCHITECTURAL
CLIENT
WOLLI CREEK DEVELOPMENTS

EZE HYDRAULIC ENGINEERS
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DWG TITLE
TYPICAL DETAILS
PROJECT TITLE
PROPOSED RESIDENTIAL FLAT BUILDING DEVELOPMENT
No. 30-32 GUESS AVENUE, WOLLI CREEK NSW 2205

DESIGNED BY :
EZ
ISSUED BY :
BE MIE AUST PENG
JOB No DWG No No IN SET ISSUE
17061 D5 5 B