

## **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 5 March 2019 at 6.00 pm**

## **ON-SITE INSPECTIONS**

On-site inspection/s will precede the meeting.

## **AGENDA**

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

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

### **2 APOLOGIES**

### **3 DISCLOSURES OF INTEREST**

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

4.1 Minutes of the Bayside Local Planning Panel Meeting - 19 February  
2019 .....3

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

Nil

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

6.1 S82-2018/5 - 24 Oswell Street, Rockdale .....6  
6.2 DA-2016/205/B - 78 & 80 Ramsgate Road, Ramsgate .....86  
6.3 DA-18/1098 - 57 Banksia Street, Botany .....136  
6.4 DA-2016/66/B - 4 Magdalene Terrace, Wolli Creek .....214  
6.5 SF18/2947 - 40-54 Baxter Road, Mascot.....312  
6.6 DA-2018/223/A - 29-31 Campbell Street, Ramsgate.....428

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

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

Meredith Wallace  
**General Manager**



## **Bayside Local Planning Panel**

**5/03/2019**

Item No	4.1
Subject	<b>Minutes of the Bayside Local Planning Panel Meeting - 19 February 2019</b>
Report by	Fausto Sut, Manager Governance & Risk
File	SF19/316

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### **Recommendation**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 19 February 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

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### **Present**

Robert Montgomery, Chairperson and Independent Expert Member

Anthony Reed, Independent Expert Member

Lindsey Dey, Independent Expert Member

Amber O'Connell, Community Representative

### **Also Present**

Josh Ford, Coordinator Strategic Planning

Ian Vong, IT Officer

Lauren Thomas, Governance Officer

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The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:04 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

Lindsey Dey declared a Less-than-Significant, Non-Pecuniary Interest in Item 6.1 on the basis that she has previously worked with Tropman and Tropman when she was contracted to work for the former City of Botany Bay Council; she is currently the Project Planner for a heritage study elsewhere in Sydney with Tropman and Tropman; and she had input into the Development Application for the St Matthews Church Community Hall when on contract to the former City of Botany Bay Council; but stated that she would remain in the meeting for consideration of the item.

### 4 Minutes of Previous Meetings

Nil.

### 5 Reports – Planning Proposals

#### 5.1 Planning Proposal - 1-3 Lord Street, Botany

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

The following people spoke:

- Elizabeth Fitsimmons, affected neighbour, asked questions about the proposal.
- Hayden Sterling, Principal Architect BuiltConsult, spoke for the officer's recommendation and responded to the Panel's questions.
- Nathan Fuz, Applicant, spoke for the officer's recommendation and responded to the Panel's questions.
- Sonny Embleton, Senior Associate City Plan, spoke for the officer's recommendation and responded to the Panel's questions

#### Panel Recommendation to Council

That the Bayside Local Planning Panel recommends to Council:

- 1 That pursuant to section 3.34 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the Draft Planning Proposal for 1-3 Lord Street, Botany be submitted to the Department of Planning and Environment for a Gateway Determination, subject to Council being satisfied in relation to controls proposed in the Draft DCP prepared by Cityplan. In particular, it is considered that the DCP should focus on the following additional matters:
  - The interface between any proposed new building and the church is of paramount importance, therefore visual impact, setbacks, building massing envelope, materials and finishes, appropriate curtilage, and design elements should be carefully considered.

- Consideration should be given to reduction of minimum setback to the eastern boundary, with potential improvements to the interface and visual connection with the church on the western boundary.
  - Landscaping, particularly between Lord Street and the building, should be controlled to ensure screening of any proposed building and enhancement of what is effectively the gateway corner to the Lord Street Business Park.
- 2 That, if the NSW Department of Planning and Environment issue a Gateway Determination that permits exhibition of the proposal, a post-exhibition report be prepared for consideration by the Bayside Local Planning Panel before making any further recommendations to Council.
  - 3 It is acknowledged that the subject site is quite small in comparison to other sites in the vicinity, and is unique in this regard and in its relationship to the adjoining heritage item. Therefore, the Panel supports this site-specific Planning Proposal.
  - 4 As a separate matter, Council is encouraged to examine the Lord Street Precinct in its strategic context in the future, in particular, to consider any cumulative impact which may come about as a consequence of more intensive development within the precinct e.g. traffic impacts. In this regard, the Panel notes that there is considerable potential for additional development within the Precinct should height and floor space controls be considered for change in the future.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 6 Reports – Development Applications

Nil.

The Chairperson closed the meeting at 7:25 pm.

Robert Montgomery  
**Chairperson**

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**Bayside Local Planning Panel**

**5/03/2019**

Item No	6.1
Application Type	Section 8.2 Review of Determination
Application No	S82-2018/5
Lodgement Date	30/11/2018
Property	<b>24 Oswell Street, Rockdale</b>
Ward	Rockdale
Owner	Mrs W Hijazi & Mr H Jouni
Applicant	GAT & Associates
Proposal	Demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots
No. of Submissions	Thirty-five (35) responses were received from twenty nine (29) objectors
Cost of Development	\$725,000.00
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

- 1 That Review of Determination of Development Application S82-2018/5 of DA-2017/558 for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots, confirm the refusal of the development application with modified reasons for refusal;
  - 2 That Pursuant to Section 8.4 of the *Environmental Planning and Assessment act 1979* the determination of DA-2017/558 be **REFUSED** for the following reasons:
    - 1) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy Clause 4.6(3) of the *Rockdale Local Environmental Plan 2011*. Development consent cannot be granted for the development given a written request which seeks to justify the contravention of the maximum floor space ratio development standard under Clause 4.4(2) of the *Rockdale Local Environmental Plan 2011* has not been provided.
    - 2) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy Clause 4.6(4)(a) in that the submitted Clause 4.6 written request for minimum lot size development standard pursuant to Clause 4.1 does not adequately address the matters required to be demonstrated by Clause 4.6(3) of *Rockdale Local Environmental Plan 2011* in regard to the contravention of the minimum lot size development standard. The consent authority is not satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, that there are sufficient environmental planning
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grounds to justify contravening the development standard and that the proposed development will be in the public interest

- 3) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the following requirements of *Rockdale Local Environmental Plan 2011*:
    - a. Clause 2.3 Zone objectives and Land Use Table – the proposed development is inconsistent with the objectives for the R2 Low Density Residential Zone in which the development is proposed to be carried out.
    - b. Clause 4.1 Minimum subdivision lot size – the site area does not achieve the minimum subdivision lot size for dual occupancy development and the Clause 4.6 written request is not supported.
    - c. Clause 4.4 Floor space ratio – the floor space ratio of the proposed development exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map and the Clause 4.6 written request is not supported.
  - 4) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the following objectives and provisions of *Rockdale Development Control Plan 2011*:
    - a. Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site. The bulk and scale of the proposal is exacerbated by its design and location and is unacceptable.
    - b. Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswald Street. The design of the proposed development has not adequately ensured the retention of significant trees and there is a lack of compensatory planting opportunities along this boundary.
    - c. Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
    - d. Part 4.2 Streetscape (Site Context) – The proposal does not respond sensitively to the broader urban context in terms of compatibility, particularly having regard to the bulk and scale of the proposal located in a highly prominent site.
    - e. Part 4.2 Streetscape (Streetscape character) – The use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape. The proposal is also inconsistent with the secondary street setback controls along Holland Avenue which exacerbates the bulk and scale of the development.
    - f. Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – The proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue and does not satisfy the criteria for such work to be permissible under this Part. Alternative access could be obtained via Oswald Street (where it is
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- currently located), the rock outcrop is significant in terms of the streetscape and there is adequate on street parking available.
- g. Part 4.3.1 – Open Space and Landscape Design – The removal of an extensive portion of the rock outcrop on the site is contrary to these controls.
  - h. Part 4.4.2 – The proposal does not achieve adequate solar access to the private open space of dwelling 1 given the turf area is overshadowed throughout the day and the alfresco area is predominantly overshadowed for the majority of the day.
  - i. Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.
- 5) Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site given the proposed development's non-compliances with the FSR and minimum lot size development standards of the *Rockdale Local Environmental Plan 2011*, as well as the development controls under the *Rockdale Development Control Plan 2011*.
  - 6) Pursuant to 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 given the inconsistencies with numerous planning controls and the issues raised in submissions.
- 3 That, having regard to the reasons noted above, the objectors are advised of the decision of the Panel.

## Location Plan



## Attachments

- 1 Consultants Assessment Report [↓](#)
- 2 Site & Analysis Plan [↓](#)
- 3 Streetscape Diagram [↓](#)
- 4 Elevations 1 [↓](#)
- 5 Elevations 2 [↓](#)
- 6 Landscape Plan [↓](#)
- 7 Sections Plan [↓](#)
- 8 Sections - Stairwell & Storage [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

<b>Application Number:</b>	S82 – 2018/5 (DA-2017/558)
<b>Date of Receipt:</b>	30 November 2018
<b>Property:</b>	24 Oswell Street, Rockdale NSW 2216
<b>Owner:</b>	Mrs Wafaa Hijazi and Mr Haithem Jouni
<b>Applicant:</b>	GAT & Associates
<b>Proposal:</b>	Demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots
<b>Recommendation:</b>	Confirm determination with modified reasons for refusal
<b>No. of Submissions:</b>	Thirty-five (35) submissions from twenty nine (29) objectors have been received by Council.
<b>Author:</b>	Kim Johnston – KJ Planning
<b>Date of Report:</b>	4 February 2019

### Key Issues

- **Minimum lot size** – The subject site does not achieve the minimum lot size (in terms of area) for subdivision of a dual occupancy development under Clause 4.1 of the *Rockdale Local Environmental Plan 2011* (RLEP 2011). Similarly, the subject site does not achieve the minimum site area for a dual occupancy development under Part 4.1.9 of the *Rockdale Development Control Plan 2011* (RDCP 2011).
- **Clause 4.6 written request** – The clause 4.6 written request submitted by the applicant does not adequately address why it is unreasonable or unnecessary to enforce strict compliance with the development standard under Clause 4.1 of the RLEP 2011. Furthermore, insufficient environmental planning grounds to justify the variation to the development standard in the circumstances of the case have been presented by the applicant in their written request and it has not been adequately demonstrated that the variation is in the public interest. The public benefit in maintaining the standard has also not been adequately addressed by the applicant.

The proposed development is not considered to be in the public interest as it is inconsistent with the objectives of Clause 4.1 and also the objectives of the R2 Low



Density Residential Zone pursuant to RLEP 2011 in which the development is proposed to be carried out.

As such, pursuant to Clause 4.6(4) of the RLEP 2011, development consent must not be granted for the development.

- **Floor space ratio** – The proposed development exceeds the maximum floor space ratio (FSR) prescribed for the site pursuant to Clause 4.4(2) of the RLEP 2011. There has been no Clause 4.6 written request submitted in support of the variation and accordingly pursuant to Clause 4.6(3) of the RLEP 2011, development consent must not be granted for the development.
- **Rockdale Development Control Plan non-compliances** – The proposed development cannot be supported on the basis of the following non-compliances with the relevant provisions of the RDCP 2011:
  - *Part 4.1.1 Views and Vistas* – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant FSR and lot size, the proposal does not appropriately respond to the prominence of the site. The proposal being over a number of levels, including the basement garages, ground floor, Level 1 and the roof terrace level, exacerbates the overall bulk and scale of the building atop the sandstone outcrop. The bulk and scale of the proposal is exacerbated by its design and location and is unacceptable.
  - *Part 4.1.7 Tree Preservation* – The proposal will result in the removal of two (2) street trees along Holland Avenue and a Canary Island Date Palm in the Oswell Street setback. While these trees are not ecologically significant, their screening value and the lack of compensatory planting opportunities along this boundary results in this tree removal being unsatisfactory. The design of the proposed development has not adequately ensured the retention of significant trees. The imposing nature of the proposal from a pedestrian (street) perspective is too great without screen planting along this elevation.
  - *Part 4.1.9 Lot size and Minimum Site Frontage* – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
  - *Part 4.2 Streetscape (Site Context)* – The proposal does not respond sensitively to the broader urban context in terms of compatibility, particularly having regard to the bulk and scale of the proposal located in a highly prominent site. The proposal is inconsistent with the prevailing scale of existing development in the locality given the inconsistencies with the maximum FSR and minimum lot size development standards.
  - *Part 4.2 Streetscape (Streetscape character)* – The proposal's use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape. The proposal is also inconsistent with the secondary street setback controls along Holland Avenue which exacerbates the bulk and scale of the development.

- *Part 4.2 Streetscape (Fencing)* – The proposal is inconsistent with numerous front fencing controls relating to front fence height along both street frontages which when combined with the extensive excavation is contrary to these controls and adds further bulk to the development.
  - *Part 4.2 Streetscape (Sandstone Walling, Rock Outcrops and Kerbing)* – The proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue and does not satisfy the criteria for such work to be permissible under this Part. That is, alternative access could be obtained via Oswell Street (where it is currently located), the rock outcrop is significant in terms of the streetscape and there is adequate on street parking available.
  - *Part 4.3.1 – Open Space and Landscape Design* – the removal of an extensive part of the rock outcrop on the site is contrary to these controls.
  - *Part 4.4.2 Solar Access* – The proposal does not achieve adequate solar access to the private open space area of Dwelling 1 given the turf area is overshadowed throughout the day and the alfresco area is predominantly overshadowed for the majority of the day.
  - *Part 5.1 Building Design* – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.
- **Submissions** – Thirty-five (35) responses were received from twenty nine (29) objectors.

## Recommendation

- A. That Review of Determination of Development Application S82-2018/5 of DA-2017/558 for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots, confirm the refusal of the development application with modified reasons for refusal;
- B. Pursuant to Section 8.4 of the *Environmental Planning and Assessment Act 1979* the determination of DA-2017/558 be **REFUSED** for the following reasons:
  1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy Clause 4.6(3) of the *Rockdale Local Environmental Plan 2011*. Development consent cannot be granted for the development given a written request which seeks to justify the contravention of the maximum floor space ratio development standard under Clause 4.4(2) of the *Rockdale Local Environmental Plan 2011* has not been provided.
  2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy Clause 4.6(4)(a) in that the submitted Clause 4.6 written request for minimum lot

size development standard pursuant to Clause 4.1 does not adequately address the matters required to be demonstrated by Clause 4.6(3) of *Rockdale Local Environmental Plan 2011* in regard to the contravention of the minimum lot size development standard. The consent authority is not satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, that there are sufficient environmental planning grounds to justify contravening the development standard and that the proposed development will be in the public interest

3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not satisfy the following requirements of *Rockdale Local Environmental Plan 2011*:
  - a) Clause 2.3 Zone objectives and Land Use Table – the proposed development is inconsistent with the objectives for the R2 Low Density Residential Zone in which the development is proposed to be carried out.
  - b) Clause 4.1 Minimum subdivision lot size – the site area does not achieve the minimum subdivision lot size for dual occupancy development and the Clause 4.6 written request is not supported.
  - c) Clause 4.4 Floor space ratio – the floor space ratio of the proposed development exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map and the Clause 4.6 written request is not supported.
4. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the following objectives and provisions of *Rockdale Development Control Plan 2011*:
  - a) Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site. The bulk and scale of the proposal is exacerbated by its design and location and is unacceptable.
  - b) Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswell Street. The design of the proposed development has not adequately ensured the retention of significant trees and there is a lack of compensatory planting opportunities along this boundary.
  - c) Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
  - d) Part 4.2 Streetscape (Site Context) – The proposal does not respond sensitively to the broader urban context in terms of compatibility,

particularly having regard to the bulk and scale of the proposal located in a highly prominent site.

- e) Part 4.2 Streetscape (Streetscape character) – The use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape. The proposal is also inconsistent with the secondary street setback controls along Holland Avenue which exacerbates the bulk and scale of the development.
- f) Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – The proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue and does not satisfy the criteria for such work to be permissible under this Part. Alternative access could be obtained via Oswell Street (where it is currently located), the rock outcrop is significant in terms of the streetscape and there is adequate on street parking available.
- g) Part 4.3.1 – Open Space and Landscape Design – The removal of an extensive portion of the rock outcrop on the site is contrary to these controls.
- h) Part 4.4.2 – The proposal does not achieve adequate solar access to the private open space of dwelling 1 given the turf area is overshadowed throughout the day and the alfresco area is predominantly overshadowed for the majority of the day.
- i) Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.

5. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site given the proposed development's non-compliances with the FSR and minimum lot size development standards of the *Rockdale Local Environmental Plan 2011*, as well as the development controls under the *Rockdale Development Control Plan 2011*.

6. Pursuant to 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 given the inconsistencies with numerous planning controls and the issues raised in submissions.

C. Having regard to the reasons noted above, the objectors are advised of the decision of the Panel.

## Background

### Site History

The site has been the subject of a number of development proposals in recent years. A brief outline of these applications is outlined below.

**DA-2017/183**

- This development application was lodged on 22 November 2016 for the construction of a two (2) storey detached dual occupancy development, including roof top terraces, basement parking, front and side fences, demolition of existing structures and Torrens title subdivision from one lot into two lots.
- A request for additional and amended information dated 7 February 2017 required the proposal to address various issues. These issues included the minimum lot size, inconsistencies with the maximum height of buildings and FSR development standards, the rock outcrop, amount of excavation, streetscape concerns, overlooking primarily from the roof terraces, landscaping, solar access to private open space areas and driveway widths.
- Following a thorough assessment, the application was refused by the Bayside Planning Panel (BPP) on 11 July 2017 for the following reasons (my emphasis added):
  1. ***Non-compliance with Rockdale Local Environmental Plan 2011 with regard to the following provisions, and as such failure to satisfy Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979:***
    - *The objectives of the R2 Low Density Residential zone;*
    - *Clause 4.1 (Minimum subdivision lot size);*
    - *Clause 4.3 (Height of building); and*
    - *Clause 4.4 (Floor space ratio).*
  2. ***The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:***
    - *Part 4.1 (Site Planning);*
    - *Part 4.2 (Streetscape and Site Context);*
    - *Part 4.3 (Landscape Planning and Design);*
    - *Part 4.4 (Sustainable Building Design); and*
    - *Part 5.1 (Low and Medium Density Residential).*
  3. ***Section 79C(1)(a)(iv) The applicant has failed to provide Council with the all requested information outlined within Council's letter dated 7 February 2017, as requested in accordance with Section 54 of the Environmental Planning and Assessment Regulation 2000.***
  4. ***Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to create unacceptable impacts to the surrounding development and the locality in the following regards:***

- a. *Likely impact of the development on the built environment is poorly considered and unacceptable.*
- b. *Likely impact of the development on the privacy of adjoining neighbours is unacceptable.*
- c. *Likely impact of the development on the internal amenity of the future residents is unacceptable.*

5. *Pursuant to the provisions of Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal has not adequately considered the concerns raised in the **public submissions** received against the development.*
6. *Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the **public interest** as it does not satisfy the objectives of the local planning instruments, being the RLEP 2011 and RDCP 2011, and will result in unacceptable impacts on the built environment.*

#### **S82-2017/9**

- A Section 82A Review application (as it was known then) was lodged on 15 September 2017 in relation to DA-2017/183.
- On 7 November 2017, this review application was withdrawn by the applicant as a review of determination (previously Section 82A Review) could not be undertaken on development applications determined by a local planning panel. It is noted that the EP&A Act has since been amended to allow applications determined by a local planning panel to be reviewed.

#### **DA-2017/558**

- This development application was lodged with Council on 7 November 2017 for the demolition of existing structures and construction of a two (2) storey detached dual occupancy including roof top terraces, basement level parking, front side fences and Torrens Title Subdivision from one lot into two lots (the original development application).
- The application was notified to adjoining land owners and publicly exhibited on Council's website for two weeks. In total, thirty-four (34) responses were received from thirty-one (31) objectors. The issues raised in the submissions included:
  - The proposed subdivision does not reflect and reinforce the predominant subdivision pattern in the area;
  - The building height and FSR are not compliant with the development standards under LEP 2011;
  - The proposal does not satisfy the provisions under Part 4 of the RDCP 2011 having regard to site planning, streetscape and site context, landscape planning and design, sustainable building design, nor does it satisfy the

- controls relating to low and medium density residential development under Part 5.1 of the RDCP2011;
  - The proposal will result in unacceptable impacts on surrounding development, including the privacy of neighbours, and the internal amenity of future residents;
  - Damage to the sandstone rock wall on the Holland Avenue frontage is not supported;
  - Overshadowing impacts of the proposed development on adjoining property and also poor internal solar access;
  - The proposal will result in unacceptable view loss;
  - The proposed materials and finishes are out of character with the local area;
  - The development is Inconsistent with the objectives of the R2 Low Density Residential zone under the RLEP2011; and
  - Traffic and parking impacts of the proposal, including that Holland Avenue is too narrow to accommodate additional vehicles. Access to the property should be maintained to Oswell Street.
- A request for additional information dated 5 February 2017 raised the following issues that needed to be addressed:
    - **View and vistas** - The proposal was considered to become a highly visible element within the Holland Avenue streetscape, particularly when noting the reduced setback to the Holland Avenue frontage, location of massing, and significant excavation into the rock face of the Holland Avenue frontage. The proposal was not considered to complement the character of the area required by Part 4.1.1 of RDCP 2011.
    - **Streetscape impacts** - The proposal was considered to result in a significant contrast to the building design and roof elements present in the existing streetscape of Oswell St and Holland Ave. The proposal's use of contemporary architectural features such as a flat roof, large rooftop terrace, and use of modern materials such as glazing, rendered brick, and factory coloured aluminium panels is inconsistent with the streetscape and Part 4.2 of the RDCP 2011;
    - **Holland Ave streetscape - rock outcrop façade** – The proposal needed to better integrate the proposed basement car park into the rock façade in accordance with Section 4.2 (Streetscape) of the RDCP2011 (Control 29);
    - **Height discrepancy** - Dwelling 1 exceeded the maximum height development standard with a height of 8.56m (RL 48.9 – RL 40.34).
    - **Minimum lot size:** Clause 4.1(3) of the *Rockdale Local Environmental Plan 2011* (LEP2011) restricts the minimum lot size for the subdivision on which there is an existing dual occupancy, or a dual occupancy proposed to 350m<sup>2</sup> for each resulting lot, and each resulting lot will have one (1) dwelling on it. The proposal provides for a lot size of 346.19m<sup>2</sup> for proposed lot 700, and a lot size of 348.46m<sup>2</sup> for proposed lot 701. It is noted that a written request pursuant to clause 4.6 of the LEP2011 accompanies the application.

However, with consideration to the non-compliances and deficiencies outlined above, the proposal was considered to not appropriately demonstrate that compliance with the development standard is unreasonable or unnecessary, particularly noting the nonconformity with the objectives of clause 4.1 and the R2 Low Density Residential zone of the RLEP 2011.

- **Landscape plan inconsistent with Site Plan** - The proposed driveway locations differ which has consequential impacts on the existing street trees of Holland Avenue.
  - **Access way widths**; The Rockdale Technical Specifications outline that for dual occupancy developments the maximum boundary width of an access driveway is 3m and separated by 6m along the kerb.
  - **BASIX Certificate**: The submitted BASIX Certificate (No. 759666M) was not valid as it was out-of-date being more than 3 months from the date of issue.
  - **Public submissions** - Numerous submissions objecting to the proposed development were received.
- Various amendments to the proposal and additional information were provided throughout the assessment including:
    - Reduction in overall height (150mm), achieved by reducing the Level 1 and Level 2 slab and ceiling thickness which resulted in compliance with the building height development standard.
    - Reduction in overall GFA, achieved by excluding A/C unit and associated lobby area on rooftop level although the proposal continued to exceed the FSR development standard by 4.75sqm (total GFA of 352sqm).
    - Change of materials including the introduction of face brick, cladding, and stone on both street facades and commentary on the proposal's impact on the streetscape including examples of flat roof forms along Holland Avenue and Oswell Street including the recently approved dwelling at 3 Holland Avenue and recently constructed dwelling at 10 Oswell Street (which constitutes unauthorised building works).
  - Following the submission of various amendments and additional information and plans (architectural plans received on 19 March 2018 and Landscape Plan received on 16 April 2018), the Bayside Planning Panel refused the application on 11 September 2018 adopting the Council's recommendation for refusal.

## Development Application History

The history of this review application (S82-2018/5) is summarised as follows:

- This review of determination application was lodged on 30 November 2018 in relation to DA 2017/558 (the review application).
- The application was referred to Council officers including the Development engineer, Tree Management Officer, Landscape Architect, Contributions Planner, and Address and Road Naming. The review application was not



referred to the Sydney Airport Corporation Limited (SACL) given the original application was referred and there were no objections and there is no change to the overall height of the proposal in this review application. Accordingly no additional referral was deemed to be necessary.

- The application was notified to adjoining land owners and publicly exhibited on Council's website for two weeks. In total, 35 responses were received from 29 objectors. The issues raised in the submissions included:
  - The proposal in the review application is essentially the same as the original proposal with minimal changes with reasons for refusal not addressed;
  - The proposed subdivision does not reflect and reinforce the predominant subdivision pattern in the area and accordingly the Clause 4.6 request is not supported;
  - The proposal does not satisfy the provisions under Part 4 of the RDCP 2011 having regard to site planning, streetscape and site context, landscape planning and design, sustainable building design, nor does it satisfy the controls relating to low and medium density residential development under Part 5.1 of the RDCP2011;
  - Damage to the sandstone rock wall on the Holland Avenue frontage is not supported;
  - Bulk and scale are unacceptable particularly on this highly visible site;
  - Overshadowing impacts of the proposed development on adjoining property and also poor internal solar access;
  - The proposal will result in unacceptable view loss;
  - The proposed materials and finishes are out of character with the local area and is therefore incompatible with the local area; and
  - The development is Inconsistent with the objectives of the R2 Low Density Residential zone under the RLEP 2011.

These issues are considered further in this report.

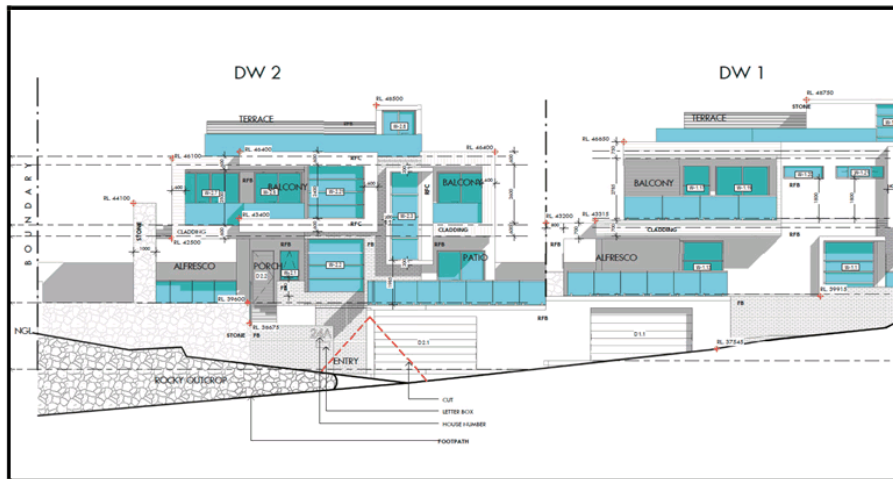
## Proposal

Council is in receipt of Review Application S82-2018/5 to DA-2017/588 at 24 Oswell Street, Rockdale, which seeks consent for the demolition of existing structures and construction of a two storey detached dual occupancy including roof top terraces, basement level parking, front and side fences, and Torrens Title Subdivision from one lot into two lots.

The proposal in this Review Application remains essentially the same proposal as previously submitted to Council in the original development application. The applicant states in the SEE that this Section 8.2 Review is to provide further information to the issues of refusal laid out in the Refusal Notice.

The review application seeks consent for the following amendments to the original proposal:

- Removal of the awning over the ground level private open space of Dwelling 2 opening up the area as viewed from Holland Avenue;
- Reduction in the roof terraces for each dwelling to 24m<sup>2</sup> each; and
- Reduction in the extent of the rock outcrop removal along Holland Avenue to just the area relating to the garage doors (refer to **Figure 1**).



**Figure 1: Original DA eastern side elevation (Source: Space 0.618:1, dated February 2018)**

It is also noted that there are minor changes to the configuration of the basement for Dwelling 1 including the removal of the storage area and a minor increase to the width of the garage. A minor increase to the setback of the garages from Holland Avenue is also provided at the basement level.

It is further noted that there is a minor decrease in the gross floor area of the proposal 1.52m<sup>2</sup>, although the review application still exceeds the FSR development standard as outlined in this report.

Additional information which has been provided in the Review Application includes:

- Amended Architectural Plans and a Draft Subdivision Plan prepared Space 0.618:1 Design dated November 2018;
- Landscape Plan prepared by Outliers Design Studio dated 26 March 2017 (Issue B);
- Statement of Environmental Effects prepared by GAT Associates including Clause 4.6 Written Request dated November 2018;
- Revised BASIX certificate Number 12 December 2018 prepared by Green Sustainable Homes dated November 2018.
- Geotechnical Report prepared by Davies Geotechnical dated 6 April 2017; and
- Hydraulic Plan prepared by Rafeletos Zanuttini dated 19 October 2016.

Accordingly, the proposal as outlined in this Review Application includes the following components:-

***Demolition of existing structures***

The proposal includes the demolition of the existing dwelling and associated structures on the site.

***Construction of a detached dual occupancy***

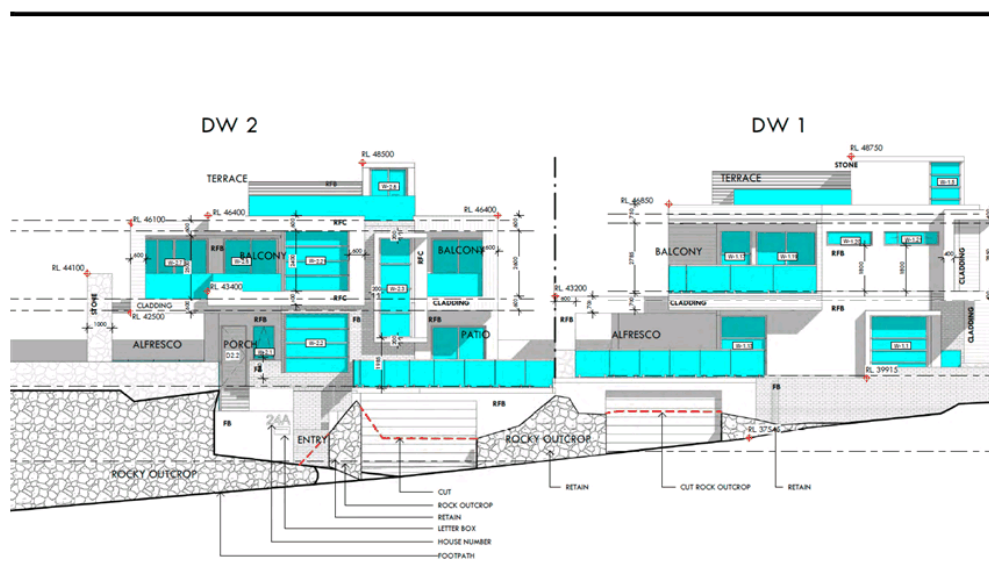
The proposal comprises the following:-

- (i) ***Dwelling 1*** – This Dwelling is located on the corner of Oswell Street and Holland Avenue and comprises the following:-
- Garage Floor Level (RL37.0) - A two-car garage is located beneath the Ground Floor of Dwelling 1. Vehicular access to this garage is via Holland Avenue, with an internal staircase leading up to the ground floor of the dwelling.
  - Ground Floor (RL40.0) – this level comprises an open plan lounge, dining and kitchen area as well as an alfresco area and adjoining turfed area with a clothesline to the east. A study, powder room, laundry and stairs to lower and upper levels are also provided. The main entry from Oswell Street is also provided.
  - First Floor (RL43.4) - The First Floor of Dwelling 1 comprises of four bedrooms, a retreat area, and a bathroom. The master bedroom also includes a walk-in-robe, an ensuite bathroom, and a wraparound balcony that adjoins the southern and eastern side of the building.
  - Roof Terrace (RL46.45) - A roof top terrace is proposed for Dwelling 1 accessed via the dwelling's internal staircase. This roof terrace is setback from the building edge, has an open area of around 24m<sup>2</sup> (reduced from approximately 54m<sup>2</sup> under the original proposal) and an enclosed access area of approximately 2m<sup>2</sup>. A 1.7m high privacy screen is proposed on the western boundary of the rooftop area. The roof of the staircase onto the rooftop terrace reaches a height of RL48.75.
- (ii) ***Dwelling 2*** – This Dwelling is located fronting Holland Avenue and comprises the following:-
- Garage Floor Level (RL36.6) - A two-car garage is located beneath the Ground Floor of Dwelling 2. A storage area is also provided and vehicular access to this garage is via Holland Avenue, with an internal staircase leading up to the ground floor of the dwelling. An area for bin storage is also provide at this level;
  - Ground Floor (RL39.6) - The Ground Floor of Dwelling 2 comprises an open plan lounge, dining and kitchen area as well as a study, powder room, laundry, and a staircase leading to the first floor or basement of the

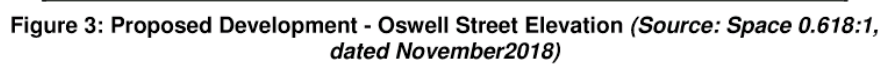
dwelling. The main entry from Holland Avenue is also provided from the external stairs from the basement level. A front patio area is proposed in the front northern corner adjoining the lounge room overlooking Holland Avenue (within the front setback area) while an alfresco area and adjoining turfed area is proposed to the south-east. A smaller paved area with a clothesline is located adjacent to the laundry in the southwestern corner within the rear setback of the dwelling;

- First Floor (RL43.1) - The First Floor of Dwelling 1 comprises of four bedrooms, a retreat area, and a bathroom. The master bedroom also includes a walk-in-robe, an en-suite bathroom, and a balcony that adjoins the eastern side of the building. A small balcony adjoining Bedroom 4 in the eastern corner of the site overlooks Holland Avenue;
- Roof Terrace (RL46.2) - A roof top terrace is proposed for Dwelling 2 which is accessed via the dwelling's internal staircase. This roof terrace is setback from the building edge, and has an open area of around 24m<sup>2</sup> (previously 39m<sup>2</sup> in the original proposal) and an enclosed access area of approximately 2m<sup>2</sup>. A 1.7m high privacy screen is proposed on the western boundary of the rooftop area. The roof of the staircase onto the rooftop terrace reaches a height of RL48.5.

Elevations of the proposal are illustrated in **Figure 2** and **Figure 3** below.



**Figure 2: Proposed Development - Holland Avenue Elevation (Source: Space 0.618:1, dated November 2018)**



### ***Subdivision***

The proposal includes the Torrens title subdivision of the site into two lots, with a dwelling on each lot. The resulting lots comprise the following:-

- Lot 700 (Dwelling 1) – 346.185m<sup>2</sup>
- Lot 701 (Dwelling 2) – 348.463m<sup>2</sup>

### ***Removal of Trees***

The proposal seeks the removal of the Canary Island Date Palm located on the front setback to Oswell Street and the removal of two (2) Callistemon street trees within the verge of the subject site on the Holland Avenue frontage. The removal of these trees is to provide for vehicle access to the basement garage from this frontage.

### ***Excavation***

The proposal involves excavation up to 3.6m for the proposed garages and up to 1.7 metres for the building footprint (Dwelling 2 laundry). This excavation is largely into the rocky outcrop along the Holland Avenue boundary.

### ***Refusal reasons***

A review of the reasons for refusal in the context of the changes made in this Review Application is considered below in **Table 1**. It is considered that since only minor changes have been made to the proposal, that the majority of the refusal reasons are still valid.

**Table 1: Consideration of Refusal Reasons and changes made in Review Application**

REFUSAL REASON	CHANGES MADE IN REVIEW APPLICATION	RESOLVE
1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the <i>Environmental Planning and Assessment Act 1979</i> , the proposed development does not satisfy the following requirements of <i>Rockdale Local Environmental Plan 2011</i> :		
a) Clause 2.3 Zone objectives and Land Use Table – the proposed development is not consistent with the objectives for the R2 Low Density Residential Zone in which the development is proposed to be carried out.	There have been minimal changes made to the proposal and accordingly it is considered that it is still inconsistent with the zone objectives as outlined in this report.	<b>No</b>
b) Clause 4.1 Minimum subdivision lot size – the site area does not achieve the minimum subdivision lot size for dual occupancy development.	There have been no changes made to the lot size of the site or the resulting proposed 2 lot Torrens title subdivision.	<b>No</b>
c) Clause 4.4 Floor space ratio – the floor space ratio of the proposed development exceeds the maximum floor space ratio shown for the land on the Floor Space Ratio Map.	The proposal still exceeds the maximum FSR for the site as outlined in this report.	<b>No</b>

<p>d) Clause 4.6 – The applicant's written request to justify the contravention of clause 4.1 of the <i>Rockdale Local Environmental Plan 2011</i> has been considered, however the consent authority is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) of clause 4.6.</p> <p>Further, the consent authority is not satisfied that the proposed development will be in the public interest because it is inconsistent with the objectives of clause 4.1 and also the objectives of the R2 Low Density Residential Zone in which the development is proposed to be carried out.</p> <p>As such, pursuant to clause 4.6(4) of the <i>Rockdale Local Environmental Plan 2011</i>, development consent must not be granted for the development.</p>	<p>The Clause 4.6 request to vary Clause 4.1 of the RLEP 2011 in relation to the minimum lot size has been revised and improved, however, it is considered it still does not adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>This is further discussed in this report.</p>	<p><b>No</b></p>
<p>e) Clause 4.6 – The applicant has not provided a written request that seeks to justify the contravention of the development standard under clause 4.4 of the <i>Rockdale Local Environmental Plan 2011</i>. Pursuant to clause 4.6(3) of the <i>Rockdale Local Environmental Plan 2011</i> development consent must not be granted for the development.</p>	<p>The proposal still exceeds the maximum FSR for the site and there is also still no Clause 4.6 request to vary this development standard. This is further outlined in this report.</p>	<p><b>No</b></p>
<p>2. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the <i>Environmental Planning and Assessment Act 1979</i>, as it does not comply with the following objectives and provisions of <i>Rockdale Development Control Plan 2011</i>:</p>		
<p>a) Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.</p>	<p>There have been no changes to these aspects of the proposal. The proposed built form on a highly visible site which exceeds two development standards and results in the loss of existing vegetation have not been altered by the review application.</p>	<p><b>No</b></p>
<p>b) Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswald Street. The design of the proposed</p>	<p>There have been no changes to this aspect of the proposal. The two street trees and tree in from setback to Oswald Street are still proposed to be removed.</p>	<p><b>No</b></p>

development has not adequately ensured the retention of significant trees.		
c) Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.	There have been no changes made to the lot size of the site or the resulting proposed 2 lot Torrens title subdivision.	<b>No</b>
d) Part 4.2 Streetscape – Streetscape character – The use of a flat roof design in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.	There have been no significant changes to the proposed building or roof form.	<b>No</b>
e) Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – the proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswell Street where the current vehicle access to the site is located.	There has been a reduction in the amount of excavation required for the proposed basement garages along Holland Avenue, however, it is considered that this excavation is still too great and will be contrary to these controls. The criteria for allowing excavation into rock outcrops for garages has not been satisfied by the proposal as outlined in this report.	<b>No</b>
f) Part 4.3.2 Private Open Space – The large roof top terraces on both dwellings give rise to unreasonable overlooking opportunities to adjoining property, and also impacts on acoustic amenity. The private open space area for Dwelling 1 will not receive adequate solar access at ground level, and the dwelling only achieves compliance overall by virtue of the oversized roof top terraces – see Part 4.4.2 Solar Access.	The proposed rooftop terrace areas have been reduced to 24m <sup>2</sup> for each dwelling and a condition can be imposed which requires additional privacy screening to ensure overlooking is minimised. The proposed rooftop terraces however are considered to add to the bulk and scale of the proposal which is considered elsewhere in this report.	<b>Yes</b>
g) Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately interpret and respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings.	There have been no significant changes to the proposed building or roof form.	<b>No</b>



3. Having regard to the proposed development's non-compliances with the above-mentioned development standards of the <i>Rockdale Local Environmental Plan 2011</i> , as well as the development controls under the <i>Rockdale Development Control Plan 2011</i> , pursuant to the provisions of Section 4.15(1)(b) of the <i>Environmental Planning and Assessment Act 1979</i> , the proposed development will have an unacceptable impact on the natural and built environment.	The non-compliances with the RLEP 2011 and the RDCP 2011 remain and accordingly this reason is still valid.	<b>No</b>
4. Pursuant to the provisions of Section 4.15(1)(c) of the <i>Environmental Planning and Assessment Act 1979</i> , the proposed development is not suitable for the site.	Given there have been minimal changes made to the proposal, the site is still unsuitable for the proposal.	<b>No</b>
5. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i> , approval of the development application is not in the public interest.	Given there have been minimal changes made to the proposal, the proposal is still not considered to be in the public interest. The non-compliances with planning controls result in the proposal being contrary to the public interest, with the adverse impact on the streetscape arising from the bulk and scale being a major concern and the significant number of submissions.	<b>No</b>

### Site location and context

The site is located on the south-western corner of Holland and Oswald Streets in Rockdale, approximately 15 kilometres from the Sydney CBD and approximately 3 kilometres from Rockdale. The site location is illustrated in **Figure 4**.

The site is legally described as Lot 14 in Deposited Plan 13153 and is known as 24 Oswald Street, Rockdale (the site). The site is rectangular in shape and has a total site area of 694.5m<sup>2</sup>.

The site is a corner allotment with a dual street frontage, the primary frontage of 15.1 metres being to Oswald Street while the secondary frontage of 45.72m metres is to Holland Avenue. A survey of the site is provided in **Figure 5**.



Figure 4: Location of the Site (Source: SIX Maps, 16/01/2019)

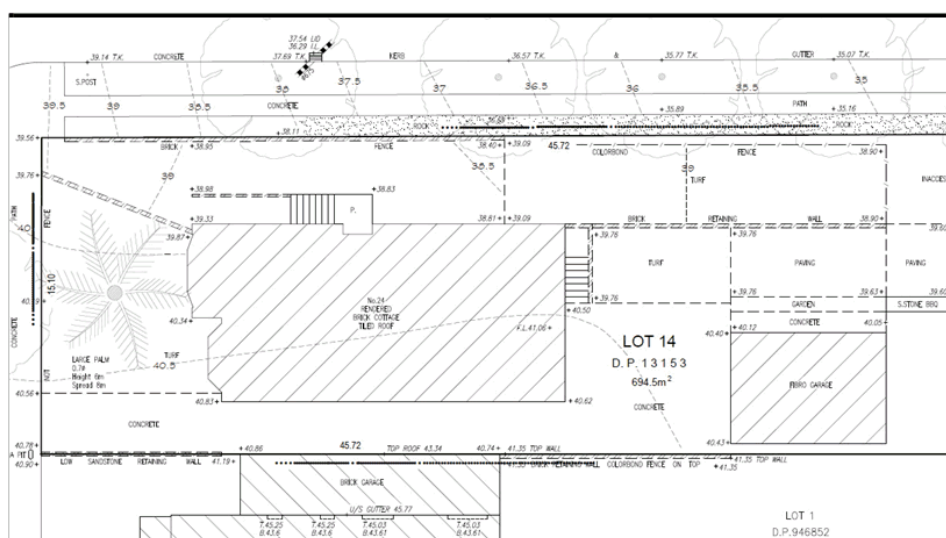


Figure 5: Site Survey (Source: Survey prepared by J. P. Bates & Inwood Surveyors provided by the applicant)

The site contains a single-storey rendered brick dwelling house on a stone base with a tiled hipped roof. A detached fibro garage also exists within the rear yard which is accessed via a driveway along the southern side of the site with vehicle access to Oswald Street. The existing development on the site is illustrated in **Figure 6**.

The site does not include any significant vegetation with the exception of a Canary Island Date Palm located within the front setback to Oswald Street. A single Callistemon street tree is located within the verge on the Oswald Street frontage and five (5) Callistemon street trees are located on the verge of the Holland Avenue street frontage (shown in Figures 5 and 6).

The site slopes across the property from west down to east, with a cross fall of approximately 2 metres and from north to south (front to rear) with a fall varying between approximately 0.5m and 1m. The slope around the dwelling has been terraced with garden beds, lawn areas and paving.

Adjoining the site along the south-western side boundary is a single storey brick dwelling house with a tiled roof at 26 Oswald Street, illustrated in **Figure 7**.



**Figure 6: The site from the Corner of Oswald Street & Holland Avenue looking South-east**



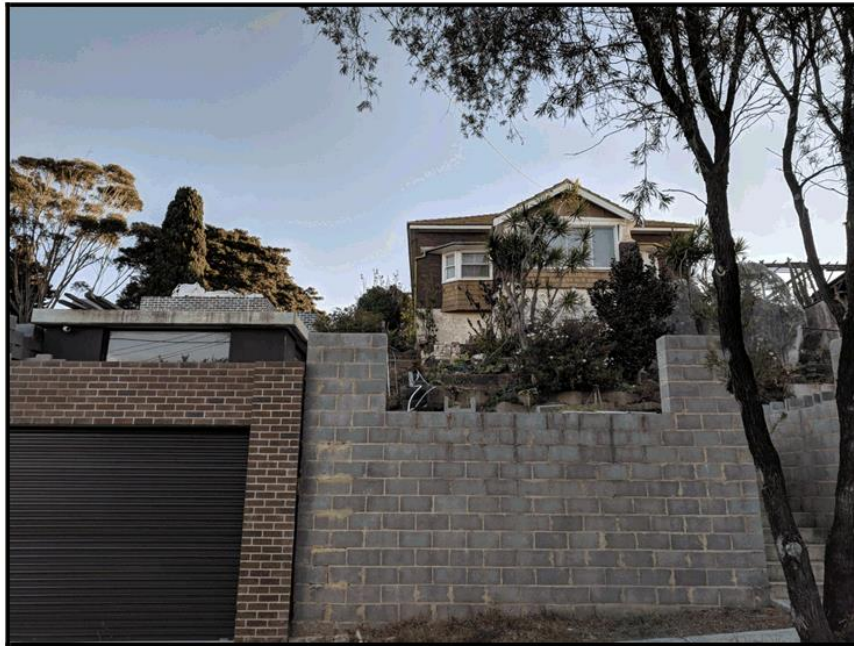
**Figure 7: Adjoining Development to the west along Oswell Street - 26 Oswell Street**  
(Source: Google Maps)

Adjoining the rear boundary to the south-east is a two-storey brick dwelling house with a tiled roof located at 1 Holland Avenue, illustrated in **Figure 8**. On this site a recent development application (DA-2014/78) for the construction of a 1m high masonry extension on top of the existing masonry retaining wall at the front boundary line of the property was approved.

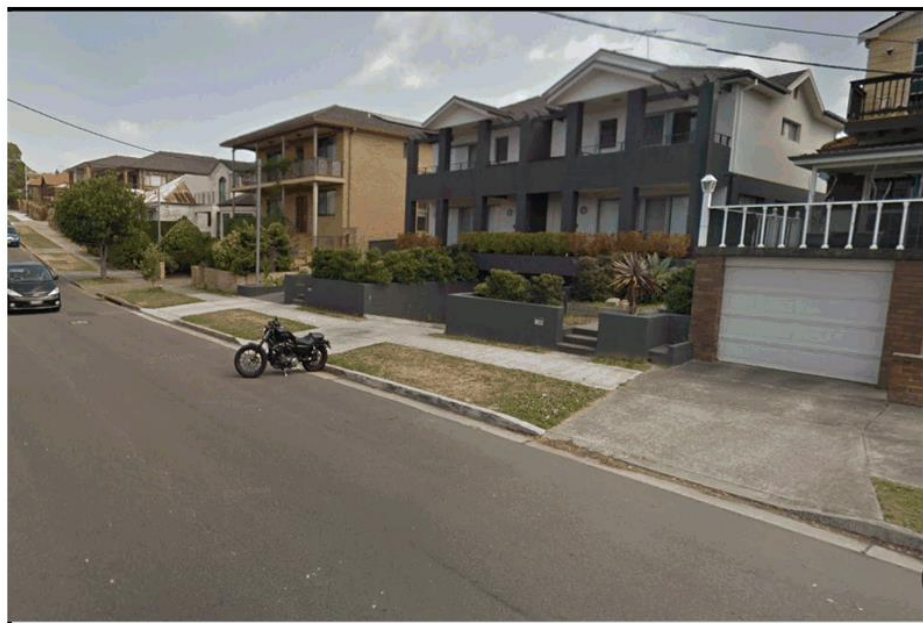
Adjacent to the north on the opposite side of Oswell Street are a mix of dwelling houses and attached dual occupancy developments ranging from one to three-storeys in height. This streetscape of Oswell Street opposite the site is illustrated in **Figure 9**.

Adjacent to the east on the opposite side of Holland Avenue are dwelling houses ranging from one to three-storeys in height, illustrated in **Figure 10**.





**Figure 8: Adjoining Development to the south-east at No 1 Holland Avenue (Source: CPS, dated 6 May 2018)**



**Figure 9: Development located opposite the site along Oswell Street (Source: Google Maps)**



**Figure 10: Streetscape of Holland Avenue opposite the site comprising a mix two and three storey detached dwellings (Source: Google Maps)**

The subject site is located within an established low density residential neighbourhood that is characterised by mostly single detached dwelling houses. Further to the south of the subject site there are denser forms of residential development including town houses and residential flat buildings.

The area is well serviced by public transport including a bus service along Oswell Street linking to Rockdale Railway Station. Major roads are also located in close proximity to the site including Forest Road to the northwest and Princes Highway to the southeast. Public open space comprising Gardiners Park is located a short distance to the east of the site while retail and commercial services are located in nearby Rockdale.

## 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* (EP&A Act).

It is noted that the *Low Rise Medium Density Housing Code* (which would allow one and two storey dual occupancies to be carried out as complying development in certain areas on lots as small as 400m<sup>2</sup>) commenced for many councils in NSW on 6 July 2018. The Department of Planning and Environment, however, deferred the commencement of the Code for the Bayside Council local government area until 1 July 2019.

Section 8.2 Determinations and decisions subject to review

Pursuant to Section 8.2(1)(a) of the EP&A Act, the determination of an application for development consent by a local planning panel can be the subject to review under this Division. Since the application is not for complying development, designated development or Crown development, it can be reviewed under this Division.

This Review Application is lodged pursuant to Section 8.3(1) of the EP&A Act and it may amend the proposal but only if the consent authority is satisfied that it is substantially the same development (S8.3(3) of the EP&A Act). It is considered that the proposal as outlined in this Review Application is substantially the same development as the original application.

The time within which the review application must be made is six (6) months pursuant to Section 8.10 and 8.3(2)(a) of the EP&A Act. Since the development application was refused on 11 September 2018, the application can be determined by Council/the Panel as it has been lodged in the required time frame.

## **Section 4.15(1) - Matters for Consideration - General**

### **Section.4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposal. The application is accompanied by BASIX Certificate No. 984078M dated 12 December 2018 prepared by Green Sustainable Homes committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP.

#### ***State Environmental Planning Policy No 55 – Remediation of Land***

Pursuant to Clause 7 of *State Environmental Planning Policy No.55 – Remediation of Land* (SEPP 55), a consent authority is required to consider whether a proposed

development site is affected by soil or other contaminants before granting consent. The site is currently zoned, and used, for residential development.

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

The 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 residential purposes;
2. The adjoining and adjacent properties are currently used for 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.

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. Therefore, the proposal is considered to be consistent with SEPP 55.

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

The *Rockdale Local Environmental Plan 2011* (RLEP 2011) commenced on 5 December 2011 and is the principal environmental planning instrument applying to the site. The site is zoned R2 – Low Density Residential pursuant to Clause 2.2 of the RLEP 2011. The site is not affected by any biodiversity or natural areas and therefore there are various clauses which are not relevant. The following are the relevant matters from the RLEP 2011 that need to be taken into consideration which are outlined in **Table 2**.

**Table 2: Consideration of the Rockdale LEP 2011**

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone R2 Low Density Residential	<b>No</b>	<b>No</b> – see discussion
2.6 Subdivision	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes - see discussion
4.1 Minimum Subdivision Size	Yes	<b>No</b> - see discussion



Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio	Yes	<b>No</b> - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

### **Clause 2.2 - Zoning and Clause 2.3 – Zone objectives (Land Use Table)**

The subject site is zoned R2 – Low Density Residential pursuant to Clause 2.2 of RLEP 2011. Dual occupancies are permitted with consent, which are defined as follows pursuant to the Dictionary of the RLEP 2011:

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

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

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

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

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

***dwelling house*** means a building containing only one dwelling.

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

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

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

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

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

The proposal is considered in the context of each of these objectives below.

- *To provide for the housing needs of the community within a low density residential environment*

The proposal would provide for the housing needs of the community given it proposes two (2) dwellings, which are for residential development. Notwithstanding that the proposal does not comply with the minimum lot size development standard, this does not detract from compliance with this zone objective.

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

The proposal does not involve other land uses that would provide for the day to day needs of residents and will not impact on the ability for adjoining land to provide such services.

- *To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area*

The proposal is considered to be incompatible with the context and setting of the site, particularly having regard to the building form and style as outlined further in this report. The visual prominence of the site and the significant excavation of the rock outcrop and the bulk and scale of the proposal result in the proposal being incompatible with the character of the surrounding area.

While there are other dwellings in the area which exhibit some features of modern design, the proposal is on a highly visible and prominent site with large areas of glazing and cladding and a flat roof which is very prominent along the long edge of the building adjoining Holland Avenue. The site is more exposed than others and is located high in the landscape, features which make it much more prominent and therefore dominating in the area.

It is also noted that the example used of 10 Oswell Street is inappropriate given this dwelling constitutes unauthorised building works and has been the subject of an order. As such, although the dwelling appears as a flat roof style building from the street, the dwelling house is not considered to be a building design within the local area that should be considered a good precedent.

These issues are further discussion on the assessment of character under Part 4.2 of the RDCP 2011.

Given the proposal is considered to be inconsistent with this last zone objective; the proposal will not achieve consistency with the objectives of the R2 zone.

#### **Clause 2.6 – Subdivision**

Land to which this Plan applies may be subdivided, but only with development consent, which is sought in this application. The proposal is consistent with this clause.

#### **Clause 2.7 – Demolition**

Demolition requires consent. Subject to compliance with relevant standard conditions for demolition, including compliance with AS 2601, the proposed demolition is satisfactory in relation to this clause. The proposal is consistent with this clause.

#### **Clause 4.1 - Minimum Subdivision Lot Size**

Clause 4.1(3B) of the RLEP 2011 restricts the minimum lot size for the subdivision on which there is an existing dual occupancy or a dual occupancy proposed, to 350m<sup>2</sup> for each resulting lot.

The proposal seeks to subdivide the proposed dual occupancy development, wherein proposed Lot 700 will have a lot size of 346.19m<sup>2</sup>, and proposed Lot 701 will have a lot size of 348.46m<sup>2</sup>. Accordingly, the proposal does not comply with development standard under Clause 4.1(3B) representing a variation of 1.1% for Lot 700 (3.815m<sup>2</sup> shortfall), and 0.44% for Lot 701 (1.537m<sup>2</sup> shortfall).

Since the proposed lots do not achieve this minimum lot size of 350m<sup>2</sup>, the proposal is inconsistent with Clause 4.1(3B)(a) of the RLEP 2011. Accordingly, a Clause 4.6 variation has been submitted which is considered below.

#### **Clause 4.6 - Request for Non-Compliance with Clause 4.1(3B) of RLEP 2011**

Clause 4.6(3) of the RLEP 2011 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

Having regard to the above, the written request submitted by the applicant satisfies Clause 4.6(3) of the RLEP2011 in that a written request has been submitted which provides a discussion of the required matters.

However, pursuant to Clause 4.6(4) of the RLEP 2011, development consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
  - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

It is considered that the written request has not adequately addressed the matters required by Subclause 3 given the arguments presented are not supported.

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

*Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

- *In respect of the minimum subdivision lot size development standard, the first method is invoked.*

*The objectives supporting the minimum subdivision lot size control identified in Clause 4.1 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.*

*Development along the southern side of Oswald Street is broken up into a number of street blocks. Accordingly, the orientation of lots along Oswald Street is inconsistent with a number of the dwellings orientated east-west, rather than north-south (to Oswald Street). The proposed development seeks to respond to its corner location with Dwelling 1 designed to address Oswald Street and Dwelling 2 designed to address Holland Avenue. The detached nature of the dwellings allows for a break in the design, clearly distinguishing the two dwellings....*

*Whilst numerically non-compliant, it is worthy to note that Council in the past has supported variations to Clause 4.1 where similar developments have been sought. ... in view of the above, the proposed subdivision is not considered to be out of character with the local area. ...*

*Furthermore, the proposal is not considered to impact upon the amenity of neighbouring properties....*

*In terms of objective c), the proposed development has been refined in its design to ensure a compliant floor space ratio has been achieved. The proposal also notably complies with the maximum building height controls demonstrating that the proposed lot sizes are capable of accommodating a dwelling....*

**Officer Comment:** The justification provided in this instance cannot be supported. It is considered that the proposed non-compliance with the minimum lot size development standard does not achieve consistency with all of the objectives of the development standard pursuant to Clause 4.1(1) of RLEP 2011 despite the non-compliance being only minor in numerical terms. In this way, the Clause 4.6 request fails.

The objectives of the development standard are stated in Clause 4.1(1) and whether the proposal and its non-compliance with the minimum lot size achieve these objectives is considered below:

*(a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,*

Allotments within Holland Avenue have a lot size of at least 400m<sup>2</sup> or greater. With the exception of two smaller allotments at the corner of Oswald Street and Wolli Creek Road, allotments within the visual catchment of the subject site on Oswald Street generally have an area of 400m<sup>2</sup> or greater, although the majority of the lots in the immediate area are greater than 550m<sup>2</sup>.

The proposal will introduce two (2) new allotments to the local area that have an area of 346.19m<sup>2</sup> and 348.46m<sup>2</sup>. Having regard to the above, the proposal will not result in allotment sizes similar to the existing subdivision pattern in the immediate vicinity of the site.

Accordingly, the proposal is inconsistent with Objective (a) of the development standard.

*(b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties,*

There is unlikely to be any significant overshadowing of adjoining properties. As outlined in this report, there will be some overshadowing of the adjoining properties, particularly in the morning during mid-winter, however, such properties will continue to receive the minimum solar access required by the RDCP 2011 as outlined in the RDCP 2011 assessment in this report.

Nonetheless, a development that complied with the FSR development standard and located on an allotment which satisfied the minimum lot size development standard is likely to reduce overshadowing of adjoining properties.

It is also considered that the proposal is unlikely to adversely impact on privacy of adjoining properties or significantly increase overlooking opportunities given the windows and balconies facing adjoining properties are either have high sill heights (1.8m) or have privacy screens proposed. This conclusion is based on the proposed rooftop terrace areas installing further privacy screens as outlined in this report.

Furthermore, while the proposal will result in view loss for the adjoining western property (No 26 Oswell Street), this view loss is considered reasonable given the view is obtained over a side boundary and largely from the outdoor rear open space as outlined in this report.

In terms of amenity impacts for neighbouring properties, the greatest impact is considered to be the visual impact arising from the excessive bulk and scale of the proposal. While the FSR exceedance is numerically minor, this exceedance, coupled with the undersized allotment, inconsistency with the secondary side setback controls, the removal of street trees and the design and style of the proposal being incompatible with the character of the surrounding area, exacerbates the bulk and scale of the proposed built form.

A larger parcel of land with a reduced FSR would reduce the resulting bulk and scale and would likely allow for greater landscaping opportunities on the site.

*(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

The applicant's assertion that the proposal complies with the applicable development standards is not supported. The submitted plans clearly illustrate an exceedance in the FSR development standard, contrary to Clause 4.4 of the RLEP2011 (discussed further below in relation to Clause 4.4(2) of RLEP 2011).

Regarding the RDCP 2011, there are further non-compliances with the following controls have also been identified:

- Part 4.1.1 Views and Vistas – Due to the topography of the local area, the proposal is in a prominent location. With the removal of street trees, site vegetation and a non-compliant floor space ratio, the design does not appropriately respond to the prominence of the site.
- Part 4.1.7 Tree Preservation – The proposed development will result in the removal of two (2) street trees on the Holland Avenue frontage, and a large tree within the front setback to Oswell Street. The design of the proposed development has not adequately ensured the retention of significant trees.

- Part 4.1.9 Lot size and Minimum Site Frontage – With a site area of 694.5sqm, the site fails to achieve compliance with the minimum 700sqm site area control for dual occupancy development.
- Part 4.2 Streetscape – Streetscape character – The use of a flat roof design proposed in a local area characterised by pitched roofs fails to ensure a cohesive streetscape.
- Part 4.2 Fencing – There are various aspects of the proposed front fences and walls which are inconsistent with the RDCP 2011 controls which adds unnecessary bulk and scale to the proposal.
- Part 4.2 Sandstone Walling, Rock Outcrops and Kerbing – The proposal includes excavation of a sandstone wall/rock outcrop on Holland Avenue where alternative access could be obtained via Oswell Street where the current vehicle access to the site is located.
- Part 4.3.1 Open Space & Landscape Design – The proposed excavation of the sandstone rock outcrop on the site for the proposed basement garages is considered to be contrary to this control.
- Part 4.4.2 Solar Access – The private open space area for Dwelling 1 does not receive sufficient solar access given the alfresco area is primarily overshadowed throughout the day in midwinter and there is no solar access to the turf area.
- Part 5.1 Building Design – The proposed design and architectural style of the development fails to appropriately respond to the positive characteristics of the locality, including the dominant patterns, textures and compositions of buildings. The proposal comprises three (3) storeys including the roof terrace as outlined in the section plans when the maximum height is two (2) storeys. The proposed basement garages are not setback the required 3 metres to the secondary side setback (Holland Avenue). The proposal is also unsympathetic to the natural landform as the bulk and scale is exacerbated by the elevated position of the site.

Having regard to the above, it is evident that the proposal is not compliant with various development standards and controls of the RLEP 2011 and RDCP 2011, but rather includes other fundamental compliance issues which remain unresolved.

Accordingly, it is not agreed that the proposed non-compliance with the minimum lot size development standard satisfies the objectives of the development standard and therefore fails on this account. This reason cannot be used to justify why the development standard is unreasonable or unnecessary as outlined in the applicant's Clause 4.6 submission.

Environmental planning grounds

- *The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in*

*any unreasonable amenity or environmental impacts. We respectfully submit that the proposal will result in a better planning outcome through the provision of new accommodation in an area well serviced by public transport services and local infrastructure.*

*The proposed variation is considered to be reasonable given the minor nature of the numerical non-compliance having particular regard to several instances whereby Council has approved similar variations as detailed in this report.*

*Further, the submitted 8.2 planning report demonstrates that the proposal will not impact upon the amenity of neighbouring sites having regards to views, privacy and solar access. In this case, strict compliance with the development standard for minimum subdivision lot size development standard of the Rockdale Local Environmental Plan 2011 is unnecessary and unreasonable.*

**Officer Comment:** The Clause 4.6 request indicates that the environmental planning grounds upon which the request is based include:-

- That the proposal has addressed the site constraints, streetscape and the objectives of both the standard and the zone.
- That the proposal will not result in any unreasonable amenity or environmental impacts.
- That the proposal will result in a better planning outcome through the provision of new accommodation close to transport and services; and
- That the variation is minor and has been supported in other examples by Council.

This justification is not supported for the following reasons:

- The proposed non-compliance does not achieve the objectives of the development standard as outlined above;
- The proposed non-compliance does not achieve the objectives of the zone as outlined in this report;
- The proposal does not address the site constraints given the excessive excavation into the sandstone outcrop on the site;
- The proposal does not address the streetscape given the adverse impact arising from the bulk and scale of the proposal, the loss of street trees which would assist with screening and integrating the proposal into the streetscape and the proposed design which is considered to detract from the streetscape by virtue of its flat roof design. The significant excavation of the sandstone rock wall to Holland Avenue and the exceedance of the maximum GFA development standard further exacerbate this bulk and scale and resulting adverse impact on the streetscape. As such, the argument that there are no adverse impacts on the streetscape cannot be supported. A building form which complies with the development standards would have a lesser visual impact on the streetscape.
- While there will be minimal physical amenity impacts arising from the proposal, there will be visual impacts arising from the bulk and scale of the proposal when viewed particularly from Holland Avenue.



- A better planning outcome is not simply the provision of new accommodation close to transport as purported by the applicant. This can be achieved by a compliant development.
- The variation to the development standard is only minor numerically however it is not agreed that the proposed variation is minor in terms of the resultant impacts from the building design for the reasons already raised above. With regard to internal amenity, the submitted shadow diagrams illustrate that the ground floor POS area of Dwelling 1 will receive less than the required amount of direct sunlight in mid-winter. The proposal therefore relies on the rooftop terrace to ensure the dwelling is afforded with more than 3 hours of sunlight to more than 50% of the POS which is not directly adjoining the internal living areas and is much smaller than originally proposed. Having regard to the above, it is not agreed that the shortfall in site area will not compromise internal amenity. A larger site may enable an improved area being afforded as private open space to improve the level of solar access compliance and potentially resolve some of the other non-compliances evident with the proposal.

Accordingly, it is considered that the Clause 4.6 request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

*Is the variation in the Public Interest?*

- *The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.1. The building contextually has regard to its surrounding properties and provides sufficient open space and landscaping for the amenity of future residents.*

*Consistent with the objectives of the R2 Low Density Residential due to:-*

*.... provide for the housing needs of the community with the provision of two new dwellings over the subject site;  
 .....the proposal retains a residential use on the site which is in keeping with the established context and setting;  
 ....will not result in any impact to the visual privacy of adjoining neighbours or view loss given the topography of the area;  
 ....The modern design of the dwellings complements the form of newer developments in the area where brick and rendered elements are prominent. The proposed development is considered to be of a high architectural standard and seeks to respond to its natural features with the Holland Avenue elevation amended to retain as much of the rock outcrop as possible.*

**Officer Comment:** The Clause 4.6 request considers that this proposed non-compliance is in the public interest because it is consistent with the development standard objectives as well as the zone objectives. As outlined in this report, this proposed non-compliance is considered to be inconsistent with the development standard and zone objectives.

Accordingly, it is considered that the Clause 4.6 request has not adequately demonstrated that this variation is in the public interest. Maintaining the integrity of the planning controls of both RLEP 2011 and RDCP 2011 is a matter of public interest, which has not been achieved in this instance and for which there are impacts arising.

Public benefit of maintaining the standard

- *It is considered that there is no benefit to the public or the community in maintaining the development standards. The proposed development will allow for the creation of a high-quality residential development which as stated above meets the desired objectives of the standard.*

*The proposed development provides additional residential development within an established area, which is located near public infrastructure. The area can support an increase in density and this is encouraged by Council.*

*It is not considered that the variation sought raises any matter of significance for State or regional environmental planning.*

*The departure from the minimum subdivision lot size control within the Rockdale Local Environmental Plan 2011 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.*

**Officer Comment:** The justification that there is no benefit to maintaining development standards is not supported since such standards were adopted by elected Council and considered by the community during their adoption. Furthermore, the creation of a high quality residential development as outlined in this request can be provided without such non-compliances with development standards.

It is agreed that the proposed non-compliance does not raise any issues of state or regional planning significance. It is not agreed that the orderly and economic use of the site can only be achieved by a non-complaint development.

Accordingly, it is considered that there is a public benefit in maintaining the development standard with this Clause 4.6 request not satisfactorily demonstrating to the contrary.

In summary, it is considered that the Clause 4.6 request has not adequately demonstrated:

- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; or
- that there are sufficient environmental planning grounds to justify contravening the development standard; or
- that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

A larger site would assist the proposal to achieve a greater level of compliance with the numerous inconsistencies with the planning controls including FSR, solar access to private open space and bulk and scale.

In this way, the Clause 4.6 request is not supported.

**Clause 4.3 - Height of Buildings - Residential zones**

Pursuant to Clause 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, which for this site is 8.5 metres.

The submitted floor plans prepared by *Space 0.618:1* indicate the maximum height of the proposal to the ridge is 8.425 metres in the rear southern corner (Dwelling 2 at RL 48500) to the rooftop terrace. Accordingly, the proposal complies with this Clause.

**Clause 4.4 - Floor Space Ratio - Residential zones**

In accordance with the submitted floor plans prepared by *Space 0.618:1*, the proposed FSR of the proposal is non-compliant at 0.51:1, which equates to a gross floor area (GFA) exceedance of 5.75m<sup>2</sup> in total.

Furthermore, the resulting FSR of the proposal when subdivided in accordance with the proposed subdivision plan also fails to comply with the FSR standard. Dwelling 1 would exhibit an FSR of 0.51:1 and Dwelling 2 would exhibit an FSR of 0.51:1. These inconsistencies with the development standards are outlined below (as shown on the Area Plan, Drawing No 3-07 dated November 2018):-

- Dwelling 1 = 175m<sup>2</sup> (71sqm + 96sqm + 8sqm) with a site area of 346.185m<sup>2</sup> - FSR – 0.51:1 (1.9m<sup>2</sup> exceedance);
- Dwelling 2 = is 178m<sup>2</sup> (75sqm + 97sqm + 6sqm) with a site area of 348.463m<sup>2</sup> - FSR – 0.51:1 (3.76m<sup>2</sup> exceedance);
- Total GFA = 353m<sup>2</sup>.

Pursuant to clause 4.6(3) of the RLEP 2011, 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. No Clause 4.6 request has been provided from the applicant for this exceedance of the FSR development standard. For this reason alone, development consent cannot be granted to S82-2018/5.

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

- 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 proposal is considered to be contrary to these objectives given the proposal does not minimise environmental effects in regard to the enjoyment of adjoining properties (due to bulk and scale concerns) and does not maintain an appropriate visual relationship with existing development given its design and scale.

#### **Clause 5.10 – Heritage**

There are no heritage items located on the site or in the vicinity of the subject site. The closest items are Gardiner Park, located to the west, and a dwelling, 'Wilga', to the north-west which are both a sufficient distance that no adverse impacts will arise. The proposal is consistent with this Clause.

#### **Clause 6.1 - Acid Sulphate Soils**

The site is located on Class 5 land (Map Sheet ASS\_003) in relation to Acid Sulfate Soils (ASS). For any works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land, an acid sulfate soils management plan is required.

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

#### **Clause 6.2 - Earthworks**

The proposal seeks consent for earthworks associated with the construction of proposed basement parking as ancillary to the proposal and therefore consistent with Subclause 2(b) of this Clause.

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

A Geotechnical Assessment Report, prepared by Davies Geotechnical was submitted with the original application. The report concluded that the proposed development is considered feasible, subject to the engineering design and recommendations of the report. In particular, this report investigated the potential for damage to occur to adjoining sites with the report concluding that appropriate actions can be undertaken to avoid damage to adjoining and nearby properties.

In this regard, the objectives of Clause 6.2 can be satisfied subject to compliance with the recommendations of the Geotechnical Assessment Report and relevant specific (and strict) conditions in relation to construction management.

**Clause 6.4 - Airspace operations**

A referral was sent to Sydney Airport (the Civil Aviation Safety Authority) for the original development application. The Authority considered the proposal and provided no objection to the erection of the proposed development to a maximum height of 48.9m AHD subject to conditions of consent being imposed. Since there are no changes proposed to the overall height of the proposal under this review application, no further referral was considered to be required.

A condition has been recommended to be imposed in the event the BPP elects to approve the review application requiring the development to comply with the earlier Sydney Airport approval. The proposal is consistent with this Clause.

**Clause 6.7 - Stormwater**

Council's Development Engineer has reviewed the proposed stormwater management scheme accompanying the proposed development and provides no objection subject to recommended conditions of consent, which have been recommended to be imposed in the event that the BPP elects to approve the application. The proposal is consistent with this Clause.

**Clause 6.12 - Essential services**

Essential services are already available and connected 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. The proposal is consistent with this Clause.

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

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

**Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

**Rockdale Development Control Plan 2011**

The *Rockdale Development Control Plan 2011* (RDCP 2011) came into force on 5 December 2011 and applies to the site. A compliance table for the proposed

development is provided below in **Table 3**. Detailed discussions are provided for non-complying aspects of the proposal in respect to the RDCP 2011 below.

**Table 3: Consideration of the RDCP 2011**

<b>Relevant Parts of the RDCP 2011</b>	<b>Compliance - objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	<b>No</b>	<b>No</b> – see discussion
4.1.2 Heritage Conservation	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.7 Tree Preservation	<b>No</b>	<b>No</b> – see discussion
4.1.9 Lot size & Site Consolidation	<b>No</b>	<b>No</b> – see discussion
4.2 Streetscape - Site Context	<b>No</b>	<b>No</b> – see discussion
4.2 Streetscape – Streetscape Character	<b>No</b>	<b>No</b> – see discussion
4.2 Streetscape – Fencing	<b>No</b>	<b>No</b> – see discussion
4.2 Streetscape – Rock outcrop	<b>No</b>	<b>No</b> – see discussion
4.3.1 Open Space & Landscape Design – rock formations	<b>No</b>	<b>No</b> – see discussion
4.3.2 Private Open Space – Impact on adjoining properties (rooftop terraces)	Yes	Yes – see discussion
4.4.1 Energy Efficiency	Yes	Yes
4.4.2 Solar Access	<b>No</b>	<b>No</b> – see discussion
4.4.3 Natural lighting and Ventilation	Yes	Yes
4.4.4 Glazing	Yes	Yes
4.4.5 Visual and Acoustic privacy	Yes	Yes – see discussion
4.4.6 Noise Impact	Yes	Yes
4.6 Car Parking - Parking Rates (1)	Yes	Yes
4.6 Car Park Location and Design (7)	Yes	Yes

Relevant Parts of the RDCP 2011	Compliance - objectives	Compliance with standard/provision
4.6 Basement Parking – General (11)	Yes	Yes
4.6 Driveway Widths (12)	Yes	Yes
4.7 Site Facilities	Yes	Yes
5.1 Low and Medium Density Residential - Storey Height and Setbacks and Building Design	<b>No</b>	<b>No</b> – see discussion

#### Part 4.1.1 – Views and Vistas

There are a number of controls within this Part of the RDCP 2011 which are particularly relevant to the proposal and which the proposal is inconsistent.

Control 1 of Part 4.1.1 states:

*Development must consider any significant views to, from and across the site.*

There are views currently enjoyed by the adjoining property to the west of the subject site at No 26 Oswell Street as outlined in **Figure 11** and **Figure 12**.



**Figure 11: Existing view from No 26 Oswell Street to the west over the subject site (from the rear yard)**



**Figure 12: Existing view from the rear living room at No 26 Oswell Street over the subject site at No 24 Oswell Street**

In relation to potential view loss, the applicant states the following in the SEE:

- *The detached nature of the proposed dwellings also enables view lines to be maintained through the subject site to the east with an 8.29m setback provided at first floor level between the two dwellings.*

Comment: The space between the proposed detached dwellings on the subject site is insufficiently sized and located to allow any view through this space for the adjoining property to the west at No 26 Oswell Street;

- The Planning Principle, *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* establishes a four step test with respect to views. The following summarises this assessment (by the applicant):
  - *The view is therefore not of a water view, which are valued more highly than land views nor is it an iconic view. Given the relatively small footprint of the existing dwelling on the subject site, an uninterrupted view is attainable from the rear setback of No. 26.*
  - *No. 26 currently has a view line achieved through the side boundary shared with No. 24 which is considered to be more difficult to protect than views obtained through a front or rear boundary. The view is currently experienced from a standing position in the rear setback. This is an important consideration as the view is not realised through a living room, balcony, terrace or entertaining area rather it is simply the turfed rear setback.*
  - *The nature of the design enables a break at the front, centre and rear of the site allowing for potential view lines to be retained. At Level 1,*



setbacks of 8.29m are provided at the centre of the site while to the rear of Dwelling 2 a setback of 6.034m is included.

- The proposal is compliant with building height, floor space ratio and setback controls. The dwellings are also well articulated providing for stepped facades and a break in materials from brick to render to glazes elements. The only development standard being varied by the proposal is with respect to the minimum lot size control. However we respectfully submit that compliance with this standard, equivalent to 5.35m<sup>2</sup> would not make any substantial difference in view sharing.
- Based on the above, we respectfully submit that views obtained across the subject site are not of a significant value however there are measures in the design which allow for partial views to be retained through breaks in the building design.

Comment: There are numerous aspects of this justification which are not supported including:

- The view is still important notwithstanding it is not a water view or iconic view;
- The view is experienced both from the rear yard and the rear facing living area, albeit this view is obstructed by vegetation. It is acknowledged that the better view is attained from the rear yard and over a side boundary which is harder to protect under this Planning Principle.
- As outlined above, the proposed break in the middle of the detached dwellings does not allow for a view to be retained by No 26 Oswell Street;
- There are other non-compliances and inconsistencies with the planning controls including FSR and bulk and scale. These variations to the controls contribute to the view loss suffered;
- The applicant's conclusion that the views *are not of a significant value* is not supported.
- An assessment of the proposal under the Planning Principle is considered below.

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

- *Step 1: Assessment of views to be affected:*

The views in question are of the roofscapes of the dwellings in Banksia as well as the distant view to the airport, Port Botany and beyond to Bondi Junction. The view is enabled by the natural topography of the local area with the subject site and this adjoining site at No 26 Oswell Street being higher in the landscape than the surrounding and distant areas.

- *Step 2: Location views are obtained from the property:*

The views are not available from the entire property but limited to portions of the

rear yard and rear living room of this adjoining property. The view can only be enjoyed while standing in the rear yard as the boundary fence blocks the view from seated positions. There is also some view available from the rear living area although this is obstructed by fencing and existing vegetation.

- *Step 3: Extent of impact:*

The extent of impact on those views as a result of the development is significant due to the proposed development of the rear setback of the subject site across where the view is enjoyed.

- *Step 4: Reasonableness of proposal:*

The reasonableness of any view loss must be considered with regard to the proposal's ability to comply with the relevant planning controls. In this regard, it is noted that the proposal is to occur on an allotment which does not meet the minimum lot size requirements of the RLEP 2011 and RDCP 2011. Furthermore, the proposal includes a non-compliant FSR. A compliant site and building may result in reduced view impacts; however the improvement would be minimal given the minor nature of the minimum lot size and FSR non-compliances.

While it is considered that the applicant's assessment of view loss against the Tenacity Planning Principle is not supported and that the view is important to the adjoining property, the views are obtained largely across a side boundary with a complying height limit and therefore it is considered that the view loss is justifiable in this instance.

Control 3 of Part 4.1.1 relates to highly visible sites and states:

*Development on highly visible sites, such as ridgelines, must be carefully designed so that it complements the character of the area and its skyline.*

The site is located in a visually prominent location within the context of the local area, specifically when viewing along Holland Avenue, given its elevated nature and its prominent position atop the sandstone outcrop. This is illustrated in **Figures 13 and 14** which comprises street view images.

As illustrated in Figure 13, the existing dwelling is not readily visible from the public domain as it is concealed by the existing mature Callistemon street trees, particularly from the Holland Avenue streetscape.

The proposal is a large building form on a highly visible site on an undersized allotment and with a non-complying FSR. The proposal being over a number of levels, including the basement garages, ground floor, Level 1 and the roof terrace level, exacerbates the overall bulk and scale of the building atop the sandstone outcrop.



Figure 13: The site viewed from the corner of Holland Avenue and Oswald Street looking south west illustrating the site's prominence in the streetscape



Figure 14: The site viewed from Holland Avenue looking northwest illustrating the prominence of the site along Holland Avenue (*Source: Google maps*)

The scale of the proposed development on the subject site with the removal of two (2) of the five (5) street trees and construction of the development on top of the sandstone outcrop on Holland Avenue will increase the prominence of the site in the local area. This prominence is exacerbated through the following attributes of the proposal:

- Non-compliant site area to accommodate dual occupancy subdivision under the Clause 4.1 of the RLEP 2011.
- Non-compliant site area to accommodate a dual occupancy development under Part 4.1.9 of the RDCP 2011.
- Non-compliant FSR pursuant to the development standard under Clause 4.4 of the RLEP 2011.
- The proposed built form differs substantially from the surrounding existing development including the provision of a flat roof and significant glazing and rendered surfaces in an area that is characterised by face brick pitched roof forms.
- The loss of street trees and site vegetation will reduce the level of vegetation screening for new buildings on the land.
- The excavation of the rock shelf for the proposal is contrary to the controls in RDCP 2011 which seek retention of the natural features of the site.

It is considered that the proposal is inconsistent with Part 4.1.1 of the RDCP 2011 given the issues outlined above.

#### Part 4.1.7 Tree Preservation

The proposal will result in the removal of two (2) street trees along Holland Avenue and a Canary Island Date Palm in the Oswell Street setback. While these trees are not ecologically significant, their screening value and the lack of compensatory planting opportunities along this boundary results in this tree removal being unsatisfactory.

The imposing nature of the proposal from a pedestrian (street) perspective is too great without screen planting along this elevation. In this way, the proposal is considered to be unsatisfactory having regard to Part 4.1.7 of the RDCP 2011.

#### Part 4.1.9 Lot size and Minimum Site Frontage

Control 1(c) of Part 4.1.9 sets a minimum lot size of 700m<sup>2</sup> and a minimum frontage of 15m for dual occupancy development.

While the subject site has a site frontage of 15.1m complying with the latter part of this control, the site has a total site area of only 694.5m<sup>2</sup>. Accordingly, the subject site is undersized by 5.5m<sup>2</sup> with respect to the minimum lot area controls of the RDCP 2011. It is noted that the minimum lot area for a dual occupancy development under the RDCP 2011 is consistent with the minimum subdivision development standard under Clause 4.1 of the RLEP 2011. Accordingly, the proposal is inconsistent with both the RDCP 2011 and RLEP 2011 in relation to minimum lot size.

As outlined earlier in this report, the applicant's Clause 4.6 written request to vary the minimum lot size development standard is not supported. Accordingly, the variation to this DCP control is also not supported and is therefore unsatisfactory having regard to Part 4.1.9 of the RDCP 2011.

#### Part 4.2 Streetscape – Site Context

There are numerous objectives for the streetscape and site context controls including ensuring new development respond to, reinforces and sensitively relates to the spatial characteristics and legibility of the existing urban environment. Ensuring development responds to predominant streetscape qualities and that development conserves or enhances items and areas of special architectural, landscape or cultural interest, including rocky outcrops and sandstone retaining walls are further objectives.

It is considered that the proposal is inconsistent with a number of these objectives and controls of this Part of RDCP 2011 which are considered below.

Control 1 of Part 4.2 states:

*'Development is to respond and sensitively relate to the broader urban context, including topography block patterns and subdivision, street alignments, landscape, views and patterns of development within the area'.*

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

Having considered the broader urban context, which largely comprises single dwelling houses with pitched roofs and face brick design, the proposal is considered to be incompatible with this existing urban context, as demonstrated by the following:

- The proposal is inconsistent with the prevailing scale of existing development given the non-compliances with the minimum subdivision lot size (Clause 4.1 of RLEP 2011) and the maximum FSR (Clause 4.4 of RLEP 2011);
- The proposal will introduce lot sizes less than the minimum requirements under the RLEP 2011, and also present these allotments in a layout which is inconsistent with the prevailing pattern of Holland Avenue and Oswell Street.
- The proposal will result in the removal of two street trees on the Holland Avenue frontage which will exacerbate the bulk and scale of the proposal when viewed from Holland Avenue. This is particularly evident having regard to the site's prominent location, the non-compliant site and building size, and sandstone rock wall excavation to Holland Avenue.
- With the proposal's flat roof, the development does not relate to the streetscape character which is dominated by pitched roofs.
- The proposal consists of multiple storeys over a long side boundary and being located in such a prominent position atop the rock shelf, exacerbates the bulk and scale of the proposal when viewed from the street. This is particularly when viewed from the Holland Avenue frontage.

To assist in considering whether a proposal is compatible with its surroundings and where such compatibility is desirable as is the case in this instance, the planning

principle of 'compatibility with context' established in *Project Venture v Pittwater Council* [2005] NSWLEC 191 is useful. In order to test whether a proposal is compatible with its context, this Planning Principle outlines the two major aspects being physical impact and visual impact and asks two questions (my emphasis added):

- Are the proposal's **physical impacts** on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites; and
- Is the proposal's **appearance in harmony** with the buildings around it and the character of the street?

It is noted that compatibility within the urban context does not mean 'sameness' with surrounding buildings. Instead, development must be capable of existing together in harmony with surrounding buildings. These two questions are considered below

Having regard to the first question, the proposal's physical impacts on surrounding development are considered acceptable, as discussed in this report and summarised in the following:

- **Overshadowing:** The proposal complies with the RDCP 2011 overshadowing development controls. The impact of overshadowing resulting from the proposal, during midwinter, is limited to early morning where a shadow is cast over the side boundary of the adjoining development at 26 Oswald Street. The remainder of the day the shadow is cast over the subject site or Holland Avenue. Despite the above, it is noted that a compliant site and FSR would likely result in a built form outcome that has a reduced level of shadowing across adjoining property.
- **Privacy:** Windows and balconies that are orientated to adjoining properties have window sill heights of 1.8 metres or include a fixed privacy screen. Furthermore, the rooftop terraces have been reduced in size in this review application to approximately 24m<sup>2</sup> for both dwellings which is likely to result in the use of these areas only for passive outdoor recreation. While it is considered that further privacy screens are required to reduce overlooking and privacy impacts, this provision can be added as conditions where appropriate. The BPP have previously resolved to restrict rooftop terraces to 24m<sup>2</sup>. Accordingly, it is considered that visual and acoustic privacy of adjoining properties will not be compromised by the development.
- **Noise:** The proposed use of the site for dual occupancy development is unlikely to result in any significant acoustic concerns for adjoining and nearby development and is considered appropriate for the residential context of the local area. The internal layout of the proposal is conducive to minimising noise with active use rooms located away from lot boundaries.
- **Excavation:** The impact of the garage excavation works within the sandstone outcrop on nearby properties has been considered in the geotechnical report prepared by Davies Geotechnical. The report concluded that the excavation could be completed safely and reduced the potential for any excavation impacts to adjoining and nearby properties subject to strict conditions which have been recommended in the draft conditions in Schedule 1.

While the excavation works are satisfactory from a geotechnical perspective, the visual impacts of the excavation works on the secondary street frontage need to be considered. Part of the rock wall will be replaced with the two garage openings, as well as the pedestrian entry stairs to Dwelling 2. These works will necessitate the removal of two street trees which will exacerbate the visual impacts of the sandstone wall excavation and will exacerbate the overall height and the resulting bulk and scale of the proposal when viewed from Holland Avenue.

- **Development potential constraints:** As the proposal complies with the height controls, the proposal goes some way toward minimising the potential impacts of the development on surrounding sites. However, a development on a compliant site area, and a building with a compliant FSR would have reduced impacts on adjoining development. Furthermore, the proposal would have less impact if located on a less prominent site where the scale of the development is not increased by the site's high visibility and elevated nature.

In relation to the second question of harmony, for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. These elements are considered further below for the proposal.

- **Consistent height plane:** The Planning Principle outlines that buildings do not have to be the same height to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.

The height of the proposal follows that of adjoining development on Oswell Street and Holland Avenue. **Figure 15** illustrates the consistent height plane between the proposed development and adjoining development on 26 Oswell Street. Within the Holland Avenue streetscape a two-storey dwelling with an RL height of 48.64m was approved at 3 Holland Avenue (DA-2017/429) and the existing dwelling on 1 Holland Avenue exhibits an of RL 48.14m AHD. The subject proposal has a RL height of 48.5m for the immediate adjoining dual occupancy dwelling.

Despite the above, it is acknowledged that the proposal includes a flat roof design, and as such imposes a greater building mass on the street despite maintaining compliance with the overall building height limit. This criteria is not achieved for this proposal and is discussed further in this report.

- **Consistent setbacks:** The proposal does not comply with the minimum setback controls outlined in Part 5.1 of the RDCP 2011 with regard to the secondary side setback control of 3 metres to the secondary frontage (Holland Avenue). The alfresco areas, walls and garages all exceed this required 3 metre setback from Holland Avenue. This lack of an adequate setback increases the bulk and scale along this elevation, exacerbated by the proposal's high position in the landscape atop the sandstone outcrop. This criteria is not achieved for this proposal.



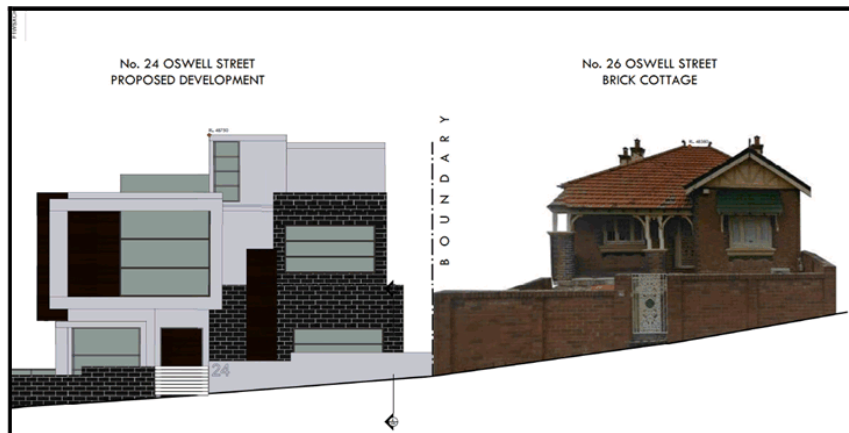


Figure 15: Oswald Street elevation illustrating consistent height along Oswald Street  
(Source: Space 0.681:1, November 2018)

- Appropriate landscaping:** The development will result in the loss of two street trees on the Holland Avenue frontage as well as a large tree on the site within the Oswald Street frontage. The loss of these trees will reduce the existing screening along the Holland Avenue frontage which is considered unacceptable given the proposed bulk and scale of the proposed built form. While in time it could be argued that the vegetation planting on the site, as well as replacement street tree planting, will result in a satisfactory landscape outcome, until such planting achieves maturity, there will however be a negative impact on the landscape character of the street. The location of driveways along this elevation also restricts the likely future planting in this area for screening of the proposal. This criteria is not achieved for this proposal.
- Bulk and scale:** The proposal results in an unacceptable bulk and scale having regard to surrounding development. The construction of a three storey with a visual interpretation of four (4) storeys given the basement level and roof top terrace areas, built atop of a sandstone outcrop will have adverse visual impacts in the locality. The lack of compliance with the maximum FSR and minimum lot size for the site further increases the bulk and scale of the proposal resulting in physical (visual) impacts. This criteria is not achieved for this proposal.

Accordingly, the proposal is considered to be inconsistent with the Planning Principle for compatibility and is therefore inconsistent with Part 4.2(1) of the RDCP 2011.

#### Part 4.2 Streetscape – Streetscape Character

Control 4 of Part 4.2 of the RDCP2011 outlines that *'building design and use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape'*.



The local area comprises a variety of building design and materials resulting in some diversity of architectural expressions within Oswald Street and Holland Avenue. The predominant style of dwellings in the local area, however, comprises pitched roof forms on detached single housing.

The proposal, with a flat roof design, is inconsistent with this established streetscape.

While there is the potential for the streetscape to change and include dual occupancy buildings with flat roofs, it is considered this potential is low given the nature of Council's planning controls under the RDCP 2011 for development to be consistent with the existing streetscape.

The proposal generally utilises a modern contemporary modular design, although the building façades to Holland Avenue include some building materials that are apparent in surrounding buildings. There is, for example, some face brick, stone, and cladding (refer to **Figure 16**), and therefore is considered to have had some regard to the surrounding buildings. There is however significant areas of glazing and balustrading which dominate the facades which are not a common feature in the local area (refer to Figure 15).

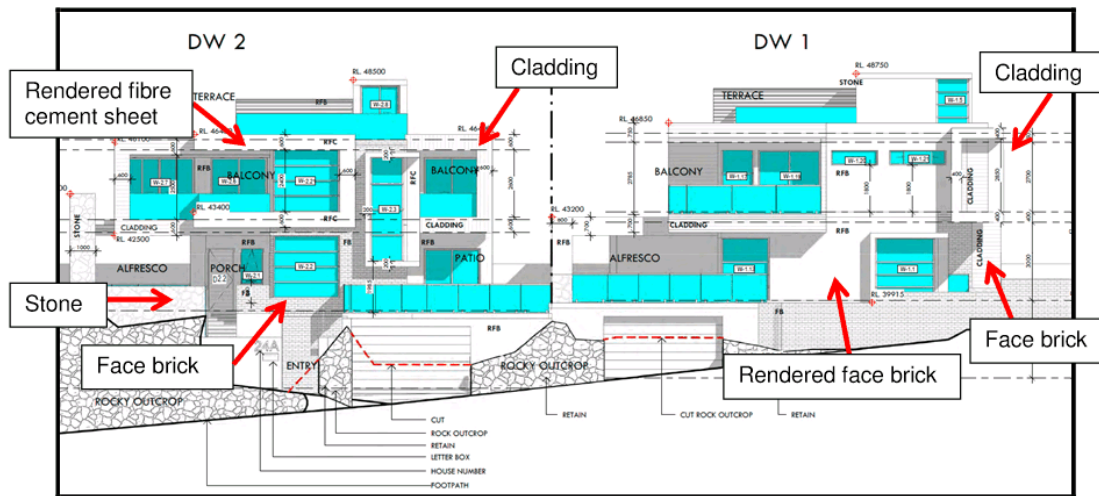
Having regard to the above, while the amended proposal includes some satisfactory elevation materials and finishes, the lack of a pitched roof form and general dominance of materials uncommon in the area results in the building design being incompatible with the streetscape, and non-compliant with Part 4.2 of the RDCP 2011.

Controls 5, 7 and 9 of Part 4.2 of RDCP 2011 require appropriate setbacks from the street and outline requirements for access to garages outlined below:

*5. Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings.*

*7. Access to garages should not necessitate a major alteration of the natural ground level at the front of the allotment. The front yard is to remain at natural ground level and be landscaped to enhance the front elevation.*

*9. Garages and carports are not permitted between the front building line and the front property boundary.*



**Figure 16: Streetscape elevation (east) to Holland Avenue illustrating building materials used in the area (Source: Space 0.618:1, November 2018)**

The proposal is inconsistent with these controls given:

- There are extensive walls and other access features located in the setback to Holland Avenue which exacerbates the bulk and scale of the proposal when viewed from the east. While there are other walls and garages within this area for other existing dwellings along Holland Avenue, the bulk of the buildings on those sites to the south are setback and therefore the garages on a reduced setback have less impact on the overall bulk and scale of the dwellings than the proposal. This is inconsistent with Control 1.
- The proposed basement garages require extensive excavation of around 3.5 metres into the natural rock shelf, which is inconsistent with Control 7.
- The proposed garages are setback only 900mm from the Holland Avenue boundary, which is between the front building line and the front property boundary, inconsistent with Control 9.

The proposal does not satisfy these requirements and accordingly is further non-compliant with Part 4.2 of the RDCP 2011.

#### Part 4.2 Streetscape – Fencing

There are numerous controls in relation to fencing which have not been complied with for the proposal including the following:

16. *Sandstone fences and walls that are determined by Council to be significant and/or to represent important character elements for a locality are to be retained and if necessary repaired. Any modifications to existing stone fencing and walling are to utilise the same materials and construction technique.*
18. *Front fences are to be a maximum height of 1.2m above footpath level.*
19. *Open construction front fences (with minimum 30% transparency) to a maximum height of 1.8 m may be considered, such consideration will have regard to the circumstances of the case. The solid portion in open construction fences is to be no higher than 600mm.*
24. *Side and rear fences are to have a maximum height of 1.8m on level sites or 1.8m measured from the low side where there is a difference in level either side of the boundary.*

The proposal is inconsistent with these controls given:

- The proposed garages require excavation into the existing rock outcrop at the site which is contrary to control 16.
- The front fence to Oswald Street comprises piers to a height of 1.6 metres. The front wall for Dwelling 2 along Holland Avenue is a minimum 2.4 metres high contrary to control 18.
- There are no site constraints which require a 1 metre high fence with 1.6m high piers along the Oswald Street frontage, contrary to control 19.
- The side fence/wall in Holland Avenue is higher than 1.8 metres contrary to control 24.

The extensive excavation and walling/fencing proposed adds to the bulk and scale of the proposal, having a detrimental impact on the streetscape of both Oswald Street and Holland Avenue. The proposal does not satisfy these requirements and accordingly is further non-compliant with Part 4.2 of the RDCP 2011.

#### Part 4.2 Streetscape – Rock outcrop

Development Control 29 of Part 4.2 of the RDCP 2011 outlines that the excavation of sandstone or rock outcrops for the purpose of providing a garage is not permitted where:

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

The subject site includes a rock outcrop on the Holland Avenue frontage illustrated in **Figure 17**.



**Figure 17: Sandstone wall on the subject site along Holland Avenue (Source: Google Maps)**

It is considered that the proposal does not satisfy these criteria to permit the excavation of this sandstone outcrop in the context of these controls given,

- a) The sandstone rock wall contributes to the streetscape.
- b) Adequate on-street car parking is available at the site along both street frontages as demonstrated in Figure 17 above.
- c) Since the site is a corner allotment, there is alternative vehicle access to the site available from the Oswald Street frontage, which is the existing vehicle access to the site.

Accordingly, the proposed excavation of the rock outcrop for the basement garages is inconsistent with the provisions of Part 4.2 of the RDCP 2011. This non-compliance is a further non-compliance with Part 4.2 of the RDCP 2011. In the event that the Panel decides to approve the application, a condition has been imposed which requires that the design and construction of the proposed garage must utilise sandstone, stone coloured mortar and a recessive coloured door and that a schedule of materials, colours, and finishes demonstrating the above to Council for approval must be submitted.

#### Part 4.3.1 Open Space and Landscape Design

The proposal is considered to be inconsistent with some of the controls for open space and landscape design as outlined below:

- 3. ***Significant existing trees and natural features such as rock formations should be retained and incorporated into the design of the development wherever possible.***

Control 3 of Part 4.3.1 requires that rock formations should be retained. The excavation of this rock for the proposed basement garages is considered to be contrary to this control. Therefore, the proposal is inconsistent with Part 4.3.1 of the RDCP 2011.

#### Part 4.3.2 Private Open Space

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

This review application has reduced the proposed rooftop terraces to 24m<sup>2</sup> each and is setback within the building footprint by 3.3m (Dwelling 1) and 4.3m (Dwelling 2) as well as the side boundary setback of the proposed buildings. These dimensions and setback are consistent with Part 4.4.5(3) of RDCP 2011. The size of the roof top terraces would now likely to allow use of them for passive recreation by future occupants of the proposed dwellings only.

While there is a privacy screen along the western elevation of each of these areas, overlooking between the rooftop terraces of the proposed dwellings as well as into the front yard of No 1 Holland Avenue can still occur and accordingly further screening is required along the southern elevation for these rooftop terrace areas. Relevant conditions have been recommended in the event that the Panel decides to approve the application to achieve this privacy.

It is considered that these rooftop terrace areas add to the bulk and scale of the development on a highly visible site, which is considered elsewhere in this report. Otherwise the proposal is generally consistent with Part 4.3.2 of RDCP 2011.

#### Part 4.4.2 Solar Access

This Part sets out the requirements for solar access. There is some overshadowing of the rear yard of No 26 Oswell Street and the west corner of the rear private open space of No 1 Holland Avenue to the southwest in the morning in midwinter. These adjoining properties, however, achieve adequate solar access throughout other times of the day in midwinter. Therefore there is an adequate level of solar access to the private open space areas of the adjoining properties.

In terms of the subject site, the proposal is inconsistent with Control 1, which requires that development must be designed and sited to minimise the extent of shadows that it casts on, among other areas, private open space within the development. Similarly, Control 4 requires that dwellings within the site should receive a minimum of three (3) hours direct sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm in mid-winter.

The shadow diagrams indicate that the ground floor private open space area for Dwelling 1, including the turf area with the clothes line and the majority of the alfresco area, will receive less than the required amount of direct sunlight in mid-winter. The proposal therefore relies on the rooftop terrace to ensure the dwelling is afforded with

more than 3 hours of sunlight to more than 50% of the POS, however, this area is now only 24m<sup>2</sup> and does not provide a direct extension of the internal living area as required by Part 4.3.2(5) of RDCP 2011. The solar access to the private open space for Dwelling 2 is achieved since it is largely within the eastern corner of the site and achieves some solar access in the morning during midwinter.

Accordingly, since the private open space for Dwelling 1 does not receive sufficient solar access given the alfresco area is primarily overshadowed throughout the day in midwinter and there is no solar access to the turf area, the proposal is inconsistent with Part 4.4.2 of the RDCP 2011.

#### Part 4.4.5 Visual Privacy

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

The windows for Dwelling 1 on the western elevation of the proposal which adjoin the property at 26 Oswell Street have sill heights of 1.8m. In relation to the windows and balconies directly facing the adjoining southern property (2 Holland Avenue), there are no windows facing this property on the first floor and there is a privacy screen for the southern end of the first floor balcony adjoining the master bedroom.

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

The proposed roof top terraces are provided with 1.7m high privacy screens on the western boundaries and set in approximately 4m from the western building edge. There is, however, no screen proposed to the south which would protect the adjoining property to the south (No 1 Holland Ave) as well as privacy between the two rooftop terraces proposed. Accordingly it is considered that there are currently inadequate measures provided to reduce potential adverse visual and acoustic amenity concerns for adjoining properties. This can be addressed via a condition if the Panel was to approve the application. The rooftop terrace areas have also been reduced in this review application consistent with previous recommendations of the Panel for other proposals to 24m<sup>2</sup>. Such a size is more likely to be used for private passive recreation for future occupants rather than for large gatherings of people.

As a result, the proposed roof top terraces of the dual occupancy development are unlikely to provide any significant or unreasonable overlooking opportunities to the adjoining properties.

It is considered, however, that the proposed rooftop terrace areas significant add to the bulk and scale of the proposal given they result in the appearance of a four storey building from Holland Avenue. This is discussed elsewhere in this report. In terms of Part 4.4.5 of RDCP 2011, the proposal is satisfactory.

### Part 5.1 Building Design

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

The proposal is inconsistent with a number of controls including the following:

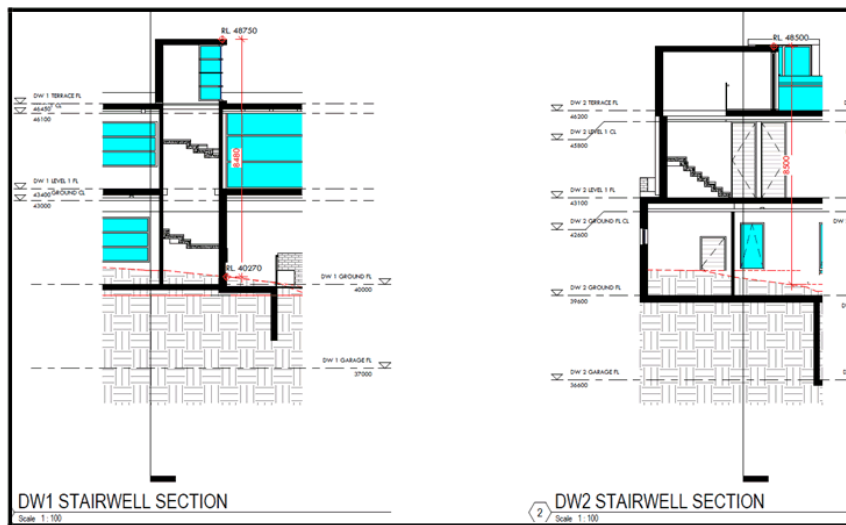
1. *Development must comply with the height and setback requirements specified in the following table, provided that it satisfies all relevant controls in part 4, such as solar access, landscape and vehicular access.*

#### *Dual occupancy*

- *Max height in storeys – two (2) and dwelling located at rear - one storey*
  - *secondary street setback – min 3m;*
6. *Building design and architectural style is to interpret and respond to the positive character of the locality, including the dominant patterns, textures and compositions of buildings.*
  10. *Building heights should be sympathetic to the natural land form and topographical features of the site and to existing buildings in the immediate vicinity.*
  15. *Garages and carports are to be located a minimum distance of 300mm behind the front building line. The total width of the garage doors which address the street must be a maximum width of 6.3m or 40% of the site frontage width, whichever is lesser. Refer to the following diagram.*

The proposal is considered to inappropriately respond to the positive character of the locality and these controls given:

- The proposal comprises three (3) storeys including the roof terrace as outlined in the section plans in **Figure 18**. It could also be argued that the proposal is required to be single storey at the rear to prevent overlooking, overshadowing and other amenity impacts to adjoining properties.



**Figure 18: Section Plan showing three (3) storeys (Source: Space 0.618:1, November 2018)**

- The proposal is setback 3 metres (Holland Avenue) to the building, however, the proposed alfresco areas and garages encroach into this setback.
- The proposal is of a style and design which is incompatible with the prevailing character of the existing housing in the area. In this way, the proposal is inconsistent with this clause. The flat roof design proposed in an area that is characterised by pitched roof forms also results in the proposal being inconsistent with these controls.
- The site is visually prominent due to the rock shelf which results in the site being located higher in the landscape than surrounding sites. The proposal is not sympathetic to the natural landform as the bulk and scale is exacerbated by this higher position.
- The garages are proposed 300mm from the secondary side boundary inconsistent with this control.
- The FSR for the development exceeds the maximum permitted under the RLEP 2011, and the site which does not meet the minimum lot size requirements of the RLEP 2011 and RDCP 2011.

In this regard, the proposal is considered not to satisfy the objectives and the provisions of Part 5.1 of the RDCP 2011 for low and medium density residential development.



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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. Relevant standard conditions can be imposed to ensure the proposed demolition is carried out in accordance with the Australian Standard.

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

*Likely impacts on the natural and built environment:*

The likely impacts of the development on the natural and built environment have been considered within the assessment of the applicable environmental planning instruments outlined above.

*Likely social and economic impacts of the development:*

The proposed development is considered to have a positive social and economic impact on the locality as it will improve the supply of housing and also provide for housing choice.

However given thirty-five (35) objections have been received in relation to the proposed development, there may also be some negative social cohesion impacts as a result of the development.

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

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

Given the location of the rock shelf on the site and its corner location, it is considered that the site is not suitable for this proposal. The inconsistencies with various development standards and controls exacerbate the bulk and scale of the proposal on this prominent site, making the site unsuitable for this particular proposal and design. The proposed building itself is not suitable for the subject site.

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

The development has been notified in accordance with the provisions of RDCP 2011. In response, thirty-five (35) submissions from twenty nine (29) submitters were received. The submissions raised the following concerns, which were generally presented in the form of responses to the refusal reasons and via form letters:

- *The Review application makes minor changes to the proposed development and therefore remains essentially the same development which has been refused on*

*two (2) previous occasions. It is also noted that the review proposal does not adequately address the reasons for refusal of the original application.*

**Comment:** The review application makes only minor changes to the original development application including minor changes to the FSR, reduction in the amount of rock excavated for the proposed garages, reduction in the area of roof terraces for each dwelling and the removal of a small awning on the southern side of Dwelling 1. In general the same issues remain of concern as outlined in this report.

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

**Comment:** The proposal will result in a non-compliant subdivision of the land at 24 Oswell Street when having regard to the provisions of Clause 4.1 of the RLEP 2011. It is also considered that the resultant subdivided allotments will be incompatible with the prevailing subdivision pattern in the local area. The applicant's clause 4.6 written request to vary the development standard under Clause 4.1 of the RLEP 2011 has not adequately demonstrated it is not unreasonable or unnecessary in the circumstances of the case to enforce strict compliance with the development standard, nor has the applicant demonstrated why, on environmental planning grounds, the variation should be supported.

- *The proposal does not satisfy the provisions under Part 4 of the RDCP 2011 having regard to site planning, streetscape and site context, landscape planning and design, sustainable building design, nor does it satisfy the controls relating to low and medium density residential development under Part 5.1 of the RDCP2011;*

**Comment:** The proposal has been assessed against Part 4 and Part 5.1 of the RDCP 2011 and found to be non-compliant in a number of aspects, including, Part 4.1.1 Views and Vistas, Part 4.1.9 – Lot size and Minimum Site Frontage, Part 4.2 Streetscape – Building Design – flat roof design proposed in area characterised by pitched roofs, Part 4.2 Streetscape – Rock outcrop, Part 4.3.2 Private Open Space, and Part 5.1 Building Design.

- *Removal of the sandstone rock wall on the Holland Avenue frontage is not supported as it does not respond to the natural features of the site;*

**Comment:** The provisions of the RDCP 2011 (Development Control 29 of Part 4.2) allow for the excavation of sandstone or rock outcrops only when specific criteria have been satisfied by a proposal. Having regard to the controls in Part 4.2 of the RDCP 2011, it is evident in this instance that the proposal is not permitted to remove the rock shelf given the following:

- a) The sandstone rock wall contributes to the streetscape.
- b) As demonstrated within *Figure 13* earlier in this assessment report and also the aerial image in *Figure 7*, adequate on-street parking is available at Oswell Street and Holland Avenue.
- c) 24 Oswell Street is a corner allotment, and as such alternative access to the site is available from the Oswell Street frontage – as is the case with the

current vehicular arrangements for the existing dwelling house on the site.

Accordingly, it is agreed that the removal of the natural rock shelf for the proposal does not respond to the natural features of the site. In this regard, it is agreed with the objectors that the excavation of the rock outcrop for garage purposes fails to achieve compliance with the provision of Part 4.2 of the RDCP 2011.

- *Potential damage being caused to adjoining homes from the extensive excavation into the common rock shelf running through adjoining properties*

**Comment:** The proposal has the potential to cause damage to adjoining dwellings given these dwellings are located on the same rock shelf as that which runs through the subject site. This issue has been addressed in the Geotechnical Report prepared by Davies Geotechnical Consulting Engineers dated 6 April 2017. This issue will require strict conditions and further detailed consideration prior to construction. It is noted that there appears to have been some damage caused to No 1 Holland Avenue adjoining to the south of the site, when the adjoining neighbour at No 3 Holland Avenue excavated for a similar garage structure.

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

**Comment:** The proposed development will not result in unreasonable overshadowing to adjoining properties as guided by the RDCP 2011 development controls for solar access as outlined in this report. However, it is considered that the private open space area for Dwelling 1 is inadequate as outlined in this report.

It is also noted that the proposal includes a non-compliant FSR which marginally contributes to a larger building than would otherwise be expected on the site when having regard to the development standards under the RLEP 2011. As such, while the proposal remains compliant with the overshadowing controls of the RDCP2011, it is argued a building with a compliant FSR would potentially result in less overshadowing.

- *The proposal will result in unacceptable view loss*

**Comment:** An assessment of the view loss undertaken in accordance with the four-step assessment of the 'view sharing' planning principle as established in *Tenacity Consulting v Warringah [2004] NSWLEC 140* found that impact was considered reasonable in the circumstances of the case. This issue is considered further in this report under the RDCP 2011 assessment.

- *Materials and finishes being inconsistent with the character of the local area*

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

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

- *Inconsistency with the objectives of the R2 Low Density Residential zone under the RLEP 2011 due to the proposal not minimising impacts on the character and amenity of the area given the incompatibility of the design and materials used;*

**Comment:** An assessment of the proposal against each of the objectives of the R2 Low Density Residential zone has been outlined in the RLEP 2011 assessment. It was found that the proposal was unable to satisfy the first and third objectives of the zone for the following reasons:

- The proposal does not achieve compliance with the minimum subdivision lot size development standard under clause 4.1 of the RLEP 2011. As such, the proposal does not provide for a dwelling density outcome that complies with the low density residential environment, as established by the development standard under clause 4.1 of the RLEP 2011; and
- The proposal will introduce a building that is incongruous with the dominant character of the local area, and will have amenity impacts including compromised visual and acoustic privacy, and visual impact of the discordant building in the streetscape.

- *Examples used by the applicant are different to the proposal.*

**Comment:** The applicant refers to various examples throughout the local area to demonstrate consistency of the proposal with the planning controls. However, the majority of these examples are referring to either single dwelling house applications (with or without secondary dwellings) and/or attached dual occupancies. These differ from this proposal.

- *Loss of trees resulting from the proposal*

**Comment:** The proposal will result in the loss of two (2) street trees as well as the Canary Island Date Palm in the front setback along Oswald Street. This tree removal is further discussed in this report.

- *The building height is not compliant with the development standards under RLEP 2011 in the area of the stairs to the roof terraces.*

**Comment:** The section plans provided with the review application indicate that the proposal complies with the maximum height of building development standards under Clause 4.3(2) of the RLEP 2011 including the stairs to the proposed roof terraces.

The issues raised in these submissions have been adequately considered in this report.

#### **Section 4.15(1)(e) - Public interest**

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

The proposed development is not considered be in the public interest as it fails to achieve the objectives of the R2 Low Density Residential zone, and will not achieve compliance with key development standards contained within the RLEP 2011 or development controls within the RDCP 2011.

It must also be noted that the public notification of proposed development has received thirty-five (35) objections from twenty nine (29) respondents in the local area.

### **Section 7.12 Fixed development consent levies**

Section 7.12 of the Act applies to the proposal. In this regard a standard condition of development consent has been recommended to be imposed in respect to a level applied under this section in the event that the BPP decide to approve the review application.

## Schedule 1 Draft Conditions of consent

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

### **General conditions:**

#### ○ **## Roof top terrace's**

*The trafficable area of the rooftop terrace areas must be limited to a maximum of 24m<sup>2</sup>, and be setback from the edge of the building as shown on the approved plan. Privacy screens must be erected on the southern side of the rooftop terraces for both Dwelling 1 and Dwelling 2 to reduce overlooking to the southern adjoining property and within the proposed dwellings on the site.*

*Plans demonstrating compliance must be submitted to, and approved by the Principal Certifying Authority, prior to issue of any Construction Certificate.*

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

#### ○ **## Garage Design**

*The design and construction of the proposed garage must utilise sandstone, stone coloured mortar and a recessive coloured door. The applicant must submit a schedule of materials, colours, and finishes demonstrating the above must be submitted to, and approved by Council, prior to issue of any Construction Certificate.*

#### ○ **## Additional Landscaping**

*Additional planting opportunities must be provided above both of the proposed garages on the Holland Avenue frontage. The planting must be fixed in place (e.g. planter boxes) and include similar shrub and perennial plantings as proposed in the approved Landscape Plan. Plans demonstrating compliance with this condition are to be submitted to, and approved by, Council prior to issue of any Construction Certificate.*

### **Prior to Issue of Construction Certificate conditions**

#### ○ **## Contributions**

A Section 7.11 contribution of \$10,551.34 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Rockdale Section 94 Contributions Plan 2004 (Amendment 5). The amount to be paid is to be adjusted at the time of payment; in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or

construction certificate. The contributions will be used towards the provision or improvement of the amenities and services identified below.

Regional Open Space Fund	\$ 1,315.29
City Wide Open Space Fund	\$ 2,080.32
Rockdale Local Open Space Fund	\$ 4,672.49
Rockdale Local Car Parking Fund	\$ -
City Wide Town Centre & Streetscape Fund	\$ 233.80
Rockdale Local Town Centre & Streetscape Fund	\$ 183.27
Pollution Control Contribution	\$ 1,203.33
Administration & Management Contribution	\$ 51.40
Child Care Services	\$ 49.05
Community Services	\$ 52.54
Library Services	\$ 709.85
Total in 2018/19	\$ 10,551.34

○ **## Excavation for Basement Construction**

*As the basement floors are being proposed close to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:*

- (a) *Ensure that all of the recommendations contained in the Geotechnical Report prepared by Davies Geotechnical, Report No. R/17013.A, dated 6 April 2017 is implemented;*
- (b) *Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective; and*
- (c) *Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.*
- (d) *Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.*
- (e) *Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.*

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

- **## Impacts on Trunk Stormwater Pipe**

*Council's mapping system indicates that a trunk stormwater pipe is encroaching into the Northern corner of the property (Oswell Street and Holland Avenue Corner). The Stormwater pipe shall be located by a registered Surveyor. All structures adjacent to the stormwater pipe must not affect the structural integrity of the stormwater pipe; the stormwater pipe must be also protected during construction. A structural compliance certificate is to be provided prior to issue of any Construction Certificate to confirm that the stormwater pipe structural integrity is not affected by the proposed structures.*

- **## Driveway Profile**

*A driveway profile at each extreme end of each proposed driveway shall be provided to the Principal Certifier prior to issue of any Construction Certificate. The driveway grades and change in grades must be in accordance with AS2890.1:2004. The driveway levels must not alter existing footpath levels. The driveway levels must be prepared and certified by a suitably qualified engineer.*

- **## Structural Engineering Report**

*A structural engineering report addressing structural integrity of retaining walls at the boundaries of adjacent lands shall be provided to the satisfaction of the Principal Certifier. The report must address the proposed land cut adjacent to the retaining walls. The Principal Certifier must ensure the retaining walls are not affected by the proposed works.*

*Details are to be provided with the Construction Certificate Application.*

- **## Schedule of Materials**

*A schedule of materials and finishes must be submitted to, and approved by, Council prior to the issue of any Construction Certificate. The schedule of materials and finishes must reflect the construction materials proposed on the approved Elevations diagrams.*

- **## Address**

*Prior to the issue of a Construction Certificate for the development, an application for Property Address Allocation and associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.*

*Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.*

|



**Prior to Commencement of Work conditions****o ## 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.*

**During Demolition/Excavation/Construction Conditions****o ## Tree Removal**

*Removal of the two Callistemon street trees to enable construction of the new vehicle crossings is approved, subject to a replacement tree being planted by Council in a suitable location. As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.*

**Prior To Issue Of Subdivision Certificate Or Strata Certificate Conditions****o ## New Lots**

*The new lots created are to be numbered Lot 700 and Lot 701.*

**o ## Service Easement**

*The Granting of a service easement shall be undertaken to the satisfaction of Council.*

**Integrated development/external authorities****o ## SACL Condition**

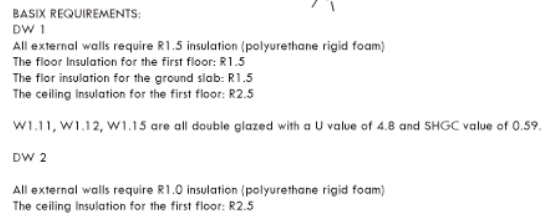
*Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at RL 48.9 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited. **Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give*

*information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct. For further information on Height Restrictions please contact SACL on 9667 9246.*

## Schedule 2 Urban Design Assessment of Oswell Street and local area

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

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



4.8

Average star rating

NATIONWIDE HOUSE

ENERGY RATING SCHEME

www.nathers.gov.au

Certificate Number:  
Assessor Name:  
Accreditation number:  
Certificate date:  
Dwelling address:  
www.nathers.gov.au

F1WSXC16LA  
Rotyn Jaber  
VIC.BDAV/16/1747  
13 Sep 2016



https://www.nis.com.au/QRCodes/landing?PublicId=F1WSXC16LA&GrpCert=1

No. 24 OSWELL STREET  
PROPOSED DEVELOPMENT

No. 26 OSWELL STREET  
BRICK COTTAGE



HOLLAND AVE

B O U N D A R Y

B O U N D A R Y

24

26



Date	Rev

Project:  
24 OSWELL STREET, ROCKDALE

NOT FOR CONSTRUCTION - REV. D

Verify all dimensions on the building prior to construction. Do not scale off drawings. What is written on drawings, report any discrepancies for record. All work to be carried out in accordance with relevant parts of the BCA and the Environmental Planning and Assessment Act and regulations under the Act.

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SPACE

03/18/19

bda

BUILDING DESIGNERS AUSTRALIA

STREETScape

drawn: bjh  
approved: bjh

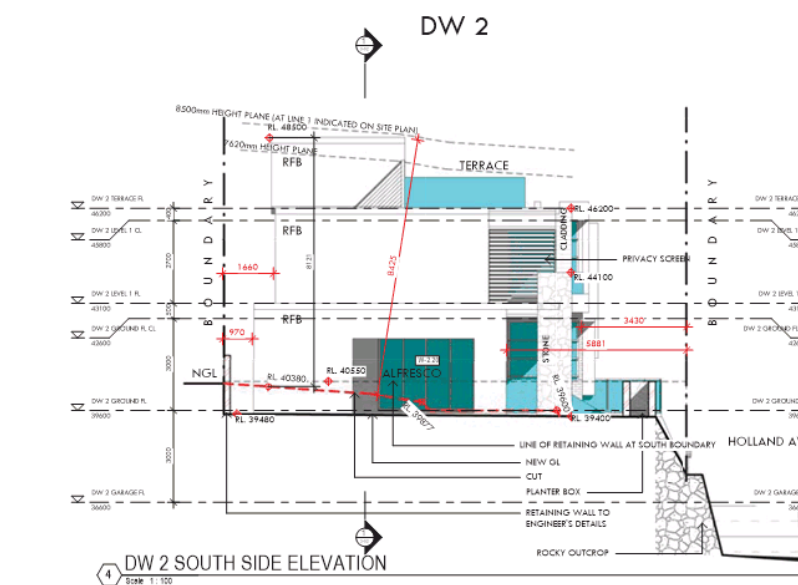
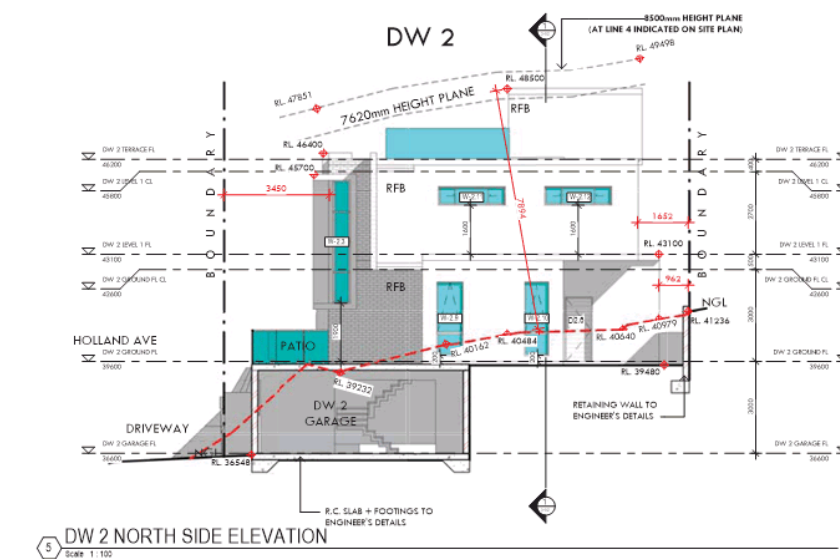
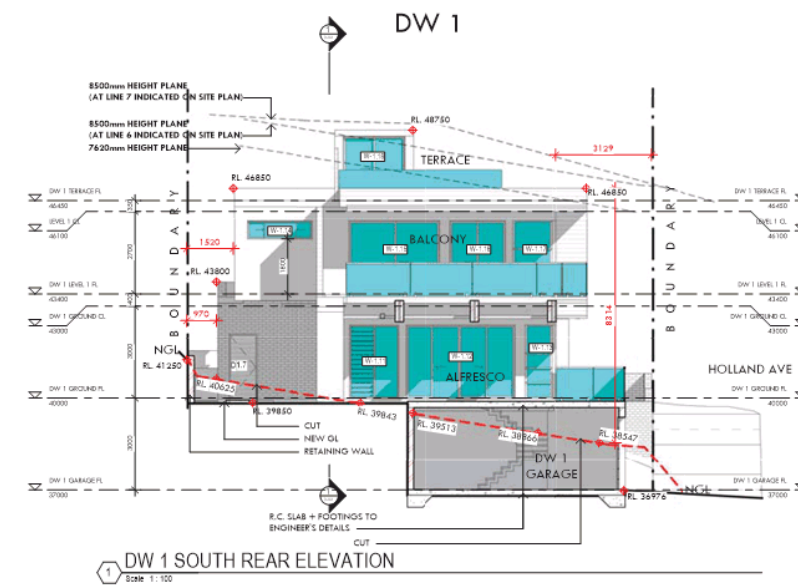
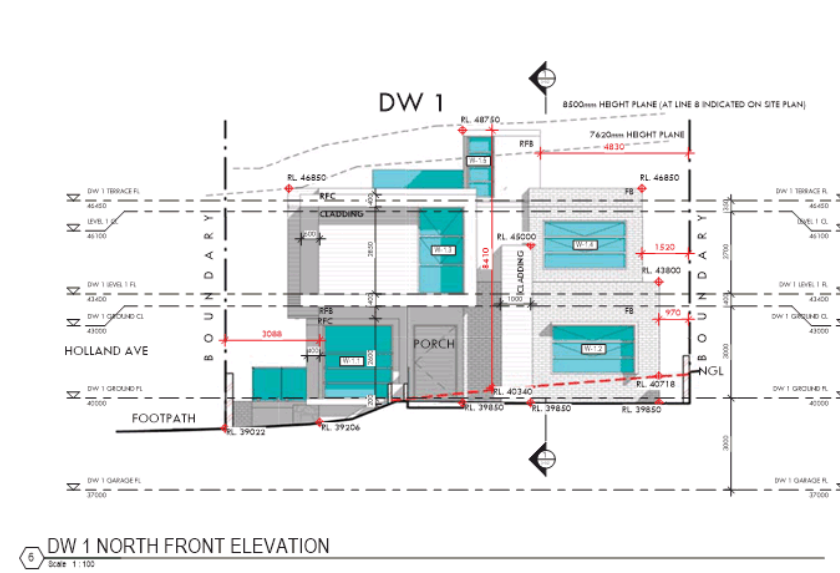
job no: JOUN11 date: nov 2018 scale: @ A1: 50

lot no: 14 DP 13183 drawing no: 3-03 rev:

Item 6.1 – Attachment 3

80

MATERIALS SCHEDULE	
WALLS	IMPERVED FACE BRICK - FAINT BULUR - 1000 WHITE
BRICK COLLUMS	IMPERVED FACE BRICK - FAINT BULUR - 1000 WHITE
RAILINGS	GLAZED TO NCC
FRONT DOOR	SOLID CORE TIMBER TO MATCH UPPLY CLADDING
PERVITY SCREENS	FACTORY COLOURED ALUMINIUM FRAME TO MATCH UPPLY CLADDING
WINDOWS	FACTORY COLOURED WHITE ALUMINIUM FRAMED UPPLY GLASS
GARAGE DOOR	FACTORY COLOURED WHITE ALUMINIUM FRAMED UPPLY GLASS
CLADDING	SELECTED STONE + SELECTED UPPLY MATCH
AWNING / SHS	SELECTED COLORBOND
ROOF + DF	SELECTED COLORBOND



*Δεν αντέχει*

project:  
24 OSWELL STREET, ROCKDALE

NOT FOR CONSTRUCTION - REV. D

Verify all dimensions on the before proceeding with construction. Do not make drawings. Work to written dimensions, report any discrepancies for resolution. All work to be carried out in accordance with relevant parts of the BCA and the Environmental Planning and Assessment Act and regulations under the Act.  
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title:  
ELEVATIONS 1

drawn: Moe Hijazi  
approved: H

Approved:

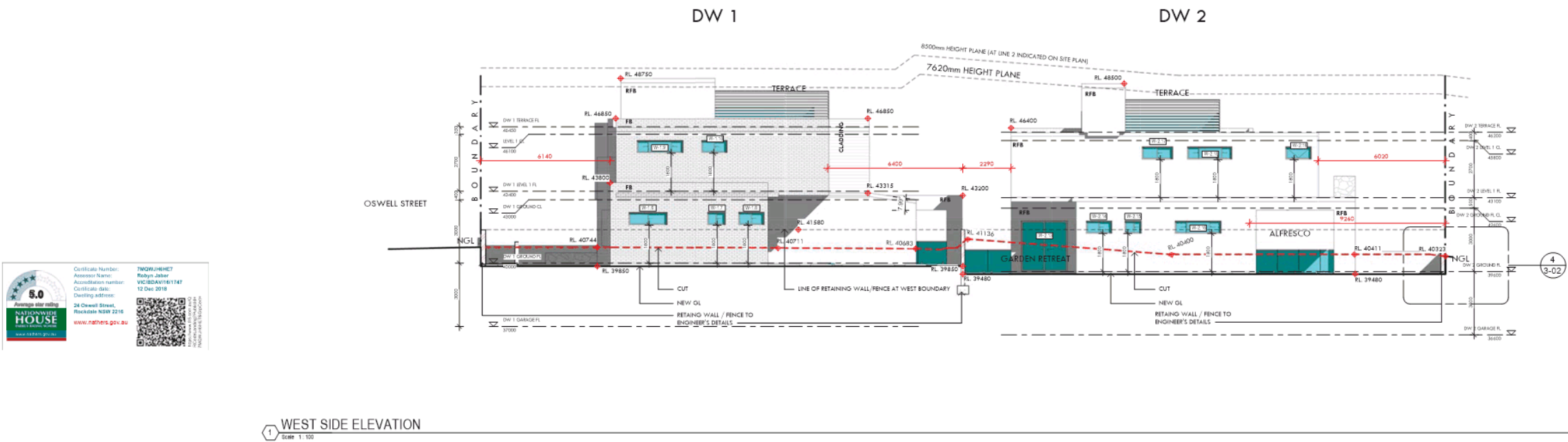
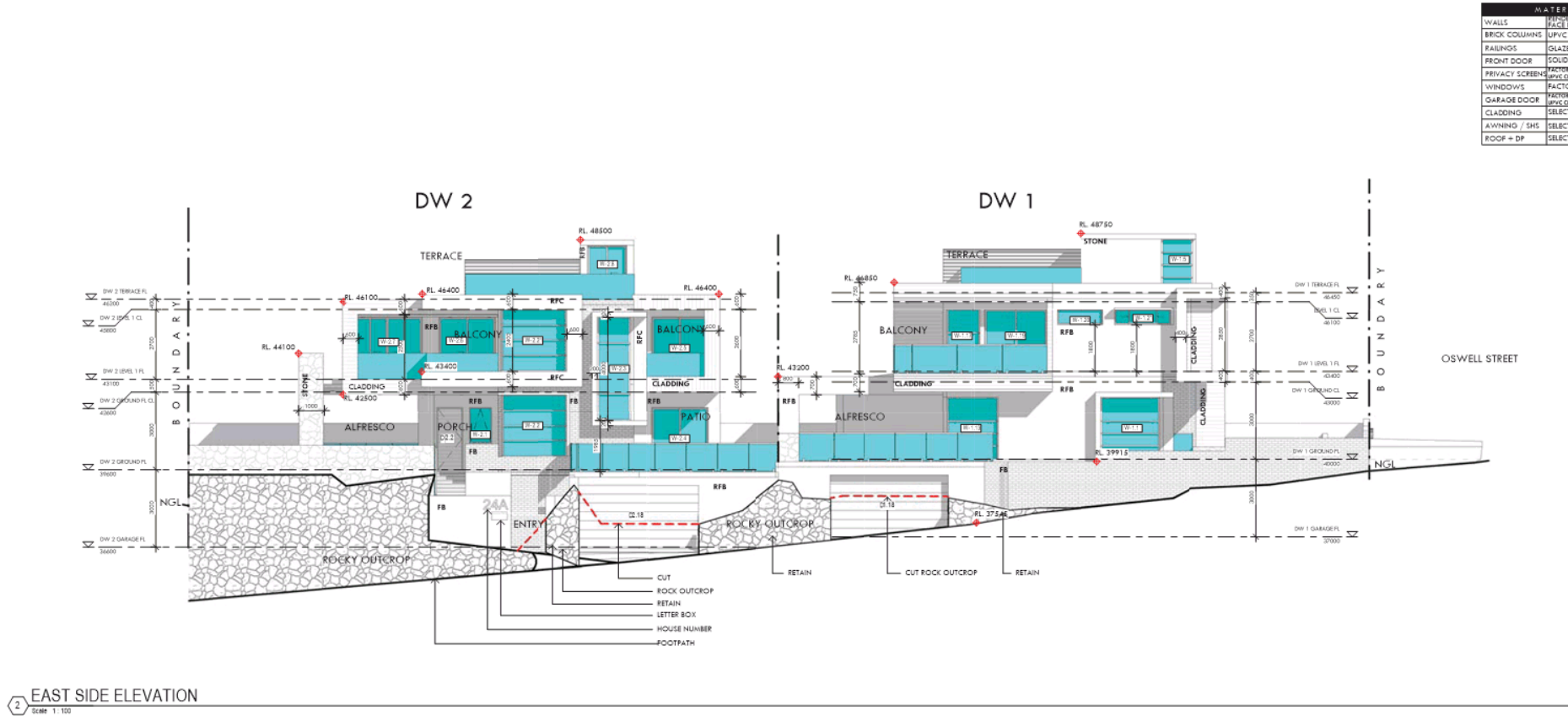
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lot no: 4 DP 13152 drawing no: 3-00

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rev: A

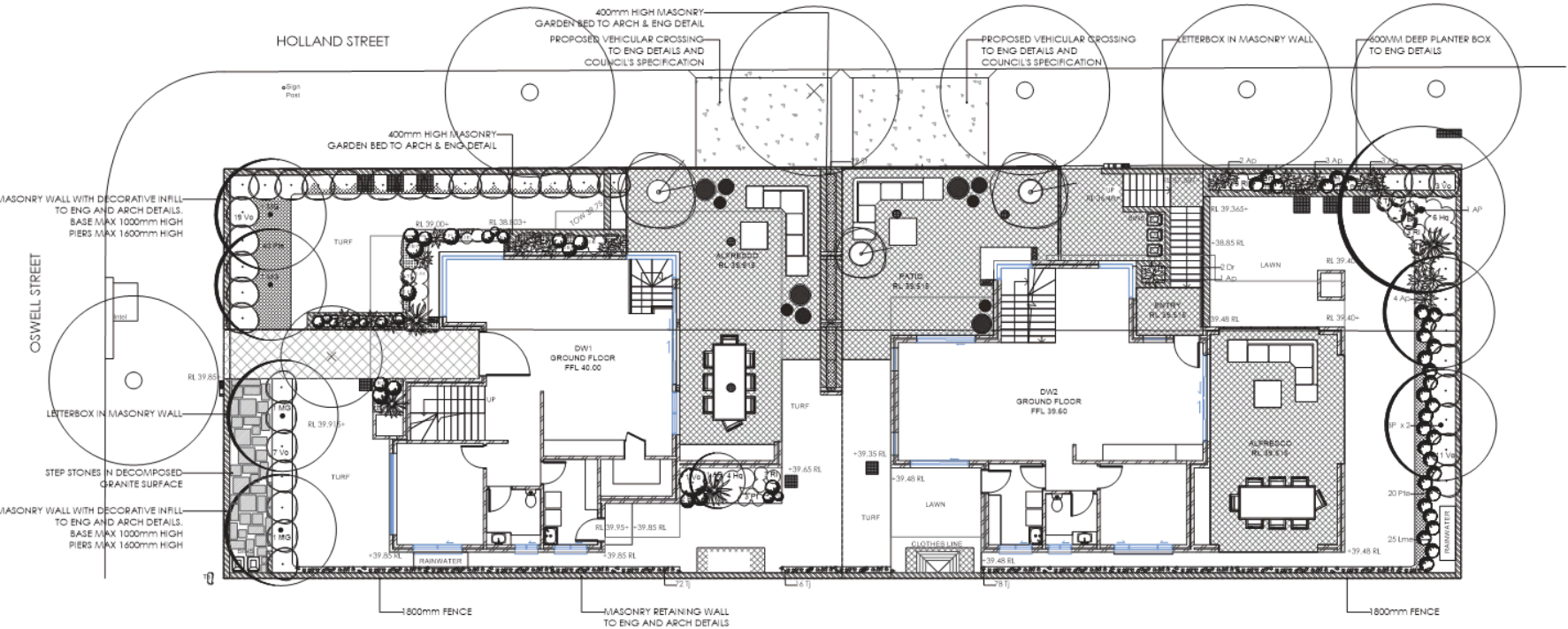




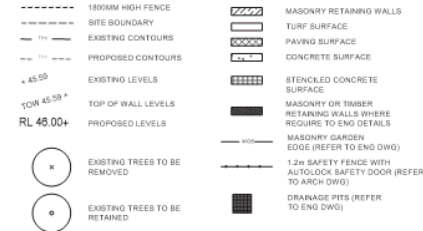


CONCEPT LANDSCAPE PLAN

SCALE 1:100 @ A1, 1:200 @ A3



LEGEND



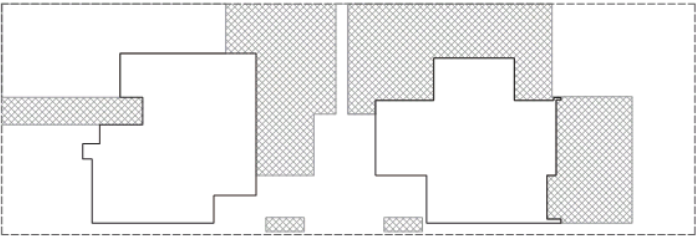
NOTES

- FOR ALL DRAINAGE WORKS, INCLUDING OSD, PIT AND DRAINAGE LINE LOCATION, TANK SIZING AND SPECIFICATION, REFER TO HYDRAULICS ENGINEER'S PLANS AND DETAILS.
- ALL LANDSCAPE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH THE ARCHITECT'S AND ADDITIONAL CONSULTANT'S DRAWINGS, SPECIFICATIONS AND REPORTS.
- ALL LANDSCAPED AREA ARE TO HAVE A MINIMUM 1:100 FALL AWAY FROM DWELLING FOR POSSIBLE OVERLAND.
- WATER DRAINAGE
  - CONTRACTORS TO CONFIRM ALL 'TO' AND GROUND LEVEL ARE CORRECT, ADEQUATE AND COMPLY WITH STANDARDS PRIOR TO ANY EXCAVATION WORKS TO NATURAL GROUND LEVEL.
  - ALL PUBLIC UTILITY SERVICES ARE TO BE LOCATED ON SITE BY THE CONTRACTOR PRIOR TO THE COMMENCEMENT OF WORKS. THE LOCATION, PRESENCE AND EXTENT OF SERVICES SHOWN ARE NOT GUARANTEED COMPLETE OR CORRECT.
  - NO TREES PROTECTED UNDER THE LOCAL COUNCIL'S TREE PRESERVATION ORDER ARE TO BE REMOVED UNLESS APPROVED BY DEVELOPMENT CONSENT OR PERMIT OBTAINED FROM COUNCIL.
  - ALL PAVING IS INDICATIVE, TO BE TO FUTURE SPECIFICATION, AND SET OUT ON SITE.
  - ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE LOCAL COUNCIL'S APPROVAL, STANDARDS AND CODES.

PLANT SCHEDULE

Trees/Palms	SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	POT SIZE	NATURE SIZE	STAKING
	AP	Acer Palmatum	Japanese Maple	2	Mature	6m	Yes
	BP	Betula pendula	Silver Birch	2	200Lr	7m	Yes
	MG	Magnolia grandiflora 'Little Gem'	De arl Magnolia	4	200Lr	6m	Yes
Shrubs & Perennials							
	An	Alpinia nutans	De arl Cardamon	6	300mm	1m	
	AP	Agave parryi	Perry's Agave	20	200mm	0.6m	
	Bm	Buxus microphylla 'Bella'	Buxus Balls	13	300mm	0.6m	
	Bm	Buxus microphylla 'Bella'	Buxus Balls	10	400mm	0.7-1m	
	Hq	Hydrangea quercifolia 'Snow Flake'	Oak-Leaved Hydrangea	10	300mm	1.5m	
	PI	Pittosporum tobira 'Miss Muffet'	Japanese Pittosporum 'Miss Muffet'	5	200mm	0.4m	
	PR	Platanus latifolia 'Variegata'	Nz Flax	4	300mm	1.5m	
	RI	Reptrodia indica 'Snow Midget'	Indian Pear Bom	15	300mm	1.2m	
	SB	Sarcocolla frutescens	Mother in Law's Tongue	22	300mm	0.6m	
	TT	Trochium frutescens	Shrubby Gendarm	8	300mm	0.7m	
	VO	Viburnum odoratissimum	See-ee Viburnum	41	300mm	2m	
Grasses & Ground Covers							
	Lne	Liriope muscari 'Evergreen Giant'	Liriope	25	200mm	0.5m	
	PR	Pachysandra terminalis	Japanese spurge	60	150mm	Groundcover	
	Sm	Senecio mandraliscae	Blue Chalk Sticks	26	150mm	Groundcover	
	Tz	Trachelospermum jasminoides	Star Jasmine	166	150mm	Groundcover	
Turf		Stenotaphrum secundatum 'Sir Walter'	Sir Walter Buffalo	180 <sup>sq</sup>	Rolls	NA	

LANDSCAPE RATIO PLAN



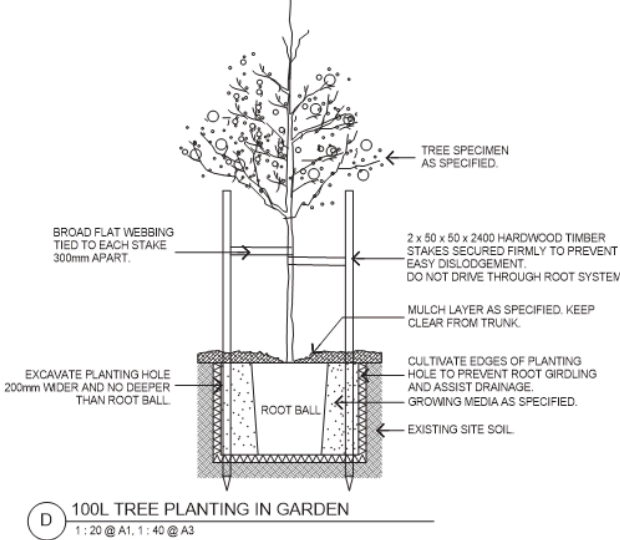
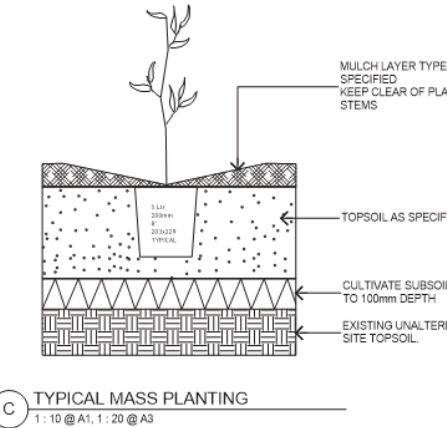
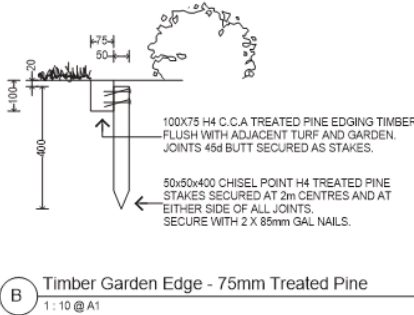
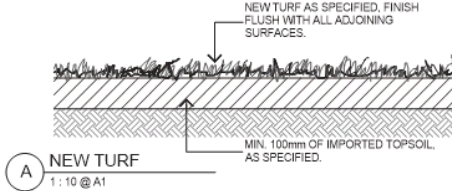
Total Site Coverage Area	694.5m <sup>2</sup>	100.00%
Total hard surface including building, driveways, courtyards, alfresco, pool, retaining walls, concrete and paved areas	405.4m <sup>2</sup>	58.37%
Total soft landscape area including lawn, planting and petiole area	289.1m <sup>2</sup>	41.63%
Minimum Landscape Requirements to be achieved 25%		

NOTES

- MIN 25% PERVIOUS SURFACE ACHIEVED

LANDSCAPE DETAILS

- GENERAL NOTES:
- EACH DRAWING IS TO BE READ IN CONJUNCTION WITH LANDSCAPE WORKS SPECIFICATION AND DETAILS.
  - DO NOT SCALE OFF DRAWING. REFER TO DIMENSIONS SHOWN ON PLAN.
  - ALL SERVICES ARE TO BE CHECKED AND VERIFIED ON SITE.
  - FOR CIVIL AND STRUCTURAL DETAILS, REFER TO ENGINEER'S DRAWINGS.
  - PRIOR TO LANDSCAPE WORKS, REMOVE ALL BUILDERS DERBIS AND RIP ALL GARDEN BED AND TURF AREAS TO A MINIMUM DEPTH OF 300mm. THE AREA WITHIN THE DRIP ZONE OF EXISTING TREES AND SHRUBS TO BE RETAINED ARE TO BE HAND DUG.



AMENDMENTS

Issue	Date	Description
B	26.03.17	LANDSCAPE PLAN FOR CC
A	07.11.16	CONCEPT LANDSCAPE PLAN FOR DEVELOPMENT APPLICATION



Project  
PROPOSED DUAL-OCCUPANCY  
24 OSWELL STREET, ROCKDALE NSW 2216  
LOT 14, DP 13153



Drawing Title  
LANDSCAPE PLAN FOR CC



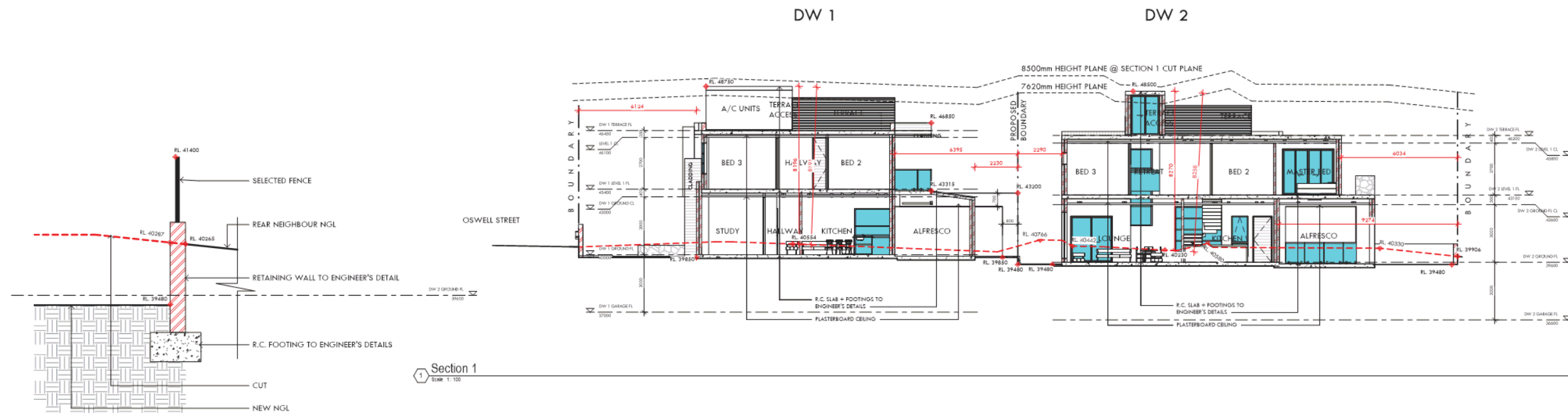
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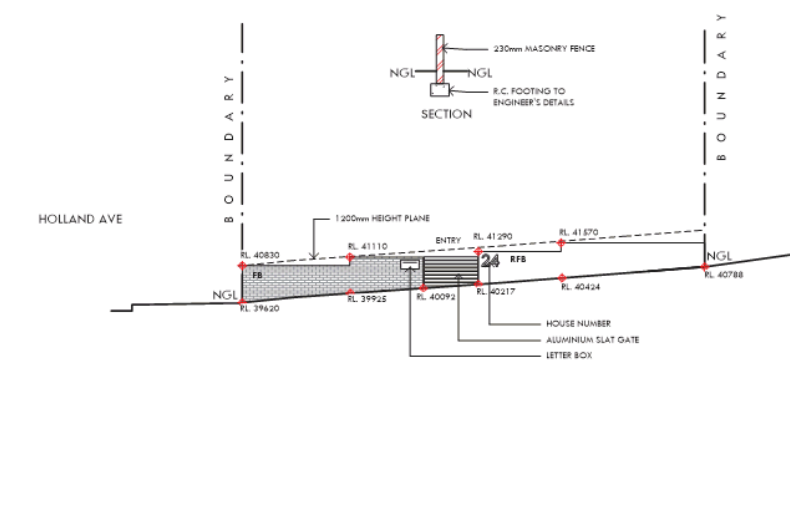
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26.03.17  
Drg. No.  
LA-001

Issue  
B

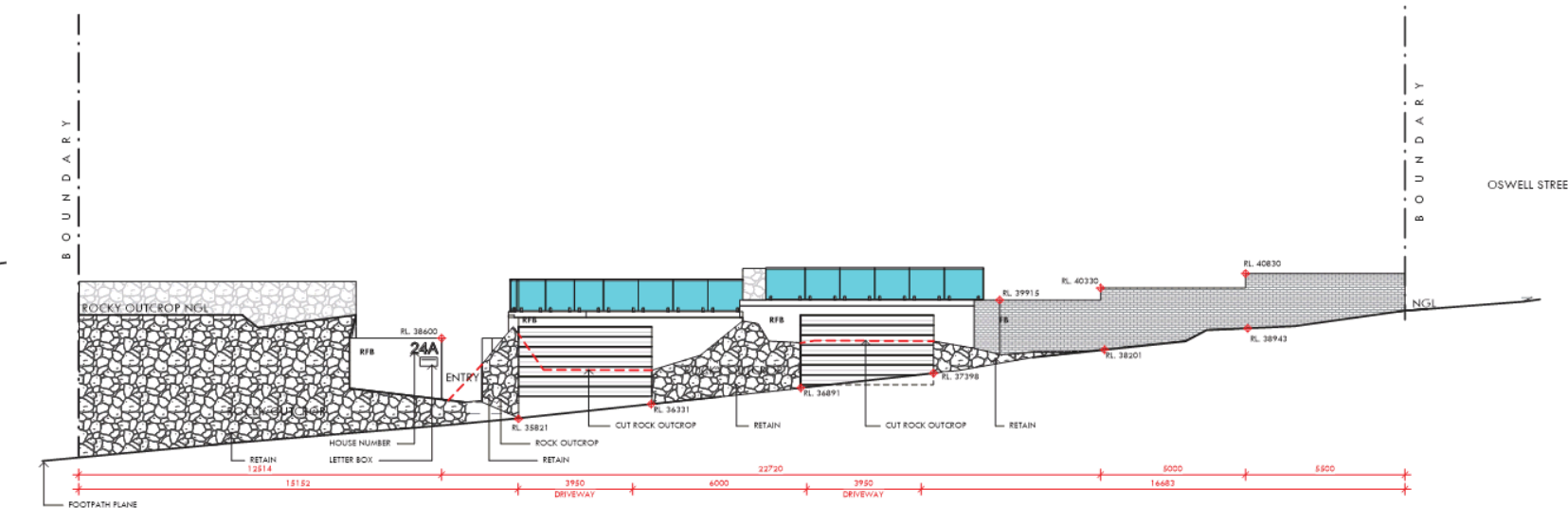
MATERIALS SCHEDULE	
WALLS	INTERLOCK FACE BRICK - PAINTED SOLIX WHITE WITH FAÇON FACED BRICKS - COLOUR COILING BLACK
BRICK COLUMNS	UPVIC TUMBLER FACE CLADDING - STONE
RAILINGS	GLAZED TO NOC
FRONT DOOR	SOLID CORE TIMBER TO MATCH UPVIC CLADDING
PRIVATE SCREENS	FACTORY COLOURED ALUMINIUM FRAME TO MATCH UPVIC CLADDING
WINDOWS	FACTORY COLOURED WHITE ALUMINIUM FRAMED FACTORY COLOURED INTERLOCK FACE UPVIC CLADDING
GAZAGE DOOR	FACTORY COLOURED INTERLOCK FACE UPVIC CLADDING
CLADDING	SELECTED STONE + SELECTED UPVIC CLADDING
AWNING / SHS	SELECTED COLORBOND
ROOF + DF	SELECTED COLORBOND



4 REATINING WALL SECTION  
Scale 1:25



2 OSWELL STREET FENCE ELEVATION  
Scale 1:100



3 HOLLAND AVENUE FENCE ELEVATION  
Scale 1:100



project:  
24 OSWELL STREET, ROCKDALE

**NOT FOR CONSTRUCTION - REV. D**

Verily all drawings on the before proceeding with construction, Do not state all drawings. To within dimensions, report any discrepancies for resolution. All work to be carried out in accordance with relevant parts of the BCA and the Environmental Planning and Assessment Act and regulations under the Act. © Copyright in all documents and drawings prepared by Spence G0161 and in any work executed from these documents and drawings shall remain the property of Spence G0161 or its affiliate noted in Spence G0161



title: SECTIONS + FENCE ELEVATIONS

drawn: MH  
approved: MH

job no: JOUN11      date: NOV 2018      scale @ A15  
lot no: 14 OF 13158      drawing no: 3-02      indicated  
rev:



**SPACE**  
0618:  
bda BUILDING DESIGNERS AUSTRALIA  
FULL MEMBER SINCE 1979

drawn: Author  
approved: Approver

job no: JOUN11      date: NOV 2018      scale @ A1: 100

lot no: 54 GP 13168      drawing no: 3-09      rev:



## Bayside Local Planning Panel

5/03/2019

Item No	6.2
Application Type	Amendment Development Application
Application No	DA-2016/205/B
Lodgement Date	19/10/2018
Property	<b>78 &amp; 80 Ramsgate Road, Ramsgate</b>
Ward	Rockdale
Owner	Dillgate Developments Pty Ltd and Bayside Council
Applicant	Dillgate Developments Pty Ltd
Proposal	Modification to the approved mixed use development to satisfy conditions of consent to ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4
No. of Submissions	Nil
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

## Officer Recommendation

That modification application No. DA-2016/205/B to the approved mixed-use development to satisfy conditions of consent, ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4 at 78 & 80 Ramsgate Road, Ramsgate, be approved subject to amendments to Conditions 2 and 5 as detailed below:

- (a) Amend Condition 2 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
<i>M.DA 1.00, 2.98, 2.99, 2.00, 2.01, 2.02, 2.03, 2.04, 2.05, 4.00, 4.01, 3.00 – all Revision A.</i>	<i>Tecton Group</i>	<i>05.10.18</i>
Materials and Finishes	CMT Architects	undated
Drainage Plans 1609- S1/5, 1609- S2/5, 1609- S3/5, 1609- S4/5 and 1609- S5/5 Rev F	John Romanous & Associates	26.02.16

Landscape Plans L-01 Issue B	RFA Landscape Architects	23.02.16
Subdivision Plan DA 3.00	CMT Architects	07.01.16
Proposed Cleland Lane Parking Arrangements During Site Works - No Plan Number.	Terraffic Pty Ltd	undated

(b) Amend Condition 5 to read as follows:

The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number **650118M\_05** other than superseded by any further amended consent and BASIX certificate.

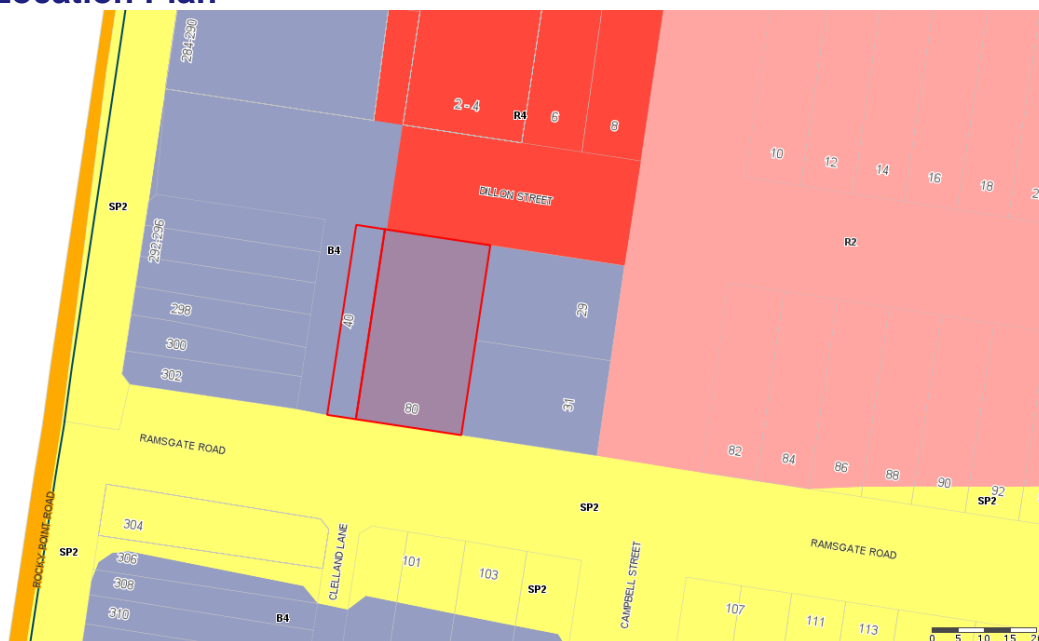
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -

- (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>.

## Location Plan



**Attachments**

- 1 Planning Assessment Report [↓](#)
- 2 Draft Notice of Determination [↓](#)
- 3 Site Plan [↓](#)
- 4 Elevations - South and West [↓](#)
- 5 Elevations - North and East [↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

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Application Number:	DA-2016/205/B
Report Date:	6 February 2019
Lodgement Date:	19 October 2018
Property:	78 & 80 Ramsgate Road, Ramsgate Lot 8 in DP 977999 & Lot 1 in DP 960761
Owner:	Dilgate Developments Pty Ltd & Bayside Council
Applicant:	Dilgate Developments Pty Ltd
Proposal:	Section 4.55(1A) modification application to the approved mixed-use development to satisfy of conditions of consent, to ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4.
Submissions:	Nil
Recommendation:	Approval
Author:	James Arnold – Principal at Arnold Urban

#### Key Issues

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There are no key issues with the proposed modifications which are minor and generally serve to enhance the functioning and amenity of the development. The modifications do not result in any areas of non-compliance and the development remains consistent with the key planning provisions contained within SEPP 65, RLEP 2011 and the RDCP 2011.

#### Recommendation

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That the Section 4.55(1A) application no. DA-2016/205/B for modifications to the approved mixed-use development to satisfy conditions of consent, to ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4 at 78 & 80 Ramsgate Road, RAMSGATE NSW 2217 be **APPROVED** pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* and subject to the modified conditions of consent attached to this report.

## Background

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- 27 November 2015 – DA-2016/205 – Council approved the subject development for the construction of a five storey mixed use development comprising 20 apartments, four commercial tenancies, basement car parking, provision of 12 public car parking spaces off Cleland Lane, boundary adjustment, and demolition of existing structures.
- 12 June 2018 – DA-2016/205/A – A modification was approved to the subject development to amend condition no. 11 changing the timing of the lodgement of the Subdivision Certificate from prior to Construction Certificate to prior to Occupation Certificate. It is understood that the application was assessed by an independent planning consultant and was approved by the Bayside Local Planning Panel.
- At the date of this report, the demolition and construction of the development has not commenced.

## Proposed Modifications

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The Section 4.55(1A) modification application to the approved mixed-use development to satisfy of conditions of consent, to ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4 at 78 & 80 Ramsgate Road, Ramsgate.

Details of the proposed modifications are as follows:

### Ground Floor

- Relocate no stopping signs on Dillon Street frontage to allow for two (2) on-street car parking spaces in accordance with Condition No. 58(c);
- Width of driveway to Dillon Street increased to 6m and made perpendicular to the boundary in accordance with Condition No. 58(a) & (b);
- Parking space No. 1 to Cleland Lane converted from an accessible space into a regular car space in accordance with Condition 119;
- Ramps/corridors to rear of shops 3 and 4 removed and replaced with ramps through the walkways in front of the shops;
- Garbage room expanded over ramp for accessibility;
- Accessible toilet relocated from third floor to ground floor;
- Fire exit from basement amended to provide direct access to street.

### First to Fourth Floor

- Entry doors to the units at either end of the corridors (ie. unit 1.01, 1.06, 2.01, 2.06, 3.01, 3.04, 4.01, 4.04) shifted forward 200-300mm to reduce distance to central fire stairs to comply with BCA;
- Changes to window sill heights and louvers to comply with BCA;
- Awning slab extensions to western side for vertical fire separation to comply with BCA;
- Fixed louvres added to the western balconies of Unit 3.02, 3.03, 4.02, 4.03;



- Eastern side glass block openings removed to comply with BCA;
- Unit 1.03 and Unit 1.04 made adaptable;
- Southern units at third and fourth floor (Unit 3.03, 3.04, 4.03, 4.04) setback 2.5m (due to powerlines) and layouts amended accordingly.

#### Basement Levels

- Rearrange accessible spaces, motorbike and bicycle spaces. Total provision remains unchanged.

The modified proposal retains the same number and mix of apartments, building siting, height and envelope. The modifications have resulted in some minor increases and decreases to the sizes of the units resulting in a net increase to GFA of 9.5m<sup>2</sup>, however the proposal remains compliant with FSR at 1.98:1 (max 2:1).

The proposed modifications will require the amendment of Condition 2 to refer to the modified architectural plans, as shown below in italics. The other relevant conditions relating to the street car parking spaces, relocation of no stopping signs (Condition 58) and the accessible street car parking space (Condition 119) are shown below for reference purposes.

Condition 2 shall be amended 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.

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>
<i>M.DA 1.00, 2.98, 2.99, 2.00, 2.01, 2.02, 2.03, 2.04, 2.05, 4.00, 4.01, 3.00 – all Revision A.</i>	<i>Tecton Group</i>	<i>05.10.18</i>
Materials and Finishes	CMT Architects	undated
Drainage Plans 1609- S1/5, 1609- S2/5, 1609- S3/5, 1609- S4/5 and 1609- S5/5 Rev F	John Romanous & Associates	26.02.16
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Subdivision Plan DA 3.00	CMT Architects	07.01.16
Proposed Cleland Lane Parking Arrangements During Site Works - No Plan Number.	Terraffic Pty Ltd	undated

Condition 5 shall be amended as follows:

The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number *650118M\_05* other than superseded by any further amended consent and BASIX certificate...

Condition 58:

Driveway Access - Dillon Street

The plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- (a) The width of the double driveway at the boundary shall be a maximum of 6 metres and minimum of 5.5m.
- (b) The driveway off Dillon Street be constructed with a 90 degree angle to the boundary line.
- (c) The no stopping sign (zone) shall be minimum of 6m from the Tangent Point (TP) at Northern intersection of Dillon Street and Cleland Lane to ensure that two (2) on-street parking spaces are provided between Dillon Street and the driveway access for the development.

Condition 119:

Prior to issue of the Occupation Certificate, construction of the twelve (12) public car parking spaces on proposed Lot 1 DP 960761 as shown in the "Proposed Subdivision Plan" listed in Condition 2, including all associated landscaping and drainage works, must be constructed in accordance with approved plans and specifications.

Note: Parking Space No. 01 shall be a regular car parking space, not an accessible parking space.

## Referrals

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### Internal

#### *Public Domain*

The application was referred to Council City Infrastructure – Public Domain department as the proposed modifications include changes in the road reserve to satisfy Condition 58 of the consent. No objection was raised to the modifications and as such the requirements of Condition 58 are considered to have been satisfied and those changes made in the public domain are acceptable.

#### *Development Engineer*

The application was referred to Council's Development Engineer who raised no objections to the proposed modifications including those changes to the accessible car parking spaces in accordance with Condition 119.

External

No external referrals were required.

**Statutory Considerations**

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**S4.55 – Modifications of consents – generally**

The proposal seeks to modify a development consent and an assessment of the proposal against the applicable provisions of this section is provided below.

**S4.55(1A) – Modifications involving minimal environmental impact**

The proposed modifications have been lodged pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. An assessment of the proposal against these provisions is provided below.

*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*

**Assessment:** The proposed modifications are minor in nature and retain the approved building siting, envelope and height. The modifications will not result in any additional impacts on the surrounding properties or the public domain and as such are considered to satisfy the minimal environmental impact requirement.

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

**Assessment:** The proposal modifications are minor in nature and retain the approved land use, building siting, envelope and height. The number of apartments, mix of apartments, and all other important components of the development remain the same as approved. As such, the proposal as modified is considered to be substantially the same development as originally approved.

*(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*

*(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.*

**Assessment:** The modification application was notified in accordance with the requirements of the Rockdale Development Control Plan 2011. In response, no submissions were received.

*S4.55(3) 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. The consent authority*

*must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

**Assessment:** An assessment of the modification application has been undertaken in accordance with the matters for consideration under section 4.15 and consideration has been had for the reasons given by the consent authority to grant consent to the original application. Details are provided below.

#### **Consideration of reasons for approval of original application**

**Assessment:** The assessment report for the original application dated 4 October 2016 has been reviewed. The report did not contain any specific reasons as to why the application was approved. In spite of this, the inherent reasons are considered to be that the original application was consistent with the applicable planning provisions including SEPP 65, RLEP 2011, and RDCP 2011. The clause 4.6 request to vary the building height development standard was supported generally because the breach was considered to be minor, it did not result in any additional impacts on adjoining properties and the height was consistent with the character of the area. The development as proposed to be modified under the subject application is considered to remain consistent with the applicable planning provisions. The modifications do not result in any additional areas of non-compliance and will not result in any change to the approved height of the building.

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

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

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

The site has a frontage to a classified road (Ramsgate 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 site has a frontage to a classified road being Ramsgate Road. The proposed modifications retain the access off the secondary road frontage to Dillon Street and accordingly will have no impact on the functioning of the classified road.
- Clause 102 Impact of road noise or vibration on non-road development – The development was originally approved with an Acoustic Report prepared by Acoustic Logic (dated 20 November 2015) that included acoustic attenuation measures to ensure the development complies with requirements. This Acoustic Report remains part of the consent and the proposed modifications will not result in any change to the conclusions of that report.
- Clause 104 Traffic-generating development – This clause is not applicable as the development does not meet the size or capacity requirements to be considered traffic generating development.

##### **State Environmental Planning Policy No. 55 – Remediation of Land**

Clause 7 requires the consent authority 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 modifications do not result in any changes to the land use or intensity of use and as such the site is considered to remain suitable for the development as modified.

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

The application included an amended BASIX certificate to account for the proposed modifications to the development. The amended BASIX has been reviewed and is accurate and complies with the relevant sustainability targets. Condition 5 of the consent requires the BASIX sustainability measures to be implemented and has been amended to refer to the amended BASIX certificate.

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

The proposed modifications have been considered against the provisions of SEPP 65 and the Apartment Design Guide.

The proposed modifications relating to BCA, fire safety, and accessibility will not result in any change to compliance with the provisions of SEPP 65 or the ADG. The overall design and appearance of the building remains substantially the same. The minor changes to the sizes of some of the units has not resulted in any non-compliances with the size and layout requirements of the ADG.

The more substantial modifications to the layout of the four southern apartments at Level 3 and 4 have been reviewed against the ADG. The revised apartments are considered to have good levels of amenity and comply with size and layout requirements and will cross ventilate. The balconies to the two corner apartments are now oriented to the south (previously to the west) and as a result will receive less direct sunlight, most likely less than 2 hours. Despite this, the overall development will remain compliant with 14 out of 20 apartments or 70% receiving more than 2 hours sunlight to living rooms and POS in mid-winter. Despite the slight reduction in solar access, the revised balconies are considered to have better levels of amenity and function as compared to the approved balconies as they consolidate two balconies into one larger and wider space accessed off both the living room and bedroom.

**Rockdale Local Environmental Plan 2011**Zoning and Permissibility

The site is zoned B4 – Mixed use. The proposed modifications will not change the characterisation of the development as 'shop top housing' which is permissible in the zone.

Clause 4.3 Height of Buildings

The proposal will not involve any change to the height of the building. It is noted that the development was originally approved with a variation to the 16m height limit with a maximum height at the lift overrun of 17.13m.

Clause 4.4 Floor Space Ratio

The proposed modifications have resulted in some minor changes to the sizes of some units, commercial spaces and the garbage bin room. A review has been undertaken of the approved plans and it has been determined that the approved GFA was 1,863.5m<sup>2</sup> which equates to an FSR of 1.97:1 (site area 943.77m<sup>2</sup>). The GFA of the modified plans has been calculated by the consultant assessment officer at 1,873m<sup>2</sup> or an increase of 9.5m<sup>2</sup>. The modified proposal remains compliant with an FSR of 1.98:1 (maximum 2:1).

It is noted that the corridors and communal areas on the upper levels have been excluded from GFA on the basis of them being sufficiently open to constitute 'breezeways' which is

consistent with the approved GFA calculations. The ground floor lobby and garbage rooms have been included in GFA calculations.

**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:

**Rockdale Development Control Plan 2011**

The proposal development has been assessed against the controls contained in the DCP. The proposed modifications are mostly minor and will not affect compliance with any specific provisions of the DCP. In relation to the general provisions in the DCP, assessment is provided below.

Density and Scale

The proposed modifications result in a minor increase in floor space remaining compliant with the FSR provision and within the same building envelope.

Visual Privacy and Noise

The proposed modifications will not have any adverse impact on visual privacy and noise.

Overshadowing

The proposed modifications will not result in any change to the building envelope that would impact overshadowing.

Traffic and Parking

The proposed modifications to the basement parking layout are minor and will retain a compliant number of accessible spaces. The extension of the bin room over the ramp results in small reduction in head height above the ramp however remains compliant with the relevant standards. Council's Development Engineer has reviewed the changes and raised no objections.

Character / Streetscape

The proposed modifications include some minor changes to the elevations through the revised layouts of the southern apartments at Level 3 and 4, window sill heights, provision of balcony louvres and slab projections. These changes are not considered to result in any fundamental difference to the presentation of the building and are cohesive with the approved development.

Heritage

The site and adjoining properties do not contain any heritage items.

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

The proposed modifications have been reviewed against Clause 92 of the *Environmental Planning and Assessment Regulation 2000* (the Regulations) and there are no matters of relevance.

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

The likely impacts of the development as modified have been considered throughout the preceding assessment against the relevant Environmental Planning Instruments and Development Control Plans. No significant adverse impacts have been identified.

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

The development as modified remains substantially the same development that was originally approved and the site remains suitable.

**S4.15C(1)(d) – Submissions**

The application was notified in accordance with the Rockdale DCP 2011. In response, no submissions were received.

**S4.15C(1)(e) – Public Interest**

The development as modified is considered to remain in the public interest as it aligns with the zone objectives and the planning controls.

**Conclusion**

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The proposed modifications to the approved mixed-use development are for the satisfaction of conditions of consent, to ensure the development complies with the National Construction Code including changes to accessibility and fire safety arrangements, and layout changes to the southern apartments on Level 3 and 4 at 78 & 80 Ramsgate Road, Ramsgate.

The modifications are minor and generally serve to enhance the functioning and amenity of the development. The modifications do not result in any areas of non-compliance and the development remains consistent with the key planning provisions contained within SEPP 65, RLEP 2011 and the RDCP 2011.

Accordingly, the S4.55(1A) modification application is recommended for approval subject to the modified conditions of consent attached.

Our Ref: DA-2016/205/B  
Contact: Michael Maloof 9562 1666

Dillgate Developments Pty Ltd  
2a Queensborough Rd  
CROYDON PARK NSW 2133

## NOTICE OF DETERMINATION

Issued in accordance with section 4.18(1a) of the *Environmental Planning and Assessment Act, 1979*

<b>Application Number:</b>	DA-2016/205/B
<b>Property:</b>	80 Ramsgate Road, RAMSGATE 78 Ramsgate Road, RAMSGATE
<b>Proposal:</b>	78 & 80 Ramsgate Road, RAMSGATE NSW 2217 - Construction of a five (5) storey mixed use development comprising 20 residential apartments, four (4) commercial tenancies with basement parking, provision of 12 public car parking spaces off Clelland Lane, associated external works, Boundary adjustment and demolition of existing structures.
<b>Authority:</b>	Delegated to Bayside Planning Panel
<b>Determination:</b>	
<b>Date of determination:</b>	14 December 2016
<b>Date consent commences:</b>	14 December 2016
<b>Date consent lapses:</b>	14 December 2021

Your application was considered under the *Environmental Planning and Assessment Act 1979*. The application sought to modify the following previous consent(s):

- DA-2016/205 - approved on 14 December 2016;
- DA-2016/205/A - approved on 12 June 2018.

Your application is **approved** subject to the following conditions:

### General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of 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
M.DA 1.00, 2.98, 2.99, 2.00, 2.01, 2.02, 2.03, 2.04, 2.05, 4.00, 4.01, 3.00 – all Revision A.	Tecton Group	05.10.18
Materials and Finishes	CMT Architects	undated
Drainage Plans 1609 - S1/5, 1609 - S2/5, 1609 - S3/5, 1609 - S4/5 and 1609 - S5/5 Rev F	John Romanous & Associates	26.02.16
Landscape Plans L-01 Issue B	RFA Landscape Architects	23.02.16
Subdivision Plan DA 3.00	CMT Architects	7.01.16
Proposed Cleland Lane Parking Arrangements During Site Works - No Plan Number.	Terraffic Pty Ltd	undated

*[Amendment B - S.4.55(1A) amended on 26/02/19]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number **650118M\_05** other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.

*[Amendment B - S.4.55(1A) amended on 26/02/19]*

6. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
7. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
8. Street Numbering & Letterbox Provision
  - (a) The premises in the mixed use development shall be provided with the following street numbers:
    - Residential Lobby - 38 Cleland Lane

- Shop 1 - 80 Ramsgate Road
- Shop 2 - 78 Ramsgate Road
- Shop 3 - 36 Cleland Lane
- Shop 4 - 3 Dillon Street

(b) Mail boxes must be installed in accordance with Australia Post Guidelines and Controls 15, 16 and 17 of Part 4.7 of Rockdale DCP 2011 which requires the following:

- (i) to be integrated with building design and are preferably to be located in a covered area attached to or within the building;
- (ii) to be close to the major street entry and lockable; and
- (iii) to be visible from some of the dwellings (where possible), and located where residents can meet and talk, preferably with seating and pleasant ambience..

(c) Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

9. All relevant lighting, including under awning 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. Such lighting to be maintained at all times for the lifetime of the development.
10. Intercom facilities shall be installed at all entry/exit points (including vehicular entry/exit points) to enable residents to communicate and identify with people prior to admitting them to the development.

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

#### **11. Subdivision / Boundary Adjustment - Lodgement with LPI**

Prior to issue of any Construction Certificate, the linen plan and any required Section 88B Instrument for the proposed boundary adjustment must be prepared and lodged with the Land and Properties (LPI).

The boundary adjustment is to occur in accordance with all relevant conditions contained in this Development Consent No. 2016/205 (and any subsequent Section 4.55modification).

The Section 88B Instrument shall include any required easements.

[Amendment A - S4.55(1) amended on 12 June 2018]

#### **12. Building Design Quality**

Prior to issue of the Construction Certificate, to ensure the integrity of the design and remove clutter, the following shall be complied with:

1. All plumbing shall be concealed within the brickwork of the building. Plumbing shall not be visible under first floor slabs.
2. The fire booster valves must be located within the footprint of the building, in

the location shown in the approved plans and shall be screened with similar materials to those used in the building. Any amendment to the Fire Booster size and location must be approved by Council's Director of City Planning and Development. A S96 application may be required.

3. No columns or any other structural element shall be located along the foot way in front of the shops in all street frontages, as shown in the approved plans. All columns must be located behind the front facades of the ground floor level shops. A Section 96 Application will be required for any proposed columns in the front area.
4. If a substation is required by Ausgrid, the location shall be approved by Council's Director of City Planning and Development prior to issue of the Construction Certificate. Note: Council's preference for the location of the substation is within the footprint of the building. A S96 application may be required.

Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

13. Construction Traffic & Public Parking Management Plan

A. Prior to the commencement of any works, a Construction Traffic Management Plan (TMP) and Public Parking Management Plan shall be prepared by a suitably qualified person, and must be submitted to and approved by the Bayside Council's Director of City Planning and Development and Bayside Council's Traffic Committee.

The Plans 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.
- (e) Twelve (12) temporary public parking spaces in Clelland Lane being provided for use by the general public prior to commencement of excavation works associated with the development. The temporary spaces shall have minimum dimensions of 6.0m x 2.4m and shall be located generally in accordance with the approved plans listed under Condition 2. The spaces must be freely available for public use until construction works on the final public car park commence, unless otherwise agreed in writing by the Director of City Planning and Development at Bayside Council.
- (f) The existing "No Stopping" sign in Dillon Street shall be relocated to be a minimum of 6m from the Tangent Point (TP) at Northern intersection of Dillon Street and Clelland Lane to ensure that two (2) additional on-street parking spaces are available on Dillon Street during construction works. (Note: Refer also to Condition 58).
- (g) The existing driveway on Ramsgate Road being terminated so that the full Ramsgate Road frontage of the site is available for public on-street parking (except for that part affected by 'No Stopping' or other parking restrictions).
- (h) Temporary public parking spaces must be signposted in accordance with Austroads standards.

B. The approved Plans required by 'A' above must be implemented at all times.

*Note: A Construction Management Plan (CMP) is also required - see Condition*

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## 14. Car Parking Allocation - Mixed Use Development

Car, motorcycle and bicycle parking spaces for the mixed use development shall be provided and allocated in accordance with the Apartment Design Guide (ADG) and relevant Rockdale Development Control Plan (RDCP) 2011 requirements, and this shall be reflected in any subsequent strata subdivision of the development. The allocation shall occur at the following minimum rates prior to issue of the Occupation Certificate:

Dwelling Size	Required
Studio / 1 bed / 2 bed dwellings = 18	1 space / dwelling = 18 spaces
3 bedroom dwellings = 2	2 spaces / dwelling = 4 spaces
<b>Total Residential Car Parking Spaces</b>	<b>Total Residential = 22 spaces (min.) (including 2 accessible spaces)</b>
Commercial Parking (235m <sup>2</sup> )	1 space / 40m <sup>2</sup> = 6 spaces
Visitors parking	1 space / 5 dwellings = 4 spaces (including 1 accessible space)
Bicycle (Res. + Com.)	1/10 units + 1/200m <sup>2</sup> = 5 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 2 spaces (Min.)
Carwash Bay	1 space (shared with visitors space)

## Notes:

- All visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.
- Any stacked parking spaces must only be allocated to a single residential unit.
- The number of accessible parking spaces must comply with the relevant standards, with a minimum of two (2) spaces provided for the adaptable units and a minimum of one (1) visitors space provided.
- The car-wash bay must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.
- This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

## 15. The design and construction of the off-street parking facilities shall:

(i) Comply with Australian Standards, as follows:

- AS/NZS 2890.1:2004
- AS2890.2:2002
- AS2890.3:1993
- AS/NZS2890.6:2009

- (ii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
16. Storage  
Prior to issue of the Occupation Certificate:
- (a) Accessible storage shall be provided for all apartments.
- (b) The minimum storage area to be provided for each dwelling shall be in accordance with the requirements in the Apartment Design Guide (ADG), as follows:
- Studio / 1 bed unit = 6m<sup>3</sup>
  - 2 bed unit = 8m<sup>3</sup>
  - 3 bed unit = 10m<sup>3</sup>
- (c) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.
- (d) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and be provided with lock and key prior to issue of the Occupation Certificate.
17. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
18. Loading & Unloading:  
Loading and unloading for the commercial premises shall be undertaken from the dedicated courier / van loading bay located at Upper Basement Level in the approved plans (which has a width of 5.0m and variable length of 5.4m & 4.808m) or from a dedicated on-street loading bay as follows:
- (a) Loading and unloading within the site shall be restricted to a Van as detailed in Part 4.3 of Rockdale Council's Traffic, Parking and Access Technical Specifications. Commercial vehicles greater in size and mass than a Van are not permitted to enter the site.
- (b) All loading, unloading and transfer of goods to and from the loading bay and premises, including removalist vans, shall take place wholly within the property.
- (c) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- (i) permit stormwater to be detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;

- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.
- The Registered Proprietor will:
- (i) permit stormwater to be temporarily detained and pumped by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
23. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
24. Noise from mechanical ventilation & Air Conditioning
- (a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
  - (b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  - (c) Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the

Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

25. Temporary dewatering of the site to construct the subsurface structure is not permitted without development consent.
26. 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.
27. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.  
  
For parking with people with disabilities any vehicular path of travel to have clearance of 2.3m minimum and clearance above the parking shall be 2.5m minimum.
28. 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.
29. Hot and cold water hose cocks shall be installed to the garbage room.
29. Receptacles are to be provided in commercial development for the disposal of cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.
30. This consent does not provide approval for footpath dining. Footpath dining is regulated through a licensing agreement with Council. In this regard, you are advised to contact Council's Customer Service Centre to obtain a copy of a licensing agreement entitled *Outdoor Dining Licensing Agreement*.
30. Safer by Design  
To maximise security in and around the development the following shall be incorporated into the development, with details to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate:
  - (a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), undercroft areas, main entry areas to the development and garbage/storage areas.
  - (b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - (c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
  - (d) Graffiti resistant materials shall be used to ground level external surfaces.
  - (e) Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
31. Noise Attenuation between Units

(a) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:

3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.

4 Star for timber flooring in any area.

5 Star for carpet in any area.

(b) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

(c) A report shall be submitted to the Principal Certifying authority for approval prior to the issue of the relevant Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report.

(d) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the report required by (c) above satisfies the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

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

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

32. Any proposed signs must comply with the requirements of Exempt or Complying Development. Any proposed signs must not have / use:
- flashing lights.
  - electronically changeable messages.
  - animated display, moving parts or simulated movement.
  - a method and level of illumination that distracts or dazzles.

32. Bicycle Parking

The proposal shall include bicycle parking facilities located at ground floor or basement parking levels which shall be capable of accommodating at least ten (10) bicycles. The facility shall:

- be designed in accordance with AS2890.3:1993.
- be in the form of individual bicycle lockers or within a caged or gated secure area in accordance with RDCP 2011 - i.e. fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles.

Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.

33. Ceiling heights shall be provided as follows: (as measured vertically from finished floor level to the underside of the ceiling)
- Habitable areas shall be a minimum of 2.7 metres
  - Non-habitable areas shall be a minimum of 2.4 metres



Details showing compliance with this requirement and the acoustic requirements of this consent shall be shown to the satisfaction of the PCA prior to the issue of the Construction Certificate.

33. The use of the Retail Premises to comply with the following:
  - The front window shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
  - Materials, goods or machinery associated with the retail / commercial tenancy shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment.
  - Signs or goods associated with the retail / commercial tenancy shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
34. No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Bayside Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

The implementation of this Consent generates a need for works to be completed in a public place owned by Council.

#### **A. Design**

The scope of works is to be identified by Bayside Council. For identified works the preparation of the design and specification shall be undertaken in accordance with the design brief issued by Bayside Council, and the *Engineering Drawing Guide: For Works In Association With Developments And Subdivisions* and *Engineering Specification Guide: For Works In Association With Developments And Subdivisions*, or approved replacement documents. For identified works the preparation of the design and specification shall be undertaken by a professional engineer, or other professional person, meeting the requirements of the design brief issued by Bayside Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed *Application for Activities on Council Sites* Form must be submitted together with the required fee, under the Roads Act 1993 and/or the Local Government Act 1993 for the scope of works to be determined and alignment levels issued.

Note: The works required will be determined using the following criteria:

- i) To ensure that infrastructure construction and reconstruction required to facilitate both pedestrian and vehicular access into and around the site is provided.
- ii) To ensure that there is adequate construction and reconstruction of stormwater infrastructure to facilitate drainage of the site and minimise impacts to the site and adjoining properties as a result of the development.
- iii) To ensure that infrastructure relevant to the proposed development meets current standards and specifications.
- iv) To mitigate any impacts the development may have on traffic and pedestrian

safety.

v) To satisfy the requirements of any Development Control Plan, Public Domain Plan, Streetscape Manual or any other relevant Council Plan, including the Section 94 Contributions Plan.

vi) To ensure there are adequate transitions between newly constructed infrastructure and existing infrastructure.

#### **B. Before Construction**

A detailed design and specification for works to be carried out on public land (including a road or footpath) shall be completed and approved by Bayside Council pursuant to the Roads Act and/or Local Government Act prior to construction. All fees for inspection by Bayside Council shall be paid and the works approval for works in a public place activated.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

#### **C. Before Occupation**

All works required in the public place as detailed by the approved design and specification must be completed before occupation of the development. All works-as-executed records for works establishing infrastructure assets to be handed over to Council for ongoing maintenance shall be provided to Council, and a handover certificate issued by Council.

35. The implementation of this Consent generates a need for works on the development site and in a public place to be appropriately managed to ensure the protection of the environment and safety of the other public place users.

#### **A. Before Commencement of Works including Demolition**

A Site Management Plan must accompany the completed *Application for Activities on Council Sites* Form. If any demolition of infrastructure in a public place is to commence prior to the issue of a works approval for works in a public place the applicant must submit to Bayside Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Rockdale Development Control Plan 2011 relating to site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways
- vi) erosion and sediment control measures

#### **B. During Works**

The site management plan measures must remain in place and be maintained throughout the period of works and until the site has been stabilised and/or restored in accordance with the works approval for works in a public place.

The implementation of this Consent generates a need for the adequate regulation of the works and activities in a public place.

A. Before Works

A Pre-commencement Inspection/meeting is to be convened by the holder of the Consent for the works approval for works in a public place. The meeting shall be held on-site a minimum 5 days prior to any demolition and/or construction activity and be held between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of the Principal Certifying Authority, the builder/site manager of the building/civil construction company and supervising engineer, in addition to a representative of Bayside Council. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Bayside Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the consents, approved design plans and approved specifications are retained on site.

Note: The consent for the works approval for works in a public place must be activated and all inspection fees must be paid to Bayside Council prior to the meeting. Please refer to Bayside Council's Adopted Schedule of Fees and Charges. The consent for the works approval for works in a public place must be activated and all inspection fees must be paid to Bayside Council prior to the meeting. Please refer to Bayside Council's Adopted Schedule of Fees and Charges.

36. The implementation of this Consent generates a need for the adequate supervision of the works and activities in a public place.

A. Before Construction

The consent holder must engage an appropriately qualified supervising engineer to supervise construction of any works approved to be carried out in a public place approved by Bayside Council under the Roads Act and/or Local Government Act. The supervising engineer must hold qualifications, licenses and insurance as determined by Council, and submit evidence of the qualifications, licenses and insurance prior to the commencement of construction.

B. During Construction

The supervising engineer must supervise the works as listed above to ensure compliance with:

- i) any consent issued by Bayside Council pursuant to the Roads Act and/or the Local Government Act, including conditions annexed to this consent.
- ii) the approved design and specification, including any approved amendments by Bayside Council to the design and specification
- iii) the consent issued by the consent authority under the Environmental Planning and Assessment Act
- iv) any related design and construction parameters specified by Council.

### C. Before Occupation

The engineer must certify the Works-as-Executed drawings or provide a separate certification that the requirements of the consent for the works approval for works in a public place have been met.

### Prior to issue of the construction certificate

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

37. 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 \$20,250.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
38. 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.
39. Amended Plans Required
  - (a) The **architectural plans** shall be amended prior to the release of the construction certificate to include the following:
    - The plans are to specify the sound attenuation measures contained within Appendix B of the Acoustic Report, prepared by Acoustic Logic and dated 20/11/2015.
    - Specification that the material provided to the eastern side of the balconies adjoining the eastern boundary is glass bricks of obscure nature.
    - Details on the location of TV antennas/air conditioning units are to be provided in accordance with the requirements of Part 4.7 of Rockdale DCP 2011.
    - The balustrade and the glass louvres to the eastern elevation breezeway and the glazing to the eastern side of the stairs is to be opaque glass.
    - Lift Size – All lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
    - Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system must be located away from the adjoining residential properties (i.e. No. 29 & 31 Campbell Street)

and may not be provided within the landscaped courtyards or communal open space areas.

- To address the landscape issues raised in (b) below.
- To address all other requirements of the conditions of consent (e.g. driveway width, Traffic Committee requirements, etc.).

(b) The **Landscape Plans** shall be amended and approved by Council's Landscape Architect (Fiona MacColl) prior to the release of the construction certificate to include the following:

- Additional street tree planting (2 per planting zone) between car parking space, with taller street trees (such as *Populus simmonii*) to be selected.
- Additional street tree pits to be provided along the Dillon Street frontage.
- Permeable pavers to be provided in the public car parking zone.
- Soil depth in accordance with the requirements of Table 5 of Part 4P of the Apartment Design Code.
- A minimum soil / planter box mix depth of 800mm is required for planted areas (other than turf) and planter boxes on podiums or roof-tops or any other concrete slab.
- Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
- A fully automated irrigation system, approved by Sydney Water, shall be installed and maintained to ensure adequate water is provided to the podium/roofing landscaping.
- All other requirements of the conditions of consent (e.g. driveway width, Traffic Committee requirements, etc.).

40. Awnings

(a) The consent does not grant approval for the proposed awning above the public car parking spaces. This awning must be amended in accordance with Item (b) below prior to issue of the Construction Certificate.

(b) Prior to issue of the Construction Certificate, the following awning details must be submitted to, and approved by, Council's Director of City Planning and Development:

(i) The awning located above the public car parking spaces must be amended such that the soffit of the awning is a minimum of 3.3 metres above the finished surface level of the public parking spaces, unless otherwise agreed by Council. This minimum height is required to minimise potential conflict with large vehicles / trucks which may use the spaces for loading / unloading and/or turning movements.

(ii) A continuous retail awning must be provided to both retail street frontages (Ramsgate Road and Dillon Street). The awnings must be designed in accordance with the requirements contained in Part 5.3 of Rockdale Development Control Plan 2011. The awnings must also contain cut-outs to accommodate existing and proposed street trees.

41. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance

with Council's adopted fees and charges.

42. The connection of stormwater drainage pipes to the existing kerb inlet pit in Ramsgate Road must be inspected by Council prior to backfilling. A payment of \$254.00 is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is unsatisfactory, each additional inspection will incur an extra charge .
43. A Section 94 contribution of \$399,892.80 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 construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$54,461.89
Community Services & Facilities	\$9,509.15
Town Centre & Streetscape Improvements	\$4,916.55
Pollution Control	\$14,102.03
Local Infrastructure and Facilities	\$316,701.42
Plan Administration & Management	\$201.76

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

44. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
45. 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.
46. Prior to issue of the Construction Certificate, the plans shall demonstrate compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of two (2) residential units, and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building.

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.

47. 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>

48. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

49. Driveway & Parking - Traffic Committee  
Prior to issue of the Construction Certificate, plans and documentation demonstrating compliance with the following requirements must be submitted to, and approved by, Bayside Council's Traffic Committee:

(a) Detailed plans of the proposed access driveway on Dillon Street and Clelland Lane associated with the subject development (on street parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.

(b) The driveway off Dillon Street shall be constructed with a 90 degree angle to the boundary line. (Note: Refer to Condition 58 for driveway width requirements).

(c) A street light / Street lighting is to be provided in Clelland Lane to meet the AusGrid standards.

(d) That the existing parking limit be retained.

(e) An easement for public access be provided over the footpath fronting Clelland Lane.

(f) Details of the public car parking spaces within proposed "Lot 1 in DP 960761 (amended)" as shown in the approved plans.

(g) The relocation of street signage in Dillon Street required by Condition 58.

50. Driveway Access - Dillon Street

The plans submitted with the Construction Certificate shall demonstrate compliance with the following:

(a) The width of the double driveway at the boundary shall be a maximum of 6 metres and minimum of 5.5m.

(b) The driveway off Dillon Street be constructed with a 90 degree angle to the boundary line.



(c) The no stopping sign (zone) shall be minimum of 6m from the Tangent Point (TP) at Northern intersection of Dillan Street and Cleland Lane to ensure that two (2) on-street parking spaces are provided between Dilon Street and the driveway access for the development.

51. As the basement floor is being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

(a) Implement all recommendations contained in the report prepared by AW Geotechnical Pty Ltd., Report Ref: AWG38954, Dated 23 July 2015.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm the proposed construction methodology.

A Construction Methodology report shall be prepared demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

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

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

52. The applicant shall confer with Energy Australia to determine the following are required:
- an electricity distribution substation,
  - installation of electricity conduits in the footway,
  - satisfactory clearances to any existing overhead High Voltage mains will be affected.
- Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
53. The relocation of the existing electricity supply pole in the road reserve at (specify location if required) to (specify location if required), is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.
54. Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and

requirements are to be submitted to Council prior to issuing a Construction Certificate.

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

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

56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.

57. Driveway & Parking - Traffic Committee

Prior to issue of the Construction Certificate, plans and documentation demonstrating compliance with the following requirements must be submitted to, and approved by, Bayside Council's Traffic Committee:

- (a) Detailed plans of the proposed access driveway on Dillon Street and Clelland Lane associated with the subject development (on street parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.
- (b) The driveway off Dillon Street shall be constructed with a 90 degree angle to the boundary line. (Note: Refer to Condition 58 for driveway width requirements).
- (c) A street light / Street lighting is to be provided in Clelland Lane to meet the AusGrid standards.
- (d) That the existing parking limit be retained.
- (e) An easement for public access be provided over the footpath fronting Clelland Lane.
- (f) Details of the public car parking spaces within proposed "Lot 1 in DP 960761 (amended)" as shown in the approved plans.
- (g) The relocation of street signage in Dillon Street required by Condition 58.

58. Driveway Access - Dillon Street

The plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- (a) The width of the double driveway at the boundary shall be a maximum of 6 metres and minimum of 5.5m.
- (b) The driveway off Dillon Street be constructed with a 90 degree angle to the boundary line.

(c) The no stopping sign (zone) shall be minimum of 6m from the Tangent Point (TP) at Northern intersection of Dillan Street and Cleland Lane to ensure that two (2) on-street parking spaces are provided between Dilon Street and the driveway access for the development.

59. As the basement floor is being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

(a) Implement all recommendations contained in the report prepared by AW Geotechnical Pty Ltd., Report Ref: AWG38954, Dated 23 July 2015.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm the proposed construction methodology.

A Construction Methodology report shall be prepared demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

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

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

60. Any sub-surface structure within the highest known groundwater table / rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate for the relevant stage of works.

61. Construction Management Plan

(a) 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 CMP shall be submitted to, and approved by, the Director of City Planning and Development, Rockdale City Council. The CMP shall demonstrate that:

(i) all relevant regulatory approvals have been obtained.

(ii) all hoarding, anchoring and shoring, and other relevant works, will not prevent the temporary public parking in Clelland Lane required by Condition 13 from being maintained throughout all excavation and construction works.

(iii) adequate public liability insurance has been obtained for the adjoining temporary public parking spaces (see Condition 13).

(b) The Construction Management Plan shall be implemented at all during demolition, excavation and construction.

62. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
63. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
64. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater for the mixed use development and the public car parking area must be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Note: The detailed plans are required to incorporate an oil interceptor for the driveway and basement carpark surface run-off in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.

To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls.

### **Prior to commencement of works**

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

65. 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.
66. 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.

67. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.  
Any such sign is to be removed when the work has been completed.  
This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
68. 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.
70. 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.

71. 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.
72. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
73. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
74. 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 the existing Callistemon street 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.

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.

74. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8m high erected outside the drip lines where possible around the existing Callistemon street 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.

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.

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

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

69. 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.
75. 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.
76. 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.
77. 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.
78. 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.
79. 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.

80. 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.

81. 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.
82. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any



activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.

- A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
82. 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.
  83. 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.
  84. 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.
- 86. The existing Callistemon street trees located on the nature strip at the front of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. All other existing site trees may be removed.
- 87. 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.
- 88. 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.
- 89. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- 90. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
- 91. Deleted. (Repeat condition).

*[Amendment B - S96(1A) deleted on 26/02/19]*

### **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.

- 85. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".

92. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
93. 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.
94. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
95. A by-law shall be registered and maintained for the life of the development, which requires that :
- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
- Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
96. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
97. Landscaping
- (a) All landscape works are to be carried out in accordance with the approved landscape plans prior to issue of the Occupation Certificate.
  - (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.
  - (c) The landscaping is to be maintained to the approved standard at all times.
98. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council prior to issue of the Occupation Certificate.
99. The underground placement of all low voltage street mains in that section of the

street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.

100. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located in accordance with the approved position pursuant to Condition 12 of this consent. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
101. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
102. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
103. Convex mirrors are to be installed at single lane ramps to provide increased sight distance for vehicles.

In relation to safe egress, a warning system and speed humps will be provided proposed to ensure pedestrian safety in lieu of splayed walls.

"Giveaway to Pedestrians" at both driveway locations upon exit and a speed hump within the exit lane for the northern access point.

OR

The eastern (exit) side of the driveway shall be replaced by a see through screen (mesh or similar material) for a distance of 3.5 metres from the property boundary. The driveway is set back 2.0 metres from the eastern boundary with a landscape zone between the driveway and boundary. Low level landscaping shall be provided in this zone (less than 1.0 metres high). Thus a 3.5 x 2.0 metre sight line splay will be provided for vehicles exiting the site.

103. Prior to issue of any Occupation Certificate, a right of footway easement for public access shall be provided over the pedestrian footpath located at ground level (between the proposed commercial tenancies and the proposed public car park to Clelland lane) on the proposed lot identified as "*Lot 8 in DP077999 (amended)*" in Drawing titled "Proposed Subdivision Plan", DA 3.00, prepared by CMT Architects. The right of footway easement shall be in favour of Bayside Council, and is to be covered by a Section 88B or 88E Instrument which may only be varied or extinguished with the consent of Bayside Council.

Council requires proof of registration of the easement with the Land Titles Office prior to the issue of any Occupation Certificate.

104. The gate for the basement shall be located in order to permit the queuing of one (1) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered

proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.

104. Prior to the issue of any Occupation Certificate, details of a covenant to be placed on the entire property identified as "Lot 1 DP 960761 (amended)" in Drawing titled "Proposed Subdivision Plan", DA 3.00, prepared by CMT Architects shall be provided to Council. The covenant shall have the effect of identifying that the site is fully developed in conjunction with the lot identified as "Lot 8 DP 077999 (amended)" in the same plan to the maximum FSR.

The covenant shall have the effect of preventing "double dipping" (ref: Clause 4.5(9) Rockdale LEP 2011) and shall state that "Lot 1 DP 960761 (amended)" is a "restricted lot" by identifying that no further floor space is able to be placed on the lot. Council shall be a signatory to the covenant.

Evidence of the creation and registration of the covenant with LPI shall be provided to Council and the Principal Certifying Authority.

105. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.

Shared areas of adaptable parking spaces to have suitable vehicular bollards.

106. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

107. 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.
108. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
109. Acoustic Report - Compliance  
An appropriately qualified Noise Consultant is to certify that the development incorporates the sound attenuation measures contained within Appendix B of the Acoustic Report, prepared by Acoustic Logic and dated 20/11/2015, and meets the required internal noise requirements.
110. Testing and evaluation of the wall and floor insulation system must to be carried out at post construction stage by a suitably qualified acoustical engineer to show that the

relevant Acoustical Star Ratings prescribed by the Association of Australian Acoustical Consultants (AAAC) have been achieved in accordance with Condition No. 31 of this consent. A report is to be submitted to the Principal Certifying authority prior to the issue of the Occupation Certificate.

111. 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.
112. 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.
113. The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability Gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
114. Prior to the issue of any Occupation Certificate, a positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the following:
  - (a) the stormwater detention facility to provide for the maintenance of the facility; and
  - (b) the building elements, such as the ground level awning and awnings to bedrooms, which overhang proposed Lot 1 (i.e. the Council owned land).

[Amendment A - S4.55(1A) amended on 12 June 2018]

115. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
116. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

117. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
118. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.

- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
119. Prior to issue of the Occupation Certificate, construction of the twelve (12) public car parking spaces on proposed Lot 1 DP 960761 as shown in the "Proposed Subdivision Plan" listed in Condition 2, including all associated landscaping and drainage works, must be constructed in accordance with approved plans and specifications.  
Note: Parking Space No. 01 shall be a regular car parking space, not an accessible parking space.

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

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

105. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
106. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
107. Prior to issue of any Subdivision Certificate, all existing and proposed services on the property shall be shown on a plan and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. The plan must clearly show that all services that the new development rely upon do not pass through the lot that is to be dedicated to Council.

### **Roads Act**

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

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

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

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

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

- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
110. (a) In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage will be required to be undertaken at the applicant's expense:
- 1. That a street light scheme be provided in Cleland Lane to meet the AusGrid standards
  - 2. That the existing parking limit be retained.
  - 3. On street car parking spaces shall be sealed and lined marked.
  - 4. Road and Parking signs shall be installed.
  - 5. Drainage system for the public car parking area.
  - 6. Landscape works within the public car parking area.
- (b) Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.
111. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
112. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
113. 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.
114. Awning Construction
- (a) The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Dillon Street, Ramsgate Road and the proposed public car parking spaces off Clelland Lane:
- i) Detailed design plans and specifications, including structural details; and
  - ii) Design certificate.



The awnings shall be designed by a Chartered Professional Engineer (Structural).  
Note: Awnings to Ramsgate Road and Dillon Street are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level, while the awning above the public car parking spaces must have a minimum height of 3.3m above the car parking spaces. Drainage from the awning shall be connected to the stormwater system for the development.

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

115. 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.
116. 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).
117. Council requires a bond to be paid to cover the partial cost of the works relating to the road centre medium, where the works are undertaken by a Private Licensed Contractor. A bond equal to 20% of the full construction cost shall be provided to Council prior to the completion of the works. The bond may be provided as a monetary payment or as a bank guarantee.

The operation of the bond commences on the date of completion of the works, being the date of instruction by Council that works have been completed in accordance with any consent provided by Council pursuant to the Roads Act 1993. The bond is obtained to enable Council to retain and expend money to make good incorrectly or inadequately constructed works or to construct incomplete non-constructed works or parts of them associated with the road medium and footpath and pavement restorations as determined by Council.

The bond shall remain in force for not less than six (6) months from the date of completion of the works. Council is not obliged to release the bond or any part of it whilst the bond is in force as described above.

### **Development consent advice**

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

- e. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

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

- f. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all road works/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.

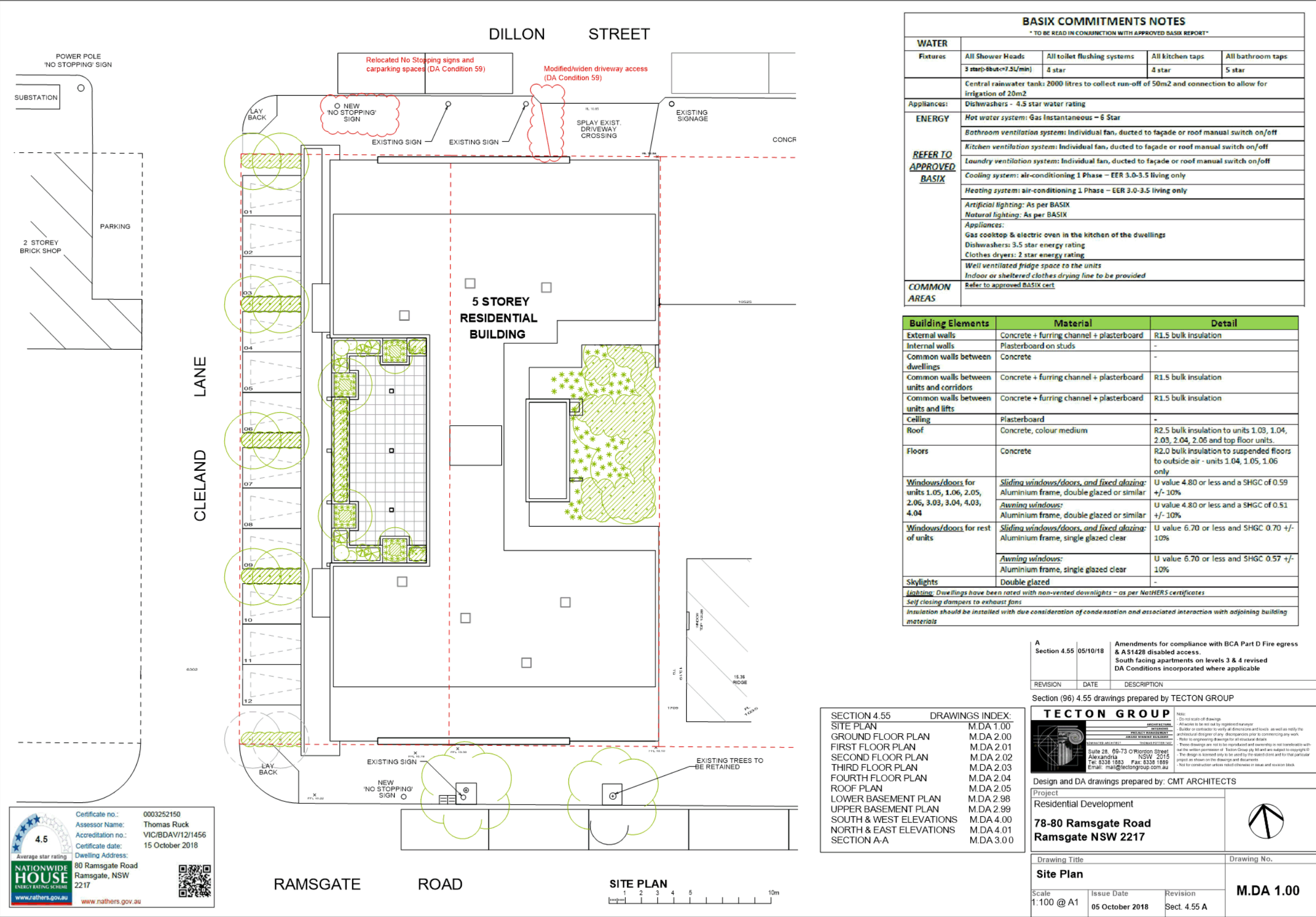
In this regard, the applicant must consult with all utility providers prior to commencement of works.

#### **Additional Information**

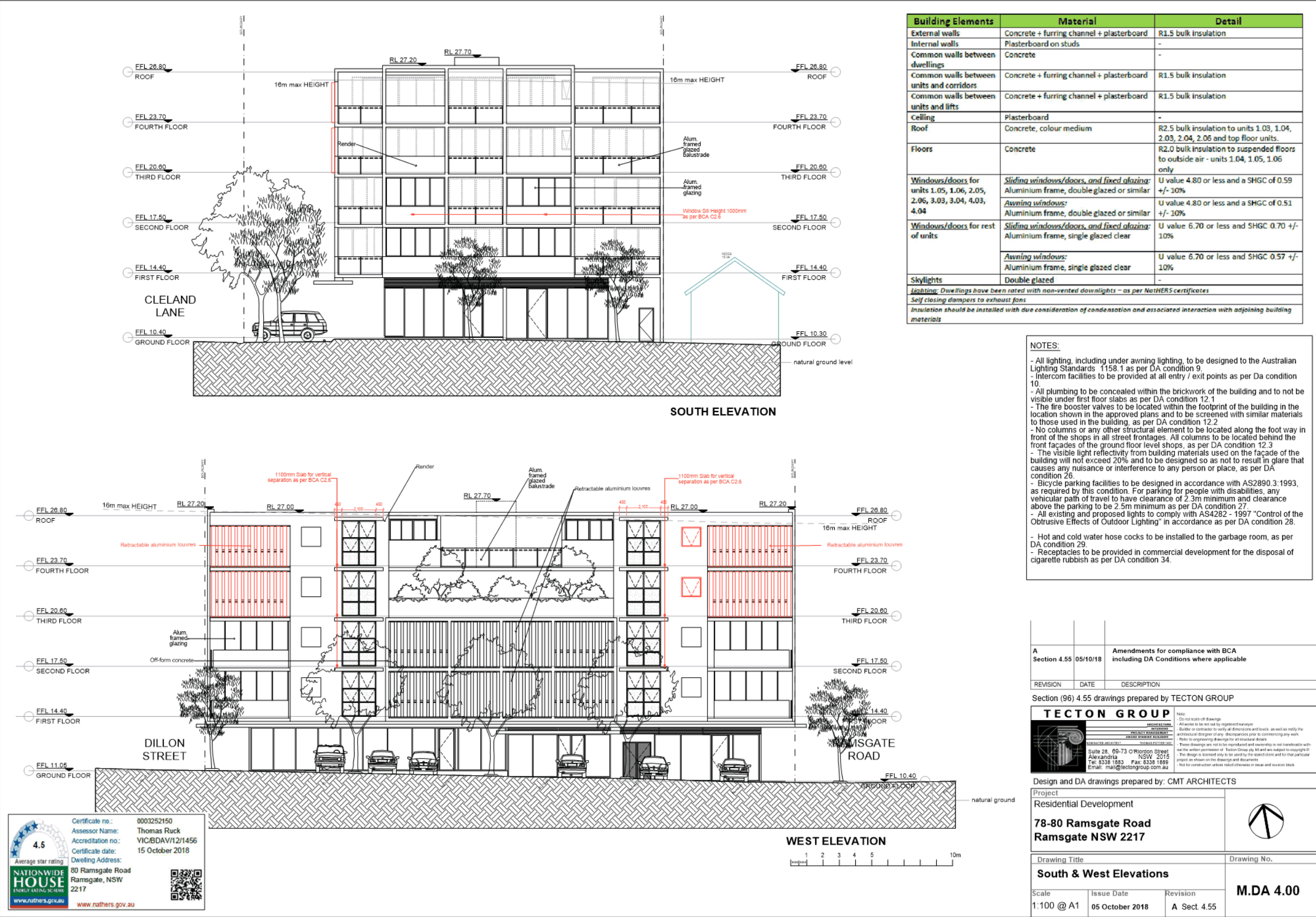
- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- 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 Michael Maloof on 9562 1666

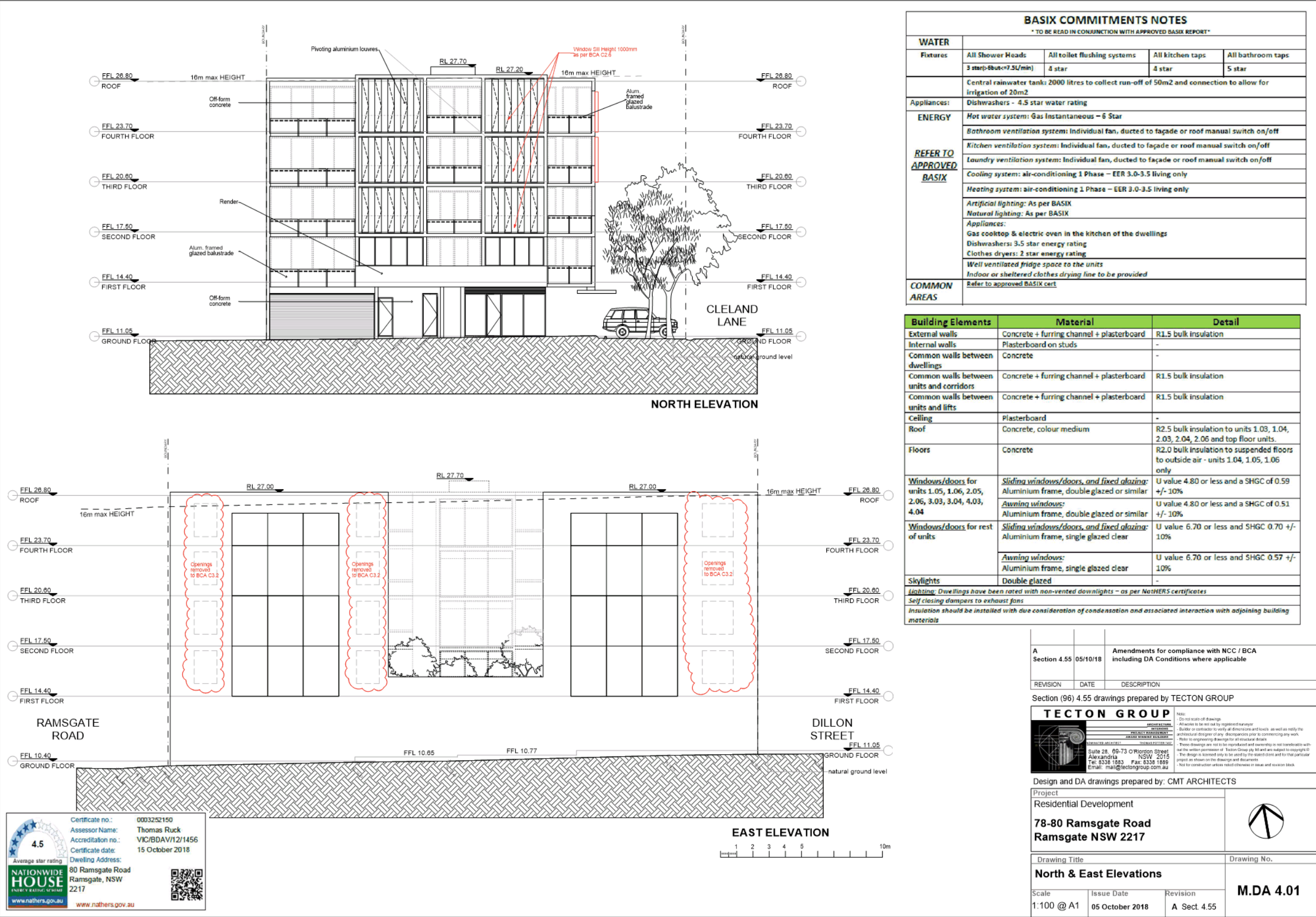
**Luis Melim**  
**Manager - Development Services**











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**Bayside Local Planning Panel**

**5/03/2019**

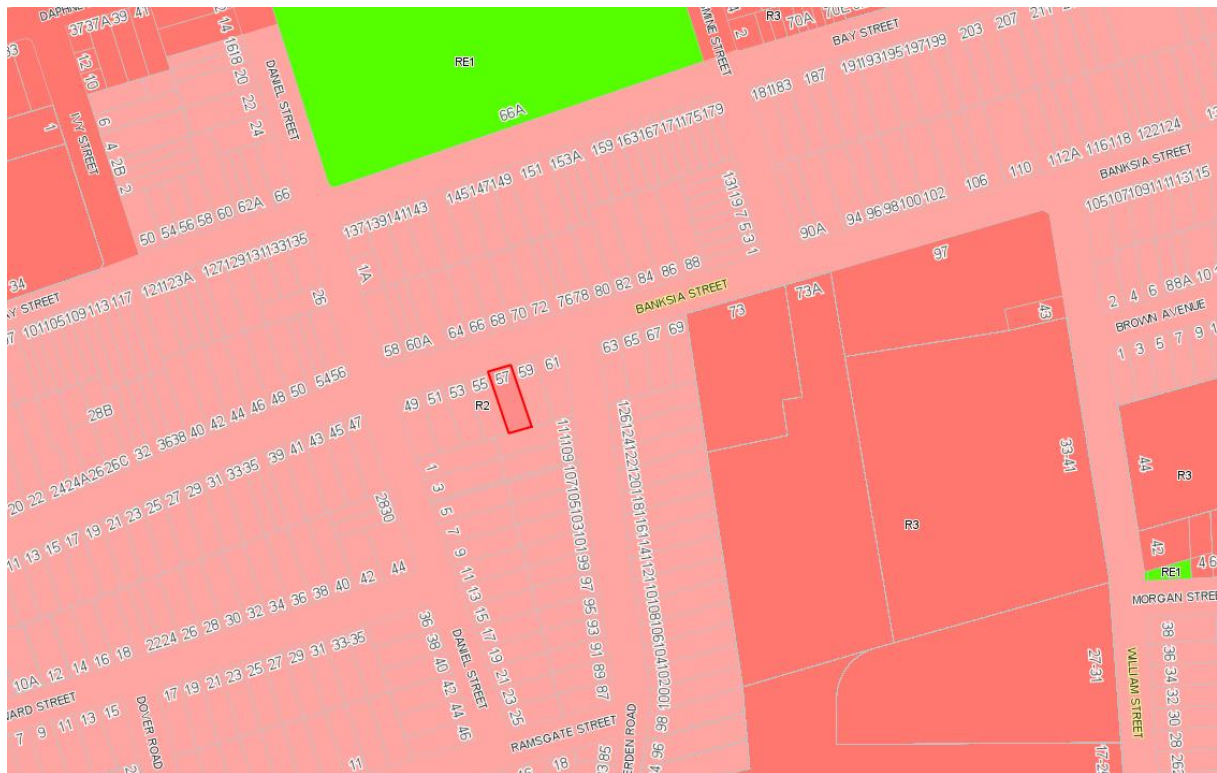
Item No	6.3
Application Type	Development Application
Application No	DA-18/1098
Lodgement Date	08/06/2018
Property	<b>57 Banksia Street, Botany</b>
Ward	Port Botany
Owner	Mr R E A Whitefield
Applicant	Architecture Becka and Associates
Proposal	Demolish existing structures, construct a semi-detached dwelling and Torrens Title Subdivision
No. of Submissions	One (1)
Cost of Development	\$644,968.56
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

- 1 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, approves a variation to the floor space ratio prescribed by clause 4.4 of the Rockdale Local Environmental Plan 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
  - 2 That Development Application DA-2018/1098 for demolition of existing structures, construction of a semi-detached dwelling and Torrens Title Subdivision at 57 Banksia Street, Botany be APROVED 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.
  - 3 That the objector be advised of the Bayside Local Planning Panel's determination.
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## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Elevation Plan [↓](#)
- 4 Site - Roof Plan [↓](#)
- 5 Site Analysis Plan [↓](#)
- 6 Landscape Plan [↓](#)
- 7 Subdivision Plan [↓](#)
- 8 Survey Plan [↓](#)
- 9 Shadow Diagram Elevations [↓](#)
- 10 Shadow Diagram Spring Equinox [↓](#)
- 11 Shadow Diagram Winter Solstice [↓](#)
- 12 Clause 4.6 Request for Variation [↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Application Number:	DA-2018/1098
Date of Receipt:	16.06.2018
Property:	57 Banksia Street Botany
Lot & DP/SP No:	Lot 52 in DP 1589
Owner:	
Applicant:	Architecture Becka and Associates
Proposal:	Demolish existing structures and construction of a semi-detached dwelling and Torrens title subdivision
Property Location:	57 Banksia Street, Botany
Value:	\$644,968.56
Zoning:	R2 – Low Density Residential Botany Bay Local Environmental Plan 2013
Author:	Eric Alessi – Development Assessment Planner
Date of Report:	1 February 2019
Classification of Building:	1a
Present Use:	Dwelling House
No. of submissions:	One (1)

### Key Issues

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The key issues with this application are as follows:

- The proposal exceeds the maximum floor space ratio for the site.

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

### Recommendation

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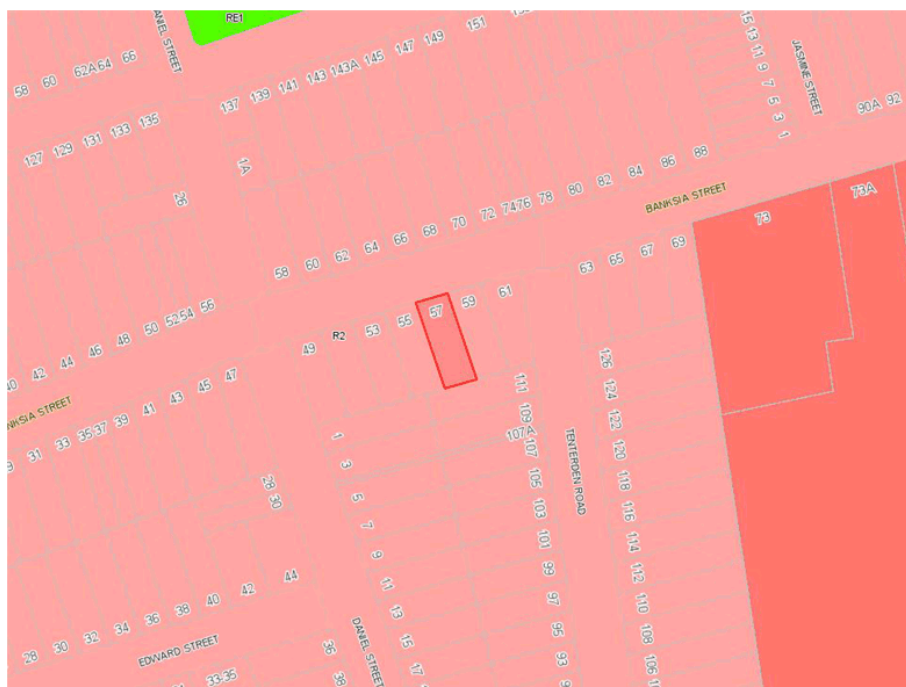
1. That the Bayside Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the floor space ratio prescribed by cl4.4 of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.

2. That Development Application DA-2018/1098 to demolish existing structures and construction of a semi-detached dwelling and Torrens title subdivision at 57 Banksia Street, Botany 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.

### Site Description

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The subject site is located on the south side of Banksia Street between Daniel Street to the west and William Street to the east. The subject site is rectangular in shape with an area of 487.6m<sup>2</sup> and 13.41 metre frontage to Banksia Street. The site is relatively flat and is located within the R2 – Low Density Residential zone. A single storey dwelling and garage is currently located on site.



Development surrounding the site consists of a mix of single storey and two storey detached dwellings. The area is characterised by low density residential development with detached housing predominating.

### Site History

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There are no historic applications relating to the subject site. The site has an extended history of residential use.

## Description of Development

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The development application seeks consent to demolish of existing structures and construct a semi-detached dwelling and Torrens title subdivision. The particulars are as follows:

Demolition and site clearing including removal of trees.

Two Torrens title allotments each 244.91 square metres in area

Two semi-detached dwellings two storeys in height containing the following:

- Single Car garage and hardstand to accommodate a vehicle.
- Laundry.
- Combined kitchen and living area.
- Three (3) Bathrooms.
- Four (4) bedrooms.
- Front balcony.

## Statutory Considerations

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### ***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.79C(1) - Matters for Consideration – General**

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

The following Environmental Planning Instruments are relevant to this application:

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 917652M\_02 dated 09 April, 2018 committing to environmental sustainable measures.

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

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 Part 3L of the Botany Bay Development Control Plan 2013. An arborist report prepared by Treecas titled '*Arboricultural Impact Report – 57 Banksia Street, Botany*' dated 26.05.2018

has been accompanied with the application which recommends the retention of some trees and the removal of some trees.

Council's tree management officer has assessed the proposal and has provided subject to condition of consent in relation to the protection of existing trees. The recommended conditions have been incorporated into the conditions of consent.

### **State Environmental Planning Policy No. 55 – Remediation of Land**

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

- 1 The site appears to have been continuously used for residential purposes.
- 2 The adjoining and adjacent properties are currently used for residential purposes.
- 3 The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in 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.

### **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:

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Landuse Zone	N/A	The site is R2 – Low Density Residential Zone under the BBLEP 2013. The proposal is for a semi-detached dwelling which is permissible with consent in the zone.
Is the proposed use/works permitted with development consent?	Y	The proposed use is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zones?	Y	The proposed development is consistent with the following objectives in the BBLEP 2013: <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> <li>To encourage development that promotes walking and cycling.</li> </ul>
<p>What is the height of the building?</p> <p>Does the height of the building exceed the maximum building height?</p>	Y	<p>Proposed Height: 7.2 metres</p> <p>The maximum permissible building height is 8.5 metres.</p>
<p>What is the proposed FSR?</p> <p>Does the FSR of the building exceed the maximum FSR?</p>	N (Clause 4.6 submitted)	<p>Proposed FSR:</p> <p>Proposed Dwelling 57 = 0.56 (Gross floor area calculated to be 136.3 square metres)</p> <p>Proposed Dwelling 57A = 0.56 (Gross floor area calculated to be 137.9 square metres)</p>
<p>Is the site within land marked "Area 3" on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p>	Y	The maximum floor space ratio for this type of development is 0.5:1.
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	N	The land is not affected.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N	No heritage item is located on the site.
<p>The following provisions in Part 6 of the LEP apply to the development–</p> <p>6.1 – Acid sulfate soils</p> <p>6.3 – stormwater management</p> <p>6.9 – Development in areas subject to aircraft noise</p>	Y	<p>6.1 - The site is within land classified as Acid Sulfate Soil class 4. None of the works are 2 metres below the natural ground surface or are to lower the watertable more than 2 metres below the natural ground surface.</p> <p>6.3 – Council's Development Engineers has reviewed the proposed stormwater measures and have provided support.</p> <p>6.9 - The land is within the ANEF 20-25 contour. The application has been accompanied by an acoustic report prepared by Koikas Acoustics titled 'Acoustic Assessment Aircraft noise intrusion – Dual occupancy development at no. 57 Banksia Street, Botany' dated</p>

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		11 <sup>th</sup> May 2018. A condition will require the dwelling to be constructed in accordance with the recommendations contained within the report.

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the BBLEP 2013.

#### Variation to the Floor Space Ratio Standard

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

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

Pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or 'multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. Therefore the maximum permitted FSR is 0.5:1. The FSR for a dwelling house is 0.55:1.

The proposal is to demolish existing structures, construct a semi-detached dwelling and Torrens Title Subdivision. The following table demonstrates the relevant lot sizes, the proposed gross floor area and floor space ratio of the two allotments:

Proposed	Lot 1 (57 Banksia Street)	Lot 2 (57A Banksia Street)
Site Area	244.91sqm	244.91sqm
GFA	136.3sqm	137.9sqm
FSR	0.56:1	0.56:1
Variation to Standard	13.8sqm (11%)	15.4sqm (12.5%)

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] NSWLEX 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 required 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: CL.4.6(3)(a): Is the development standard unreasonable or unnecessary in the circumstances of the case?

As required by clause 4.6 (3) of the Botany Bay Local Environmental Plan 2013, the applicant has provided a written justification for the variation to the floor space ratio development standard. The justification is summarised as follows:

- The proposed FSR variation for each semi-detached dwelling represents a minor variation to the maximum permissible FSR to the site and is less than what would be permissible for an individual dwelling.
- The proposed development is not contradictory with the objectives of clause 4.4A Floor Space Ratio or the objectives of the R2 – Low Density Residential Zone. The proposed semi-detached dwellings are generally compliant with all the controls contained within the Botany Bay Development Control Plan 2013 and BBLEP. The proposed building will not result in any adverse impacts on surrounding dwellings by means of undue overshadowing.
- The Statement of Environmental Effects (SEE) demonstrates the dwelling provides good amenity to both future and surrounding residents.
- There is no material difference between the proposed development complying with the numerical requirements of the FSR and the proposed development.

The development standard would be unreasonable in this instance in order to accommodate semi-detached dwelling houses within the Special H1 Area.

CL. 4.6(3)(b): Are there sufficient environmental planning grounds to justify contravening the development standard:

Officer's Comment:

- The non-compliance floor space does not contribute to the semi-detached dwellings being of unreasonable bulk and scale, particularly as it does not exceed the maximum floor space for a dwelling house;
- The proposal will create an appropriate built form which is consistent with the surrounding low density residential development. The height of the development is compliant with Council's height requirement;

- The dwellings are articulated from the front, side and rear elevations, thereby minimising visible bulk and maintaining an appropriate visual relationship along the streetscape and the surrounding properties;

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

*The following matter pursuant to Clause 4.6 also considered:*

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

#### Objectives of Clause 4.6

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

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

#### Officer's Comments:

Council recognises that the proposal meets the objectives of Clause 4.6 and those of the floor space ratio standard notwithstanding the proposed noncompliance. The proposal will facilitate two semi-detached dwelling houses both two storeys in height within the R2 – Low Density Residential Zone, which generally meets the required desired future character of the Botany character precinct. The reasons outlined in the applicants Clause 4.6 variation are well founded and flexibility can be applied for as it achieves a better outcome for the site and surrounding development.

#### Objectives of the Floor Space Ratio standard

The objectives of the development standard are expressly stated in Clause 4.4(1) of the BBLEP 2013. An assessment against the objectives of the clause is discussed below:

- 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 applicant's justification to the Floor Space Ratio is generally supported. The proposed FSR is similar to approved development within the area, and is lower than would be permitted for a dwelling house on the site.

- to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*

The applicant's justification is generally supported. The proposed building form will have minimal adverse impact beyond a compliant scheme in terms of overshadowing or visual impact and is compliant with the controls contained within the Botany Bay Development Control Plan 2013.



*(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 proposal will result in a bulk and scale which is similar to that of approved residential development within the locality.

*(d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*

The proposal will have no additional impact on the streetscape as a compliant scheme as the proposal incorporates compliant setbacks and building heights.

*(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

The variation to the maximum permissible floor space ratio will not result in any reduced amenity to adjoining dwellings or the public domain.

*(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

The proposed size of the dwellings is appropriate given the allotment size and is consistent with the scale of nearby residential development.

*(g) to facilitate development that contributes to the economic growth of Botany Bay.*

The development is not contrary to the economic growth of the Botany Bay area.

#### Objectives of the zone

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

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

#### Officer's Comments:

The proposed semi-detached dwelling houses are a permissible use within the R2 Low Density Residential zone and is in keeping and is consistent with the zone objectives.

#### Public interest and Public Benefit

The proposed variation to the floor space ratio standard will be in the public interest as it will provide two new semi-detached dwellings on the subject site without adverse impact on neighbouring dwelling.

#### Summary

The Clause 4.6 exception to the floor space ratio 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] NSWLEC 1009 & NSW LEC 90 (Four2Five). The proposal is consistent 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 are compliant with the majority.

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard in this case is viewed as unreasonable.

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

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

There are no current Draft EPIs applicable to this development

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application;

#### **Botany Bay Development Control Plan 2013**

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

#### **Part 3A – Car Parking and Access**

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that semi-detached dwelling houses are to provide one (1) car parking space per dwelling.

The development proposes to provide two (2) car parking spaces per dwelling on site, which is compliant with the controls.

#### **Part 3E – Subdivision and Amalgamation- 3E.2.2. Residential Torrens Title**

An assessment of the proposed subdivision is provided below:

<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>C1</b> Development applications shall demonstrate that the proposed subdivision is consistent with the Desired Future Character of the area.	Two allotments are proposed which are both rectangular in pattern and will maintain the rectilinear grid pattern within the precinct.	Yes
Desired Future Character – Subdivision Retain and preserve the rectilinear grid pattern within the Precinct		

Control	Proposed	Complies
<b>C2</b> – Proposed Subdivision must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation	The proposed lots will have a site area of 244.91 square metres for both proposed allotments 1 and 2, and to have a north-south orientation, rectilinear shape and frontage to Banksia Street.	Yes- see discussion
<b>C3</b> – Development application which proposes the creation of new allotments must be accompanied by a conceptual building plan that demonstrates compliance with relevant building controls.	Building Plans for the development have been provided	Yes
<b>C5</b> –Proposed lots must be of a size and have dimensions to enable the siting and construction of a dwelling and ancillary structures that: i) Acknowledge site constraints ii) Address the street iii) Minimize impacts on adjoining properties including access to sunlight, daylight, privacy and views iv) Provide usable private open space v) Protect existing vegetation vi) Mitigate potential flood affectation and stormwater management requirements vii) Acknowledge contamination of the land viii) Protect heritage items	The proposed allotments can accommodate dwelling houses that acknowledge site constraints, street frontage, solar access, private open space, vegetation, flood affectation and contamination	Yes
<b>C7</b> All lots created shall have at least one (1) frontage to the street.	Both lots have a frontage to the street.	Yes

### **Part 3L- Landscaping and Tree Management**

An assessment of the proposed landscaped area and tree management is provided below:

Control	Proposed	Complies
<b>3L.1.1 Tree Preservation Bonds</b>		
Tree Preservation Bonds required for significant or heritage trees, or trees with a high potential to be impacted during construction.	Councils Tree Management Officer has recommended a Tree Preservation Bond of \$6,000.00 be paid to ensure the protection of the four trees as noted in the arborist report. A	Yes

Control	Proposed	Complies
	condition will be placed on the consent requiring the payment of the bond prior to the issue of the occupation certificate.	
<b>3L.1.2 Submission Requirements</b>		
<b>C1</b> Landscape Plan required	A landscape plan has been accompanied with the application.	Yes
<b>3L.2 General Requirements</b>		
<b>C1</b> Existing trees including street trees must be preserved	No Street trees affected by the proposal.	Yes
<b>3L.3 Planting Design and Species</b>		
<b>C7</b> Canopy trees are to be planted in setbacks, particularly the front and rear setbacks of a property, to ameliorate built elements, subduing their appearance in the landscape and to encourage the continuity of landscape patterns.	A condition is recommended requiring a tree within the front setback.	Yes
<b>3L.5 Stormwater</b>		
<b>C1</b> Impervious surfacing is to be minimised. Permeable pavements are to be used where possible eg. Decks, pebbles, spaced pavers, specialised permeable pavers. Note: Run-off from paved areas can be minimised by directing runoff to garden beds. <b>C2</b> Underground on-site stormwater detention (OSD) tanks and infiltration trenches are not to be located within soft landscaped areas.	Accounting for the OSD system, the proposal is compliant with landscaping requirements outlined within Part 4A and therefore no changes to the proposed stormwater design are required.	Yes

#### **Part 3N- Waste Minimisation and Management**

A waste management plan prepared by Architecture Becka & Associates has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

#### **Part 4A- Dwelling Houses**

Control	Proposed	Complies
<b>4A.2.4 Streetscape Presentation</b>		
<b>C1</b> New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address	The proposal is in keeping with the desired future character of the area, and is compatible with the existing character of the streetscape, with respect to building siting and location, height, roof form, materials, design	Yes

the design principles outlined in the statement.	features, and streetscape presentation.	
<b>C2</b> Development must be designed to reinforce and maintain the existing character of the streetscape.		
<b>C3</b> Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).		
<b>C5</b> Developments on sites with two or more frontages should address both frontages.	Both dwellings entry and habitable room windows are readily apparent from the street.	Yes
<b>C6</b> The entrance to a dwelling must be readily apparent from the street.		
<b>C7</b> Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.		
<b>4A.2.7 Site Coverage</b>		
<b>C1</b> Refer to Part 3L.1.4 – Definitions for definitions of site coverage, deep soil zones, and soft and hard landscape areas.	Site Coverage: Lot 700 – 110.2m <sup>2</sup> (45%) Lot 701 – 105.1m <sup>2</sup> (43%)  Deep Soil zones: Lot 700 – 78.8m <sup>2</sup> (32%) Lot 701 – 95.3m <sup>2</sup> (39%)	Yes
<b>C2</b> For sites over 200m <sup>2</sup> the maximum site coverage is: <ul style="list-style-type: none"><li>250 – &lt;300m<sup>2</sup>= 60% of the lot</li></ul>	Lot 700: Site Area: 224.9m <sup>2</sup> Site Coverage: 110.2m <sup>2</sup> (45%)  Lot 701: Site Area: 224.9 m <sup>2</sup> Site Coverage: 110.2 m <sup>2</sup> (42%)	Yes
<b>4A.2.8 Building Setbacks</b>		
<b>C.1</b> Dwelling houses must comply with the following minimum setbacks as set out in Table 1. <ul style="list-style-type: none"><li>Minimum front setback – comply with the prevailing street setback or 6 metres (min)</li><li>Minimum side setback - Assessed on merit based – depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape</li></ul>	Front setback: Proposed dwelling 57 = 6 metres Proposed dwelling 57A = 7.4 metres	Yes
	East side setback = 0.9 metres West side setback = 0.9 metres  The side setbacks proposed on both sides are 900mm, and are in keeping with the visual pattern of the adjoining development and streetscape. The setback allows for privacy, visual amenity and natural daylight access	Yes

	where possible, given the site orientation for sites adjacent.	
<ul style="list-style-type: none"> <li>Minimum rear setbacks – 4 metres</li> </ul>	Rear setback Proposed dwelling 57 = 9 metres Proposed dwelling 57A = 10.6 metres	Yes
<ul style="list-style-type: none"> <li>Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions</li> </ul>	Common boundary between the two dwellings.	Yes
<ul style="list-style-type: none"> <li>Eaves – 450mm minimum setback</li> </ul>	450mm from boundary	Yes
<b>C5</b> Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	Modulation is provided in the proposal along both the side and rear of the proposal, through stepped walls.  Front and side setbacks have incorporated a mix of material which is similar to developments within the surrounding area.	Yes
<b>4A.2.9 Landscape Area</b>		
<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> . Table 2 requires the following minimum landscaped area: <ul style="list-style-type: none"> <li>&lt; 250sqm= 15%</li> <li>Between 250sqm-350sqm= 20%</li> </ul> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	Landscape area:  Lot A: 78.8m <sup>2</sup> (35%) Lot B: 95.3m <sup>2</sup> (42%)	Yes
<b>C3</b> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	All landscaped area on each site (other than the landscaped area within the front setback where the absorption trenches are located) will be fully permeable deep soil planting.	Yes
<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	Landscaping within the front setback area are as follows:  Proposed dwelling 57 = 25.9m <sup>2</sup> (54%) Proposed dwelling 57A = 29.4m <sup>2</sup> (53%)	Yes
<b>C9</b> The front setback area must contain at least one tree for		

frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.		
<b>4A.3.1 Materials and Finishes</b>		
<b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	A Schedule of Colours and Finishes was provided.  The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, and add interest to the façade.	Yes
<b>4A.3.2 Roofs and Attics/Dormer</b>		
<b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	The proposed main skillion roof is the predominant roof form and pitch of the street.	Yes
<b>C5</b> Attics must be contained wholly within the roof form to the front elevation, excluding minor elements such as dormer windows.  <b>C9</b> Dormer windows must: (i) Be positioned a minimum of 300mm below the main roof ridge height; (ii) Not occupy any more than 40% of the face of any gable end or gable wall and not occupy more than 25% of the face of any roof or slope for a dormer or gable window; and (iii) Not extend beyond the external wall of the dwelling	No attics or dormer proposed.	N/A
<b>4A.3.3 Fences</b>		
<b>C1</b> Front fences are to compliment the period or architectural style of the existing dwelling house.	The front fence design has not been provided in detail within this proposal.	Yes
<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance (refer to Figure 19).	The front fence design has not been provided in detail within this proposal.	N/A
<b>4A.3.5 Voids</b>		
<b>C1</b> Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported.	The void spaces in each dwelling are limited to being above the staircase.	Yes

<b>C2</b> Voids shall only be supported where they are provided to increase the amenity to primary living areas or circulation areas, and not unreasonably impact upon the amenity of adjoining properties.	The voids proposed do not unreasonably impact upon the amenity of adjoining properties as it does not increase further visual privacy impacts and allows for increase light and ventilation for the primary circulation area at the front of the dwelling and the primary living area in the leisure area noted on the first floor.	Yes
<b>C3</b> Voids are to connect related uses and spaces, and should not compromise the useability of spaces.	The void spaces in each dwelling are limited to being above the staircase.	Yes
<b>4A.4.1 Visual Privacy</b>		
<b>C2</b> Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> <li>▪ using windows which are narrow or glazing</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> <li>▪ Increasing sill heights to 1.5 metres above floor level.</li> </ul>	Privacy impacts from windows and balconies have been taken into consideration. First floor bedroom windows have sill heights of 0.9 metres. The plans have been amended so that side windows are made of obscure glass. It is not anticipated that the proposal will facilitate overlooking.	Yes
<b>C3</b> First floor balconies are only permitted when adjacent to a bedroom.  <b>C5</b> First floor balconies are only permitted at the rear of the dwelling if wholly located over the ground floor, providing the requirements in <b>C1, C2 and C3</b> above are met.  <b>C7</b> Balconies are to be designed to minimise overlooking to other properties. <b>Note:</b> Where a proposed development increases the potential for overlooking of adjoining properties, the Council may require balconies to be limited in size and in some cases, fitted with privacy screens or fin walls. Partially recessed balconies are encouraged at the rear to ensure the privacy of surrounding properties is maintained.	The proposed balconies are accessed from a bedroom and sit wholly above the ground floor. As all balconies are at the front of the property they are unlikely to create adverse privacy impacts on neighbouring properties.	Yes
<b>4A.4.3 Solar Access</b>		
<b>C1</b> Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar	The application has provided shadow diagrams for 9am, 11am, 1p and 3pm mid-winter. The diagrams show that at 9am a shadow will be cast south	Yes



<p>access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.</p>	<p>casting shadows on the windows of habitable rooms and much of the private open space of the neighbouring dwelling. At 11am the shadow shifts to create overshadowing to part of the land on the side of the neighbouring dwelling. At 1pm shadows are contained within the land. At 3pm the shadows will be cast north creating overshadowing to habitable rooms and part of the private open space.</p> <p>Shadow diagrams have been provided for within the site which show that all proposed habitable windows only receive partial overshadowing.</p> <p>All neighbouring dwellings maintain solar access to at least 50% of the private open space and habitable windows maintain at least 2 hours of direct solar access.</p>	
<b>4A.4.4 Private Open Space</b>		
<p><b>C1</b> Each dwelling is to have a private open space that:</p> <ul style="list-style-type: none"> <li>(i) Has at least one area with a minimum area of 36m<sup>2</sup>;</li> <li>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</li> <li>(iii) Maximises solar access;</li> <li>(iv) Is visible from a living room door or window of the subject development;</li> <li>(v) Minimises overlooking from adjacent properties;</li> <li>(vi) Is generally level;</li> <li>(vii) Is oriented to provide for optimal year round use;</li> <li>(viii) Is appropriately landscaped; and</li> <li>(ix) Is located or screened to ensure privacy;</li> </ul> <p>Note: Private open space is not to include:</p>	<p>Private open space:</p> <p>Lot 57: 61.6 square metres Lot 57A: 64.9 square metres</p>	<p>Yes</p>

<p>(i) Non-recreational structures (including garages, tool sheds and such like structures);</p> <p>(ii) Swimming pools; and</p> <p>(iii) Driveways, turning areas and car spaces, drying areas and pathways.</p> <p><b>C2</b> For sites less than 250sqm, a minimum area of 25sqm applies.</p> <p><b>C3</b> For terraces and decks to be included, these must have minimum size of 10sqm.</p> <p><b>C4</b> Areas within the setbacks are not to be included as private open space unless they have a minimum width of 3 metres.</p>		
<b>4A.4.7 Vehicle Access</b>		
<p><b>C1</b> Driveways within a property shall have a minimum width of 3 metres. Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).</p>	Each dwelling has a minimum driveway and vehicular crossing width of 3 metres.	Yes
<p><b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.</p>	One vehicle crossing is proposed on each site.	Yes
<b>4A.4.8 Car Parking</b>		
<p><b>C3</b> Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be:</p> <p>(i) Located at the rear of the site with access from a rear lane;</p> <p>(ii) At the rear of the site with access from the street frontage;</p> <p>(iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or</p> <p>(iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment.</p>	<p>Parking is provided through a single garage in each dwelling integrated within the dwelling and accessed from the primary frontage.</p> <p>This is considered an appropriate location for the garage, having regard to the existing site conditions, as well as BBDCP 2013 requirements relating to dwelling design, landscaping and site coverage.</p>	Yes
<p><b>C4</b> Car parking structures must be located and designed to:</p> <p>(i) Comply with AS2890.1 and</p> <p>(ii) Conveniently and safely serve all users;</p>	The proposed garage on each side is integrated into the dwellings. It is in keeping with the scale of the proposed dwellings, being less than 50% of the façade.	Yes

(iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street; (iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape; (v) Be compatible in scale, form, materials and finishes with the associated dwelling; (vi) Not reduce availability of kerbside parking; (vii) Retain any significant trees; and (viii) Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.		
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## Discussion

### Prevailing Subdivision Pattern

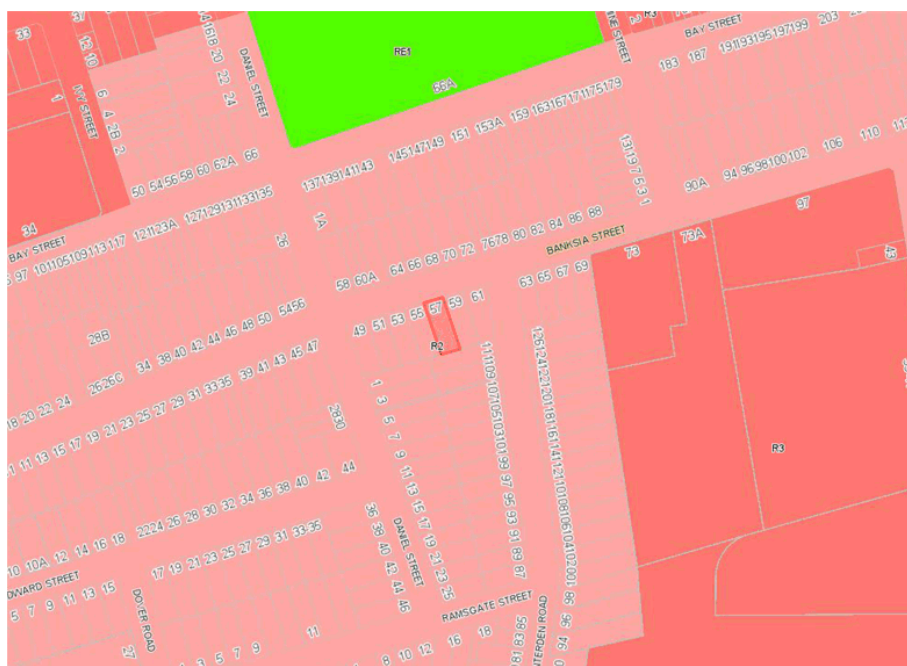
Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. It is noted that the DCP does not provide any exclusions to how this subdivision pattern should be calculated in terms of zoning, strata subdivided properties or subdivided developments approved prior to the gazettal of the Botany Bay Local Environmental Plan 2013.

The objectives of Part 3E.2.1 – General Torrens Title Subdivision and Amalgamation of the Botany Bay Development Control Plan 2013 is to provide a building envelope that can accommodate an appropriately sized dwelling without resulting in adverse impacts on the surrounding properties. As demonstrated in the assessment of the development application, the proposed dwellings on Lot 1 and Lot 2 at 57 Banksia Street generally comply with the DCP controls for dwellings.

### Site Area and Street Frontage Width

The site will be subdivided into two individual allotments namely Lot 1 and 2 which both have a proposed site area of 244.91 square metres. The allotments will have a street frontage width of 6.7 metres for both lots.

Below is a map showing the subject site and the surrounding sites that are included within the scope of assessment for subdivision:



The image above and in the table below demonstrates that the relevant subdivision pattern in the vicinity of the site is rectilinear with an average lot size of approximately 500 square metres. Some of these allotments have been subdivided lengthwise for the creation of semi-detached dwelling and it is considered that there is an established precedent for semi-detached dwellings within the street. In particular 60 Banksia Street and 60A Banksia Street (DA-16-242), 74 and 76 Banksia Street, 50 and 54 Bankia Street.

An assessment of the lot sizes and street frontage widths of the ten properties on either side of the subject site as well as the properties opposite the site are as follows:

Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed	Street Frontage (in m)	Variation (in m) from smallest lot proposed
<b>Allotments to the east</b>				
<b>57 Banksia Street (existing)</b>	<b>487.6 square metres</b>	<b>-</b>	<b>13.4 metres</b>	
<b>57 Banksia Street (proposed)</b>	<b>224.91 square metres</b>	<b>-</b>	<b>6.7 metres</b>	

Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed	Street Frontage (in m)	Variation (in m) from smallest lot proposed
<b>57A Banksia Street (proposed)</b>	<b>244.91 square metres</b>	<b>-</b>	<b>6.7 metres</b>	
59 Banksia Street	495 square metres	250.09 square metres	13.5 metres	6.8 metres
61 Banksia Street	512 square metres	267.09 square metres	17 metres	10.3 metres
63 Banksia Street	445.5 square metres	200.59 square metres	10 metres	3.3 metres
65 Banksia Street	482.9 square metres	237.99 square metres	13 metres	6.3 metres
67 Banksia Street	486.7 square metres	241.79 square metres	13.2 metres	6.5 metres
69 Banksia Street	478.6 square metres	233.69 square metres	12.7 metres	6 metres
<b>Allotments to the west</b>				
55 Banksia Street	492.48 square metres	247.57 square metres	13.5 metres	6.8 metres
51 Banksia Street	479.47 square metres	234.56 square metres	13.4 metres	6.7 metres
49 Banksia Street	487.8 square metres	242.89 square metres	13.4 metres	6.7 metres
47 Banksia Street	564.7 square metres	319.79 square metres	9.6 metres	2.9 metres
45 Banksia Street	569.1 square metres	324.19 square metres	12.3 metres	5.6 metres
43 Banksia Street	563.9 square metres	318.99 square metres	12.1 metres	5.4 metres
41 Banksia Street	555.9 square metres	310.99 square metres	12.3 metres	5.6 metres
39 Banksia Street	486.88 square metres	241.97 square metres	11.1 metres	4.4 metres
37 Banksia Street	300 square metres	55.09 square metres	7.5 metres	0.8 metres

Address	Lot Size (in sqm approx.)	Variation (in sqm) from smallest lot proposed	Street Frontage (in m)	Variation (in m) from smallest lot proposed
35 Banksia Street	302.1 square metres	57.19 square metres	6.8 metres	0.1 metres
<b>Semi-detached dwellings opposite the site</b>				
52 Banksia Street	263.5 square metres	18.59 square metres	7.1 metres	0.4 metres
54 Banksia Street	251.15 square metres	6.24 square metres	6.2 metres	-0.5 metres
60 Banksia Street	254 square metres	9.09 square metres	6.9 metres	0.2 metres
60A Banksia Street	255 square metres	10.09 square metres	6.1 metres	-0.6 metres
74 Banksia Street	263.3 square metres	18.39 square metres	6.2 metres	-0.5 metres
76 Banksia Street	261.25 square metres	16.34 square metres	6 metres	-0.7 metres
90 Banksia Street	291.5 square metres	46.59 square metres	6.1 metres	-0.6 metres
90A Banksia Street	329.9 square metres	84.99 square metres	5.9 metres	-0.8 metres

The table above compares the proposed allotments with the existing allotments in the street.

Council generally agrees with the statement provided by the applicant as the development has been designed in comparison to the desired future character of the Botany Character precinct. Greater discussion relating to the desired future character of the site is provided in *Part 8 – Character Precinct* below.

#### **Part 8 – Botany Character Precinct**

The site is located within the R2 – Low Density Residential zone of the Precinct between Daniel Street and William Street.

The dwelling has been designed to address the street and is consistent with the streetscape and the adjacent dwellings. The dwelling is compliant regarding FSR, setbacks, site coverage, private open space and is considered to have acceptable height, landscaping and solar access to neighbouring sites. As such the proposal is suitable for the site and is consistent with the desired future character of the Botany Precinct pursuant to Botany Bay Development Control Plan Part 8 Character Precincts.

#### **S.79C(1)(a)(iv) - Provisions of regulations**

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

#### **S.79C(1)(b) - Likely Impacts of Development**

The proposed development will have no adverse environmental, social or economic impacts in the locality.

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

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is located within the ANEF 20-25 contour. A condition has been placed on the consent requiring the dwellings to be constructed in accordance with the submitted acoustic report.

The site is zoned R2 – Low Density Residential and currently accommodates an existing dwelling. Accordingly, the site is suitable to accommodate the development.

#### **S.79C(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 16 June to the 29 June. One (1) submission was received. The issues raised in the submission are discussed below:

Privacy – *'I have concerns about windows 10 and 11 on the second floor because it is overlooking my bedroom and lounge room. I recommend an 'obscure windows'. 'At the back the Highlight window also concerned me because it is overlooking at my backyard and veranda'.*

Comment: In the revised plans windows 10 and 11 have been amended to be obscure glass and a condition of consent requires them to be fixed to a height of up to 1.6 metres from the floor level. The highlight windows at the rear have a sill height of greater than 1.8 metres and will not present the opportunity for overlooking into neighbouring dwellings.

Building colour – *'This 'white color' at this last section of the dwelling at the back, if possible be changes to 'darker color' because of the glare which will affect my eyes as I had injury to my eyes'.*

Comment: The suitability of the proposed white rendering to the rear of the dwelling has been considered and it has been found that the materials and proposed colours do not have the potential to cause glare or reflect light.

#### **S.79C(1)(e) - Public interest**

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

#### **Section 7.12 Contributions**

Council's Section 7.11 Planner has advised that 7.11 fees apply to the proposed development. The contribution fee has been calculated in accordance with the provisions contained within the City of Botany Bay Section 94 Development Contributions Plan 2016.

The contributions are to be used towards the provision or improvements of the amenities and services identified below:

Community Facilities	\$1,637.16
Recreation and Open Space	\$16,890.83
Transport Facilities	\$1,326.38
Administration	\$145.62
Total	\$20,000.00

Total contribution

The total Section 94 Contribution applicable to the proposed development is **\$20,000.00** having regards to the Ministerial Directive of 21 August 2012 which applies a \$20,000.00 cap. In accordance with the Plan, the contribution is to be paid prior to the issue of the Construction Certificate.



## Attachment

### Schedule 1 – Conditions of Consent

Premises: 57 Banksia Street, Botany

DA-18/1098

#### SCHEDULE OF CONSENT CONDITIONS

##### GENERAL CONDITIONS

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

Drawing N°	Author	Date
DA104 (Elevations Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
DA105 (Sections Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
DA102 (Ground Floor Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
DA103 (First Floor Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
DA101 (Site - Roof Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
DA110 (Subdivision Plan)	Architecture Becka & Associates	Dated: 19.10.2018 Received: 25.10.2018
LS1 (Landscape Plan)	Architecture Becka & Associates	Dated: 01.06.2018 Received: 06.06.2018
SW02 (Sediment Control Plan and Demolition Plan)	Architecture Becka & Associates	Dated: 30.05.2018 Received: 08.06.2018

Reference Documents	Author	Date Received
DA111 (External Finishes Schedule) Revision A	Architecture Becka & Associates	19.10.2018
Amended Statement of Environmental Effects	Architecture Becka & Associates	25.10.2018
Waste Management Plan	Architecture Becka & Associates	19.10.2018
BASIX certificate number 917652M_02	Department of Planning and Environment	09.04.2018

08-10-18-D2 (Erosion & Sediment Control Plan & Details)	ComConstruction P/L	08.10.2018
Arboricultural Impact Report, Site Address: 57 Banksia Street, Botany	Treecas	26.05.2018

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in Lot 118 DP 11375 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
  - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:

- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
  - i) The consent authority; or,
  - ii) An accredited certifier; and
- b) The person having the benefit of the development consent:-
  - i) Has appointed a principal certifying authority; and
  - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
  - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

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

- 6. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.
- 7. Prior to the issue of a Subdivision Certificate, 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](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
  - a) 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.
  - b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
- 8. Prior to the issue of Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary.

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

- 9. 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.

10. The applicant must prior to the issue of the Construction Certificate, pay the following:-
  - a) Builders Security Deposit \$13,400.00
  - b) Development Control \$1,260.00
  - c) Section 94 Contributions \$20,000.00
11. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.
12. Any portion of the proposed structure within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending 300mm below the bottom of the tank or trench base.
13. 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.
14. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$13,400.00 (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.
15. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
16. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04 and E-07. As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of each new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.
17. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of

access to the property. No storage of construction materials and plants to be allowed in road reserve area.

18. The Applicant is to submit payment for a Tree Preservation Bond of \$6000.00 to ensure protection of the four (4) trees as noted in the arborist report. The duration of the Bond shall be limited to a period of 6 months after issue of the Occupation Certificate. At the completion of the 6 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
19. The building shall be constructed in accordance with the recommendations contained within the acoustic report prepared by Koikas Acoustics titled 'Acoustic Assessment – Aircraft Noise Intrusion – Dual Occupancy Development at No. 57 Banksia Street, Botany' with the recommendations contained within the construction plans.
20. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works 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.
21. Stormwater management requirements for the development site, including the final discharge / end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical guidelines.
22. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany DCP Part 10 – Stormwater Management Technical guidelines sets out the minimum documentation requirements for detailed design plans.

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

23. 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.

24. 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.
  - 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.
  - Consent is granted for the removal of trees numbered 4, 6, 7 and 8.
  - Consent is granted for the remedial pruning of Tree 5 as per the Project Arborist recommendations in accordance to AS 4373-2007.
25. Four (4) trees a *Melaleuca quinquenervia* (Broad-leaf Paperbark), a *Lagerstroemia indica* (Crepe Myrtle), a *Plumeria acutifolia* (Frangipani) and a *Liquidambar styraciflua* (American Sweetgum) are to be retained and protected with a TPZ.
26. Prior to commencing demolition/any works on site, in order to ensure that Tree 1 *Melaleuca quinquenervia* (Broad-leaf Paperbark) located in the Public Domain, a *Lagerstroemia indica* (Crepe Myrtle), a *Plumeria acutifolia* (Frangipani) known as Tree 3 and 4 in the adjacent property and Tree 5 known as *Liquidambar styraciflua* (American Sweetgum) are to be protected during demolition and construction, and the health and structural stability ensured a Tree Protection Zone shall be established as follows.
  - I. In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height of 1.8 metres shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement. The area within the fenced area is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken.
  - II. The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
27. 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 carriageways pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
28. Demolition operations shall not be conducted on the roadway or public footpath or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
29. 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 (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.

30. All contractors shall comply with the following during all stages of demolition and construction:

- i) 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.
- ii) 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.
- iii) 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.
- iv) 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.

31. 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.
32. 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:

1. Preserve and protect the building from damage and
2. Underpin and support the building in an approved manner, if necessary and
3. 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.

33. 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.
34. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
35. Building, demolition and construction works are not to cause stormwater pollution and to be carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

Note: The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.

36. 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. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
38. 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.
39. Soil and sedimentation controls are to be put in place prior to commencement of any work on site in accordance with the submitted sediment control plan. The controls are to be maintained in effective working order during construction.



40. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
- c) Permit for roads and footways occupancy (long term/ short term)
- d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
- f) Permit to place skip/waste bin on footpath and/or nature strip
- g) Permit to use any part of Council's road reserve or other Council lands

#### **DURING WORKS**

41. 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.
42. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
43. 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).
44. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
  - e) No demolition materials shall be burnt or buried on the site.
45. 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
46. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
47. No demolition materials shall be burnt or buried on the site.
- 48.
- 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.

- 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.
49. 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.
50. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
51. 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.
- 52.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
  - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
    - i) Protect and support the adjoining premises from possible damage from the excavation, and
    - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
53. 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 05:00pm

- ii) Saturday 08:00am to 01:00pm

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

- d) Silencing

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

- 54. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

55.

- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
- b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

- 56. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any

damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

57. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
58. Inspections must be conducted by Council's Engineer at the following occasions:
  - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter,
  - f) Final inspection of Council's footpath.
59. The width of the single driveway shall be a minimum of 2.5 metres and a maximum of 3.0 metres.

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

60. Prior to the issue of a Occupation Certificate, the subdivision is to be registered.
61. 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.
62. 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.
63. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
64. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany DCP Part 10 – Stormwater Management Technical guidelines. The certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

65. A positive covenant and restriction on use of land pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility. Standard wording is available in Botany DCP Part 10 – Stormwater Management Technical guidelines Appendix A.
66. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.  
  
Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Botany DCP Part 10 – Stormwater Management Technical guidelines.
67. A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical guidelines shall be provided prior to discharge of stormwater from the site.
68. The overflow from the rainwater tank shall be directed to the storm water system.
69. All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water “Guidelines for rainwater tanks on residential properties.
70. A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
71. Prior to the issue of any Occupation Certificate, all applications associated with works on Council’s land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
72. 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.
73. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
74. 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.
75. A positive covenant and restriction on use of land pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility. Standard wording is available in Botany DCP Part 10 – Stormwater Management Technical guidelines Appendix A.

76. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.
- Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Botany DCP Part 10 – Stormwater Management.
77. A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical guidelines shall be provided prior to discharge of stormwater from the site.
78. The overflow from the rainwater tank shall be directed to the storm water system.
79. All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water “Guidelines for rainwater tanks on residential properties.
80. A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
81. An acoustic consultant qualified by the Australian Association of Acoustical Consultants is to certify that the building has been constructed in accordance with the recommendations contained within acoustic report prepared by Koikas Acoustics titled ‘Acoustic Assessment – Aircraft Noise Intrusion – Dual Occupancy Development at No. 57 Banksia Street, Botany’ prior to occupation.
82. At least one medium sized tree is to be planted within the front setback area of each dwelling.

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

83. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan.
84. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
85. The endorsed subdivision certificate shall not be released until completion of the development and the issue of the Final Occupation Certificate.
86. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council’s current adopted Fees and Charges.
87. The new lots created are to be numbered lot 700 and lot 701.
88. A positive covenant shall be provided over the on-site detention system. A Section 88B Instrument and four copies shall be lodged with the Linen Plans.

**CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE**

89. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - viii) 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.
90. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
91. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed of: solids to the waste disposal and de-sludged liquid to the sewer.
92. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
93. The building is approved as a single dwelling on each site for use and occupation by a single family. It 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.
94. 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.

95.

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

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

96. 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. 18/1098 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.
97. Privacy measures are to be maintained for the life of the development including the following:
  - Windows W10-D57, W11-D57, W13-D57A and W11-D57A are to maintain obscure glass and are to be fixed to a height of up to 1.6 metres from the floor level.

#### **ROADS ACT**

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

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

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.

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

99. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a new fully constructed concrete vehicular entrance/s;
  - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
100. 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.
101. 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.
102. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.

**DEVELOPMENT CONSENT ADVICE**

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

# 57 Banksia St Botany 2019

## Statement of Environmental Effects

Demolition of Existing Structures and Construction of a Semi-Detached Dual  
Occupancy. Torrens Title Subdivision



1

## Executive Summary

This document comprises an assessment of the project with respect to S.79C of the Environmental Planning and Assessment Act, 1979. It comprises a Statement of Environmental Effects (SEE) to accompany a development application seeking consent for the demolition of existing structures and construction of two new single dwellings and associated landscaping to create a Semi-Detached dual occupancy development at no.57 Banksia St Botany. The proposed built form will be two storeys in height, with both dwellings containing generous ground floor living spaces, landscaped private open space areas, three bedrooms and balconies at first floor level, and single garages and one more bedroom at ground level for both dwellings.

The document will:

- Describe the development proposal;
- Provide an assessment context by describing key elements of the site, the surrounding local environment, existing planning controls and relevant planning history; and
- Assess the potential impacts and environmental effects of the proposed development of the subject site under section 79C of the Environmental Planning and Assessment Act 1979.

The proposal is permissible with development consent and performs favourably in relation to the relevant aims, objectives and development standards of the relevant environmental planning instruments and associated development control plan.

**Architectural design and Streetscape:** The proposed development has been designed to be in keeping with the emerging character of the area and will contribute positively to the present and future character of the streetscape of Banksia St and the locality of Botany.

The proposed dual occupancy development style has been sensitively designed regarding scale, bulk and form, high quality composition of building elements, textures, materials, landscaping, and colours in response to the setting. The immediately surrounding area comprises of residential dwellings, including two one-storey houses.

**Site area, FSR, height, setbacks:** The proposal has a maximum wall height of 7m which complies with the permissible building height of 8.5m under BBLEP 2013, and the proposal overall complies with the minimum setback requirements under the LEP. The total area of the subject site is 489.8m<sup>2</sup>. The proposed developments will have a total GFA of 283m<sup>2</sup> and an FSR of 0.57:1 and 0.56:1 for dwellings 57 and 57A respectively. The proposal does not comply with this development standard. However, a Clause 4.6 Variation Request which provides a justification for the non-compliance with the FSR is attached separately.

**Landscaping and private open space:** 35.68% of the site will be landscaped, with 53.83% of landscaping located between the dual occupancy and Banksia St frontage in accordance with the 50% minimum requirement under BBDCP 2013.

The proposed landscaping includes a mix of native trees, shrubs and grasses throughout the site, along rear and side boundaries, and within the ground floor private open space areas. Each dwelling is also provided an upper level balcony which overlooks the site frontage.



**Shadow, acoustics, views, and amenity:** The accompanying shadow diagrams indicate that there will be no unreasonable shadow impacts to surrounding neighbours and that the proposed dwellings comply with the relevant controls under BBDCP 2013 relating to solar access requirements.

The development has been designed to provide privacy between occupants and surrounding neighbours through measures such as separation distances, screen planting along boundaries, balcony, and window locations, which will enhance visual privacy while allowing natural light and ventilation. The design of the dwellings allows for cross-ventilation and natural ventilation and both dwellings will receive air flow from the north, east, south, and west. The proposal will not cause any adverse acoustic impacts or create any adverse overlooking or view impacts.

**Traffic, access, and parking:** Vehicular access to each of the dwellings will be provided via separate driveways off Banksia St, each leading to a ground level garage with single car parking spaces. Pedestrians will be able to access each dwelling via separate pedestrian pathways also extending from Banksia Street.

**Social impact:** This report demonstrates that the proposal will not detrimentally affect the local sense of community or increase risk to public safety but will have a positive social impact, particularly through the sensitive architectural design and complementary landscaping that seeks to engage with the streetscape. The site is located in a desirable part of Botany and the new dual occupancy project will respond to the demand for a high-quality product with excellent amenity and access to Botany public transport, shops, schools, parks and restaurants. In addition, the proposal demonstrates that the site can accommodate for two sizeable dwellings plus ancillaries of a high level of amenity that is available to future occupants, while preserving the amenity of adjoining dwellings.

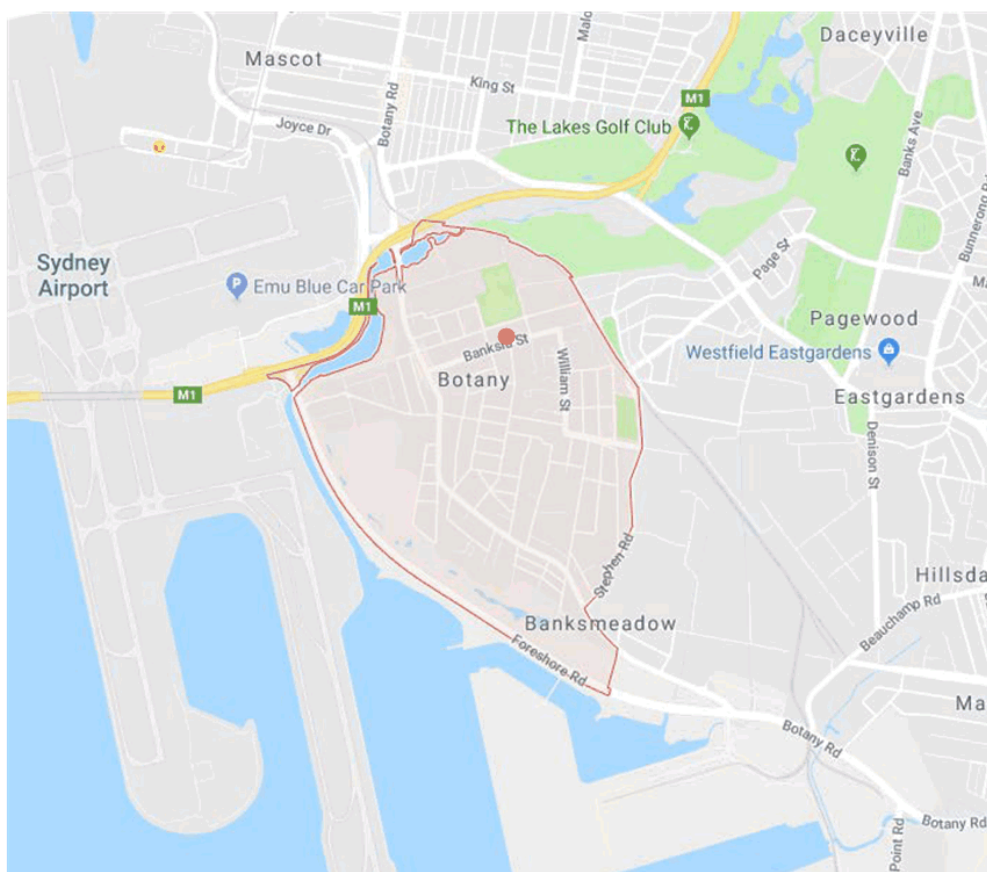


Accordingly, in the circumstances of the case and given a lack of detrimental impacts, the proposal is considered appropriate and is submitted to Council for favourable consideration.

## 1. CONTEXT

### LOCATIONAL CONTEXT

The subject site is located in Botany in the Botany Bay local government area, approximately 12km south of the Sydney CBD. Surrounding suburbs include Mascot and Banksmeadow.



### SURROUNDING DEVELOPMENT

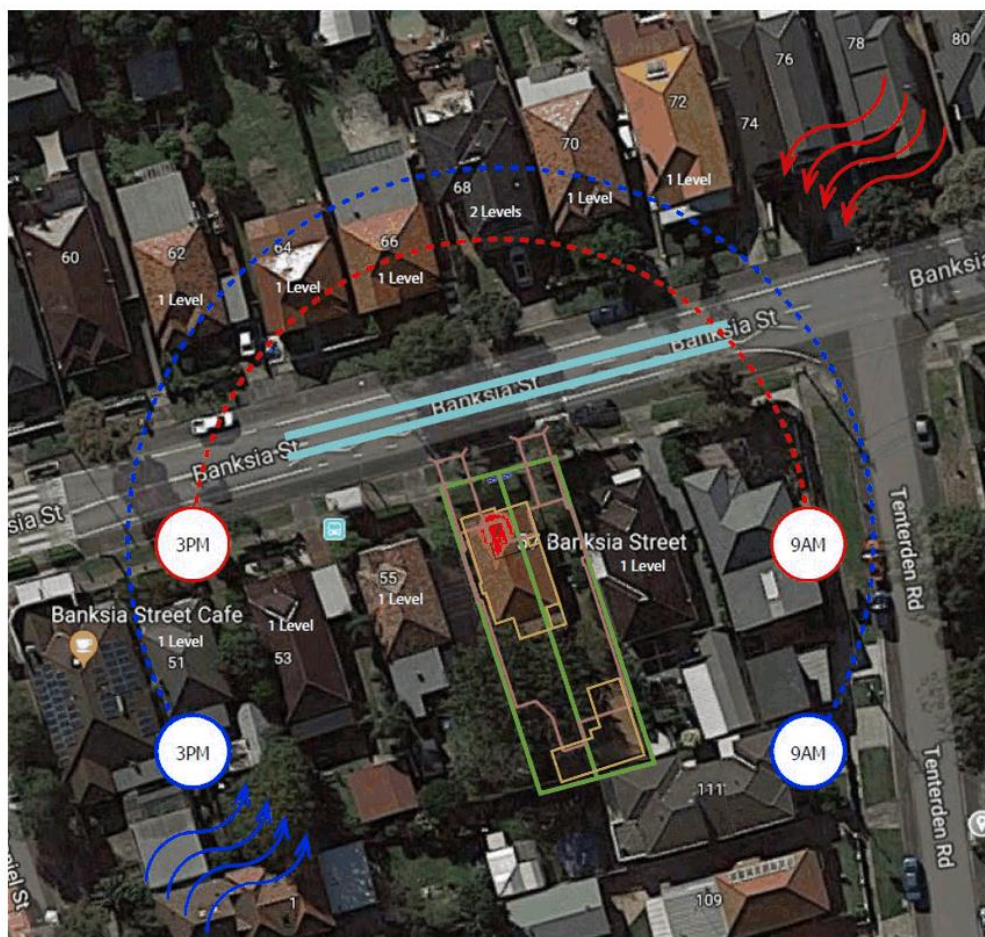
The surrounding area is characterised by a mix of older and newer style one and two storey residential dwellings in the immediate vicinity of the site, set within a low density, leafy residential environment. Some of the dwellings have been recently renovated and some recently built whilst others are still essentially in original condition. Accordingly, architectural styles vary from modern to traditional.



#### SITE DESCRIPTION AND ANALYSIS

The subject site is legally identified as Lot 52 in DP15897 and known as 57 Banksia Street, Botany. The site is regular in shape, with an eastern and western side boundary of 36.575 m, the front and rear boundaries are 13.41m in width. It has a total site area of 489.8m<sup>2</sup>.

A site analysis drawing has been prepared and is illustrated below. The detailed site analysis plan is included with the architectural plans.



The proposed development takes into consideration the site opportunities and constraints within its streetscape context including the following:

#### EXISTING SITE CONDITIONS

**Existing development on site:** The subject site contains a single-storey brick residential dwelling with a brick cottage roof and a detached garage accessed via a concrete driveway from Banksia Street.

**Streetscape character and visual setting:** The land uses surrounding the subject site include residential buildings of varying architectural styles. The site is adjoined by two single level dwellings to the eastern and western boundaries.



**Existing vegetation:** The site contains several existing shrubs and trees.

**Topography:** The site generally slopes gently with a total fall of approximately 1.30m from the south-east rear corner to the north-west front corner.

**Views:** The site overlooks low density residential development surrounding the site.

**Solar access/shadow and privacy:** The subject site receives eastern, northern, and western sunlight access, providing adequate opportunities for solar access to future dwellings.

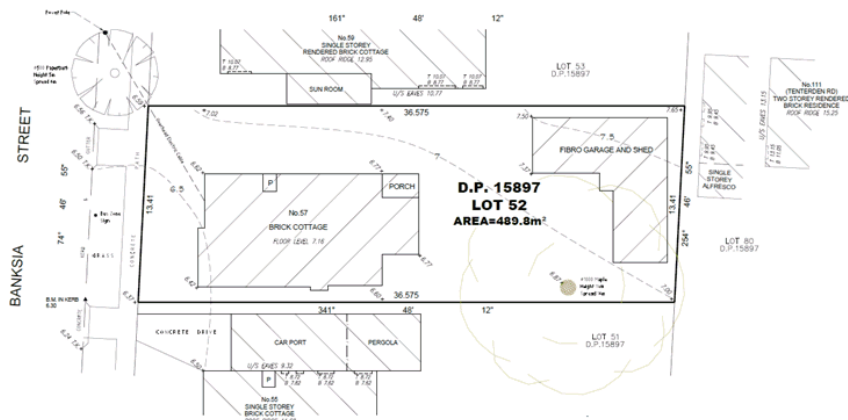
**Pedestrian and vehicular access points:** The garage and carport are directly accessible via a concrete driveway off Banksia Street. Pedestrian access is also available from the Council footpath at Street frontage.

**Services, easements, and other restrictions on title:** Services such as electricity and water are all available to the existing developments. There are no other known service constraints affecting the development.

**Surrounding noise sources:** Banksia Street is a local street and is therefore not subjected to high levels of traffic. The site is not within close vicinity of any main roads, rail corridors or centres of activity and therefore surrounding noise sources are likely to be characteristic of the surrounding low density residential environment, including intermittent vehicle movements along the surrounding road network.

**Heritage:** There are no buildings or items of heritage significance identified on or in proximity of the site.

**Other site constraints:** The site is not known to be contaminated and there are no other known site constraints such as flooding, groundwater, or contamination.





## 2. PROPOSAL

The proposal is for demolition of existing structures, construction of two new Semi-Detached dwellings, associated ancillary structures in a Torrens Title subdivision to create a Semi-Detached dual occupancy development.



The proposed development has been designed to be in keeping with the existing and emerging character of the area.

The proposed built form will be two storeys in height, with both dwellings to contain single lock up garages, generous living spaces, bedrooms, landscaped private open space areas and generous covered outdoor areas at ground level. First floor level will contain 3 more bedrooms and balconies.

### BUILDING LAYOUT: PROPOSED DWELLINGS #57 & 57A:

Both proposed dwellings will comprise the following:

- **Ground floor level:** contains the dwelling entry, single Lockup garage with an internal laundry, a bedroom, bathroom and a generous combined lounge, kitchen and dining areas which open onto external private open space, outdoor deck with a pergola.
- **First floor level:** contains bedrooms 2 to 4. The master bedroom is located to the front of the site and includes a wardrobe and ensuite. Bedrooms 3 & 4 of both dwellings are located towards the rear of the building and each includes a wardrobe. A main bathroom and stair access to ground floor are also on this level.



## Development Statistics

ITEM	PROPOSAL
Site area	489.8m <sup>2</sup>
Dwelling 57	244.91m <sup>2</sup>
Dwelling 57a	244.91m <sup>2</sup>
Gross Floor Area & FSR	
Dwelling 57	Ground level: 81.4m <sup>2</sup> Upper level: 59.0m <sup>2</sup> Total GFA: 140.4m <sup>2</sup> FSR: 0.57:1
Dwelling 57a	Ground level: 76.2m <sup>2</sup> Upper level: 61.0m <sup>2</sup> Total GFA: 137.2m <sup>2</sup> FSR: 0.56:1
Maximum Building Height	8m
Deep Soil Landscaped Area	174.75m <sup>2</sup> (35.68%)
Front Setback Landscaped Area	45.95m <sup>2</sup> (53.83%)
Impervious Areas	285.56m <sup>2</sup> 58.30%
Pervious Area	204.25m <sup>2</sup> 41.70%
Setbacks	
Min Front Setback (North East)	
Dwelling 57	
Ground level to building	5.96m
Upper level to building	6.56m
Dwelling 57a	
Ground level to building	7.65m
Upper level to building	7.65m
Min. Rear Setback (South West)	
Dwelling 57	
Ground level to building	9m
Upper level to building	16.48m
Dwelling 57a	
Ground level to building	8.44m
Upper level to building	14.53m
Min. Side Setbacks	
Dwelling 57	
Ground level to building	0.9m
Upper level to building	0.9m
Garage	0.9m
Dwelling 57a	
Ground level to building	0.9m
Upper level to building	0.9m
Garage	0.9m
Private Open Space	
Dwelling 57	61.35m <sup>2</sup>
Dwelling 57a	65.18 m <sup>2</sup>
No. of Bedrooms	4
Parking Spaces	1 (each proposed dwelling)

## BUILT ENVIRONMENT

### SITE CONTEXT AND STREETScape

The development site is located in a low-density area with convenient distance to public transportation, as well as surrounding schools, centres, parks and other local amenities and activities. The immediate area is characterised by low density residential development either in the form of single or double storey dwellings. There exists a mixture of semi-detached and single dwellings in the area as well as some commercial uses including a childcare centre (All Star Early Learners) and cafe (Banksia Street Cafe) in close proximity to the subject site. The images below include some of the existing dwellings from within the neighbourhood. Some properties have proposed a 0m side setback for the garages as shown below.



Dwelling No.61 Banksia St



Dwelling No.62 & 62A Bay St



Dwelling No.79 & 79A Bay St



Dwelling No.50 Banksia St



Dwelling No.60 Banksia St



Dwelling No.74 & 76 Banksia St

Within the existing Banksia streetscape, it is evident that there is a diversity of designs on the street, some have embraced a modern approach while others have maintained their original conditions. In looking towards the progression of the architectural realm however, it is our practice and belief that architecture must reflect cultural and social values of the time.

It is also important to note that our approach is to produce a final product which works harmoniously with the immediate environment. It is noted that the proposed structures are designed to be in harmony with the current and the anticipated architectural style of the area.

The existing streetscape elements can be identified as below:

face bricks; rendered masonry walls; natural timber cladding; and pitched & gable roofs

We have applied all the above to reflect the use of the existing elements, however, the way they were applied and detailed make this project respectful to the immediate surrounding yet unique and has its own identity.

This approach adds to the proposed design and contributes positively to the quality and identity of the area: this is a response to the site and its surrounding context by identifying the desirable elements of the current Banksia Street character.

The proposal utilises materials and colour schemes that remain consistent with the existing dwellings on the street.

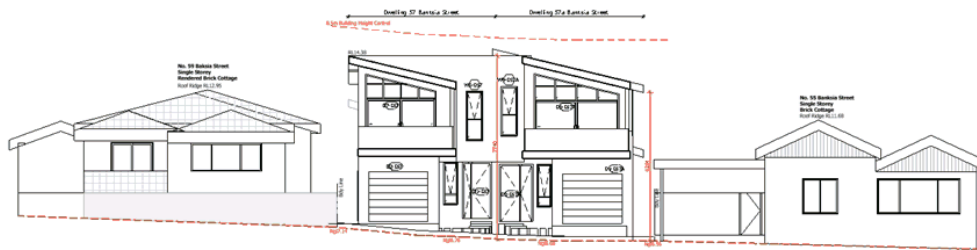
Cantilevered balconies, proud pitched roofs, timber posts which support the roofs and protect the privacy of neighbouring properties, the use of a glazed entry, and the earthy coloured rendered walls, are some of the

measures we have adopted to reflect and complement both the past and future styles and the current architectural character of Banksia Street.

The same bricks that will be demolished from the existing dwelling 57 will be re-used and re-adapted to construct the façade of the proposed dwellings 57 and 57a as a means of preservation. Another example of material consistency the use of Grey render on the front façade-which parallels that of Dwelling 60 and 61 as seen in the attached images. The proposed front façade uses timber cladding within the balconies- also a material consistent with other existing dwellings, specifically dwelling 61.

Angled and pitched roofs are dominant across the streetscape and both proposed dwellings 57 and 57a have angled roofs which face the street. The proposal's front facade engages both angled and rectilinear structures-again, features that are found amongst neighbouring properties. Dwelling 61 uses both angled and rectilinear elements within its design, which conveys a modern approach to this street, drifting away from previous outdated designs which is no different to our design approach. Dwellings 50 and 60 both express a rectilinear design approach to their façade as shown above and both use colour schemes that exist within the proposed dwellings 57 and 57a (i.e. grey and white).

While the proposal uses structures, dominant roof lines and materials that remain consistent with the streetscape, it still maintains its own individuality. A key element of great architectural design is to be able to use existing features/materials to create a unique proposal. The proposal transcends the outdated and poorly designed existing dwellings constructed in the 1920s (100 years ago). This ensures the progression of the streetscape. We are proposing a project that compliments the streetscape and sets an example to follow for the future of the street/area.



### 3. PLANNING CONTROLS

The key relevant existing planning controls are *Botany Bay Local Environmental Plan 2013* (BBLEP 2013) and *Botany Bay Development Control Plan 2013* (BBDCP 2013).

The subject site is located in Zone R2 - Low Density Residential under the BBLEP 2013. It is also noted that under the BBLEP 2013 the subject site:

- Has a maximum building **height of 8.5m**.
- Has a maximum floor space ratio of **0.5:1**.
- Is not identified as, or located within close proximity to, any heritage items.
- Is not identified for land reservation acquisition.

#### BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013

The proposal involves demolition of the existing structures and construction of two two-storey single dwellings to create a dual occupancy on the site. "Dual Occupancies" are permissible within Zone R2 – Low Density Residential and the Proposed development is therefore permissible under the LEP. A summary table of key numeric controls is included below

**Botany Bay Local Environmental Plan 2013 Summary Table**

ITEM	REQUIREMENT	PROPOSED	COMPLIANCE
<b>Land Use Zone</b> Cl 2.1		The site is zoned R2 Low Density Residential under the BBLEP 2013.	✓
<b>Development Consent</b> Cl 2	Is the proposed use/works permitted with development consent?	The proposed use is permissible with Council's consent under the BBLEP 2013	✓
<b>Zone Objectives</b> Cl 2	Does the proposed use/works meet the objectives of the zone?	The proposed development is consistent with the objectives of the zone which are as follows:  <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To encourage development that promotes walking and cycling.</li> </ul>	✓
<b>Height</b> Cl 4.3	Overall height: Max 8.5m	8m	✓
<b>Floor Space Ratio</b> Cl 4.4A(3)(a)	Max 0.5:1	Dwelling 57: 0.57:1 Dwelling 57a: 0.56:1	Merit-addressed in attached Clause 4.6 Variation Report
<b>Acid Sulfate Soils (ASS)</b> Cl 6.1		Class 4 ASS affect the subject site. The proposal does not involve any excavation works more than 2m below the natural ground surface. As such, the objectives of Clause 6.1 of the BBLEP 2013 are satisfied.	✓
<b>Earthworks</b> Cl 6.2		A Model Site Waste Minimisation and Management Plan, has been submitted with the application.	✓



<b>Stormwater Management</b> CI 6.3		The subject site falls towards Banksia St, please refer to Stormwater plans attached separately.	✓
<b>Airspace operations</b> CI 6.8	A maximum building height of 15.24m applies to the site in accordance with the Obstacle Limitation Surface Map.	The maximum height proposed is 8m and therefore complies with Part 6.8 of the BBLEP 2013.	✓
<b>Development in areas subject to aircraft noise</b> CI 6.9	The subject site is located within the 20-25 ANEF contour	Dwellings are permitted subject to compliance with AS 2021-2000.	✓

#### BOTANY BAY DEVELOPMENT CONTROL PLAN 2013

Section 4 of Part B1 – Residential Development of Botany Bay DCP 2013 is relevant to the proposed development.

A summary table of key numeric controls is included below.

#### BOTANY BAY DEVELOPMENT CONTROL PLAN 2013 SUMMARY TABLE

ITEM	REQUIREMENT	PROPOSED	COMPLIANCE
CI 2	C2 Development must be designed to reinforce and maintain the existing character of the streetscape	Yes	✓
<b>Site Coverage</b> CI 4A.2.7	C2 For sites over 200m <sup>2</sup> , a sliding scale is applicable as follows: - Between 250-300m <sup>2</sup> : Max. 60% Site coverage	Dwelling 57: 143.16 58.45% Dwelling 57A: 142.76 58.30%	✓
<b>Building Setbacks</b> CI 4A.2.8	C1. Dwelling house must comply with the following min setbacks for lot width of less than 12.5m: - Front: Comply with prevailing street setback or 6m Min. - Side: Merit - Rear: 4m Min. - Eaves: 450mm Min	Front: Prevailing street setback Side: 0.9 Rear: 8.4m Eaves: 450mm	✓
<b>Materials and Finishes</b> CI 4A.3.1	C1 A schedule of finishes and detailed colour scheme for the building façade must accompany all development applications involving building works.	Please refer to DA111 External Finishes Schedule	✓
<b>Fences</b> CI 4A.3.3	Front Fences: C1 Front fences are compliment the period or architectural style of the existing dwelling house. C3 Fencing must not create a traffic hazard or impinge on vehicular sightlines (AS2890.1.) Height – Front Fences C7 Fences (or returns) that are higher than 1m are not encourage along residential frontages but may be constructed to a max. 1.2m provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance.	Complying	✓  ✓  ✓

	<p>C9 Different materials and textures are required to break up the appearance of long fences or walls.</p> <p>Note: Fences with un-textured surfaces that present a blank appearance to the street are unsuitable.</p>		<p>✓</p> <p>✓</p>
<p><b>Void</b></p> <p>CI 4A.3.5</p>	<p>C1. Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported.</p> <p>C2 Voids shall only be supported where they are provided to increase the amenity to primary living areas or circulation areas, and not unreasonably impact upon the amenity of adjoining properties.</p> <p>C3 Voids are to connect related uses and spaces, and should not compromise the useability of spaces.</p>	No voids proposed	✓
<p><b>Visual Privacy</b></p> <p>CI 4A.4.1</p>	<p>C1 The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate, incorporate privacy measures.</p>	Appropriate privacy measures are incorporated within the proposal	✓
<p><b>Solar Access</b></p> <p>CI 4A.4.3</p>	<p>C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pool, patios and terraces, and drying areas of both the subject site and adjoining properties.</p>	Complying. Refer to DA107, DA108 & DA109	✓
<p><b>Private Open Space</b></p> <p>CI 4A.4.4</p>	<p>C1 Each dwelling is to have a min open area of private open space. The private open space area is to:</p> <ul style="list-style-type: none"> <li>- Have at least one area with a min. area of 36m<sup>2</sup></li> <li>- Is located at ground level with direct access to the internal living areas of the dwelling.</li> <li>- Maximise overlooking from adjacent properties.</li> <li>- Is visible from a living room door and window.</li> <li>- Minimise overlooking from adjacent properties.</li> <li>- Is generally level.</li> <li>- Is oriented to provide for maximum year – round use.</li> <li>- Is appropriately landscaped.</li> <li>- Is located or screened to ensure privacy.</li> </ul>	<p>Dwelling 57: 61.35m<sup>2</sup></p> <p>Dwelling 57A:65.18m<sup>2</sup></p>	<p>✓</p> <p>✓</p>
<p><b>Vehicle Access</b></p> <p>CI 4A.4.7</p>	<p>C1 Driveways within a property shall have a minimum width of 3m.</p> <p>C2 The width of the vehicular crossing over the Council's road reserve shall be a minimum of 3m for a single garage and a maximum of 5.5m for a double garage at the property boundary and 90° to the kerb.</p>	<p>3m Proposed</p> <p>3m Proposed</p>	<p>✓</p> <p>✓</p>

**HEIGHT**

Under Clause 4.3 of BBLEP2013 the maximum allowable height is 8.5 metres to the highest point of the development. The proposed maximum building height is 8m overall which complies with the controls.

**DENSITY**

Under Cl 4.4 of BBLEP 2013 the maximum allowable FSR is 0.5:1. The proposed gross floor area is 277.6m<sup>2</sup> across the site, equating to an FSR of 0.56:1. The proposal therefore does not comply with this development standard. However, a Clause 4.6 Variation Request which provides a justification for the non-compliance with the FSR is attached separately.

**MINIMUM SUBDIVISION LOT SIZE**

There are no minimum lot size maps adopted under the BBLEP 2013.

**FRONT, SIDE, AND REAR SETBACKS**

As demonstrated in the BBDCP 2013 Compliance Table, the proposal complies with the relevant setback controls for the site (Section 4, Part B1 of BBDCP 2013).

**ACCESS, SERVICING, PARKING, AND TRAFFIC**

Vehicular access to each of the dwellings will be provided via a driveway off Banksia Street. The driveways will lead to the ground level single garages. A total of 1 undercover car parking spaces is therefore provided for each dwelling.

Pedestrian access to the site will be available via separate pedestrian pathways extending from the Council footpath on Banksia Street to the dwelling entry ways.

As demonstrated in the BBDCP 2013 Compliance Table, the proposed parking provision on the site complies with the DCP requirements under clause 4A.4.7 and the design of the garages and driveways.

**VISUAL PRIVACY**

Visual privacy is considered acceptable within the site, between proposed dwellings, and between adjoining and surrounding properties. The proposal has considered the siting and internal layout of dwellings on the site relative to neighbouring properties, as well as the use of building materials and screening devices.

As outlined in this report, the proposed development complies with all key built form controls and therefore provides adequate separation from the adjoining properties.

Windows and upper level balconies have been appropriately sited and designed to minimise overlooking and preserve reasonable visual privacy for neighbouring properties. Adequate screen landscaping and boundary fencing is proposed along the boundaries of the site (refer to the landscape plan prepared by Earth Lema provided under separate cover). Within the development, the layout has been designed to ensure that mutual privacy is provided for both dwellings comprising the dual occupancy development.

As demonstrated in the BBDCP 2013 Compliance Table in Appendix D, the proposal complies with the BBDCP 2013 objectives and controls relating to visual privacy (Part B1 of BBDCP 2013).

**ACOUSTIC ENVIRONMENT AND VIBRATION**

The subject site is likely to be affected by aircraft noise from the Sydney (Kingsford Smith) Airport. Please refer to the Acoustic report prepared by Koikas Acoustics provided separately. The report assesses the potential impacts that the external aircraft noises will have on the development and addresses these issues by providing recommendations and acceptable forms of construction.

**VENTILATION, SOLAR ACCESS AND SHADOW**

As demonstrated in the BBDCP 2013 Compliance Table, the proposal complies with the relevant objectives and controls relating to solar access and overshadowing (clause 4A.4.3 of the BBDCP 2013).



The design of the dwellings allows for cross-ventilation and natural ventilation. Both dwellings will receive air flow from the north, east, south, and west as shown in the Site Analysis diagram provided under separately. The building layout positions the living areas and private open space areas for maximum sunlight access. Both dwellings will have south-east facing living areas and private open spaces.

Both dwellings will also achieve 2 hours of direct sunlight during midwinter. Neighbouring properties will achieve the required minimum solar access at the winter solstice. Refer to the accompanying Shadow Diagrams provided under separate cover.

#### BUILDING CODE OF AUSTRALIA

The proposed development will comply with the Building Code of Australia (BCA) and relevant Australian Standards.

#### ENERGY EFFICIENCY

A BASIX certificate has been submitted under separately. The proposal passes the water, thermal comfort and energy criteria set out in the BASIX certificate.

The proposed layout of the dwellings allows for internal amenity with sufficient natural light and ventilation. Energy efficient appliances and fittings will be provided to the amenities of the dwellings. The use of 'new' energy efficient products including: air conditioning, heating, lighting and lighting control, cooking and refrigeration, entertainment such as LED television will be included in the design and featured in the development.

#### PRIVATE OPEN SPACE

In accordance with BBDCP 2013, each dwelling has been provided with greater than 36sqm of private open space with the following areas proposed:

- Dwelling 57: 61.35m<sup>2</sup>, including rear deck area with a pergola.
- Dwelling 57a: 65.18<sup>2</sup>, including rear deck with a pergola.

Each of the ground floor private open space areas are divided into usable paved and grassed areas. The paved area will allow for al fresco entertaining and dining whilst the grassed areas will provide green space for play and family recreation. A number of native plantings and shrubs will be planted along the boundaries to soften the built form and provide a good outlook for residents.

The primary living areas of each of the proposed dwellings will provide direct access to private open space areas. Each private open space area has been oriented to maximise solar access, with each designed to receive more than 2 hours of solar access in mid-winter. Refer to the accompanying Shadow Diagrams.

Turfed areas within the front setbacks provide additional opportunities for private recreation. Landscaping and fencing will provide amenity and privacy to private open space areas.

As demonstrated in the BBDCP 2013 Compliance Table, the proposal complies with the relevant controls relating to private open space (clause 4A.4.4 of the BBDCP 2013).

Other built form matters are assessed briefly in the table below.

ITEM	ASSESSMENT COMMENT
<b>Dwelling Size and layout</b>	<p>The floor area of the proposed dwellings are as follows:</p> <p>Dwelling #57: 140.4m<sup>2</sup> Dwelling #57a: 137.2m<sup>2</sup></p> <p>These floor areas are generous and will provide good amenity for the occupants.</p> <p>Each dwelling is generally divided into ground floor living, with bedrooms located at ground and first floor level.</p> <p>Refer to Section 3.3 of this Report for a breakdown of the layout of each dwelling.</p> <p>Good opportunities for storage are proposed through storage areas within the dwellings, such as built in wardrobes and garages.</p>
<b>Heritage</b>	<p>The subject site is not heritage listed and is not located within a heritage conservation area (HCA).</p> <p>The proposed works will have no impact on these surrounding heritage items.</p>
<b>Fencing</b>	A 1800mm high colorbond fence will be provided to the side and rear boundaries.

<b>Foreshore Land, FBL and MHWM</b>	The subject site is not affected by a Foreshore Building Line (FBL) and/or Mean High Water Mark (MHWM). Accordingly, there are no planning provisions concerning FBL and/or MHWM relevant to the assessment of the subject application.
<b>Utilities</b>	All services are currently available for the existing buildings on the site and surrounding development and will be available to the proposal.
<b>Views</b>	No views are affected by the proposed development.
<b>Waste management</b>	Waste management will be according to Councils specifications for storage, bin size and collection. As per Table 3 of Part 3N.3.2 of BBDCP 2013, 1 recycling bin, 1 waste bin and 1 recycling bin per dwelling will be provided.
<b>Construction Site Management</b>	All demolition, construction and deliveries to the site necessary for the carrying out of the development will be between specified restricted hours in accordance with conditions of consent.

This planning assessment also discusses the proposal's response to other DCP items.

#### NATURAL ENVIRONMENT: TREE REMOVAL, RETENTION, AND LANDSCAPING

Proposed landscaping will comprise a variety of native trees, shrub, and grass species consistent with the suggested species identified in Appendix 1 of the Landscape Technical Guidelines for Development Sites of the BBDCP 2013. Proposed landscaping has been designed to enhance the character of the streetscape and locality.

Key features of the proposed landscaping on site include:

- Shrub planting along the rear site boundaries to screen private open space areas;
- Shrub and groundcover planting along the property boundaries and within the front setback to complement and enhance entry ways and driveways;
- Step stone pavers, leading from the front boundary to the entry of each dwelling, with decorative pebble infill;
- Turfed private open space areas.

#### NATURAL ENVIRONMENT: STORMWATER

The new stormwater management details associated with the development and site works are shown on the stormwater plans prepared by Down Under Building Inspection. The proposal includes 2,000 litre underground rainwater tanks to supply water for domestic use, and in areas totalling 58.3% of the site. Stormwater can therefore be appropriately managed for the new development.

#### NATURAL ENVIRONMENT: ECOLOGICALLY SUSTAINABLE BUILDING DESIGN

The proposal has been designed to be energy efficient in terms of building materials and energy efficient appliances as discussed throughout this report.

#### NATURAL ENVIRONMENT: LANDFORM, CUT AND FILL

No excavation will occur on site as a part of the proposed development. Some minor ground disturbance may be required to facilitate the proposal. Soil will be stabilized upon completion of works.

Additionally, the proposed Erosion and Sediment Control Plans prepared by Com Construction Pty Ltd detail how stormwater runoff and flow, erosion and sediment will be managed during construction.

#### NATURAL ENVIRONMENT - OTHER MATTERS -

ITEM	ASSESSMENT COMMENT
Soil, erosion and sedimentation	The proposal will have minimal effect on erosion and sedimentation that may occur on the site as a result of demolition and construction however an erosion and sediment control plan is included under separate cover.
Flora and fauna	The proposal will have no implications for threatened species, populations or ecological communities or their habitats.

Conservation of Land and Water Resources	The proposal will not have any effect on conserving and using valuable land resources such as productive agricultural land, mineral and extractive resources, or water supply catchments.
Air and microclimate	There will be minimal potential for emissions of dust, particulates, odours, fumes, gases and pollutants as a result of the demolition, construction that will occur on site. Therefore, the proposal will not result in any air pollution.

#### SOCIAL AND ECONOMIC

The proposed development will provide a dual occupancy (Semi-Detached) development, with both dwellings 57 and 57a containing 4 bedrooms, a private open space, single garages and generous landscaping. The site is a highly desirable place to live for residents, being located within proximity of Botany town centre, educational facilities, parks and other local amenities and activities. The proposed dual occupancy development has been designed in context with the local character and with consideration for the needs of potential future residents.

The proposed development has been designed to ensure it will not give rise to any unreasonable adverse environmental impacts on any nearby properties by way of overshadowing, noise, loss of privacy, or views. The proposal will contribute positively to the visual character and amenity of the local area and accordingly, the social impact of the proposal is considered to be a positive one.

#### HAZARDS

As outlined in this report, there will be no unreasonable risks to people, property, or the biophysical environment as a result from the proposed development. Notably there will be no issues in relation to geotechnical matters, acid sulfate soils or flooding. It is also noted that bushfire or contamination does not affect the site.

#### PUBLIC INTEREST

The proposal will not give rise to any unreasonable adverse environmental impacts on any nearby properties by way of overshadowing, noise, loss of privacy, or views. The proposed dual occupancy development provides two new well-designed dwellings, which will provide a high level of amenity for future occupants, as well as enhance the Banksia streetscape. The proposed dual occupancy development will improve the road frontage with a modern and elegant building integrating sensitively with the local area. The proposal will contribute positively to the local area where housing is in demand. It is therefore considered to be in the public interest.

#### S79C ASSESSMENT

The following discussion provides a planning assessment having regard to the relevant matters for consideration under Section 79C (1) of the Environmental Assessment Act, 1979.

#### STATE ENVIRONMENTAL PLANNING POLICIES

Appendix B contains an analysis of potentially relevant State Environmental Planning Policies (SEPP's). A summary discussion is included below.

#### SEPP BASIX 2004

A valid BASIX Certificate is required with the BASIX commitments identified on the plans. A BASIX certificate has been prepared as part of this application.

#### SEPP 55 – REMEDIATION OF LAND

This SEPP contains planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected. The site does not contain contaminated land and does not require remediation works.

## 1. CONCLUSION

This document comprises a Statement of Environmental Effects (SEE) to accompany a development application for the demolition of existing structures and construction of two new single dwellings and associated landscaping to create a dual occupancy development at 57 Banksia Street Botany.

The proposed built form will be two storeys in height, with both dwellings containing generous ground floor living spaces, private open space areas, four bedrooms and balconies at first floor level, and single garages at ground level. The proposal will provide an attractive and desirable development to meet the needs of the surrounding area whilst not unduly impacting the existing neighbours.

The proposal is permissible with development consent and performs favourably in relation to the relevant aims, objectives and development standards of the relevant environmental planning instruments and associated development control plan.

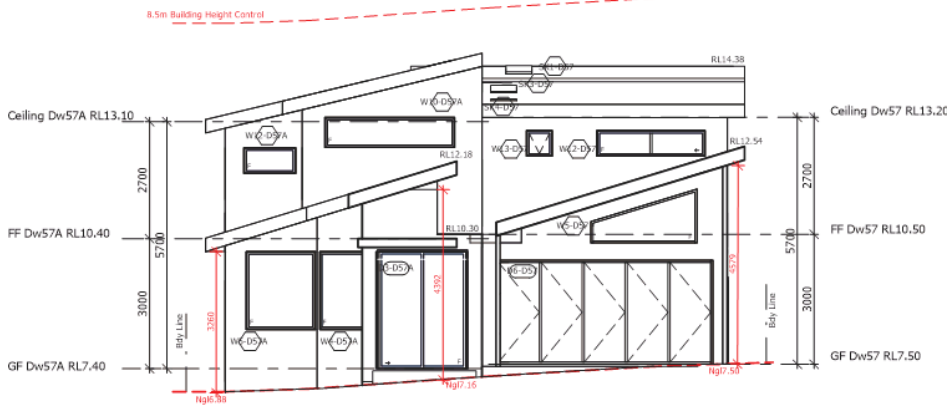
**Ammar Becka** (BArch MArch 1<sup>st</sup> class honours)

Chartered Architect    NSW Registration number 6549

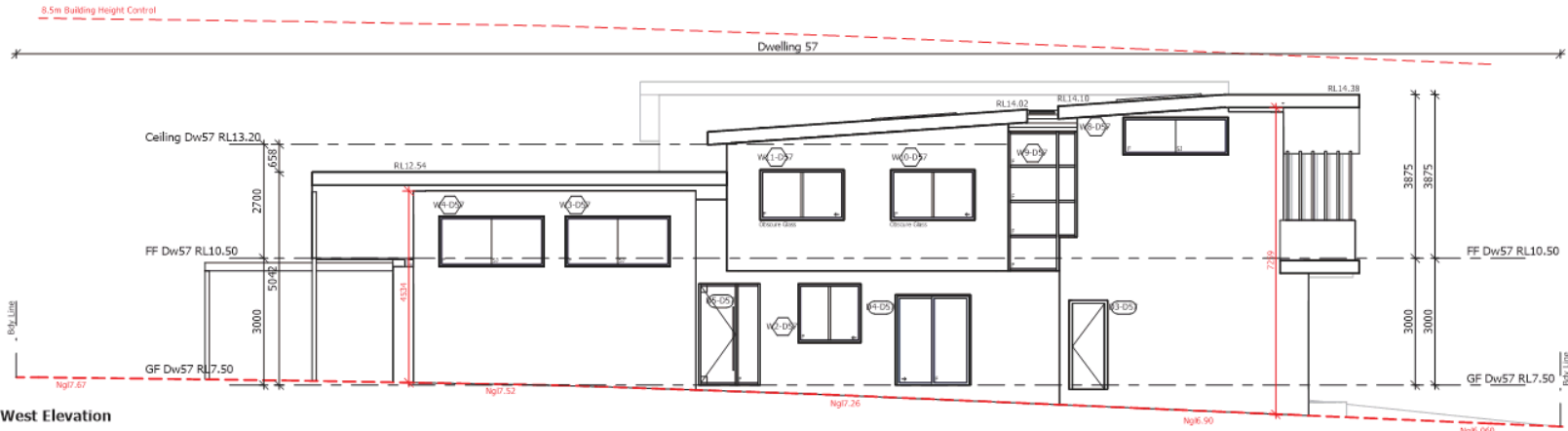




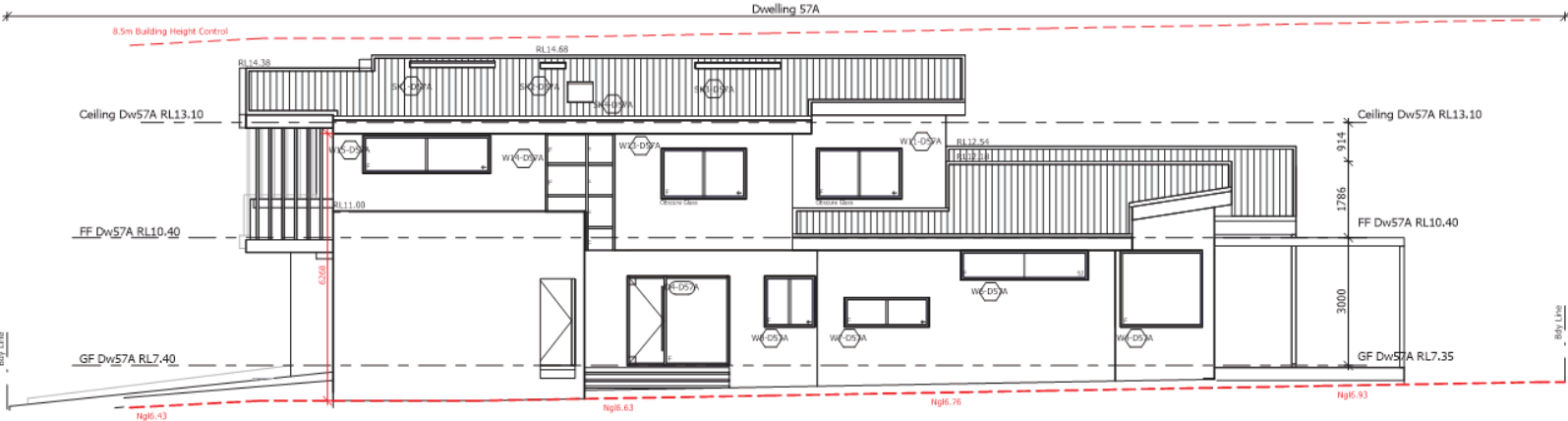
North - Street Elevation



South Elevation



West Elevation



The design must be conducted so that all structural elements are structurally adequate and comply with The Building Code of Australia and Australian Standards as follows:

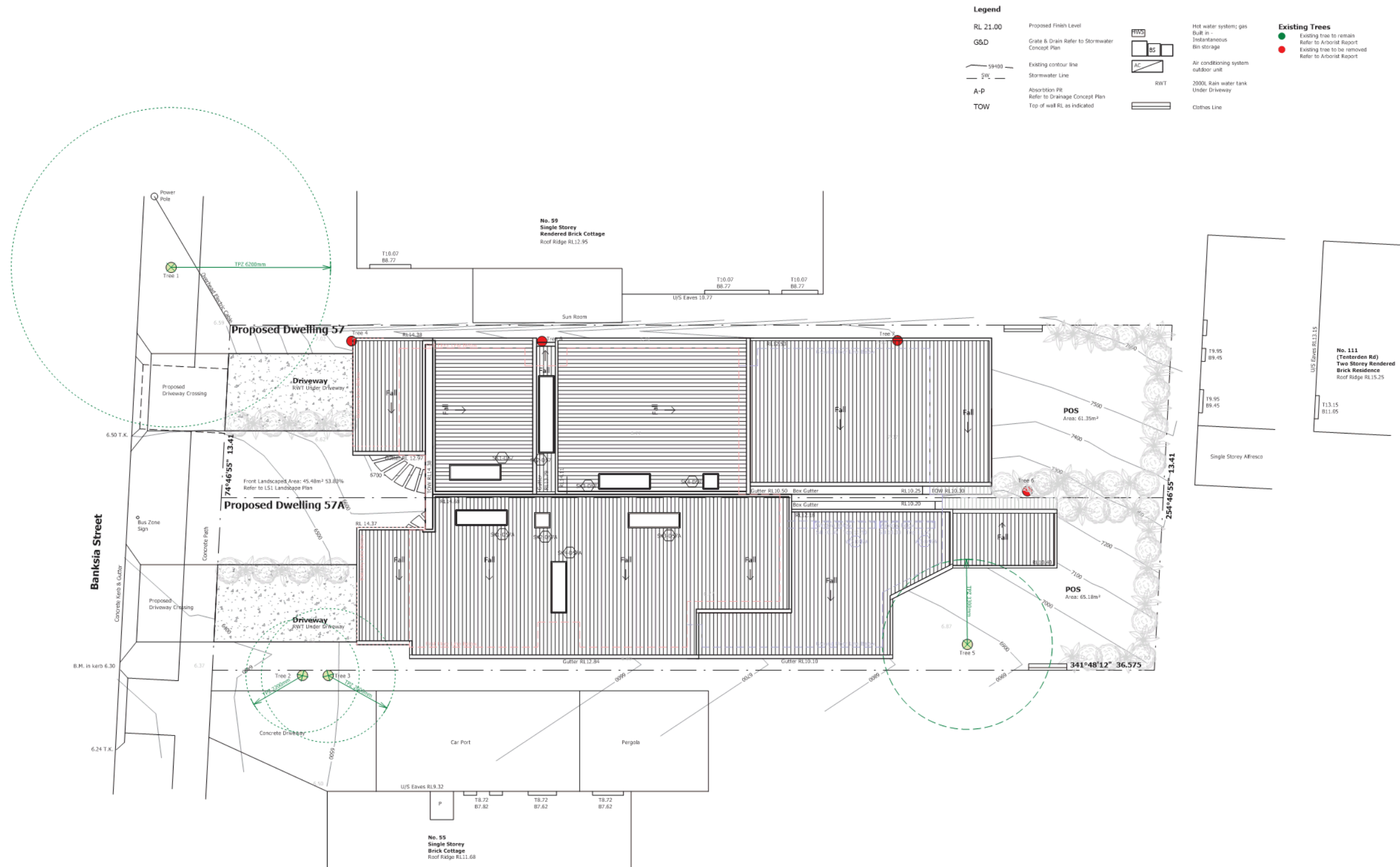
- \* Structural design actions AS1170
- \* Residential slabs and footings AS2780
- \* Concrete structures AS3700
- \* Steel structures AS4100
- \* Timber structures AS1720
- \* Residential timber-framed construction AS1684

**Aba**  
Architecture Becka & Associates  
Architects & Project Managers  
Phone 0295801645  
Fax 0295860844


JOB TITLE  
Attached Dual Occupancy  
57 Banksia Street  
Botany  
  
Elevations

Revision	Date	For
A	19.10.2018	Council letter dated 28/09/18

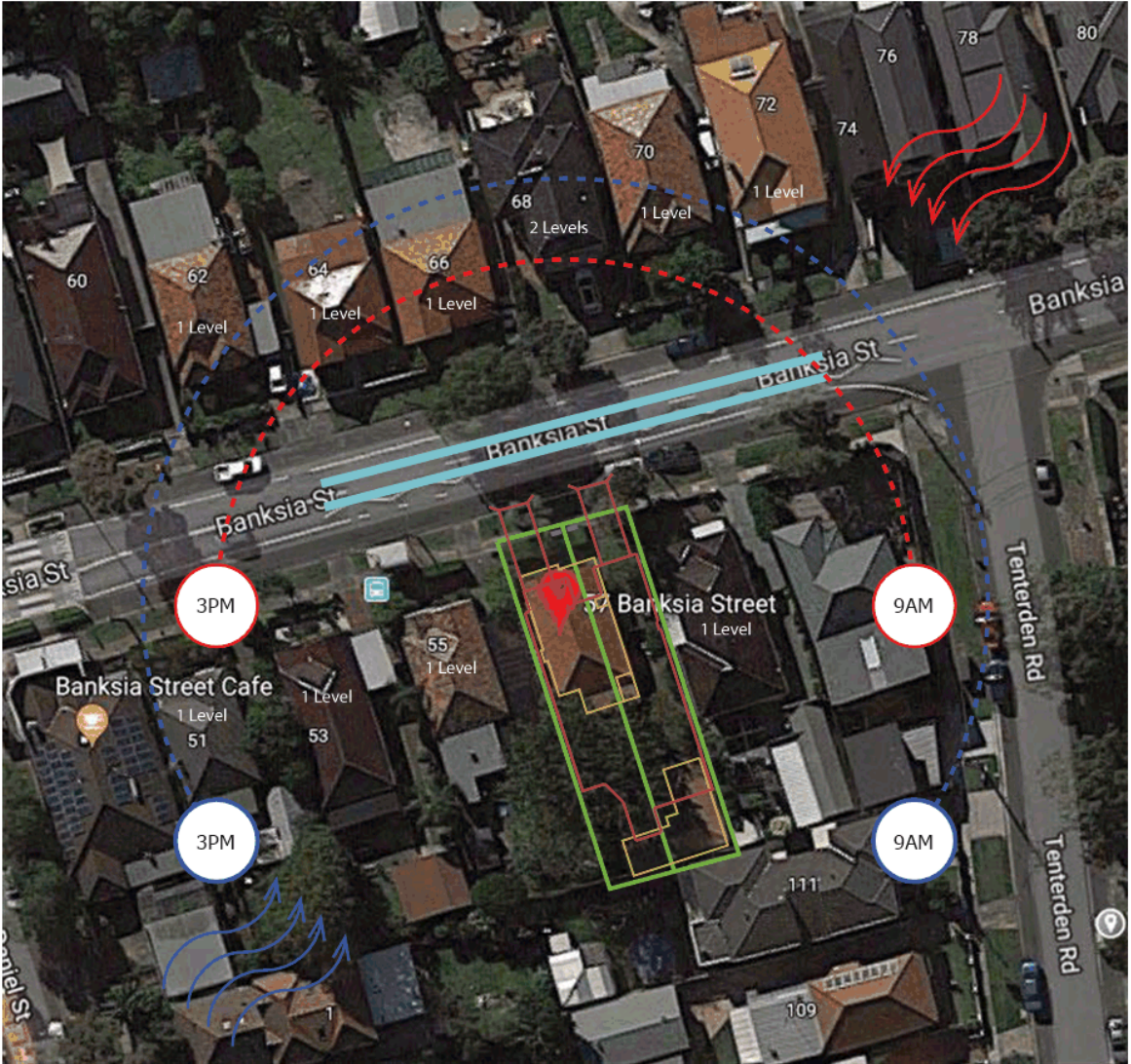
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SCALE 1 : 100 (A2)	DRAWN BY M. Laverde
DATE 19/10/2018 4:35:15 PM	DESIGNED BY AB



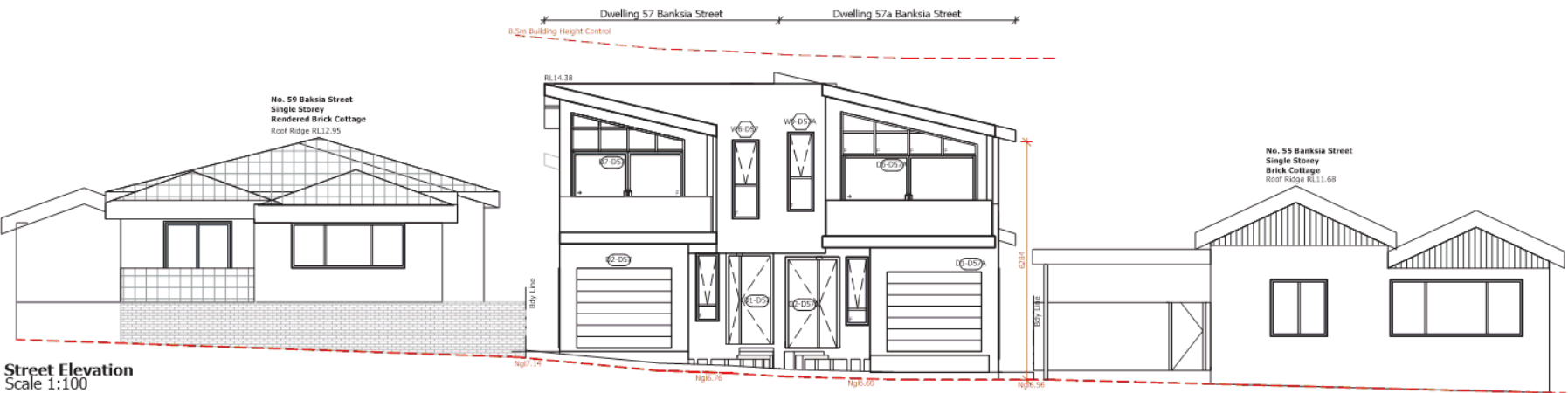
Revision	Date	For
A	19.10.2018	Council letter dated 28/09/18

 <p>Architecture Becka &amp; Associates Architects &amp; Project Managers Phone 0295801645 Fax 0295860844</p>	<p><b>JOB TITLE</b> Attached Dual Occupancy 57 Banksia Street Botany</p>	<p><b>SHEET NUMBER</b> DA101</p>	<p><b>CHECKED BY</b> AB</p>
	<p><b>Site - Roof Plan</b></p>	<p><b>SCALE</b> 1 : 100 (A2)</p>	<p><b>DRAWN BY</b> M. Laverde</p>
		<p><b>DATE</b> 19/10/2018 4:34:35 PM</p>	<p><b>DESIGNED BY</b> AB</p>



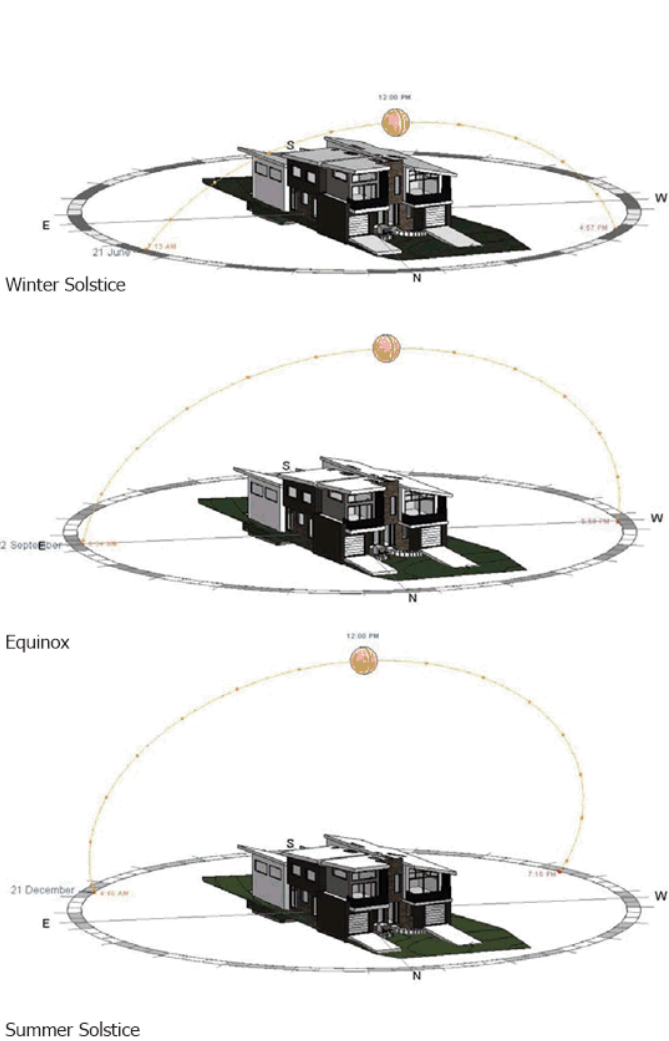


Site Analysis Plan  
NTS



Street Elevation  
Scale 1:100

Solar Analysis



Legend

- Winter Sun Path
- Summer Sun Path
- Site area Boundary
- Footprint of Proposal
- Footprint of existing to be demolished
- Utility services meters
- Prevailing Winter wind
- Prevailing Summer wind
- Traffic noise

DCP Requirements

- Objectives:**
- Development must be designed to reinforce and maintain the existing character of the streetscape
  - The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate, incorporate privacy measures.
  - Different materials and textures are required to break up the appearance of long fences or walls.
- Development Controls:**
- Site Coverage**
- Between 250-300m<sup>2</sup>: Max. 60% Site coverage
- Building Setbacks**
- Dwelling house must comply with the following min setbacks for lot width of less than 12.5m:  
Front: Comply with prevailing street setback or 6m Min.  
Side: 900mm  
Rear: 4m Min.  
Eaves: 450mm Min
- Landscape**
- Development shall comply with the following minimum landscaped area requirements:
- Lot size between 250-350m<sup>2</sup> - 20%
- Fences**
- Front fences are compliment the period or architectural style of the existing dwelling house.
  - Fencing must not create a traffic hazard or impinge on vehicular sightlines.
  - Fences (or returns) that are higher than 1m are not encourage along residential frontages but may be constructed to a max. 1.2m provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance.
- Voids**
- Void spaces must be designed so as not to be reasonably capable of future infill.
  - Voids shall only be supported where they are provided to increase the amenity to primary living areas or circulation areas, and not unreasonably impact upon the amenity of adjoining properties.
  - Voids are to connect related uses and spaces and should not compromise the useability of spaces.
- Visual Privacy**
- The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling and where appropriate, incorporate privacy measures.
- Solar Access**
- Buildings are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows.
- Private Open Space**
- Each dwelling is to have a min open area of private open space. The private open space area is to:
- Have at least one area with a min. area of 36m<sup>2</sup>
  - Is located at ground level with direct access to the internal living areas of the dwelling.
  - Maximise overlooking from adjacent properties.
  - Is visible from a living room door and window.
  - Minimise overlooking from adjacent properties.
  - Is generally levelled.
  - Is oriented to provide for maximum year – round use.
  - Is appropriately landscaped.
  - Is located or screened to ensure privacy.
- Vehicle Access**
- Driveways within a property shall have a minimum width of 3m.
  - The width of the vehicular crossing over the Council's road reserve shall be a minimum of 3m for a single garage and a maximum of 5.5m for a double garage at the property boundary and 90° to the kerb.

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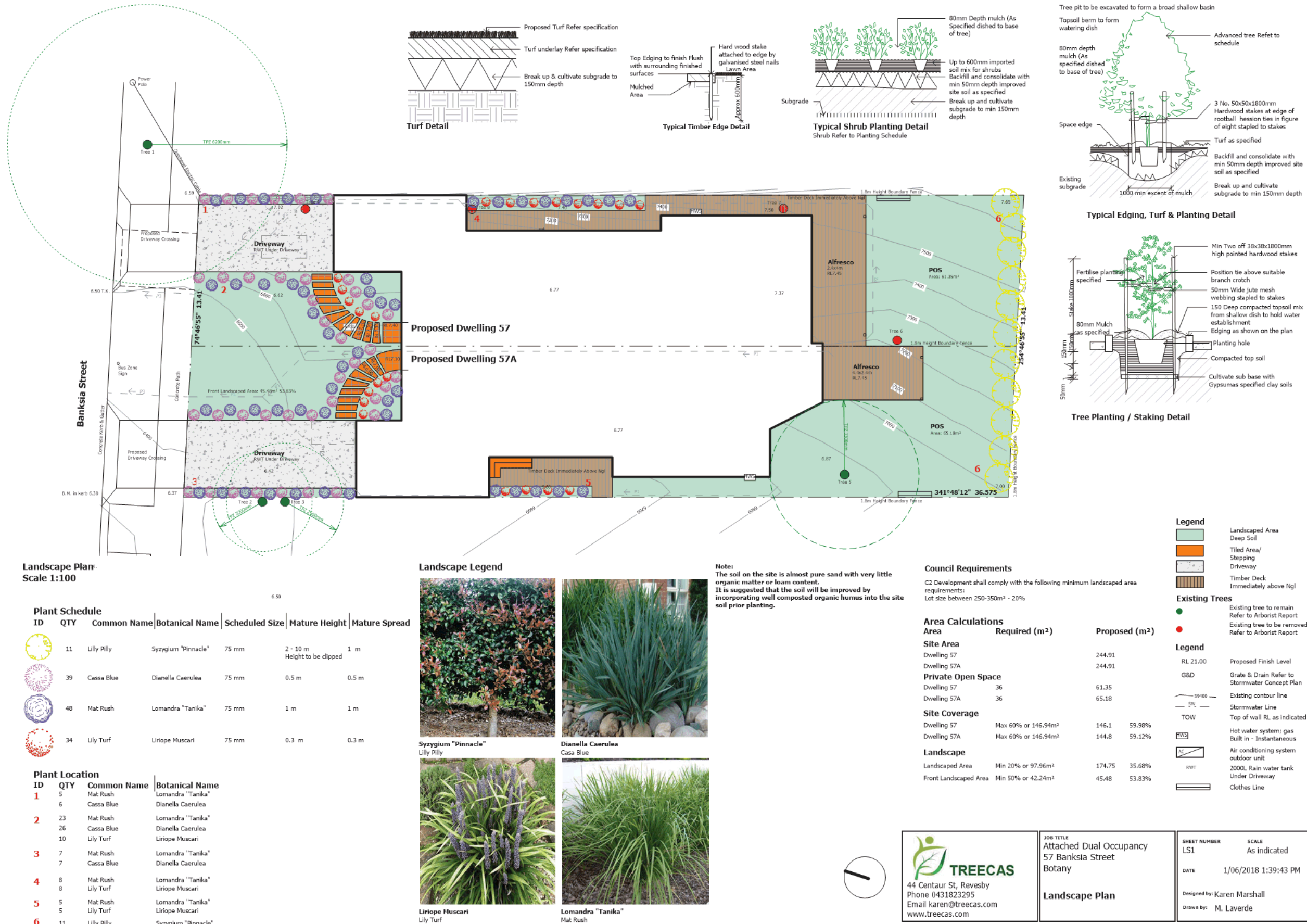
JOB TITLE  
Attached Dual Occupancy  
57 Banksia Street  
Botany

Site Analysis Plan

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DATE 19/10/18	DESIGNED BY AB

PRIOR TO COMMENCING ANY WORK, THE CONTRACTOR/BUILDER TO CONFIRM ON SITE ALL DIMENSIONS, LEVELS, ANGLES, ETC. DO NOT SCALE DIMENSIONS. USE FIGURED DIMENSIONS ONLY. IF ANY APPARENT DISCREPANCIES OR OMISSIONS EXIST, SEEK CLARIFICATION FROM THE ARCHITECT BEFORE PROCEEDING WITH WORKS. THE COPYRIGHT TO THESE DRAWINGS AND ALL PARTS THEREOF REMAIN THE PROPERTY OF AMMAR BECKA OR ITS NOMINATED PARTY (IES)







Certificate no.: 0002626690  
Assessor Name: Zoran Cvetkovic  
Accreditation no.: VIC/BDV/13/1641  
Certificate date: 08 April 2018  
Dwelling Address: 57 Banksia Street  
Botany, NSW 2019  
www.nathers.gov.au



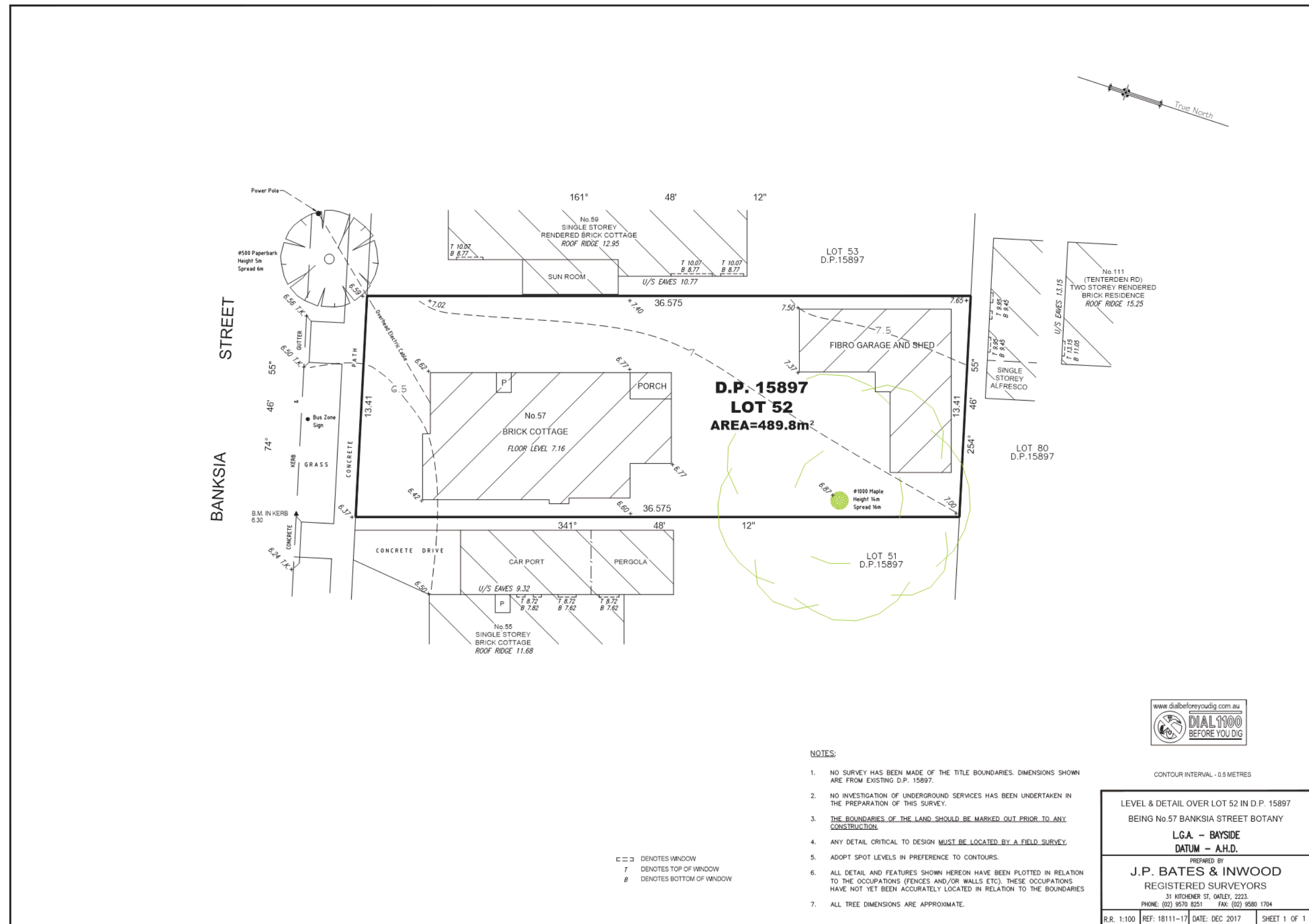
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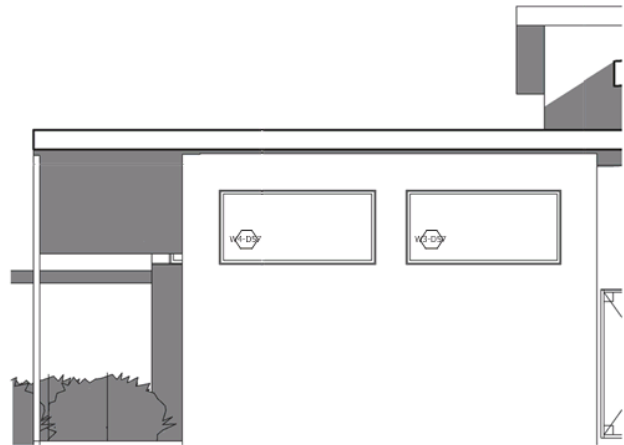
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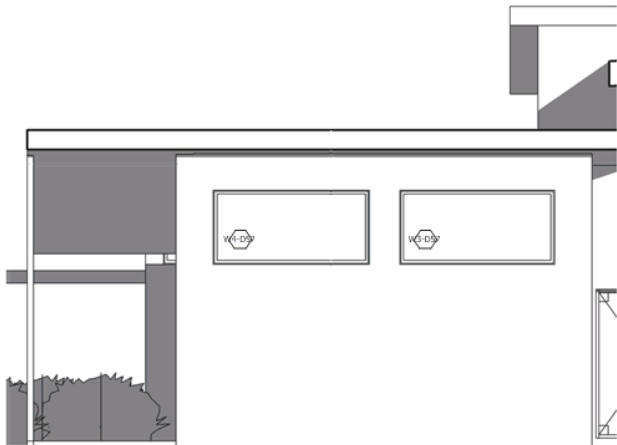
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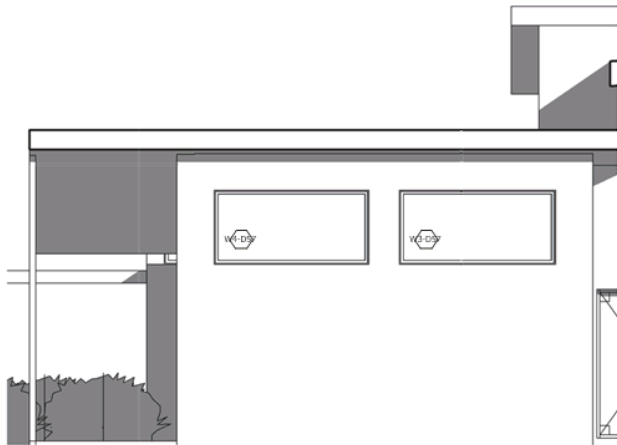
Shadow Elevations Dwelling 57



Winter Solstice 9am  
Direct Sun Light: 7.4m<sup>2</sup>

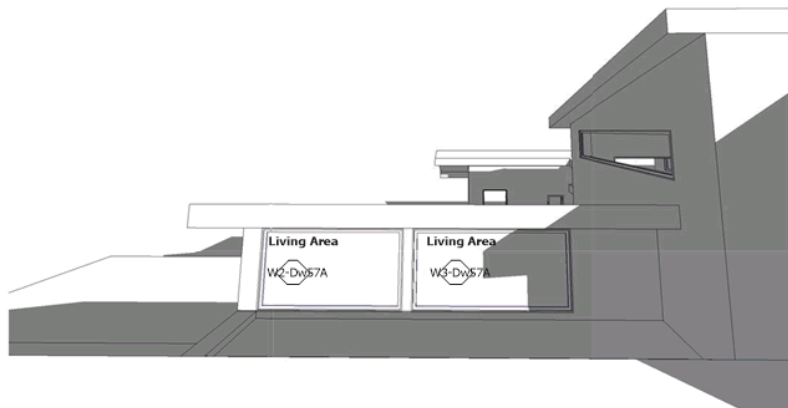


Winter Solstice 10am  
Direct Sun Light: 7.4m<sup>2</sup>

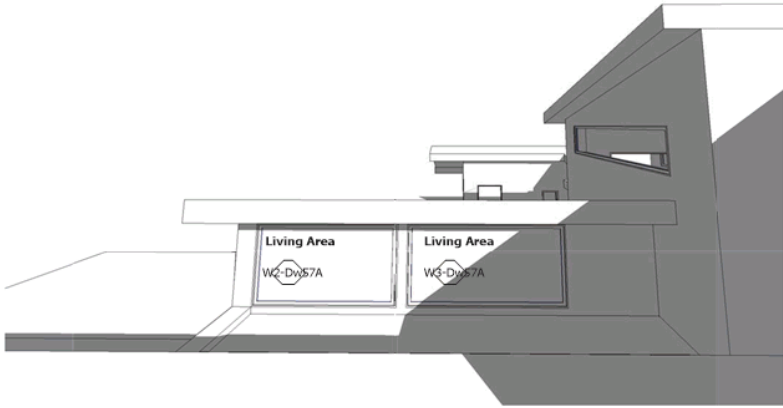


Winter Solstice 11am  
Direct Sun Light: 7.4m<sup>2</sup>

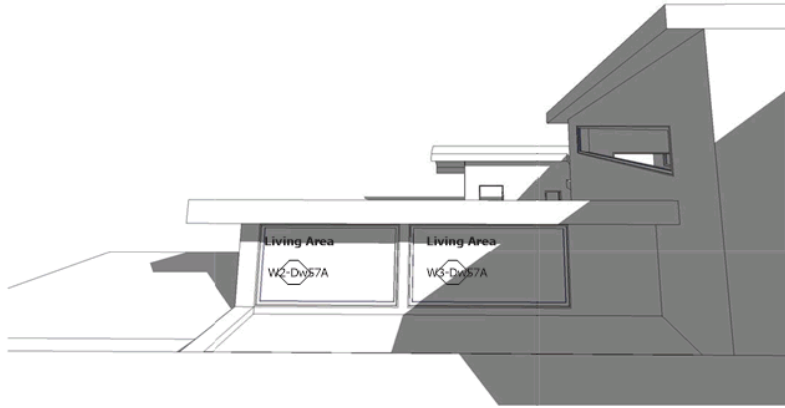
Shadow Elevations Dwelling 57A



Winter Solstice 9am  
Direct Sun Light: 5.5m<sup>2</sup>



Winter Solstice 10am  
Direct Sun Light: 5.3m<sup>2</sup>



Winter Solstice 11am  
Direct Sun Light: 5m<sup>2</sup>

Legend  
Shadows Created by Proposed Structures



6.0  
Average star rating

Certificate no.: 000262660  
Assessor Name: Zoran Cvelkovic  
Accreditation no.: VIC/BDAM/131641  
Certificate date: 08 April 2018

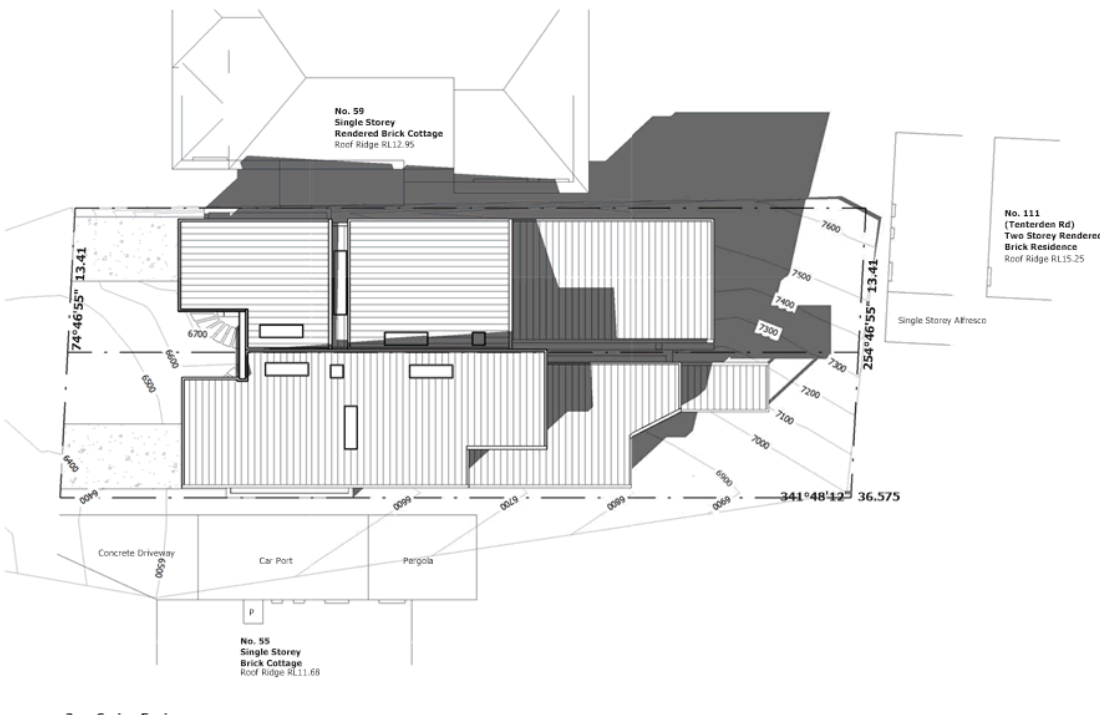
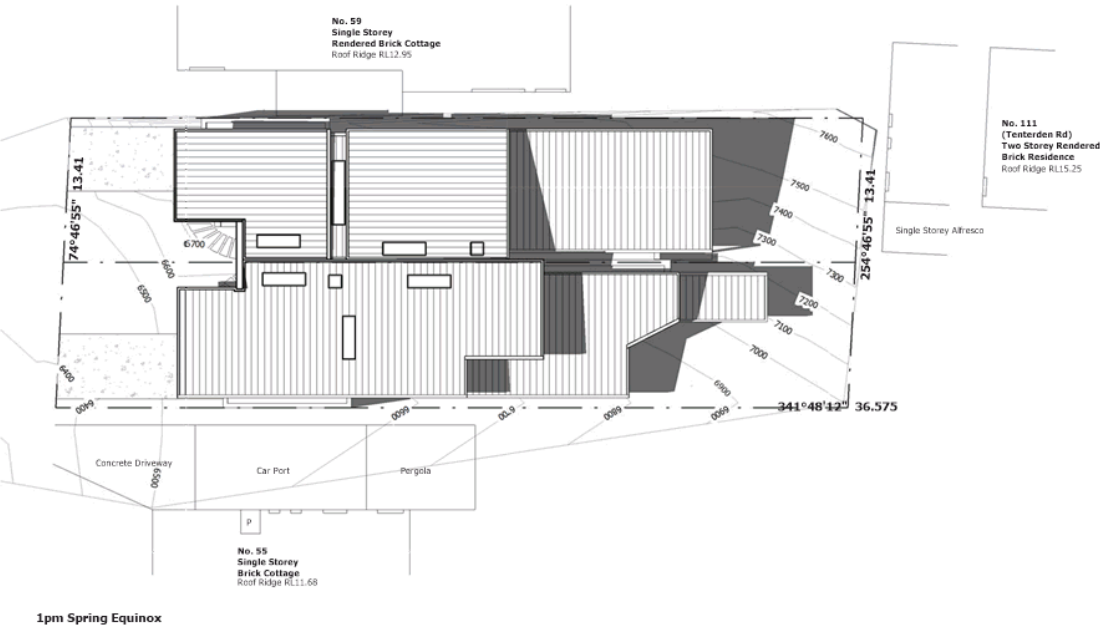
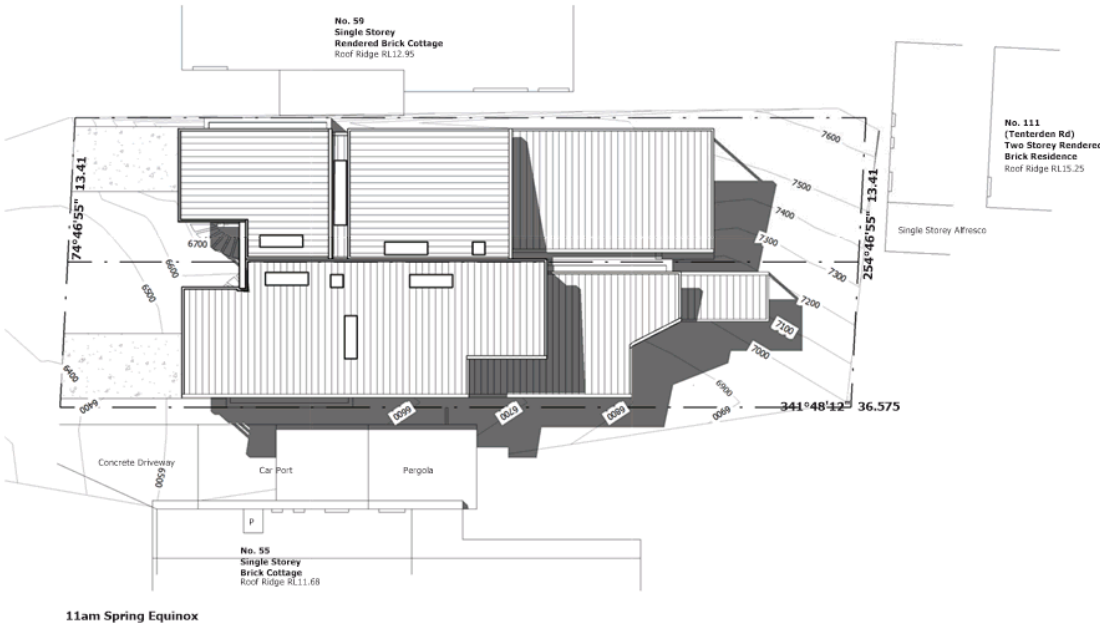
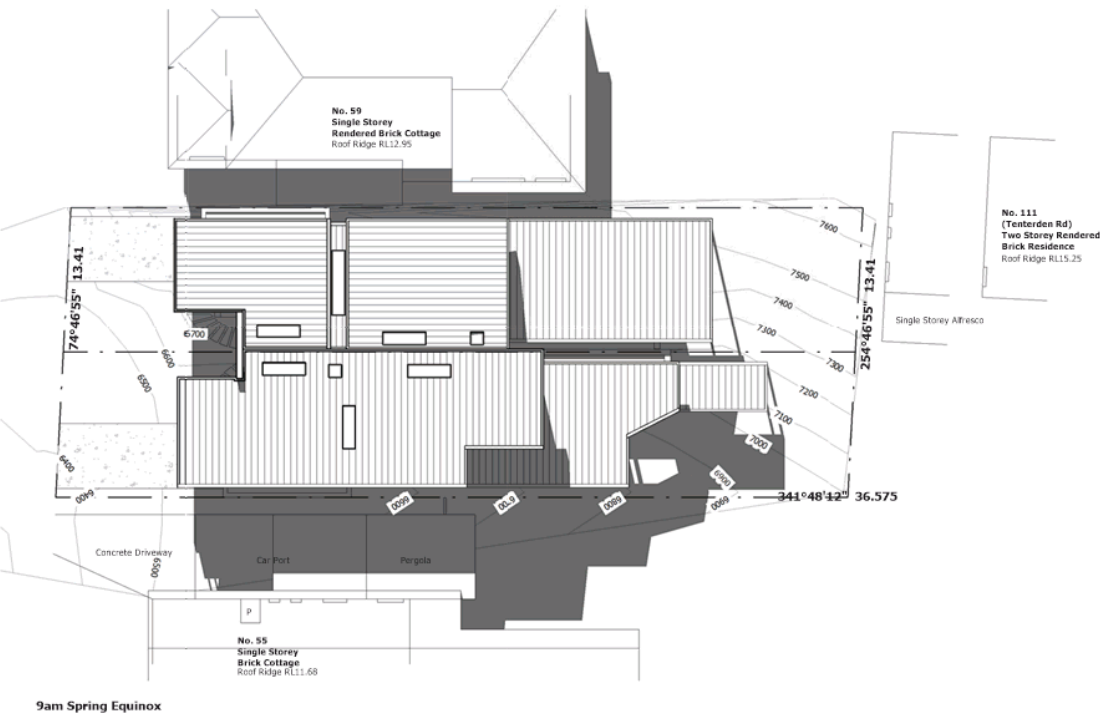
Dwelling Address:  
57 Banksia Street  
Botany, NSW  
2019  
[www.nathans.gov.au](http://www.nathans.gov.au)



**DCP CHAPTER 4A.4.3  
Solar Access**  
C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pool, patios and terraces, and drying areas of both the subject site and adjoining properties.

 Architecture Becka & Associates Architects & Project Managers Phone 0295801645 Fax 0295860844	JOB TITLE Attached Dual Occupancy 57 Banksia Street Botany	SHEET NUMBER DA109	CHECKED BY AB
	Shadow Diagrams Elevations	SCALE As indicated (A2)	DRAWN BY M. Laverde
		DATE 30/05/2018 10:31:40 AM	DESIGNED BY AB





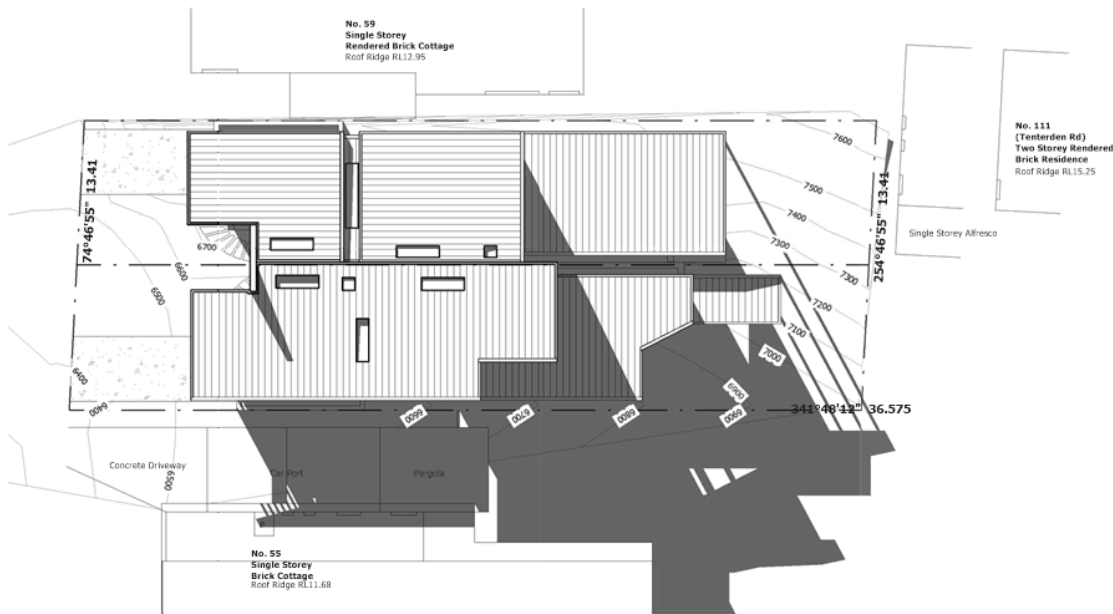
Legend  
Shadows Created by Proposed Structures

Average star rating: 5.0  
Certificate no.: 0002628650  
Assessor Name: Zoran Cvetkovski  
Accreditation no.: VIC/IDA/13/1641  
Certificate date: 08 April 2018  
Dwelling Address: 57 Banksia Street Botany, NSW 2019  
www.natshere.gov.au

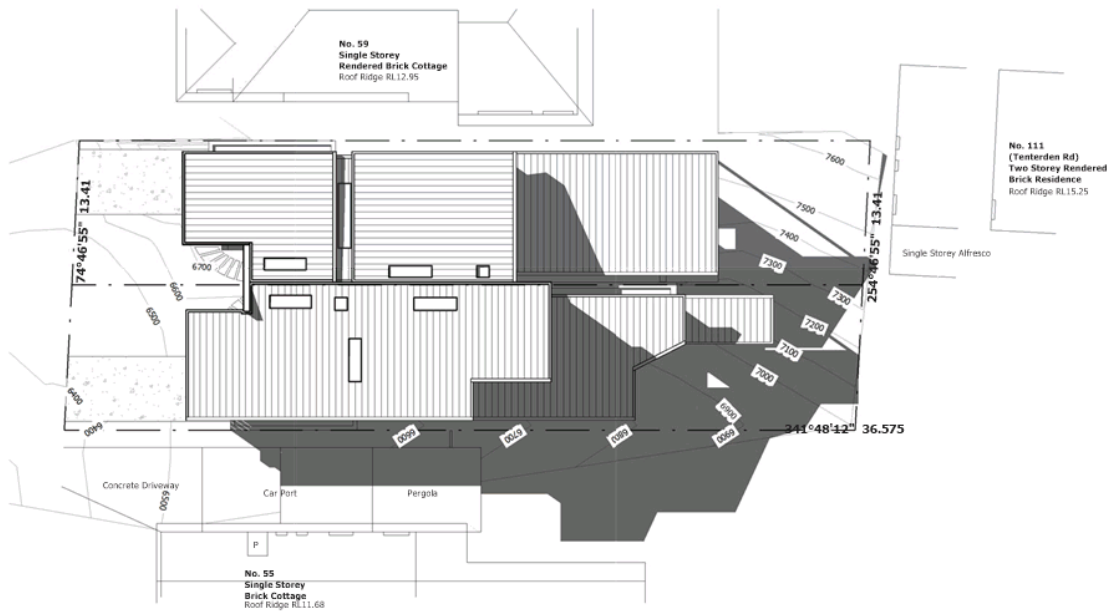
**DCP CHAPTER 4A.4.3 Solar Access**  
C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pool, patios and terraces, and drying areas of both the subject site and adjoining properties.



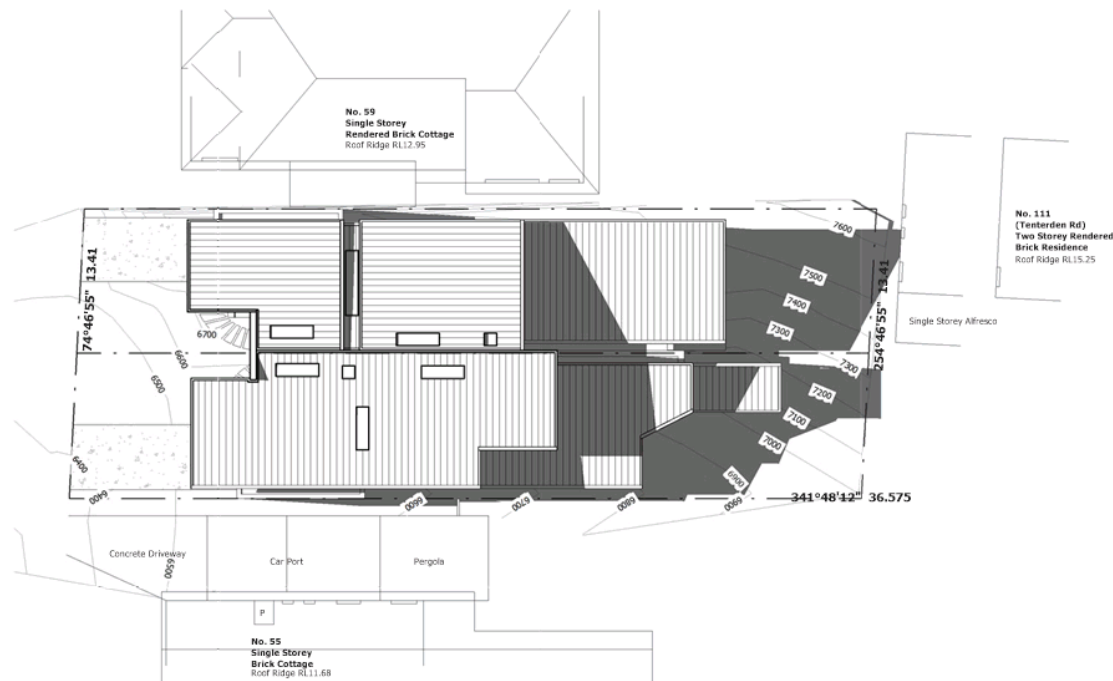
 Architecture Becka & Associates Architects & Project Managers Phone 0295801645 Fax 0295860844	JOB TITLE Attached Dual Occupancy 57 Banksia Street Botany	SHEET NUMBER DA108	CHECKED BY AB
	Shadow Diagrams Spring Equinox	SCALE 1 : 200 (A2)	DRAWN BY M. Laverde
		DATE 30/05/2018 10:31:05 AM	DESIGNED BY AB



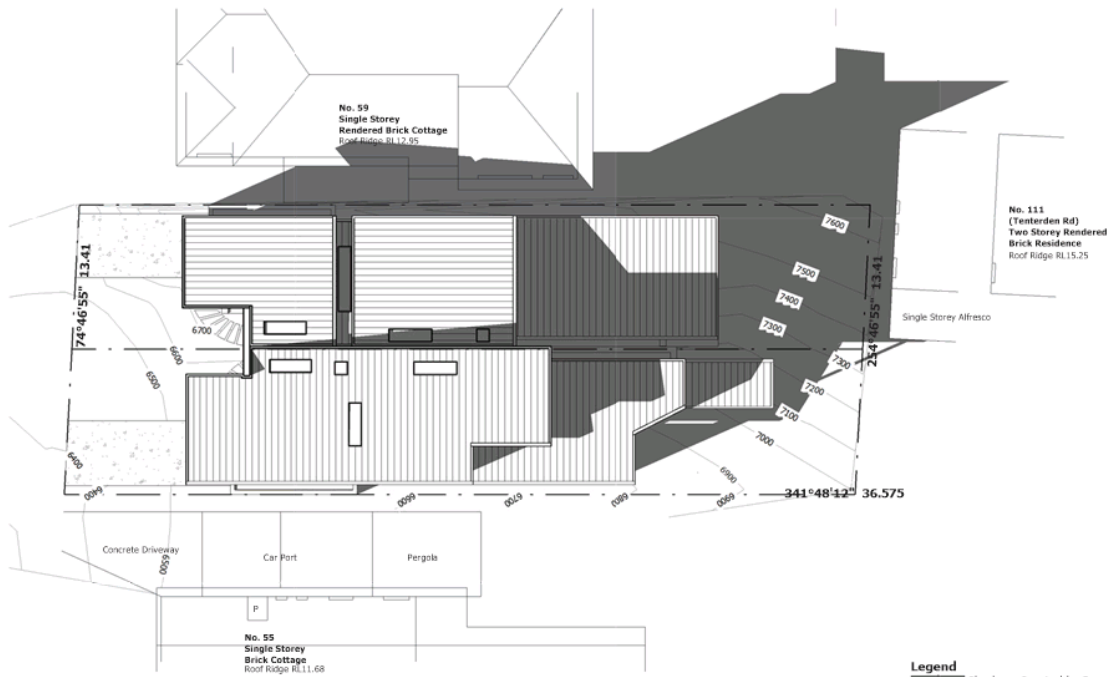
9am Winter Solstice



11am Winter Solstice



1pm Winter Solstice



3pm Winter Solstice

Legend  
Shadows Created by Proposed Structures



Certificate no.: 0002628650  
Assessor Name: Zoran Cvetkovski  
Accreditation no.: VIC/BOA/131641  
Certificate date: 08 April 2018  
Dwelling Address: 57 Banksia Street Botany, NSW 2019  
www.natthews.gov.au

DCP CHAPTER 4A.4.3 Solar Access

C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pool, patios and terraces, and drying areas of both the subject site and adjoining properties.



**Aba**  
Architecture Becka & Associates  
Architects & Project Managers  
Phone 0295801645  
Fax 0295860844

JOB TITLE  
Attached Dual Occupancy  
57 Banksia Street  
Botany  
  
Shadow Diagrams Winter  
Solstice

SHEET NUMBER DA107	CHECKED BY AB
SCALE 1 : 200 (A2)	DRAWN BY M. Laverde
DATE 30/05/2018 10:30:34 AM	DESIGNED BY AB

## CLAUSE 4.6 REQUEST FOR VARIATION

The proposal is for demolition of existing structures, construction of two new Semi-Detached dwellings, associated ancillary structures in a Torrens Title subdivision.

**Property:** 57 Banksia Street, Botany (Lot , Sec , DP)

**Zoning:** 2A, Area 3 as indicated on the FSR Maps

**Development:** Demolition of an existing dwelling, the subdivision of an existing allotment into two (2) allotments and the subsequent construction of a semi-detached dwelling on each lot.

**Relevant EPI:** Botany Bay Local Environmental Plan 2013 (BBLEP)

### **Relevant Development Standard Clauses:**

**(A) Cl. 4.4A(3)(d):** Exceptions to floor space ratio for residential accommodation

**(B) Cl. 4.6:** Exceptions to development standards

The proposed FSR of the semi-detached dwellings on each of the proposed lots are as follows:

Lot 1: 0.57:1

Lot 2: 0.56:1

Clause 4.4A(3)(d) of the Botany Bay Local Environmental Plan 2013 indicates the maximum floor space ratio for residential development in zone 2A is 0.5:1. Therefore the Proposal does not comply with the relevant FSR requirements of the LEP.

The applicant, pursuant to clause 4.6 of BBLEP, seeks a variation to the relevant FSR requirements.

Clause 4.6 of BBLEP 2013 allows for a variation to development standards and principally (but with some important differences) replicates the operation of State Environmental Planning Policy No. 1 – Development Standards. The following sets out the Applicant's Written Request for Variation to the provisions of Clause 4.4A of BBLEP 2013 which requires:

**4.4A(3)(d):** *the maximum floor space ratio for all other development for the purpose of residential accommodation is 0.5:1.*

In preparing this Request for Variation, consideration has been taken to seminal Court decisions in relation to SEPP 1 generally, clause 4.6 specifically and specific Court decisions made regarding dual occupancy developments in circumstances where there has been a non-compliance with the FSR.

Components of Clause 4.6 relevant to the preparation of a Written Request for Variation are:

**(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.*

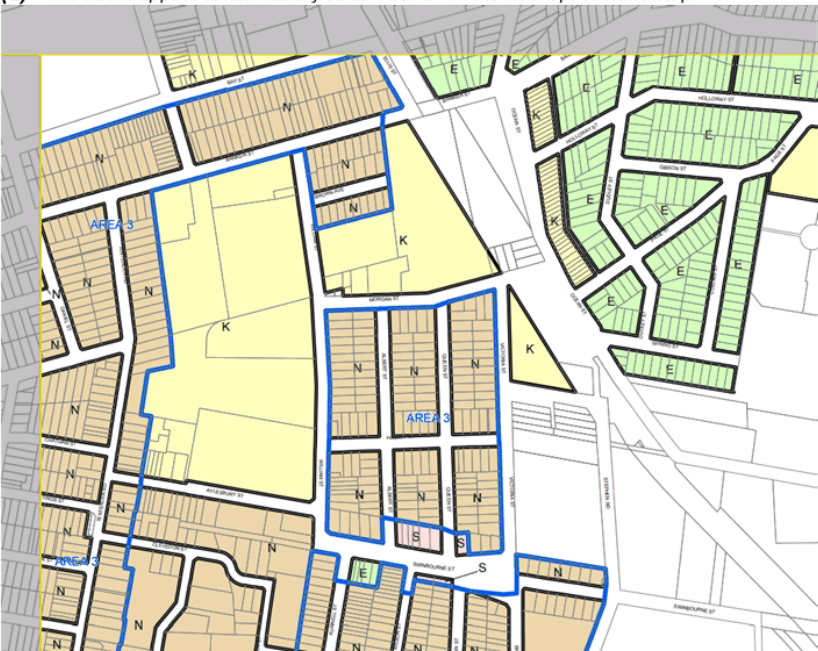
**(3)** *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (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...

**Clause 4.4A Exceptions to floor space ratio for residential accommodation:**

- (1) The objectives of this clause are as follows:
- (a) to ensure that the bulk and scale of development is compatible with the character of the locality,
  - (b) to promote good residential amenity.

- (2) This clause applies to land identified as "Area 3" on the Floor Space Ratio Map.



- (3) Despite clause 4.4 (2), the following provisions relate to floor space ratios on land to which this clause applies:

"(a) the maximum floor space ratio for a dwelling house is not to exceed the floor space ratio applicable to the site area of the land on which the dwelling house is situated:

Site Area	Maximum Floor Space Ratio
<200 square metres	0.85:1
200–250 square metres	0.80:1
251–300 square metres	0.75:1
301–350 square metres	0.70:1
351–400 square metres	0.65:1
401–450 square metres	0.60:1
>450 square metres	0.55:1



- (b) the maximum floor space ratio for multi dwelling housing is not to exceed 0.8:1,  
 (c) the maximum floor space ratio for a residential flat building is not to exceed 1:1,  
**(d) the maximum floor space ratio for all other development for the purpose of residential accommodation is 0.5:1."**

**What is the Development Standard that is being Varied?**

The subject Request for Variation relates to the FLOOR SPACE RATIO development standard for the erection of a semi-detached dwellings.

The proposed FSR of the semi-detached dwellings on each of the proposed lots are as follows:

- Lot 1: 0.57:1; and
- Lot 2: 0.56:1

The Proposal therefore does not strictly comply with the relevant FSR requirements of the LEP.

**What is the Zoning of the Land?**

The subject site is zoned R2 – Low Density Residential

**What are the Objectives of the Zone?**

The objectives of the zone are set out at Part 2 of the LEP as:

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

**What are the Objectives of the Development Standard (Clause 4.4 Floor Space Ratio)**

(1) The objectives of this clause are as follows:

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

**What are the ways in which strict compliance of the Standard can be demonstrated to be unreasonable or unnecessary in the circumstances of the Case?**

The matter of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (21 December 2007) sets out 5 ways in which compliance with a development standard can be demonstrated to be unreasonable or unnecessary in the circumstances of the case. The 5 ways are:

1. ***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)***
2. *the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*
3. *the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that 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 particular land is 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.*

This application relies on the first and the fourth of the Wehbe Tests being: the objectives of the standard are achieved notwithstanding non-compliance with the standard, and Council has recently granted consent regarding applications similar to the subject application.

**How is Strict Compliance with the Standard Unreasonable or Unnecessary in the Circumstances of the Case?**

The maximum floor space ratio (FSR) applicable to the proposed Semi-Detached dwellings in accordance with Clause 4.4A(3)(d) is 0.5:1. The proposal seeks the following FSRs:

- Proposed Lot 1: 0:57:1; and
- Proposed Lot 2: 0.56:1

Having regard to the objectives of the development standard as well as the objectives of the R2 – Low Density Residential zone, the following sets out the ways in which the proposed FSR complies with both sets of objectives, notwithstanding numerical non-compliance:

**Reason for Variation 1:** The proposed FSR of each of the Semi-Detached dwellings represents a minor variation to the FSR requirement for a semi-detached dwelling on the Site (i.e. 0.575:1). It is considerably less than that which would be permitted for individual dwelling houses on each of the Proposed Lots (i.e. 0.75:1). The proposed FSR demonstrates that the scale, bulk, and the size of the proposed development would generally be less than any other compliant form (single dwelling) that could be developed on the Site. The single dwelling houses development scenario would result in a bulk and massing greater than that of a Semi-Detached dual occupancy. By providing significantly less than 0.75:1, this would result in Semi-Detached dwelling houses development of a bulk and massing less than that of the separate dwelling building.

The BBLEP floor space ratio maps show an overall FSR of 1:1 for the site and surrounding area while dwelling houses, multi-dwelling houses and residential flat buildings on the proposed lot sizes are allowed to have FSRs of 0.75:1 (Clause 4.4A(3)(a)), 0.8:1 (Clause 4.4A(3)(b)) and 1:1 (Clause 4.4A(3)(c)) respectively. The Semi-Detached dwellings are unreasonably and unnecessarily restricted in terms of FSR limitations in comparison to other residential accommodation development that could be permitted with consent on the proposed lots. Furthermore, the development standard is unnecessary in the circumstances of the case as dwelling houses are also permissible in the zone which permit a bulk and scale which far exceeds that for Semi-detached dwellings.

**Reason for Variation 2:** It is noted that other examples exist in the area of a similar FSR breach. The council has recently granted consent to Semi-Detached dwelling houses on the same street and in the Bayside LGA with similar FSRs to what is being proposed in this application. An example of this is a recently approved Semi-Detached dwellings at 60 Banksia Road, Botany, which proposed FSRs of 0.58:1 and 0.55:1 for the respective dwellings. Thus, there is precedent that previous variations to clause 4.4A (3)(d) have been supported and DA application has been approved. The development standard is unreasonable given that other examples exist in the area of a similar FSR breach.

**Reason for Variation 3:** The proposed development does not offend the Objectives of clause 4.4A or the Objectives of the R2 – Low Density Residential zone. It is noted that the proposed Semi-Detached dwellings are generally in compliance with all other development standards contained within BBLEP and those requirements of Botany Bay Development Control Plan 2013 (DCP). the proposed FSRs will not result in any adverse impacts on the surrounding residents by any undue overshadowing or visual impact. In this regard, the proposed building will be of a scale, size, height, and massing that will generally be consistent with that of many of the surrounding buildings and as a result the provisions of Clause 4.4A for other forms of residential development, equal to or significantly less than that of any future residential development.

**Reason for Variation 4:** As demonstrated in the Statement of Environmental Effects (SEE), the proposed Semi-Detached dwellings will provide good amenity to both their future and surrounding residents.

**Reason for Variation 5:** The minor extent of non-compliance is such that in all practical respects, there is no material difference between the proposed development complying with numerical requirements of the FSR compared with the proposed development. Given the absence of any material difference in this regard, strict compliance is considered to be unreasonable and unnecessary in the circumstances of the case.

Each of the foregoing reasons for variation established that the proposed development better served the amenities of the locality than would a development which complied with the standard. To the extent that the objectives of clause 4.4A and the R2 – Low Density Residential zone each include objectives directed at local amenity, it follows that the proposed development does not offend either the objectives of the development standard or the zone. As such, strict compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

**What are the Environmental Planning Grounds to Justify Contravening the Development Standard?**

We adopt a definition of “environmental planning grounds” as any matter arising from consideration of either Section 79C of the EP&A Act 1979 or its Objectives contained within Section 5, which in the circumstances of the particular development on the particular site, warrants variation from the development standard.

Based on that methodology, the environmental planning ground which support variation to the standard in this instance are:

1. Strict compliance with the standard would tend to hinder the attainment of Objectives 5(a)(i) and 5(a)(ii) of the Environmental Planning and Assessment Act 1979, which relate to proper management of development as well as the orderly and economic development of land. Strict compliance with the standard in circumstances where, based on the particular characteristics of the subdivision pattern; the particular dimensions of the subject site; and the fact that the proposed Semi-Detached dual occupancy does not result in any unreasonable environmental planning impacts, would constitute a disorderly and uneconomic development outcome.
2. The proposed semi-detached dwellings provide good amenity to both their future and surrounding residents, while maintaining the amenities of adjoining dwelling.
3. The subject site & the proposed dwellings are considered to be in accordance with the Department of Planning and Environment’s *“Plan for Growing Sydney”* because:
  - i) It is located in close proximity to Botany Town Centre which has both services and employment opportunities; and
  - ii) It provides further housing opportunities and choice to help meet an ever-increasing demand for housing within Sydney.

Based on the above, it is considered that there are sufficient environmental planning grounds under the circumstances to justify the variation sought as to the FSR controls for the Proposal

**Does contravention of the development standard raise any matter of significance for State or Regional Environmental Planning?**

There are no issues of State significance associated with the proposed variation to the development standard.

**Matters of State or Regional Importance**

The proposed variation to the FSR standard does not raise any matters of significance for state or regional planning. The variation is also not contrary to any state policy or ministerial directive.

**What is the Public Benefit of Maintaining the Standard?**

Given the specific circumstances particular to the local area where the subject site is located on, it is considered that there are no realistic precedent issues arising.

The proposed FSR exceedance is not contrary to the public interest as there are no resulting overlooking or privacy impacts on adjoining neighbours.

Given the fact that council has recently supported a similar application, it could not be reasonably argued that variation to the standard would lead to a weakening of the standard's integrity in other locations across the Local Government Area.

It is considered that the Proposal satisfies and is consistent with these objectives as it will be in close proximity to the Botany Town Centre that will encourage walking and cycling for daily necessities and will provide additional housing opportunities and choice within the Bayside LGA that will assist in meeting ever increasing housing demands within the greater Sydney area.

**Conclusion & Summary**

It has been demonstrated that Clause 4.4A(3)(d) 0.5:1 FSR Control on semi-detached dwellings is unreasonable and unnecessary when other development, such as dwelling houses could achieve much higher FSRs on the proposed allotments, that will result in buildings of greater bulk and scale.

the environmental planning grounds which support variation to the standard are:

- The proposed FSR represents a minor variation to the FSR requirement;
- The proposed FSR is considerably less than the permissible single dwelling development on the subject site;
- The development standard is unreasonable given that other examples exist in the area of a similar FSR breach;
- The proposed development does not offend the Objectives of clause 4.4A;
- The proposed development does not offend the Objectives of the R2 – Low Density Residential zone;
- The proposed Semi-Detached dwellings are generally in compliance with all other development standards contained within the BBLEP and the DCP;
- the proposed development will provide good amenity for future and minimal impacts on adjoining properties;
- The proximity of the subject site to services and employment opportunities comply with the DPE's *"Plan for Growing Sydney"*
- The proposed development provides additional housing opportunities and choice; and
- The existence of similar developments been recently approved by the Bayside Council

*AMMAR BECKA*

Ammar Becka  
Architect

## Bayside Local Planning Panel

5/03/2019

Item No	6.4
Application Type	Modification Application
Application No	DA-2016/66/B
Lodgement Date	13/12/2018
Property	<b>4 Magdalene Terrace, Wolli Creek</b>
Ward	Mascot
Owner	Maroun Pty Ltd
Applicant	Milestone (Aust) Pty Ltd
Proposal	Modification to extend operating hours for stocking and cleaning of the ALDI store between 6am and 12 midnight seven days with no change to approved trading hours of 7am to 9pm
No. of Submissions	Ten (10) (8 opposed / 2 in support)
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

## Officer Recommendation

- 1 That Development Application No 2016/66/B, being a Section 4.55(1A) application to amend Development Consent Number 2016/66, for the construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas at 4 Magdalene Terrace, Wolli Creek be APPROVED and the consent amended in the following manner:

A. *By amending Condition 38 to read as follows;*

38. *The trading hours of the supermarket shall be restricted to between 7am and 9pm, seven days. Cleaning and restocking of the supermarket is permitted between the hours of 6am to 12 midnight, seven days.*

*[Amendment B - S4.55(1A) amended on 26/02/2019]*

B. *By inserting Condition 11A to read as follows;*

- 11A. *The use of the supermarket, building services, equipment, machinery and, ancillary fittings associated with the supermarket shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997*

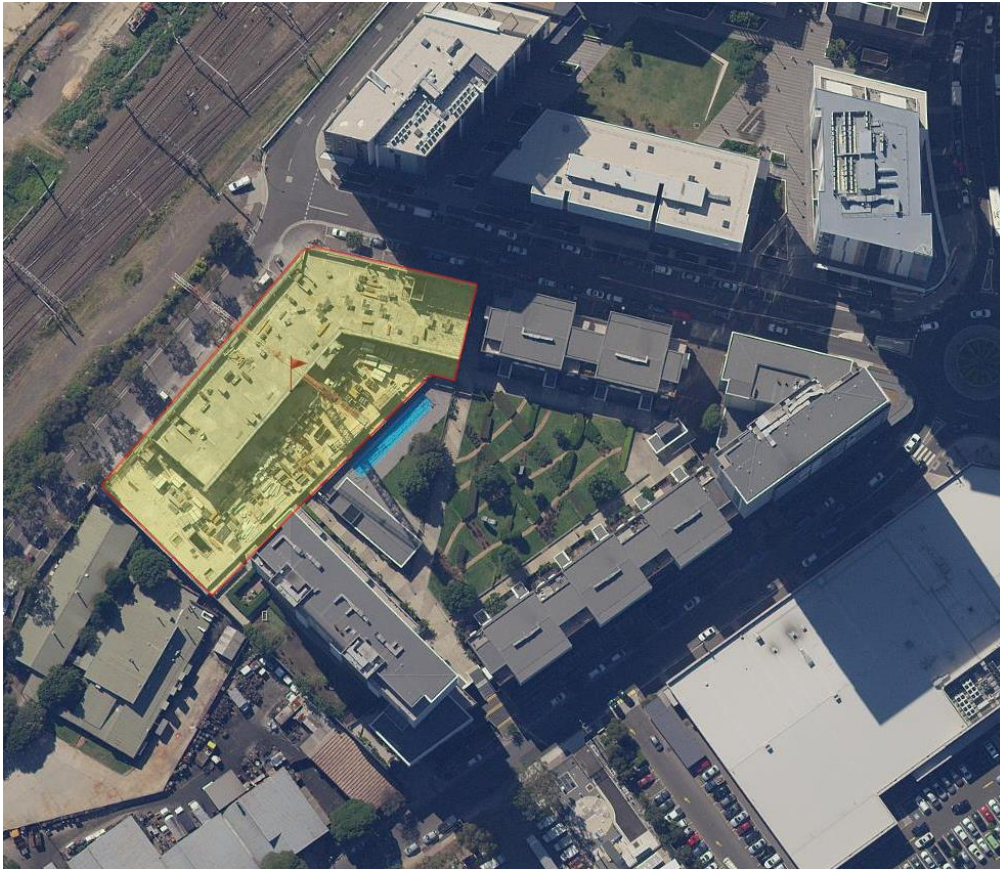
*[Amendment B - S4.55(1A) inserted on 26/02/2019]*

*Reason for additional condition 11A is:*

*- To safeguard residential amenity.*

- 2 That the objectors be notified of the Bayside Local Planning Panel decision.
- 

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 SEE [↓](#)
- 3 Existing Consent [↓](#)
- 4 Acoustic Report [↓](#)
- 5 Loading Dock POM [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/66/B
<b>Date of Receipt:</b>	19 November 2018
<b>Property:</b>	4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)
<b>Owner:</b>	Maroun Pty Ltd
<b>Applicant:</b>	Milestone (Aust) Pty Ltd
<b>Proposal:</b>	Modification to extend operating hours for stocking and cleaning of the ALDI store between 6am and 12 midnight seven days with no change to approved trading hours of 7am to 9pm
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Ten (10) (8 opposed / 2 support)
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	6 February 2019

### Key Issues

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A total of ten (10) submissions have been received in relation to the proposal as modified. Eight (8) oppose the modified hours, whilst two (2) are in support.

The proposal as modified does not seek to alter previously approved trading or delivery hours for the supermarket.

Loading and unloading hours remain as previously approved by Condition 15, and are restricted to the hours of 7am - 9pm. Condition 15 further requires that the loading / unloading dock area operate in accordance with a Plan of Management (POM). The POM reflects the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities.

### Recommendation

---

That Development Application No 2016/66/B, being a Section 4.55(1A) application to amend Development Consent Number 2016/66, for the construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas at 4 Magdalene Terrace, Wolli Creek be APPROVED and the consent amended in the following manner:

- A. By amending Condition 38 to read as follows;



38. *The trading hours of the supermarket shall be restricted to between 7am and 9pm, seven days. Cleaning and restocking of the supermarket is permitted between the hours of 6am to 12 midnight, seven days.*

*[Amendment B - S4.55(1A) amended on 26/02/2019]*

B. By inserting Condition 11A to read as follows;

*11A. The use of the supermarket, building services, equipment, machinery and, ancillary fittings associated with the supermarket shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997*

*[Amendment B - S4.55(1A) inserted on 26/02/2019]*

*Reason for additional condition 11A is:*

*- To safeguard residential amenity.*

## Background

### History

6 July 2016

DA-2016/66 - Approved by Council for the construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey with roof top communal area mixed use development.

Condition No. 38 restricts the operating hours of the supermarket as follows;

*"38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days".*

12 June 2018

DA-2016/66/A - Approved by Bayside Planning Panel for the construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas.

17 September 2018

Complying Development Certificate CD/2018/179 was approved by Council on for the first use of premises and fit out as retail outlet (ALDI).

21 November 2018

DA-2016/66/B submitted to Council seeking to extend the Aldi operating hours for stocking and cleaning of the store between 6am and 12 midnight seven days with no change to approved trading hours of 7am to 9pm.

### Proposal

The proposal seeks to modify the hours of operation previously granted to the supermarket within the development which is yet to be completed. The proposal as modified seeks consent to permit supermarket staff on site outside of the approved store trading hours, for cleaning and restocking purposes only.

It is proposed to modify the wording of Condition 38 as follows, to enable the aforementioned.

“38. The trading hours of the supermarket shall be restricted to between 7am and 9pm, seven days. Cleaning and restocking of the supermarket shall occur outside of these hours between 6am to 12 midnight, seven days.”

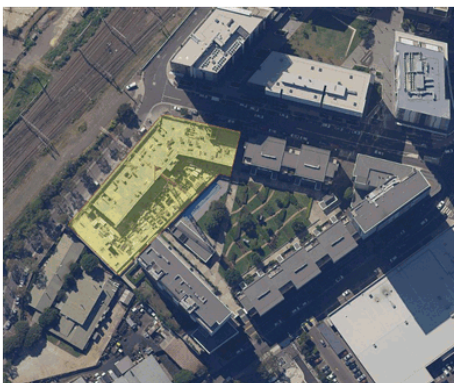
### Site location and context

The subject site is located on the southern corner of Magdalene Terrace and Mount Olympus Boulevard. The land is known as Lot 2 in DP 1064374. The site area is approximately 3,656 sq.m. The site has a frontage of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. The site is currently occupied by the recently approved 10 storey mixed use development, which is nearing completion.

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

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

Opposite the site on the northern side of Magdalene Terrace is the Discovery Point precinct. Two mixed use buildings are nearing completion directly opposite the subject site and Block E within the 'Proximity' development, being Building 5 which is 18 storeys and Building 3 which is 10 storeys. On the opposite side of Mount Olympus Boulevard is the Illawarra railway line.



*Aerial Context*

To the south, the site adjoins a commercial development at 16 Guess Avenue, Wolli Creek. This site is

currently zoned for the purposes of RE1 – Public recreation, however on 13th December 2017, Council resolved to amend the zoning of the land and the land acquisition reservation map in Rockdale LEP 2011 so that the relevant properties are no longer designated for acquisition for a public purpose. A Planning Proposal is currently under preparation by an independent planning consultant.

## Statutory Considerations

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

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

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

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

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

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

Comment: The proposed modification is of minimal environmental impact as discussed further within this report. The nature of the proposal does not result in adverse impact on site nor to neighbouring properties and in this regard, the proposed modifications are of minimal environmental impact.

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

Comment: The proposed modification seeks to alter the operating hours of one of the commercial premises at ground level within the development. The proposal generally remains a mixed use development as previously approved, with the use of this commercial premises remaining as a supermarket as also previously approved. The proposal as modified is considered to be substantially the same development.

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

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

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

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

Comment: Ten (10) submissions have been received in relation to the proposal as modified. Eight (8) submissions oppose the modified hours, whilst two (2) are in support. Issues raised in submissions

have been considered further in this report.

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

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

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

In the assessment of this modification, the assessing officer has considered the original reasons for granting consent and is satisfied that the proposal as modified is appropriate in regards to the provisions of this clause.

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**

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	No - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified relates to the hours of use of the approved commercial premises. Commercial premises are permissible with development within the subject zone. The proposal as modified remains consistent with the objectives of the zone.

#### 4.3 Height of buildings

A maximum height of 31m applies to the subject site. The development comprises an approved height of 34.8m to the rooftop and 38.3m to the top of the lift / stair overrun. The proposal as modified does not seek to alter the previously approved height of the development. The proposal as modified remains consistent with the objectives of this clause.

#### 4.4 Floor space ratio

The subject site comprises an FSR of 3:1 which is equivalent to a maximum gross floor area of 10,962.9sq/m. The development was previously approved with an FSR of 3.16:1 and GFA of 11,583sq/m. The proposal as modified does not alter the aforementioned and thus remains consistent

with the objectives of this clause.

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

There are no current draft environmental planning instruments applying to the subject site.

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

The following Development Control Plan is relevant to this application:

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

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion

##### **4.6 Parking Rates - Shop-top Housing**

A total of 43 car parking spaces for the supermarket are provided on site within the basement level, as per previously imposed conditions of consent. Nil changes are sought to previously approved parking arrangements.

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

All relevant provisions of the Regulations have been taken into account in the assessment of the proposal as modified.

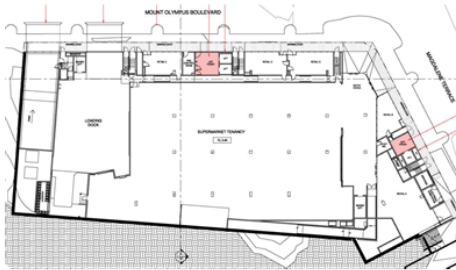
#### **4.15(1)(b) - Likely Impacts of Development**

##### **Acoustic Amenity**

The development as previously approved is to be constructed in accordance with the noise & vibration reduction measures, specified within the original acoustic report submitted with the original DA and the requirements of the Building Code of Australia. This ensures appropriate acoustic amenity for residential dwellings on site.

The supermarket within the development is positioned at ground level, adjoining the loading dock and comprising direct pedestrian entry from the corner of Magdalene Terrace and Mount Olympus Boulevard as illustrated below. The ceiling construction of the store and residential dwellings above comprises a concrete slab and ceiling. The supermarket has an increased ceiling / slab level, given the approved 5.6m floor to floor height of the ground floor level of the development. The supermarket has direct and level pedestrian access to the loading dock and dedicated waste areas within the building.





It is reiterated that the proposal as modified does not seek to alter the previously approved supermarket trading hours, these shall be retained at 7am - 9pm, 7 days per week. The proposal as modified seeks consent to permit supermarket staff on site outside of the approved store trading hours, for cleaning and restocking purposes only. A total of 3 staff at maximum are anticipated to be on site within the supermarket, to facilitate cleaning and restocking.

The applicant has submitted an Acoustic Report, dated 18/01/2019 and prepared by Wilkinson Murray. The Acoustic Report states:

*"There are no proposed changes to use of equipment within the loading dock, including compaction of cardboard, this can be managed to occur between 7.00am and 9.00pm or movement of goods from the loading dock to storage area. Cleaning is undertaken with a walk behind Floor Scrubber. Restocking shelves requires the transport of pallets from the storage area adjacent to the store into the store and the placement of product on the shelves.*

*Neither of these activities would typically generate any airborne noise outside of the ALDI store likely to result in any annoyance to residents of other buildings overlooking the store. Similarly, airborne noise transfer through the ceiling / concrete slab to the Podium Level is not expected to result in any annoyance.*

*For apartments in the same building it is possible some structure borne noise can be transmitted through the building from the movement of pallet handlers over any discontinuities of the floor or if pallets are dropped suddenly. The proposed extension of hours also encroaches on the night time period before 7.00am and after 10.00pm, where sleep disturbance as well as annoyance needs to be considered.*

*As the storage area is on the ground level adjacent to the store and we understand there are no discontinuities (ie moving pallets in and out of goods lifts), then structure borne noise levels likely to cause annoyance or sleep disturbance isn't expected. We understand ALDI standard policies requires all goods to be handled carefully and staff at this store should be reminded of this requirement. It is recommended that once the store is opened it should be confirmed there is no unexpected noise associated with the proposed activities.*

*The proposed modification maintains the approved use of the ALDI Store on the site as well as the approved trading and delivery hours. As the proposed modification is for the minor extension of hours solely to permit cleaning and restocking and does not include any physical alterations, the potential environmental impacts are expected to be minimal and will not pose any adverse impacts to surrounding properties and unlikely to pose adverse impacts to residents directly above."*



*Example of floor scrubber*

The submitted report was reviewed by Councils Environmental Health Officer whom concurred with the findings of the report and sought to impose a further additional standard condition, in order to safeguard residential acoustic amenity and ensure the use of the supermarket, building services, equipment, machinery and, ancillary fittings associated with the supermarket shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997. Condition 11A is subsequently proposed to be inserted as part of this application.

Given the above, the proposal as modified is not anticipated to result in adverse acoustic impact to future residents on site or within neighbouring buildings. The proposal as modified is satisfactory in this regard.

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

The relevant matters pertaining to the suitability of the site for the revised proposal as modified have been considered in the assessment of this proposal. Given the nature of the proposed modification and acoustic report demonstrating minimal adverse impacts on site and to neighbouring properties, the subject site is deemed to be suitable for the proposal as modified.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011. Ten (10) submissions have been received in relation to the proposal as modified. Eight (8) submissions oppose the modified hours, whilst two (2) are in support. The matters raised in the submission are discussed below:

##### *Adverse Acoustic Impact*

Comment: It is reiterated that the proposal as modified does not seek to extend or modify the previously approved operating hours of the supermarket, nor delivery or loading / unloading times. The matter of acoustics has been previously addressed within this report. The proposal as modified is unlikely to result in adverse acoustic impacts to future residents on site or within neighbouring buildings.

##### *Rat running on Arncliffe Street*

Comment: This matter is beyond the scope of this application. The proposal as modified is not considered likely to adversely impact upon traffic movements.



*Support the additional hours*

Comment: The submitters support for the additional Aldi hours is noted.

*Traffic Impacts*

Comment: The proposal as modified is unlikely to result in adverse traffic impacts, given the scope of the application and previously approved compliant supply of car parking on site.

*Overdevelopment*

Comment: This matter is beyond the scope of this application.

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

The proposal as modified is considered to be satisfactory and in the public interest, for the reasons previously outlined within this report.

**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 Level 4 (Drawing 18E) Issue E	Design Workshop Australia	16/01/2018	18/01/2018
Basement Level 3 (Drawing 19E) Issue E	Design Workshop Australia	16/01/2018	18/01/2018
Basement Level 2 (Drawing 20E) Issue E	Design Workshop Australia	16/01/2018	18/01/2018
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016

Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 9 (Drawing 21M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Site Plan (Drawing 02M)	Design Workshop Australia	08/05/2018	14/05/2018
Roof Plan (Drawing 22M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
East / West Elevations (Drawing 23M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
North / South Elevations (Drawing 24M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections C (Drawing 27M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections B (Drawing 26M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Section A (Drawing 25M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Detailed Sections 01/02/03/04, drawing 20(G) (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue D	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA01 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA02 Issue E	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA06 Issue A	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016

Landscape PlanLA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape PlanLA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape PlanLA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015

[Amendment A - S96(2) amended on 12/06/2018]

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M\_06 other than superseded by any further amended consent and BASIX certificate.

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

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

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

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

[Amendment A - S96(2) amended on 12/06/2018]

6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
- Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
- Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
- Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
- Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
- Retail E - 1/6 Mount Olympus Boulevard Wolli Creek
- Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
- Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek

10. A total of 205 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

- Studio - 2 bedroom apartments - 1 space per apartment (90 spaces total)
- 3 and 3+ bedroom apartments - 2 spaces per apartment (34 spaces total)
- Commercial Units - as specified within this consent (58 commercial spaces total)
- Non-Allocated Spaces**
- Residential Visitor - 22 spaces
- Car wash bay - 1 space

**Basement level 1**

- Retail tenancy A – 7 spaces
- Retail tenancy B – 2 spaces
- Retail tenancy C – 2 spaces
- Retail tenancy D – 2 spaces
- Retail tenancy E – 2 spaces
- Supermarket – 43 spaces

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

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

[Amendment A - S96(2) amended on 12/06/2018]

## Development specific conditions

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
- 11A. *The use of the supermarket, building services, equipment, machinery and, ancillary fittings associated with the supermarket shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment*

*Operations Act, 1997*

*[Amendment B - S4.55(1A) inserted on 26/02/2019]*

*Reason for additional condition 11A is:*

*- To safeguard residential amenity.*

12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 “Design, Construction and Fit out of Food Premises”.
13. The front windows of retail premises shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.  
  
B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Ridgid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in size and mass than the Heavy Ridgid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.
19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;

- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.
- The Registered Proprietor will:
- i) permit stormwater to be temporarily detained and pumped by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
24. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. The off-street parking areas associated with the subject development shall be

designed strictly in accordance with AS2890.1 and AS2890.6.

27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
29. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
31. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

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

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

32. a) In order to ensure the design quality excellence of the development is retained:
  - i. Mr Robert Gizzi of Design Workshop Australia is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
34. The proposed signs must not have / use:
  - flashing lights
  - electronically changeable messages
  - animated display, moving parts or simulated movement



- a method and level of illumination that distracts or dazzles

35. *Landscaping*

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

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

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

All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

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

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

36. *Swimming Pool*

The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.

*Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.*

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

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

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

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

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. *The trading hours of the supermarket shall be restricted to between 7am and 9pm, seven days. Cleaning and restocking of the supermarket is permitted between the hours of 6am to 12 midnight, seven days.*

*[Amendment B - S4.55(1A) amended on 26/02/2019]*

39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

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

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$45 195.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For

further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  44. Mount Olympus Boulevard  
Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:
    - (a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:
      - (i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.
      - (ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.

Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.

  - (b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.
45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
48. A Section 94 contribution of \$3,169,285.46 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

[Amendment A - S96(2) amended on 12/06/2018]

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.
51. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
53. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of 11 residential units within the development and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

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

[Amendment A - S96(2) amended on 12/06/2018]

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

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

55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before

issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).

56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.
57. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
58. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities comply with the conditions of consent.
59. *Adjoining buildings founded on loose foundation materials*

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Implement all recommendations contained in the report prepared by Douglas Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd – Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on sub soil drains / spoon drain connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).

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

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

60. *Vibration monitoring*

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to

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

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

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

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

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;
- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final



discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior to excavation.
65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:
  - A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.
  - B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
  - C). Glass balustrades shall be provided as frosted or opaque.
  - D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
  - E). Compliance with the recommendations of the Access Report dated ref:214473 Issue C dated 15/02/2017 prepared by Accessible Building Solutions.
  - F). The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 21 May 2018 ref 2015-341 Rev.4 are to be implemented on site, including
    - Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;
    - Pergolas, canopies and awnings over open areas; and
    - Landscaping such as dense shrubs and trees.
    - Canopy or pergola on the roof terrace.
  - G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.

H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.

I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

M). Acoustic Attenuation - The noise reduction measures specified in the acoustic reports and addendum prepared by "The Acoustic Group" dated 24/07/2015, Harwood Acoustics, and the addendum report by Harwood Acoustics dated 18 May 2018 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:

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

Recommendations in relation to the courtyard of unit 107 and communal open space on level 9 shall be illustrated on plans.

N) A single antenna shall be provided to the building for use of all residents.

O) Six (6) car spaces within lower basement levels shall be converted to residential storage cages.

[Amendment A - S96(2) amended on 12/06/2018]

67. *Safety & Security*

a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and

lighting levels

b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners

c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.

d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.

e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.

f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.

68. All recommendations contained in the Geotechnical Investigation report prepared by by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

### **Prior to commencement of works**

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

69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) and Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Arncliffe Street, Wolli Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway. As access via the temporary wall is no longer required the applicant shall obtain approval from the Body Corporate of the Proximity development for the easement for access that benefits Lot 2 DP1064374 to be expunged from the title of DP 1066102 and at the applicant's cost.
71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers.

The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:

- a) Hours of work,
- b) contact details of site manager,
- c) traffic management,
- d) noise and vibration management,
- e) waste management,
- f) erosion and sediment control,
- g) protection of trees to be retained.

A copy of the approved Construction Management Plan shall be submitted to Council.

73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.  
Any such sign is to be removed when the work has been completed.  
This condition does not apply to:
  - iii. building work carried out inside an existing building or
  - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

75. A Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:

- a) Ingress and egress of construction vehicles to the site,
- b) routing and control of construction vehicles,
- c) parking of employees vehicles,
- d) loading and unloading, including construction zones, for all construction vehicles,
- e) predicted traffic volumes, types and routes,
- f) pedestrian and traffic management methods,
- g) the hours of operation of the construction site,
- h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
- i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.

The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.

76. A Site Health & Safety Plan shall be prepared prior to the commencement of

remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- hazard identification and control
- site security
- personal protective equipment
- work zones and decontamination procedures
- contingency plans and incident reporting
- environmental monitoring.

77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:

- a) Identification of the specific activities that will be carried out and associated noise sources,
- b) identification of all potentially affected sensitive receivers including residences, schools and existing facility,
- c) the construction noise objective specified in the conditions of this approval,
- d) the construction vibration criteria specified in the conditions of this approval,
- e) noise and vibration monitoring, reporting and response procedure,
- f) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- g) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- h) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
- i) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- j) contingency plans to be implemented in the event of non compliance's and/or noise complaints.

A copy of the approved Plan shall be submitted to Council.

78. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
79. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
80. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,
- Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

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

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

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

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

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

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

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

81. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
83. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

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

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

85. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon

request.

86. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
87. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.
88. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - ii. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

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

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality.

91. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
93. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.



- ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
94. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

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

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

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

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

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

95. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
97. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to

the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

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

- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - a) spraying water in dry windy weather

- b) cover stockpiles
  - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

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

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

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

- 100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
- 102. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
- 103. Where Council's park/reserve is damaged as a result of building work or vehicular

building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.

104. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
105. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.
  - (d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.
  - (e) notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
  - (f) The level 9 communal open space area adjoining the courtyard of unit 107 shall be limited in use to between the hours of 7am - 10pm, Monday to Sunday, public holidays inclusive.

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

[Amendment A - S96(1A) amended on 12/06/2018]

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation

shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with lodgement of future applications.

110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:

- ☐ describe and document all works performed;
- ☐ include results of validation testing and monitoring;
- ☐ include validation results of any fill imported on to the site;
- ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
- ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.

The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at [www.foodnotify.nsw.gov.au/nafsis/](http://www.foodnotify.nsw.gov.au/nafsis/) and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.

112. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
113. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.

A Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.

114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.

The underground garage shall be floodproofed to a minimum of 500mm above the

0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 20 May 2011.

115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
117. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
118. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the

development shall be provided in accordance with the submitted plans and the following.

- ☐ Retail tenancy A – 7 spaces
- ☐ Retail tenancy B – 2 spaces
- ☐ Retail tenancy C – 2 spaces
- ☐ Retail tenancy D – 2 spaces
- ☐ Retail tenancy E – 2 spaces
- ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. A total of 147 off-street residential car spaces (124 residential / 22 visitor / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.

[Amendment A - S96(2) amended on 12/06/2018]

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.  
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
128. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
129. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
130. Prior to occupation, a chartered professional engineer shall certify that the tanking



and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.

131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be certified by a registered surveyor prior to pouring of floor slab or installation of flooring.
132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

136. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:

(a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and

(b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.

138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

- 138A. Communal open space areas on site are to be designated as common property upon any Strata Plan.

[Amendment A - S96(2) inserted on 12/06/2018]

Reason for additional condition 138A is:

- To ensure appropriate allocation of communal open space on site.

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

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

139. Sydney Airport Corporation Limited

SACL has approved the maximum height of the proposed building at 41.6 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

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

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

[Amendment A - S96(2) amended on 12/06/2018]

140. Sydney Trains

A. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- Machinery to be used during excavation/construction.
- Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

B. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

C. All piling and excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

G. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

H. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

I. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

J. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor.

These measures are to comply with Sydney Trains requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

K. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

L. Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety

Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

M. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

N. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

O. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

P. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Q. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

R. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

S. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received

from Sydney Trains confirming that its approval has been granted.

141. NSW Office of Water

*General*

A. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

B. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

C. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

E. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

*Prior to excavation*

A. The following shall be included in the initial report:

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

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

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

D. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

E. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A copy of a valid consent for the development shall be provided in the initial report.

F. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

G. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### *During Excavation*

A. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

B. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of

pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

C. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

D. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

E. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

F. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

G. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

#### *Following Excavation*

A. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

B. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

## **Roads Act**

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

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



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

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

143. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
144. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
145. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:
- i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;
  - ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.
  - iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.
  - iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.
  - v) Provide Council with 48 hours notice of the following:

- a) Commencement of the works
- b) Completion of road sub-grade trimming and compaction; and
- c) Completion of road base-course trimming and compaction; and
- d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and
- e) Prior to covering any stormwater drainage pipes and connections; and
- f) Prior to placement of road wearing course; and
- g) Completion of works.

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

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

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

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

- 147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
- 148. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.
- 149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:
  - i) Detailed design plans and specifications, including structural details; and
  - ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

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

### Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

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

Regulation 2005.

- h. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- i. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



Development Management  
Town Planning

MILESTONE (AUST) PTY LIMITED  
ABN 29 123 048 162

93 Norton Street, Leichhardt NSW 2040  
PO Box 288, Leichhardt NSW 2040  
T 02 9518 3666 F 02 9518 3933  
www.milestonemanagement.com.au

16 November 2018

Meredith Wallace  
General Manager  
Bayside Council  
PO Box 21  
Rockdale NSW 2216

Dear Ms Wallace,

**SECTION 4.55(1A) MODIFICATION APPLICATION OF DEVELOPMENT CONSENT NO. DA-2016/66  
REVISED HOURS OF OPERATION OF THE APPROVED ALDI STORE  
4 MAGDALENE TERRACE, WOLLI CREEK (LOT 2 DP 1064374)**

We act on behalf of ALDI Stores and enclose a Section 4.55(1A) Application for the above site. The proposal seeks Bayside Council's (Council) consent for the modification of Condition No. 38 of Consent No. DA-2016/66, which relates to the approved operating hours for the ALDI Store.

Please find enclosed as part of this Section 4.55(1A) Application:

- Completed Section 4.55 Application Form (1 copy);
- Land Owners Consent to lodge the modification application (1 copy);
- Cheque payable to Bayside Council for \$2,125.00 (in accordance with fee quote provided by Development Advisory Officer Gary Lancaster on 4 October 2018);
- This Statement of Environmental Effects Letter; and
- 1 x USB containing the above supporting documentation.

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**1. BACKGROUND**

**1.1 Site Description**

The site is located at 4 Magdalene Terrace, Wolli Creek and legally described as Lot 2 DP 1064374. The site has frontages of 74.575 metres to Mount Olympus Boulevard and 40.325 metres to Magdalene Terrace. The overall site area is approximately 3,656m<sup>2</sup>. Construction works are currently underway on the site relevant to DA-2016/66 for the ALDI Store.

**1.2 Relevant Site Development History**

Development Application DA-2011/461 was approved by Council on 3 September 2012 for "Integrated Development - Staged Development - Construction of three basement levels containing 210 car parking spaces and ground floor level comprising a supermarket and five retail tenancies and associated signage".

Section 96 Application Modification No. DA-2011/461/A was approved by Council on 18 December 2013 with Condition 37 relating to payment of Section 94 contributions being amended.

Development Consent No. DA-2011/461/A was surrendered on 13 October 2017.

Development Consent No. DA-2016/66 was issued by Council on 6 July 2016 (consent commenced on 15 August 2017) for "Integrated Development - Construction of 100 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a nine (9) storey mixed use development with roof top communal area".

Condition No. 38 of DA-2016/66 restricts operating hours of the ALDI Store as described below:

*"38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days".*

Development Consent No. DA-2016/66/A was issued by Council on 12 June 2018 for "Construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas."

Complying Development Certificate CD/2018/179 was approved by Council on 17 September 2018 for "First use of premises and fitout as retail outlet (ALDI)".

## 2. PROPOSED MODIFICATION

This modification application seeks development consent to provide further clarification to the wording of Condition No. 38 so that it is consistent with ALDI's operational requirements to have staff on site outside of trading hours for cleaning purposes and restocking. Condition 38 of DA-2016/66 states:

*"38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days".*

It is proposed that Condition No.38 be modified as follow:

*"38. The trading hours of the supermarket shall be restricted to between 7am and 9pm, seven days. Cleaning and restocking of the supermarket shall occur outside of these hours between 6am to 12 midnight, seven days."*

The operating hours for the loading dock shall be restricted to between 7am and 9pm as per Condition 15 of DA-2016/66.

## 3. ASSESSMENT UNDER S4.55(1A) OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* as amended (the Act) states that the consent authority may modify a development consent if it is satisfied that the proposed modification is of minimal environmental impact, and that the development to which the modification relates is substantially the same development as that for which the consent was originally granted.

The proposed modification provides further clarification in relation to operating hours and it is of minimal environmental impact, as outlined in section 4.3 of this report. The proposed modified development is considered to be substantially the same development as that approved, as it does not alter any external physical component of the approved ALDI Store which will be built on the site or the approved use of the subject site.

Considering the above, the modification is consistent with the provisions of Section 4.55(1A) of the Act.

## 4. STATUTORY PLANNING FRAMEWORK AND ENVIRONMENTAL ASSESSMENT

Section 4.55(3) of the Act states that:

*"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."*

In accordance with section 4.15(1) of the Act, the following section provides an appraisal of the proposed modification having regard to those matters of relevance to the proposed modification, including the statutory planning instruments that apply to the site, the likely impacts of the modification, the suitability of the site for development, submissions and the public interest.

### 4.1 Rockdale Local Environment Plan 2011

The site is zoned B4 Mixed Use under the Rockdale Local Environment Plan 2011 (LEP 2011). The proposed modification will continue the approved use of the ALDI Store as a "shop" in the "commercial premises" classification as defined by LEP 2011.

#### 4.2 Rockdale Development Control Plan 2011

The proposed modification complies with the relevant controls from the Rockdale Development Control Plan 2011 (DCP 2011) including "Section 4.4.5 Visual and Acoustic Privacy, Section 4.4.6 Noise Impact and Section 7.1 Wolli Creek" by providing a high level of amenity to nearby buildings without resulting in adverse visual and acoustic impacts on neighbours.

#### 4.3 Likely Impacts of the Development

The proposed modification maintains the approved use of the ALDI Store on the site as well as the approved trading and delivery hours. As the proposed modification is for the minor extension of operating hours of the ALDI Store to permit cleaning and restocking and does not include any physical alterations, the potential environmental impacts will be minimal and will not pose any adverse impacts to surrounding properties. There are limited staff on the site outside of trading hours (2-3 persons).

#### 4.4 Suitability of the Site for the Development

The subject site is located within a zone that allows for retail development, as established by the existing approved use of the site for an ALDI Store. The proposed modification continues to support this use.

#### 4.5 Any Submissions Made in Accordance with the Act or Regulation

As the original DA (DA-2016/66) was an integrated development, this proposed modification will require public notification for 14 days and advertising on local newspaper. This was confirmed by Development Advisory Officer, Gary Lancaster on 4 October 2018. The applicant will respond to any submissions received by Council.

#### 4.6 The Public Interest

The proposed modification provides further clarification on operations outside of the approved trading hours of the ALDI Store, consistent with all stores across Australia. As such the approval of the proposed modification is considered to be in the public interest.

#### 5. CONCLUSION

This application seeks the modification of Development Consent No. DA-2016/66 to revise Condition 38 to provide further clarification on operations outside of trading hours with respect to staff needing to remain on the site for cleaning and restocking. The proposed modification will result in substantially the same development as that originally approved (an ALDI Store) and will have minimal environmental impact.

Should you require further clarification regarding this matter, please do not hesitate to contact the undersigned.

Yours sincerely

**Milestone (AUST) Pty Limited**



**Lisa Bella Esposito**  
Director

Encl.

12 June 2018

Our Ref: DA-2016/66/A  
Contact: Fiona Prodromou 9562 1666



Design Workshop Australia  
PO BOX 3091  
BALGOWNIE NSW 2519

## NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

**Application Number:** DA-2016/66/A  
**Property:** 4 Magdalene Terrace, WOLLI CREEK (Lot 2 DP 1064374)  
**Proposal:** Construction of 107 residential dwellings above approved ground floor commercial premises and addition of one and a half basement levels to create a ten (10) storey mixed use development with podium, level 9 and roof top communal open space areas.

**Authority:** [Amendment A - S96(2) amended on 12/06/2018]  
Delegated to Bayside Planning Panel

**Determination:** Approved  
**Date of determination:** 6 July 2016  
**Date consent commences:** 15 August 2017  
**Date consent lapses:** 6 July 2021

Your Development Application has been approved under Section 80(3) of the Environmental Planning and Assessment Act, 1979 as a Deferred Commencement consent.

This consent is not to operate until the Applicant provides Council with proof of the following:

Approval / certification is to be obtained from Sydney Trains on the following items:

a. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.

**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](mailto:council@bayside.nsw.gov.au)  
W [www.bayside.nsw.gov.au](http://www.bayside.nsw.gov.au)

Postal address: PO Box 21, Rockdale NSW 2216



Telephone Interpreter Services - 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνέων

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1 of 40



- b. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- c. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- d. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- e. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

**[Deferred Commencement Satisfied on 15 August 2017]**

Your application is **approved** subject to the following conditions:

**General Conditions**

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

1. The term of this consent is limited to a period of five (5) years from the date of 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
<i>Basement Level 4 (Drawing 18E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 3 (Drawing 19E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
<i>Basement Level 2 (Drawing 20E) Issue E</i>	<i>Design Workshop Australia</i>	<i>16/01/2018</i>	<i>18/01/2018</i>
Basement Level 1 (Drawing 06) Issue L	Design Workshop Australia	06/04/2016	09/06/2016
Ground Floor Plan (Drawing 07) Issue M	Design Workshop Australia	09/06/2016	09/06/2016
Mezzanine Level (Drawing 08) Issue M	Design Workshop Australia	09/06/2016	09/06/2016

Podium Plan (Drawing 13) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 2 Plan (Drawing 14) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 3/5/7 (Drawing 15) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Levels 4/6/8 (Drawing 16) Issue L	Design Workshop Australia	06/04/2016	14/04/2016
Level 9 (Drawing 21M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Site Plan (Drawing 02M)	Design Workshop Australia	08/05/2018	14/05/2018
Roof Plan (Drawing 22M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
East / West Elevations (Drawing 23M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
North / South Elevations (Drawing 24M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections C (Drawing 27M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Sections B (Drawing 26M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Section A (Drawing 25M) Issue M	Design Workshop Australia	08/05/2018	14/05/2018
Detailed Sections 01/02/03/04, drawing 20(G) (Podium of development and proximity pool)	KannFinch	30/08/2012	17/06/2016
Landscape Plan LA00 Issue D	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA01 Issue C	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape Plan LA02 Issue E	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA06 Issue A	Taylor Brammer Landscape Architects Pty Ltd	26/04/2018	14/05/2018
Landscape Plan LA03 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016

Landscape PlanLA03A Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape PlanLA04 Issue B	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Landscape PlanLA05 Issue A	Taylor Brammer Landscape Architects Pty Ltd	09/03/2016	21/03/2016
Finishes Schedule PN1061	Design Workshop Australia	20/02/2015	18/08/2015

*[Amendment A - S96(2) amended on 12/06/2018]*

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. *The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 641848M\_06 other than superseded by any further amended consent and BASIX certificate.*

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

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

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

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

*[Amendment A - S96(2) amended on 12/06/2018]*

6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and

letter in the alphabet.

The retail tenancies and residential uses within the site shall be known as follows:

- Retail A – Shop 1/4 Magdalene Terrace Wolli Creek
- Retail B - Shop 2/4 Magdalene Terrace Wolli Creek
- Supermarket entrance – 8 Mount Olympus Boulevard Wolli Creek
- Retail C – 3/6 Mount Olympus Boulevard Wolli Creek
- Retail D - 2/6 Mount Olympus Boulevard Wolli Creek
- Retail E - 1/6 Mount Olympus Boulevard Wolli Creek
- Lift lobby fronting Magdalene Terrace – 4 Magdalene Terrace Wolli Creek
- Lift lobby fronting Mount Olympus Boulevard - 6 Mount Olympus Boulevard Wolli Creek

10. *A total of 205 car parking spaces shall be provided for the development and shall be allocated in the development in the following manner. This shall be reflected in any subsequent strata subdivision of the development:*

*Allocated Spaces*

*Studio - 2 bedroom apartments - 1 space per apartment (90 spaces total)*

*3 and 3+ bedroom apartments - 2 spaces per apartment (34 spaces total)*

*Commercial Units - as specified within this consent (58 commercial spaces total)*

*Non-Allocated Spaces*

*Residential Visitor - 22 spaces*

*Car wash bay - 1 space*

*Basement level 1*

*Retail tenancy A – 7 spaces*

*Retail tenancy B – 2 spaces*

*Retail tenancy C – 2 spaces*

*Retail tenancy D – 2 spaces*

*Retail tenancy E – 2 spaces*

*Supermarket – 43 spaces*

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

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

*[Amendment A - S96(2) amended on 12/06/2018]*

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

11. All waste shall be collected from within the subject site within the approved loading / unloading bay. Waste shall be compacted at a maximum ratio of 2:1. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.

12. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".
13. The front windows of retail premises shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
14. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.
15. A. The loading / unloading bay on site is to be made available for use by all retail, commercial and residential uses on site (including removalist vans). All loading and unloading is to occur within the loading / unloading bay on site. The loading / unloading bay shall operate in accordance with the Plan of Management as required by this consent. The hours of operation of the loading dock shall not exceed 7am - 9pm.  
  
B. The turntable provided within the loading / unloading bay shall be managed and maintained in good working condition at all times to ensure that all vehicles can enter and exit the site in a forward direction.
16. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
17. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
18. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the Heavy Rigid Vehicle (HRV) with a maximum length 12.5 metres from AS2890.2:2002. Commercial vehicles greater in size and mass than the Heavy Rigid Vehicle (HRV) with a maximum length of 12.5 metres are not permitted to enter the site.
19. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
20. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the

requirements of this clause;

- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

21. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- i) permit stormwater to be temporarily detained and pumped by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;
  - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
22. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
  23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) or the like, shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  24. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
  26. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
  27. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
  28. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
  29. All proposed lights shall comply with the Australian Standard AS4282 - 1997

"Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

30. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
31. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

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

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

32. a) In order to ensure the design quality excellence of the development is retained:
  - i. Mr Robert Gizzi of Design Workshop Australia is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
 b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
33. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
34. The proposed signs must not have / use:
  - flashing lights
  - electronically changeable messages
  - animated display, moving parts or simulated movement
  - a method and level of illumination that distracts or dazzles
35. *Landscaping*

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

Retaining walls used for raised planter beds on concrete slabs shall accommodate a

minimum 800mm of soil/plant mix (over and above any drainage medium).

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

All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).

All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

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

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

36. *Swimming Pool*

The pool is for the private use of residents and their guests only and not for public use. The pool/spa pump hours of operation shall be restricted to between 7am to 8pm weekdays and 8am to 10pm weekends.

The pool area shall be enclosed by a 1200mm high pool safety fence and all associated gates shall be fitted with a self-latching device in accordance with AS1926.

*Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS1926 and provided the outside of the fence is kept clear for a distance of 1200mm of any item that would reduce the effectiveness of the fence as a safety barrier.*

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

Where the spacing between vertical members of the pool fence is greater than 100mm and horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fence, such surfaces shall be separated from the fence by a distance of not less than 900mm.

Waste water from the pool or spa is to be discharged into a Sydney Water gully riser, in accordance with the typical connection shown in Council's Swimming Pool and Spa Code.

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

A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young Children should be Supervised



when using this Swimming Pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australia Resuscitation Council. The warning notice may be purchased from Rockdale Council or the Royal Life Saving Society.

37. No excavation is permitted outside the boundaries of the subject site, or beneath the adjoining Proximity development.
38. The hours of operation of the supermarket shall be restricted to between 7am and 9pm, seven days.
39. Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.
40. All supermarket trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area. Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.

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

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

41. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$45 195.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.
42. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
43. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level. A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
44. Mount Olympus Boulevard

Prior to issue of a Construction Certificate, the following details must be submitted to, and approved by, the Director of Planning and Development, Rockdale Council pursuant to Section 138 of the Roads Act 1993:

(a) A swept path analysis for 12.5 metre Heavy Ridged Vehicle (HRV) accompanied by:

(i) Plans showing any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard intersection.

(ii) Plans showing any associated modification to the Mount Olympus Boulevard streetscape involving the removal any raised tree planting beds or on-street car parking for the purpose of gaining access to the off-street basement car parking or loading bay facility.

Note: Any modifications shall be in accordance with RDCP 2011, AS 2890.1.2004 and AS 2890.2.2002.

(b) The plans required by (a) above must also consider required sight distance to pedestrians which will necessitate additional width, splays or setbacks at each side of the access. The sight distances shall be indicated in the submission.

45. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.
46. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 0.5% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 0.5% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
47. DA-2011/461 for the subject site is to be surrendered to Council prior to the issue of the construction certificate for DA-2016/66.
48. *A Section 94 contribution of \$3,169,285.46 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.*

*[Amendment A - S96(2) amended on 12/06/2018]*

49. All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
50. The site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial Action Plan (SRAP)

prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to the issue of a Construction Certificate. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination. An accredited site auditor shall be engaged to review the SRAP and an interim advice shall be provided to Council prior to the issue of a construction certificate.

51. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
52. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 0.5% AEP flood and PMF event.
53. *Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within a minimum of 11 residential units within the development and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.*

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

*[Amendment A - S96(2) amended on 12/06/2018]*

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

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

55. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit [www.sydneywater.com.au](http://www.sydneywater.com.au).
56. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The

profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.

57. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
58. Prior to the issue of a Construction Certificate for building works, the Certifying Authority shall ensure that a letter from a qualified practicing Traffic Engineer registered on the National Engineering Register (NER), or a Compliance Certificate (issued in accordance with Section 109C of the Environmental Planning and Assessment Act 1979), has been issued to the Certifying Authority stating that the design of the off-street parking facilities comply with the conditions of consent.
59. *Adjoining buildings founded on loose foundation materials*

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

- (a) Implement all recommendations contained in the report prepared by Douglas Partners Pty Ltd - Ref: Project 29561, dated May 2001, letter by Douglas Partners Pty Ltd – Ref: Project No. 73333.00, dated 27 February 2013 and Report on The Review of Anchored Sheet Pile Design Proposed Basement Excavation by TQM Design & Construction Pty. Ltd. / Macdonald Sheet Piling, Ref: Job No. OC/14/1459, dated November 2014.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on sub soil drains / spoon drain connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking / waterproofing).

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

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

60. *Vibration monitoring*

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

61. A dedicated car wash bay is required. A tap and power connection shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
62. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

63. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of storm water are to be submitted to Principal Certifying Authority for assessment and approval.

Detailed plans are required to illustrate as follows:

- a. basement levels as a tanked system, incorporating an oil separator;
- b. driveway trench grates to be in accordance with Rockdale Technical Specification Stormwater Management section 3.2;
- c. proposed OSD to be in accordance with Rockdale Technical Specification Stormwater Management section 6.4;
- d. the basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management;
- e. the design should meet water sensitive urban design principles; and
- f. the geotechnical engineer to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

Overflow from the detention tank shall be directed to the existing easement pipe.

Rainwater tank volume can be used to offset the detention requirement providing reuse facilities as per section 7.24 of Rockdale technical specification – stormwater management. Maximum 50% detention volume can be offset by the rainwater reuse tank.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

64. Temporary shoring's shall be provided to support adjoining properties prior to excavation. Details of temporary shoring's shall be designed by a qualified practicing structural engineer and be submitted with the application for a Construction Certificate. The shoring's shall be inspected by the Principal Certifying Authority prior

to excavation.

65. The groundwater shall be assessed by a suitably qualified and experienced environmental consultant in accordance with relevant contaminated sites guidelines published by NSW Department of Environment Climate Change and Water. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate. A copy shall also be submitted to Council if Council is not the Principal Certifying Authority.
66. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:
  - A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape.
  - B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.
  - C). Glass balustrades shall be provided as frosted or opaque.
  - D). Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
  - E). *Compliance with the recommendations of the Access Report dated ref:214473 Issue C dated 15/02/2017 prepared by Accessible Building Solutions.*
  - F). *The recommendations of the Wind Report prepared by ANA Civil Pty Ltd, dated 21 May 2018 ref 2015-341 Rev.4 are to be implemented on site, including*
    - *Balcony/terrace balustrades – preferably of masonry/concrete construction with no openings or glass supported on edge of slab or recessed into concrete balcony with no gaps between edge of slab and bottom of glass rail;*
    - *Pergolas, canopies and awnings over open areas; and*
    - *Landscaping such as dense shrubs and trees.*
    - *Canopy or pergola on the roof terrace.*
  - G). To ensure clarity in the communal use of the carpark and loading dock, the signage identifying the carpark entrance and loading dock shall remove the 'ALDI' logo and 'ALDI' word. Retail, commercial, waste collection and residential uses on site are permitted to utilise the loading / unloading bay in accordance with the hours of operation and Plan of Management specified by this consent.
  - H). The stepped landscaped zone at podium level spanning the entire eastern boundary of the site with the adjoining Proximity development shall be 9.8RL and 10.8RL. Levels shall be reflected on the Landscape Plan.
  - I). To ensure the development is compatible with the adjacent development (Proximity), colours and finishes of the roof and walls are to be in accordance with

the photo montage submitted to the Director of City Planning and Development, Rockdale Council, with the development application. Details to be provided on Construction Certificate drawings.

J). Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours shall be submitted to and approved by Director of City Planning and Development, Rockdale Council, prior to the issue of the Construction Certificate. Details of the treatment of the exposed side wall (future open space) at No. 16 Guess Avenue and the wall parallel to the podium of the adjacent building shall be included.

K). A mechanical exhaust system shall be provided in each of the retail tenancies to allow for future food premises uses within the tenancies. The exhaust system shall provide its vents at minimum 1m above the top of the building in a position approved by the Director of City Planning and Development, Rockdale City Council.

L). Construction on the eastern side boundary of the subject site shall not result in the Proximity Pool not complying with relevant pool fencing legislation. The PCA is to confirm to Council prior to the issue of the Construction Certificate that no additional fencing and/or works are required to the adjoining Proximity Pool to ensure compliance with relevant pool legislation.

*M). Acoustic Attenuation - The noise reduction measures specified in the acoustic reports and addendum prepared by "The Acoustic Group" dated 24/07/2015, Harwood Acoustics, and the addendum report by Harwood Acoustics dated 18 May 2018 shall be shown in the construction plans. This includes all measures including measures to ensure compliance with the following LAeq (equivalent continuous noise levels) in accordance with SEPP (Infrastructure) 2007:*

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

*Recommendations in relation to the courtyard of unit 107 and communal open space on level 9 shall be illustrated on plans.*

N) A single antenna shall be provided to the building for use of all residents.

O) Six (6) car spaces within lower basement levels shall be converted to residential storage cages.

*[Amendment A - S96(2) amended on 12/06/2018]*

#### 67. Safety & Security

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels
- b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
- c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.



- d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
  - e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
  - f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.
68. All recommendations contained in the Geotechnical Investigation report prepared by Douglas Partners – Project No. 29561 dated May 2001 shall be implemented prior to the issue of the construction certificate.

### **Prior to commencement of works**

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

69. A dilapidation survey shall be undertaken of all properties including the adjoining Proximity Development and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) and Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
70. Prior to commencement of works, a consent shall be obtained from the Body Corporate of the Proximity Development and works completed for the replacement of the existing temporary wall with a permanent wall in compliance with the Building Code of Australia, which is located on the boundary with 35 Amcliffe Street, Wollie Creek (Lot 1 DP 1064374) in the area of the existing right of carriageway. As access via the temporary wall is no longer required the applicant shall obtain approval from the Body Corporate of the Proximity development for the easement for access that benefits Lot 2 DP1064374 to be expunged from the title of DP 1066102 and at the applicant's cost.
71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

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

72. A Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to the following matters:

- a) Hours of work,
- b) contact details of site manager,
- c) traffic management,
- d) noise and vibration management,
- e) waste management,
- f) erosion and sediment control,
- g) protection of trees to be retained.

A copy of the approved Construction Management Plan shall be submitted to Council.

73. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
74. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
75. A Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
- a) Ingress and egress of construction vehicles to the site,
  - b) routing and control of construction vehicles,
  - c) parking of employees vehicles,
  - d) loading and unloading, including construction zones, for all construction vehicles,
  - e) predicted traffic volumes, types and routes,
  - f) pedestrian and traffic management methods,
  - g) the hours of operation of the construction site,
  - h) holding areas for demolition/excavation/construction delivery vehicles wanting to access the site'
  - i) means of ensuring vehicular and pedestrian access to adjoining resident's properties and existing residents and visitors for the duration of the works.

The plan may need to be prepared in consultation with Council's Traffic Management section. A copy of the approved Plan shall be submitted to Council.

76. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
- hazard identification and control
  - site security
  - personal protective equipment
  - work zones and decontamination procedures

- contingency plans and incident reporting
  - environmental monitoring.
77. A Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted and approved by the Certifying Authority. The Plan shall address, but not limited to, the following matters:
- a) Identification of the specific activities that will be carried out and associated noise sources,
  - b) identification of all potentially affected sensitive receivers including residences, schools and existing facility,
  - c) the construction noise objective specified in the conditions of this approval,
  - d) the construction vibration criteria specified in the conditions of this approval,
  - e) noise and vibration monitoring, reporting and response procedure,
  - f) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
  - g) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
  - h) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency,
  - i) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
  - j) contingency plans to be implemented in the event of non compliance's and/or noise complaints.
- A copy of the approved Plan shall be submitted to Council.
78. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
79. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
80. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,
- Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
- Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure

is greater than half the height of the structure.

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

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

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

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

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

81. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
82. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
83. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
84. Should *"field indicators for actual and/or potential ASSs including dark grey soils, white shell fragments hydrogen sulfate odours or jarosite be observed during further excavation works"* a detailed assessment and Acid Sulfate Soils Management Plan is to be prepared and implemented on site.

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

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

85. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
86. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
87. Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to

construction techniques employed on the subject site.

88. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
- i. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - ii. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

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

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality.

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

- iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
94. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

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

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

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

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

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

95. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
97. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road

reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

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

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

minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

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

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

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

- 100. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 101. The proposed bicycle parking facilities located at ground floor level shall be designed in accordance with AS2890.3:1993. In addition, the bicycle parking area shall be fully secured by way of a chain-mesh style fencing (or similar) with gate and key / padlock to restrict access, so as to minimise opportunity for theft of bicycles. Construction of the secure bicycle storage area shall be completed prior to issue of the Occupation Certificate.
- 102. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
- 103. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 104. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.



Note: Burning on site is prohibited.

105. A by-law shall be registered and maintained for the life of the development, which requires that :
- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) in the event of a lift malfunction / breakdown, residents are to have access to an alternative lift within the building.
  - (d) the Body Corporate shall ensure the regular maintenance of the green wall structures at podium level upon the subject site.
  - (e) notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
  - (f) *The level 9 communal open space area adjoining the courtyard of unit 107 shall be limited in use to between the hours of 7am - 10pm, Monday to Sunday, public holidays inclusive.*

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

*[Amendment A - S96(1A) amended on 12/06/2018]*

106. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
107. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
108. Any associated modification to the intersection of Magdalene Terrace and Mount Olympus Boulevard will be required to be completed in accordance with the approved construction certificate plans of this development and Section 138 approval.

Note: Any modification works undertaken to the intersection will be at full cost to the developer.

109. Prior to the issue of any Occupation Certificate, a Loading Dock Plan of Management and Operation shall be submitted and approved by the Director of City Planning, Rockdale Council. The Loading Dock Plan of Management and Operation shall reflect the shared use of the loading dock to ensure that all uses within the development and relevant waste collection services have access to on-site loading and unloading facilities. The Management Plan shall specify delivery management, frequency of use, hours of operation, access, maintenance of the turntable and complaints handling procedures. A complaints register shall be maintained on site at all times. The Loading Dock Operation Management Plan shall be reviewed with

lodgement of future applications.

110. After completion of the remedial works, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of an Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, Consultants Reporting on Contaminated Sites, and shall:
  - ☐ describe and document all works performed;
  - ☐ include results of validation testing and monitoring;
  - ☐ include validation results of any fill imported on to the site;
  - ☐ show how all agreed cleanup criteria and relevant regulations have been complied with; and
  - ☐ include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.
111. The Aldi premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
 

The Aldi premises shall be registered with the NSW Food Authority by the proprietor of the food business by completing the registration form available online at [www.foodnotify.nsw.gov.au/nafsis/](http://www.foodnotify.nsw.gov.au/nafsis/) and providing documentary evidence to the Principal Certifying Authority of the completion of this notification with the Food Authority.
112. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
113. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.
 

A Site Audit Statement (SAS) and Site Audit Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.
114. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 3.30 AHD metres Australian Height Datum, which is 500mm above the 0.5% Annual Exceedance Probability (AEP) Flood.

The underground garage shall be floodproofed to a minimum of 500mm above the 0.5% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 20 May 2011.

115. A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.
116. The easements, restrictions and right of carriageway applying to the land and modified and/or made redundant as a result of this consent shall be registered/released at the applicant's cost. Proof of registration shall be submitted to Council.
117. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
118. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
119. Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
120. The vehicular entry in Mount Olympus Boulevard is to be clearly marked and signposted ("entry" or "no entry") from the street and ("exit" or "no exit") internally.
121. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
122. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
123. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
124. A two (2) metre wide right of footway and splay corner shall be provided in favour of Rockdale City Council along the boundary with Magdalene Terrace and Mount Olympus Boulevard. The right of footway is to be covered by a positive covenant, which may only be varied or extinguished with the consent of Rockdale City Council.
125. Fifty eight (58) off-street commercial car spaces shall be provided in accordance with the submitted plans. Suitable bollards shall be provided within the adaptable shared areas. Off-street car spaces for the commercial component of the development shall be provided in accordance with the submitted plans and the following.
  - ☐ Retail tenancy A – 7 spaces
  - ☐ Retail tenancy B – 2 spaces
  - ☐ Retail tenancy C – 2 spaces

- ☐ Retail tenancy D – 2 spaces
- ☐ Retail tenancy E – 2 spaces
- ☐ Supermarket – 43 spaces

Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors. An operating system shall be in place to control access to the basement. Any gate shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement carparking. To enhance safety and security, access to the basement shall be controlled after close of business.

A Plan of Management for the operation of the carpark, including measures to be implemented to ensure security and access control shall be submitted and approved by the Director City Planning and Development, Rockdale Council, prior to the issue of the Occupation Certificate.

126. *A total of 147 off-street residential car spaces (124 residential / 22 visitor / 1 car wash bay) shall be provided within the development in accordance with the submitted plan and shall be sealed and line marked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

*Access to the residential car spaces on site shall be securely separated from the commercial car spaces on site via a roller shutter and intercom system.*

*[Amendment A - S96(2) amended on 12/06/2018]*

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.  
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.  
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.  
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
128. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
129. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
130. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
131. The minimum habitable/commercial floor level shall be constructed 500mm above the 0.5% Annual Exceedance Probability (A.E.P) flood. The floor level shall be

certified by a registered surveyor prior to pouring of floor slab or installation of flooring.

132. The development shall comply with Report on Flood Effects prepared by Robert Bird + Partners International Consulting Engineers, Ref: Project No. 01204, dated April 2001.
133. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
134. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
135. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

136. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
  - The overflow from the rainwater tank shall be directed to the storm water system.
  - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
  - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
137. A post-construction dilapidation report shall be prepared by a suitably qualified person. This report is to ascertain whether the construction works resulted in any structural damage to adjoining buildings (including the adjoining Proximity development), infrastructure and roads.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:

- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required under this consent, and
- (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of the report is to be submitted to the Certifying Authority, Council and the Body Corporate of the adjoining Proximity Development.

138. Any associated modification to Mount Olympus Boulevard, on-street parking or the layout of raised tree planter beds will be required to be completed in accordance with the approved construction certificate plans of stage 1 of the site and any Section 138 approval.

Note: Any modification works undertaken to Mount Olympus Boulevard will be at full cost to the developer.

- 138A. *Communal open space areas on site are to be designated as common property upon any Strata Plan.*

*[Amendment A - S96(2) inserted on 12/06/2018]*

*Reason for additional condition 138A is:*

- *To ensure appropriate allocation of communal open space on site.*

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

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

139. Sydney Airport Corporation Limited

*SACL has approved the maximum height of the proposed building at 41.6 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.*

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

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

*[Amendment A - S96(2) amended on 12/06/2018]*

140. Sydney Trains

A. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- Machinery to be used during excavation/construction.
- Construction and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring.
- If deemed necessary following the review of the documentation required by the deferred commencement condition, a vibration and movement monitoring plan for the affected rail infrastructure.

B. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

C. All piling and excavation works with 25m of the rail corridor are to be supervised

by a geotechnical engineer experience with such excavation projects.

D. No rock anchors/bolts are to be installed into Sydney Trains property or easements.

E. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

F. Sydney Trains and Transport for NSW, or any persons authorized by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

G. Prior to the commencement of works, on the completion of works, or at any time during the works period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

H. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

I. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

J. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor.

These measures are to comply with Sydney Trains requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

K. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

L. Prior to the issue of a Construction Certificate a Risk Assessment, Rail Safety Management Plan, and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains

confirming that this condition has been satisfied.

M. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. It should be noted that Sydney Trains may not permit any craneage or aerial operations over the 33kV wires located within Arthur Street. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

N. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

O. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

P. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

Q. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into Sydney Trains property or easement. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

R. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

S. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.

141. NSW Office of Water

*General*

A. An authorisation shall be obtained for the take of groundwater as part of the



activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

B. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

C. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
- (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
- (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

D. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

E. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

*Prior to excavation*

A. The following shall be included in the initial report:

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

B. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and

property, and be documented together with all calculations and information to support the basis of these in the initial report.

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

D. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

E. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

A copy of a valid consent for the development shall be provided in the initial report.

F. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

G. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### *During Excavation*

A. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

B. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

C. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and

the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

D. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

E. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

F. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

G. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

#### *Following Excavation*

A. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

B. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

## **Roads Act**

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

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

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

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

143. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
  - i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
144. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
145. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
146. Where the works are undertaken by a Private licensed Contractor, the contractor shall:
  - i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the works;
  - ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works.
  - iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.
  - iv) A payment shall be made to Council for inspection of the works. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges.
  - v) Provide Council with 48 hours notice of the following:
    - a) Commencement of the works
    - b) Completion of road sub-grade trimming and compaction; and
    - c) Completion of road base-course trimming and compaction; and
    - d) Prior to pouring kerb and gutter, or any other in-situ concrete element; and

- e) Prior to covering any stormwater drainage pipes and connections; and
- f) Prior to placement of road wearing course; and
- g) Completion of works.

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

vi) Maintain the works for the duration of the Defects Correction Period, which shall be twelve (12) months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

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

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

- 147. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
- 148. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.
- 149. The following details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, in relation to the awning over Magdalene Terrace and Mount Olympus Boulevard:

- i) Detailed design plans and specifications, including structural details; and
- ii) Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 2.4 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development.

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

specifications.

### Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- e. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) a Section 73 certificate from Sydney Water must be supplied.
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.
- h. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant

statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- i. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
  - j. If the development is not subject to BASIX, a mandatory rainwater tank may be required.
  - k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
  - l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

#### **Additional Information**

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Under Section 8.7 and 8.10 of the Act, applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Fiona Prodromou on 9562 1666



**Luis Melim**  
**Manager - Development Services**





18 January 2019

WM Project Number: 99204-WC  
Our Ref: ALDI180119 NG  
Email: Anthony.Cox@aldi.com.au

Mr Anthony Cox  
ALDI Stores (A Limited Partnership)  
1 Sargents Road  
MINCHINBURY NSW 2770

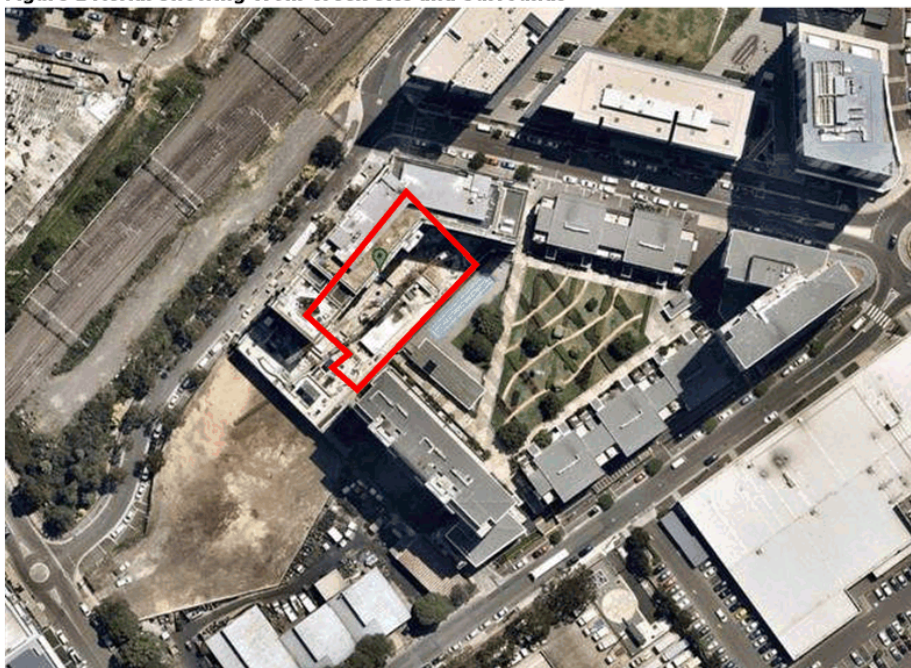
Dear Anthony

**Re: ALDI Wolli Creek - Noise Assessment for Store Cleaning and Restocking**

#### **INTRODUCTION**

ALDI seek approval to allow staff to clean the store and restock shelves outside of the approved trading hours at the Wolli Creek store located within the development at 4 Magdalene Terrace, Wolli Creek shown in red in Figure 1 below. Approved hours are 7am to 9pm, 7 days. The requested hours for store replenishment are 6.00am to 12 midnight. No change to trading hours or delivery hours are sought. This letter considers the potential noise implications of the proposal.

**Figure 1 Aerial Showing Wolli Creek Site and Surrounds**



Wilkinson Murray Pty Limited • Level 4, 272 Pacific Highway, Crows Nest NSW 2065, Australia  
t +61 2 9437 4611 • e [acoustics@wilkinsonmurray.com.au](mailto:acoustics@wilkinsonmurray.com.au) • w [www.wilkinsonmurray.com.au](http://www.wilkinsonmurray.com.au) • ABN 39 139 833 060  
Offices in Sydney, Newcastle, Wollongong, Queensland & Hong Kong

**ACOUSTICS AND AIR**



### COUNCIL ISSUES

*Thank You for the response however the proposed hours falls in the night time period as defined in the guidelines published by the NSW EPA. The night time period is the most sensitive time as it is the sleeping period for most residents. Regardless that all works are within the building only a suitably qualified acoustic consultant can only confirm that the cleaning and restocking process within the building would not cause noise impact towards the surrounding residents.*

*In relation to the loading dock the use of equipment such as cardboard compactor or garbage compactor any mechanical ventilation such as air conditioners or motors from the cool-room are all sources of noise which may also have an impact during the night time period again only a suitably qualified acoustic consultant can confirm if or if not an impact towards the above residents.*

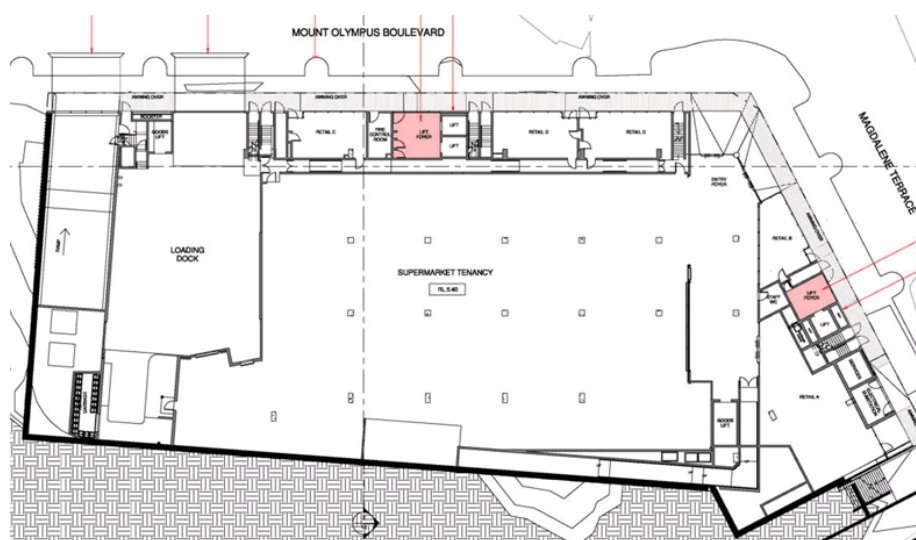
### NOISE ASSESSMENT

The store occupies part of the ground (Figure 2) and mezzanine (Figure 3) level of a mixed use development, with residential apartments above part of the store on the podium level as shown in Figure 4. A cross section is shown in Figure 5 and an elevation in Figure 6. There are other residential buildings nearby which overlook the store (Figure 1).

The floor ceiling construction between the store and apartments above includes a concrete slab and ceiling.

There are limited staff on the site outside of trading hours (typically 2-3 persons).

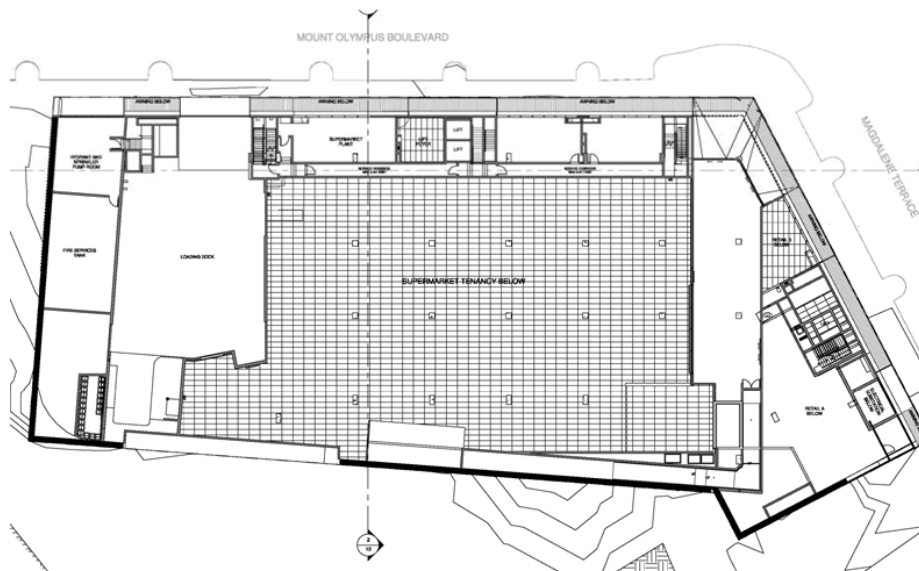
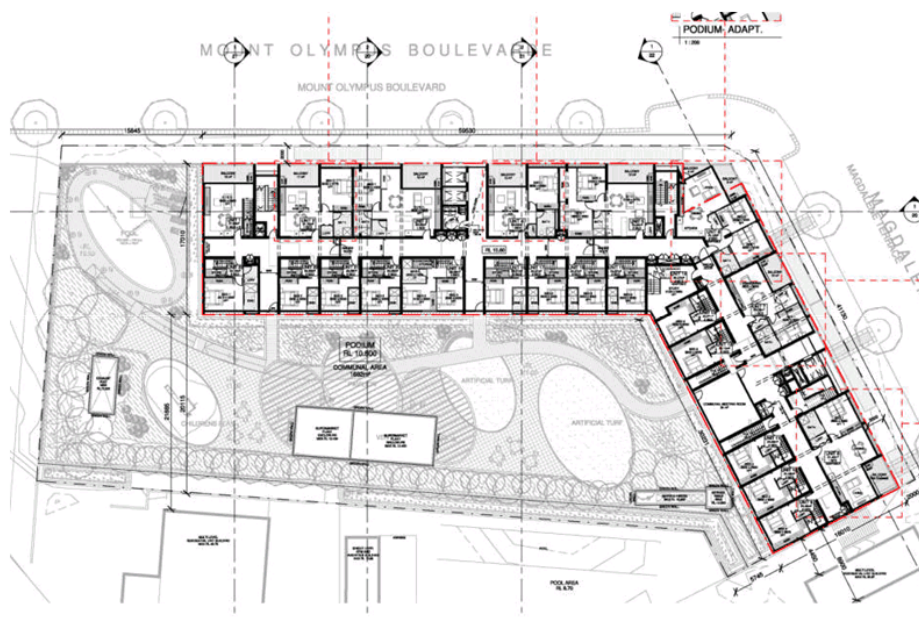
**Figure 2 Ground Floor**



99204-WC / Wollie Creek

- 3 -

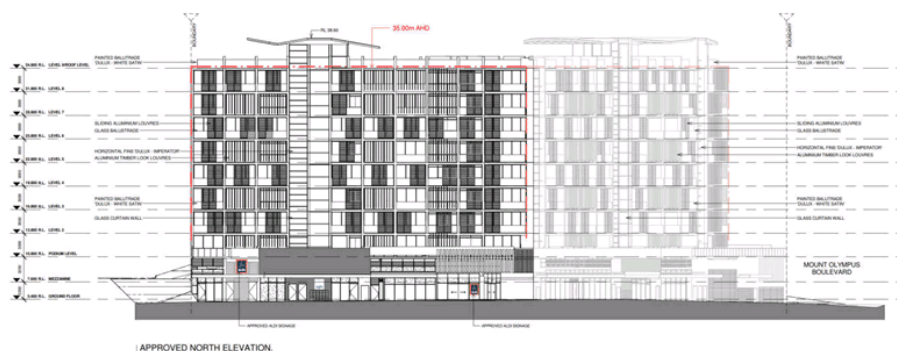
Wilkinson Murray

**Figure 3 Mezzanine Level****Figure 4 Podium Residential Level**

99204-WC / Wollie Creek

- 4 -

Wilkinson Murray

**Figure 5 Section****Figure 6 Elevation**

There are no proposed changes to use of equipment within the loading dock, including compaction of cardboard, this can be managed to occur between 7.00am and 9.00pm or movement of goods from the loading dock to storage area.

Cleaning is undertaken with a walk behind Floor Scrubber similar to the photo below.



Restocking shelves requires the transport of pallets from the storage area adjacent to the store into the store and the placement of product on the shelves.

Neither of these activities would typically generate any airborne noise outside of the ALDI store likely to result in any annoyance to residents of other buildings overlooking the store. Similarly, airborne noise transfer through the ceiling / concrete slab to the Podium Level is not expected to result in any annoyance.

For apartments in the same building it is possible some structure borne noise can be transmitted through the building from the movement of pallet handlers over any discontinuities of the floor or if pallets are dropped suddenly. The proposed extension of hours also encroaches on the night time period before 7.00am and after 10.00pm, where sleep disturbance as well as annoyance needs to be considered.

As the storage area is on the ground level adjacent to the store and we understand there are no discontinuities (ie moving pallets in and out of goods lifts), then structure borne noise levels likely to cause annoyance or sleep disturbance isn't expected. We understand ALDI standard policies requires all goods to be handled carefully and staff at this store should be reminded of this requirement. It is recommended that once the store is opened it should be confirmed there is no unexpected noise associated with the proposed activities.

The proposed modification maintains the approved use of the ALDI Store on the site as well as the approved trading and delivery hours. As the proposed modification is for the minor extension of hours solely to permit cleaning and restocking and does not include any physical alterations, the potential environmental impacts are expected to be minimal and will not pose any adverse impacts to surrounding properties and unlikely to pose adverse impacts to residents directly above.

I trust this information is sufficient. Please contact us if you have any further queries.

Yours faithfully

**WILKINSON MURRAY**

A handwritten signature in black ink, appearing to read 'N.L. Gross', with a stylized flourish at the bottom.

**Neil Gross**  
Director



**LOADING DOCK MANAGEMENT PLAN  
PROPOSED ALDI STORE AND FOUR SPECIALTY RETAIL SHOPS AT 4 MAGDALENE TERRACE, WOLLI CREEK  
MAY 2011**

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Loading Dock Delivery Management

- The ALDI Store is the key tenant of the retail level of the development.
- All ALDI Store delivery vehicles are owned, operated and stringently controlled by ALDI.
- All ALDI Store deliveries to the loading dock will be coordinated by the ALDI Store Manager.
- A loading dock manager will coordinate delivery schedule including deliveries required for the ancillary retail tenancies.

Size, Frequency & Queuing of Delivery Trucks

- Service vehicles will enter and exit the site from Mount Olympus Boulevard.
- The ALDI Store loading dock on the site has been designed to accommodate the largest expected vehicle using the facility (12.5 metre rigid vehicles).
- Generally it is anticipated that 4 deliveries will be made to the site each day by the ALDI fleet. Occasionally deliveries may be increased during busier periods. In addition, the ALDI Store will be serviced daily by two bread deliveries.
- Only one ALDI Store truck will service the loading dock at any one time. Due to the infrequent number of ALDI deliveries, and strict adherence by all ALDI Store drivers to the delivery schedule, and the small scale of other tenancies, queuing of delivery trucks on the street network will not occur.
- The loading dock will be provided for the ALDI Store and a separate bay for rigid trucks for the other uses.
- Delivery scheduling will ensure service vehicles can service the ALDI Store loading dock without conflicting with the arrival and departure of ancillary retail loading vehicles at any time. As such, queuing to the loading dock will not occur.
- Given the small number of specialty retail tenancies and the size of these shops, loading frequency is expected to be minimal and time for loading to be carried in less than 15 minutes.

Turntable Access & Maintenance

- The circulation and loading areas will be designed to accommodate the swept paths of the service vehicles in accordance with AS 2890.2 – 2002.
- Service vehicles will be able to enter and exit the site in a forward direction via a turntable in the loading dock.
- ALDI delivery personnel will be appropriately trained regarding operation of the turntable.
- ALDI Store staff will monitor the operation of the turning table on a daily basis. Any disruptions or malfunctions will be reported immediately to the ALDI Store Manager and building management, as required.
- Contractors will be immediately contacted to rectify any mechanical failures to the turntable.

Complaint Management

- Due to strict delivery scheduling, ALDI Store trucks will have priority access to the loading dock at all times.
- Specialty tenancies will be required to schedule deliveries outside of ALDI Store deliveries to avoid conflict with the ALDI delivery schedule.
- New occupants for each of the tenancies will be required to obtain the delivery schedule from ALDI Stores.
- Any breaches to the delivery schedule must be reported to ALDI Store management/ loading dock manager.

MILESTONE (AUST) PTY LIMITED

**Bayside Local Planning Panel**

**5/03/2019**

Item No	6.5
Application Type	Development Application
Application No	SF18/2947
Lodgement Date	12/11/2018
Property	<b>40-54 Baxter Road, Mascot</b>
Ward	Mascot
Owner	Well Smart Investment Holding (Syd Airport) Pty Ltd
Applicant	Well Smart Investment Holding (Syd Airport) Pty Ltd
Proposal	Modification to hotel including a reduction in number of rooms to 230, minor internal reconfiguration, external facade changes, installation and reconfiguration of plant/services and relocation of bicycle spaces
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

That the Section 4.55(1A) application for the Modification to hotel including a reduction in the number of rooms to 230, minor internal reconfiguration, external facade changes, installation and reconfiguration of plant/services and relocation of bicycle spaces at 40-54 Baxter Road, Mascot is **APPROVED** subject to the following:

- a Modify Condition 1 relating to approved plans;
  - b Modify Condition 4 to change the lot description; and
  - c Insert Condition 36A in relation to the proposed new canopy.
-



## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Site plan, floor plan and elevations [↓](#)
- 4 Sections [↓](#)
- 5 Landscape Plan [↓](#)
- 6 Amended BCA Report [↓](#)
- 7 Access report [↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

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<b>Application Number:</b>	DA-2013/197/05
<b>Date of Receipt:</b>	12 November 2018
<b>Property:</b>	40-54 Baxter Road, Mascot
<b>Lot &amp; DP/SP No:</b>	Lot 41 in DP 1097376 and part Lot 51 in DP 1097377
<b>Owner:</b>	Well Smart Investment Holding (Syd Airport) Pty Ltd
<b>Applicant:</b>	Well Smart Investment Holding (Syd Airport) Pty Ltd
<b>Proposal:</b>	Modification to hotel including a reduction in number of rooms to 230, minor internal reconfiguration, external facade changes, installation and reconfiguration of plant/services and relocation of bicycle spaces
<b>Property Location:</b>	On the southern side of Baxter Road, on the corner of O'Riordan Street and north of the Botany Goods Line
<b>Value:</b>	Nil
<b>Zoning:</b>	B5 Business Development under Botany Bay Local Environmental Plan 2013
<b>Author:</b>	Andrew Ison, Senior Development Assessment Planner
<b>No. of submissions:</b>	Nil
<b>Date of Report:</b>	26 February 2018

#### Key Issues

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The application is referred to the Bayside Planning Panel as the approved development is considered to be a sensitive development as it includes a small bar on the ground floor, and hence will be a future new licenced premises that will require a liquor licence.

The application was placed on public exhibition from 14 November to 10 December 2018. No submissions were received.

Key issues with this application relate to the following:



- Various amendments both externally and internally;
- Relocation of bicycle parking and services;
- Reduction in the landscaping; and
- Reduction in the number of rooms.

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

### Recommendation

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1. That the Section 4.55(1A) application for the Modification to hotel including a reduction in number of rooms to 230, minor internal reconfiguration, external facade changes, installation and reconfiguration of plant/services and relocation of bicycle spaces at 40-54 Baxter Road, Mascot is **APPROVED** subject to the following:
  - (a) Modify Condition 1 relating to approved plans;
  - (b) Modify Condition 4 to change the lot description; and
  - (c) Insert Condition 36A in relation to the proposed new canopy.

### Site Description

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The subject site is situated towards the western end along the southern side of Baxter Road between Botany Road to the east and O'Riordan Street (State classified road) to the west within the B5 Business Development Zone in Mascot. It is legally described as Lot 41 and has a total site area of 5,068m<sup>2</sup>. As shown on the Deposited Plan, the Railway Goods Line bisects the subject site from east to west which divided the subject site into three portions:

- Northern portion: 1,947m<sup>2</sup>
- Middle / Railway corridor: 2,872m<sup>2</sup>
- Southern portion: 249.4m<sup>2</sup>

The proposal is located to the northern side of the existing Railway Goods Line. It is irregular and elongated in shape which provides a frontage of 112.77m to Baxter Road and 17.86m to O'Riordan Street.

The site at the time of the writing of this report is cleared, with the two storey building that formerly occupying the site being demolished.

Car parking for the approved hotel is to be located on the neighbouring site to the east, known as Lot 51 in DP 1097377. This was approved under a separate development consent (DA-2014/2) on the same date as the subject development application in this report.

The northern side of Baxter Street comprise commercial and industrial activities to the immediate north of the subject site and residential development to the north-east.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

### **Description of approved development and proposed modifications**

#### ***Approved Development DA-2013/197***

Development Consent No.2013/197 was approved by resolution of the former City of Botany Bay Council on 9 December 2014 for the following:

- Demolition of the existing two storey structure on site;
- Site preparation and site remediation works;
- Construction of a new eight storey hotel building comprising of 251 rooms, meeting rooms, gymnasium, bar and restaurant
- New driveway crossings;
- Landscaping works and new signage; and
- Use of the adjoining site under the same ownership as car parking for 98 cars.

This was approved as a Deferred Commencement, subject to the preparation of a final geotechnical assessment and structural report, construction methodology and final cross section drawings. A period of 12 months was provided to address these requirements, and were addressed to Council's satisfaction on 19 August 2015.

#### ***Approved Modification DA-2013/197/02***

On 21 June 2016, the former City of Botany Bay Council approved a modification under the former Section 96(1A) provisions (now Section 4.55(1A)) under delegated authority to modify the development consent to facilitate the future provision of car parking within the multi storey Park and Fly facility approved under a separate development consent (DA-12/154).

**Approved Modification DA-2013/197/03**

On 24 January 2017, Bayside Council approved a modification under the former Section 96(1A) provisions (now Section 4.55(1A)) under delegated authority to conditions relating to the neighbouring site and car parking.

**Approved Modification DA-2013/197/04**

On 11 September 2018, the Bayside Local Planning Panel approved a Section 4.55(2) modification relating to a number of modifications, as listed below:

- Changes to the materiality and form of the façade;
- An increase in building height from 30.3m to 33.05m;
- Reduction in the total number of hotel rooms from 251 to 235;
- Reconfiguration of the ground floor layout including meeting rooms, storage areas, lobby, lift lobby and rubbish areas;
- Removal of outdoor dining area on ground floor;
- Reconfiguration of loading area;
- Reconfiguration of the layout of hotel room levels, including 2 new accessible rooms on level 7;
- Reconfiguration of gym on level 1;
- Reconfiguration of lift shaft and storage rooms;
- Increase of floor to floor heights from 3m to 3.5m;
- Reconfiguration and reduction of plant area on the roof top;
- Provision of bicycle spaces;
- Amendments to the landscape design;
- Removal of the approved signage (to be subject to a separate application); and\
- Relocation of the shared drop off zone further to the east, away from O'Riordan Street.

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

**Proposed Modifications DA-2013/197/05**

The applicant seeks the following by way of Section 4.55(1A) application:

- New canopy over the hotel entrance;
- Relocation of bicycle parking spaces to the western side of the hotel;
- Minor internal reconfigurations within the hotel lobby area to meet fire egress requirements;
- New outbuildings associated with plant and servicing equipment to the ground floor (external);
- Relocation of MEP switch room, water pump and sprinkler room to external ground area and reduction in landscaping area;
- Relocation of gym from level 1 to level 4;
- Revision in number of rooms from 235 to 230;
- Increase in the size of accessible rooms;
- Reconfiguration of layout in guest rooms;
- Installation of natural air ventilation within the fire staircase; and
- New vertical screening element to be included within the northern façade;
- Reconfiguration M&E equipment on roof.

## **Statutory Considerations**

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

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

#### **S.4.55(1A) – Modifications involving minimal environmental impact**

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

*(a) it is satisfied that the proposed modification is of minimal environmental impact,*

The proposed modification is of minimal environmental impact as there are no increases to the approved building footprint nor the height of the building. The new structures to house the services to the east are small in nature and appropriate landscaping will soften any impacts when viewed from Baxter Road. With the above considered, Council is satisfied that it 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 the consent was originally granted and before that consent as originally granted was modified (if at all), and*

The proposed modification is considered to be substantially the same as the approved development as there are no increases to the footprint of the building nor the height, and relates to a series of external and internal modifications as previously listed in this report.

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

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

It was notified as per Part 2 of the Botany Bay DCP 2013.

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

No submissions have been received.

#### **S.4.55(3) – Consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application**

In the assessment of this modification, the original reasons for granting consent have been considered and it is satisfied that the proposal as modified is appropriate in regards to the provisions of this clause.

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

The following Environmental Planning Instruments are relevant to this application:

Botany Bay Local Environmental Plan 2013 (LEP)

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B5 Business Development zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development will be modifying the approved use of the site as a 'hotel' development, which is permissible with consent in the B5 zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objectives of the B5 Business Development zone, namely to continue enabling a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of centres.
What is the height of the building?	Yes	The maximum building height allowed on the subject site is 44m. The currently approved height (as modified) is 33.05m, with no changes to the height proposed as part of this application.
Does the height of the building exceed the maximum building height?	No	N/A
What is the proposed FSR?		A maximum FSR of 3:1 applies.
Does the FSR of the building comply the maximum FSR?		In accordance with the Title Search, the subject site is Lot 41 DP1097376 and the site area is 5,068.4m <sup>2</sup> which includes the work site, the railway corridor and the strip of land located to the southern side of the railway corridor.  The DA approved GFA was 6,932m <sup>2</sup> for the hotel (FSR of 1.38:1). The proposed modifications result in no increase of the FSR.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
The following provisions in Part 6 of BBLEP 2013 apply:		
6.3 – Stormwater management	Yes	No stormwater plans were lodged, however, Council's Development Engineer has raised no issues with the proposal.
6.8 – Airspace operations	Yes	No changes to the previously approved height of 33.05m, hence no referral to Sydney Airports Corporation Limited (SACL) deemed necessary.
6.9 – Development in areas subject to aircraft noise		The subject site is affected by the 25-30 ANEF contour. An acoustic assessment was considered as part of the DA, with recommendations imposed as conditions of consent.  Given that there is a reduction in the number of approved rooms, it is considered that the use is not as intense as that approved, and hence the recommendations as approved as part of the development application can be applied to this modification.

The objectives and provisions of the Botany Bay LEP 2013 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Botany Bay LEP 2013.

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

There are no current Draft EPIs applicable to this development.

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

The following Development Control Plan is relevant to this application:

#### **Botany Bay Development Control Plan 2013**

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

##### Part 3A – Parking and Access

There is a reduction in the number of rooms from 235 to 230 rooms. Using the calculations made in the original DA assessment, the hotel will require a total of 92 spaces will be required for the rooms. Condition 2B was imposed as part of DA-3013/197/02 imposed a condition relating to the neighbouring



property to the east (Lot 51 in DP 1097377) for the purposes of parking 98 vehicles for hotel guests and staff.

A total of 10 bicycle spaces are provided to the east of the building, which exceeds the 10% equivalent of required car parking spaces to be provided for the development.

#### Part 3G – Stormwater Management

This has been reviewed by Council's Development Engineer. It was considered that there were no changes required to the conditions imposed as part of the DA consent, nor was there a requirement to impose additional conditions.

#### Part 3J – Aircraft Noise and OLS

The subject site is affected by the 25-30 ANEF contour. An acoustic report was prepared and lodged with the development application. It concluded that the proposal will comply with AS2020-2000 provided the measures recommended are implemented.

The subject site is affected by the 25-30 ANEF contour. The Acoustic Report prepared by Renzo Tonin Associates Pty Ltd concluded that the proposal will comply with AS2020-2000 provided the measures recommended are implemented. Condition 33 of the development consent prescribed the recommendations to be undertaken.

Given that there is a reduction in the number of approved rooms, it is considered that the use is not as intense as that approved, and hence the recommendations as approved as part of the development application can be applied to this modification.

With respect to the OLS, it was referred to the Sydney Airport Corporation Limited, and stated no objections to the changes.

#### Part 3L – Landscaping

Amended landscape plans were lodged as part of this application. It is noted that there is a considerable reduction in groundcover to accommodate the services on the eastern side. However, Council's landscape architect was satisfied with the proposed planting schedule to screen the enclosures from Baxter Road, and hence is supportive of the amended plan.

#### Part 6 – Employment Zones

Control	Proposed	Complies
<b>6 Mascot Business Development Precinct</b>		
<b>C6</b> Development within 25m of either side of the Airport Line Tunnel is to be referred to RailCorp.	There is no change to the size of the building footprint. Accordingly, it was considered that no referral to RailCorp was required.	N/A
<b>6.3.3. Floor Space Ratio</b>		
<b>C1</b> Max. 3:1 FSR as identified in the BBLEP 2013.	The DA was approved with a FSR of 3.58:1. There is no increase to the FSR as part of the proposed amendments.	Yes
<b>6.3.4. Building Design and Appearance</b>		

<b>C1</b> Max. 44m from NGL as identified in the BBLEP 2013.	The maximum building height allowed on the subject site is 44m. The currently approved height (as modified) is 33.05m, with no changes to the height proposed as part of this application.	Yes
<b>6.3.5. Setbacks</b>		
<b>C1</b> Setbacks are to be in accordance with the following:  <b>Landscape Setback:</b> <ul style="list-style-type: none"> <li>• Front (non-classified road) – min. 3m</li> <li>• Front (classified road) – min. 4m</li> <li>• Side (adjoining to non-residential use) – 2m</li> <li>• Rear – 0-3m</li> </ul> <b>Building Setback:</b> <ul style="list-style-type: none"> <li>• Front – min. 9m</li> <li>• Side (adjoining to non-residential use) – 2m</li> <li>• Rear – 0-3m</li> </ul>	The footprint of the building has not changed from that was approved as part of the DA.	Yes
<b>Part 7F – Hotel and Motel Accommodation</b>		
<b>C4</b> Minimum 5.5m <sup>2</sup> room size per person staying within the room.	All room sizes are greater than 5.5m <sup>2</sup> .	Yes
<b>C7</b> Allow a small kitchenette with adequate cupboards and shelves.	All rooms provide a small kitchenette.	Yes
<b>C9</b> Bathrooms must be provided in accordance with the BCA.	A separate bathroom is provided within each hotel room in accordance with the BCA.	Yes
<b>C10</b> The design and operation of hotel and motel accommodation must take into account possible noise impacts on adjacent properties and the surrounding area.	Given that the site proposes a less intensive use than that approved with relation to the number of rooms, it was considered that no revised acoustic report was required. Accordingly, any recommendations made in the report prepared for the DA will remain in place, inclusive of any conditions imposed.	Yes
<b>C11</b> A Plan of Management (POM) which describes how the ongoing operation of hotel and motel accommodation will be managed to reduce its impact upon the amenity of surrounding properties is required to be submitted. A condition of consent may require that a POM be	A Plan of Management will be provided prior to the operation of the hotel. The DA consent approval has appropriately been conditioned.	Yes



regularly revised and submitted to Council.		
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#### Part 7G – Licenced and Late Night Trading Premises

The approved development was identified to be Category 2 premises with potential high impact to the neighbourhood at the time of the DA assessment. This status has not changed with the proposed modifications subject to this application.

The subject site is surrounded by commercial premises and is located within the business area in Mascot precinct. The approved hotel will operate similar to other hotels in the area and is unlikely impose major noise and safety impact to the adjoining properties and the surrounding areas.

#### Part 7J – Uses Involving the Preparation and Storage of Food

A restaurant and bar was approved on the ground floor. The proposed modifications do not include any reconfiguration of the restaurant and bar area. Accordingly, the conditions imposed on the DA consent remain unchanged.

#### Part 8.7 – Mascot Character Precincts

Part 8.7.2 Desired Future Character of the Mascot Precinct has been considered in the assessment of the application. This section provides a rationale for determining the strategic direction for development in Mascot.

The site is surrounded by B5 Business Development zone and is located within walking distance to the B2 Local Centre zone of Mascot along Botany Road located to the east of the site.

O’Riordan Street is nominated as a gateway area of the Sydney Kingsford Airport and the subject site is located at the entrance of this gateway. Minimum seven (7) hotels are construction or approved within close proximity to the site and along O’Riordan Street. These include the existing Stamford Plaza Hotel, Quests Service Apartment, Ibis Sydney Airport Hotel and the Holiday Inn.

It is considered the proposal is compatible with the desired future character of the business precinct in Mascot given its proximity to the airport. The subject development application also maintains a reasonable amount of permeable landscaped area on site and the site coverage does not result in an over development of the site.

Accordingly, the proposal is suitable for the subject site and is deemed to be compatible with the desired future character as described in the DCP.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

#### Proposed awning

The submitted drawings include a new awning over the existing approved indented loading bay on Baxter Road fronting the development. There is sufficient headroom clearance for a coach vehicle and other large trucks to access the loading bay fronting the entrance, as a minimum 4.5m of headroom clearance is provided. However, as this is on Council owned land this awning and the drop of bay is also within Council land, the awning is proposed beyond the footpath of the site into the Baxter Road reserve which is not supported. The awning will need to be setback at least 600mm from the kerb line. This is due to the risk of a vehicle/truck being oversized and colliding with the awning of which Council owns, hence the awning shall be setback from the road reserve.

Accordingly, Council it is recommended that the Panel impose an additional condition before the issue of a Construction Certificate with relation to the awning and how it is to be constructed.

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

The proposal does not alter the conclusions that were resolved and approved within the development consent and subsequent modifications. It does not impact on the zone of influence with the railway and Sydney Airport.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a 28 day period. No submissions were received.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

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### **Conclusion**

Development Application No. 2013/197/05 for the modification to the approved hotel including a reduction in number of rooms to 230, minor internal reconfiguration, external facade changes, installation and reconfiguration of plant/services and relocation of bicycle spaces at 40-54 Baxter Road, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

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**Attachment****Schedule 1 – Conditions of Consent**

Premises: 40-54 Baxter Road, Mascot

DA No: 2013/197/05

**SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

Drawing No.	Plan Description	Issue	Author	Dated Received by Council
DA-001 SP01 Rev C ID001.1.0	Existing Plan & Site Analysis Master Site Plan (DA-2013/197/04) (DA-2013/197/05)	-	Nettleton Tribe Partnership Pty Ltd FDAT Architects LLP (DA-2013/197/04) Well Smart Group (DA-2013/197/05)	Dated 24 July 2014 and received by Council on 25 July 2014 5 June 2018 (DA-2013/197/04) 15 February 2019 (DA-2013/197/05)
DA-002 FP01 Rev C ID002.1.0	Site Plan Ground Level Plan (DA-2013/197/04) (DA-2013/197/05)	-		
DA-011 FP02 Rev C ID002.2.0	Ground Level Plan 1st Level Plan (DA-2013/197/04) (DA-2013/197/05)	-		
DA-012 FP03 Rev C ID002.3.0	Level 1 Floors Plan Typical Level Plan – 2nd, 4th, 5th and 7th Level 2nd Level Plan (DA-2013/197/04) (DA-2013/197/05)	-		
DA-013 FP04 Rev C	Level 2-6 Plan Typical Level Plan – 3rd and 4th Level	-		

Drawing No.	Plan Description	Issue	Author	Dated Received by Council
ID00.2.4.0	3rd Level Plan ( <del>DA-2013/197/04</del> ) (DA-2013/197/05)			
ID00.2.5.0	4th Level Plan (DA-2013/197/05)			
ID00.2.6.0	5th Level Plan (DA-2013/197/05)			
ID00.2.7.0	6th Level Plan (DA-2013/197/05)			
ID00.2.8.0	7th Level Plan (DA-2013/197/05)			
ID00.2.9.0	Roof Level (DA-2013/197/05)			
DA-014 SE01 Rev C ID00.3.1.0	Level 7 Plan North Elevation ( <del>DA-2013/197/04</del> ) (DA-2013/197/05)	-		
DA-015 SE02 Rev C ID00.3.2.0	Plant Level Plan South Elevation ( <del>DA-2013/197/04</del> ) (DA-2013/197/05)	-		
DA-017 SE03 Rev C ID00.3.3.0	Area Calculations East Elevation ( <del>DA-2013/197/04</del> ) (DA-2013/197/05)	-		
DA-021 SE04 Rev C ID00.3.4.0	North Elevation West Elevation ( <del>DA-2013/197/04</del> ) (DA-2013/197/05)	-		
ID00.4.1.0	Section A-A' (DA-2013/197/05)			
ID00.4.2.0	Section B-B' (DA-2013/197/05)			

Drawing No.	Plan Description	Issue	Author	Dated Received by Council
ID00.4.3.0	Section C-C' (DA-2013/197/05)			
DA-022	West Elevation	-		
DA-023	South Elevation	-		
DA-024	East Elevation	-		
DA-031	External Finishes	-		
DA-026	Signage Details	-		
DA-031	East-West Section	-		
DA-032	North-South Section	-		
DA-040	Shadow Diagram	-		
DA-051	Perspective View 1	-		
DA-052	Perspective View 2	-		
DA-053	Perspective View 3	-		
-	Design Statement	-		
-	Landscape Plan (DA-2013/197/04) (DA-2013/197/05)	E I L	Taylor Brammer Landscape Architects Pty Ltd	Dated 18 September 2013 and received by Council on 25 July 2014 5 June 2018 (DA-2013/197/04) 12 November 2018 (DA-2013/197/05)
SW1	Stormwater Drainage Project Information	1		
SW2	Stormwater Drainage Site Plan	1		
ES1	Erosion & Sediment Control Plan Project Information	1	Donnelley Simpson Cleary Consulting Engineers	Dated 17 September 2013 and received by Council on 25 September 2013
ES2	Erosion & Sediment Control Plan Site Plan	1		

Document(s)	Author	Date received by Council
Statement of Environmental Effects	JBA Urban Planning Consultants Pty Ltd	Dated July 2014 and received by Council on 25 July 2014
Energy Efficiency Report	Donnelley Simpson Cleary Consulting Engineers	Dated 16 September 2013 and received by Council on 25 September 2013
Transport Assessment	Henson Consulting	Dated July 2014 and received by Council on 25 July 2014
Initial Geotechnical Site Assessment	Coffey Geotechnics Pty Ltd	Dated 30 August 2013 and received by Council on 25 September 2013
Stage 1 Preliminary Contamination Assessment		
Acoustic Report	Renzo Tonin Associates (NSW) Pty Ltd	Dated 20 September 2013 and received by Council on 25 September 2013
Access Report	Accessible Building Solutions (DA-2013/197/04) (DA-2013/197/05)	<del>Dated 19 September 2013 and received by Council on 25 September 2013</del> 14 February 2018 12 November 2018
BCA Assessment Report	Blackett Maguire + Goldsmith	Dated 18 September 2013 and received by Council on 25 September 2013
Waste Management Plan	Construction Assignments Pty Ltd	Dated September 2013 and received by Council on 25 September 2013
Construction Management Plan		Dated 10 September 2013 and received by Council on 25 September 2013
Draft Head of Agreement (DA13/197/02)	N/A	Received by Council on 7 May 2014

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2A This consent for the use of the premises is limited to a period of 40 years *or any longer term granted under the lease by the registered proprietors of Part Lot 51 DP 1097377 to the hotel located on Lot 402 DP1215182 for car parking* from the date of issue of any occupation certificate. A new development application or Section 96 application is to be submitted 12 months before the lapse of the ~~40-year timeframe~~ *lease term demonstrating permanent retention seeking ongoing use* of the required parking on the Car Park Lots, or a suitable

alternate and comparable location. The approved use may continue until the final determination of the new development application/modification application. (DA13/197/02) (DA13/197/03)

*Prior to the issue of the Construction Certificate, a Section 96(1A) Modification shall be submitted and approved by Council to DA12/154 excising 98 car spaces from the Park 'n' Fly development for the use of the hotel and to create a R.O.W. over Lot 51 DP1097377 for car parking in favour of Part Lot 41 DP1097376. Alternatively, the site Part Lot 41 should be consolidated with Lot 51 DP1097377.*

- 2B** Prior to issue of the Construction Certificate, the applicant shall provide evidence to the Council of the registration of an Easement for Car Parking in favour of the subject land, burdening the Car Park Part Lot (Lot 51 in DP 1097377 *(as marked in yellow on PLANX10231-98LS – Location Plan) and Part Lot 53 in DP 1097375*), permitting parking of 98 standard passenger vehicles of hotel guests and/or hotel staff of the subject land. Any existing easements for access connecting Lot 51 in DP 1097377 through adjoining land or otherwise to a public road must be maintained. (DA13/197/02) (DA13/197/03)
3. The applicant must prior to the release of the stamped plans, pay the following fees:
    - a) Development Control \$1,350.00
  4. This Consent relates to land in part of Lot 41 ~~402 DP1097376~~ **1215182** and as such, building works must not encroach on to adjoining lands or the adjoining public place, other than public works required by this consent. **(DA-2013/197/05)**
  5. The consent given does not imply that works can commence until such time that:
    - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
      - i) The consent authority; or,
      - ii) An accredited certifier; and,
    - b) The person having the benefit of the development consent:
      - i) Has appointed a principal certifying authority; and
      - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
      - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
  6. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
  7. No ~~additional~~ signage, other than signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being

lodged with Council and consent thereto being given by Council in accordance with Council's guidelines and State Environmental Planning Policy No. 64 Advertising and Signage. **(DA-2013/197/04)**

8. All internal access driveways, parking areas and pedestrian walkways shall be constructed in segmental pavers. Large areas of asphalt or concrete are not permitted. The driveway crossover shall be constructed of plain broom finished concrete.
9. Any electrical kiosk, fire booster assembly or similar utilities must be housed within the external face of the building structure. If this cannot be achieved, and the applicant must demonstrate the reasons, they must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within landscaped areas. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development, streetscape or public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
10. Any sub-surface OSD tank or infiltration trench is required to be wholly located underneath paved areas to maximize the area available for deep soil tree planting and landscaping on the property.

#### **CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY**

11. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
  - a) The property development at 40-54 Baxter Road, Mascot lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 50ft (15.24m) above existing ground height (AEGH) without prior approval of this Corporation.
  - b) The Civil Aviation Safety Authority (CASA) have no objection to the proposed development to a maximum height of 36.6m above Australian Height Datum (AHD).
  - c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
  - d) Should you wish to exceed the above height, a new application must be submitted. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:
    - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
    - ii) the swing circle of any temporary structure/equipment used during construction;



- iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
- iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- e) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- f) For further information on Height Restrictions please contact Mr Peter Bleasdale on 02 9667 9246.
- g) Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty point.
- h) The height of the prescribed airspace at the site is 51m above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) regulations Statutory Rules 1996 No 293, "a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, protrude into PANS OPS airspace for the Airport, cannot be approved.

#### Bird and obstacle Hazard Management

- i) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport. To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscape design.
- j) Any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- k) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

#### Planning for Aircraft Noise and Public Safety Zones

- l) Current planning provisions (s.117 *Direction 3.5 Environmental Planning and Assessment Act 1979*) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use the land planning tool for Sydney Airport was endorsed by Airservices on 13 March 2009 (Sydney Airport 2029 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

12. The following conditions are imposed by the Ausgrid:
  - a) Ausgrid has transmission cables that pass through part of this site. The cables are not to be built on or have the ground altered without permission from Ausgrid Transmission branch. It is advisable that DA applicant contact us with their proposal for this part of the site as soon as possible on (02) 4951 9200.
  - b) Provision should be made for accommodation of an electricity substation within the premises a condition of any development consent.

13. The following conditions are imposed by Sydney Water:

Water

- a) The 100mm drinking water main fronting the proposed development in Baxter Road does not comply with the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012) requirement for minimum sized mains for the scope of development;
- b) The drinking water main needs to be upsized to a 150mm main; and
- c) The proposed drinking water infrastructure for this development will be sized & configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012).

Wastewater

- d) A wastewater extension is required to service the proposed development;
- e) The proponent is to design and construct a wastewater main (connecting to the 225mm main constructed under WO 41468), which will provide a point of connection at least 1 metre inside all the property boundaries; and
- f) The proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia WSA 02-2002-2.2 (Sydney Water Edition 1 — Version 3).

14. The following conditions are imposed by NSW Roads and Maritime Service (RMS):

- a) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004;
- b) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement;
- c) The proposed development will generate additional pedestrian movements in the area. Consideration should be given to ensuring pedestrian safety;
- d) The developer is to submit detailed drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The development is to meet the full cost of the assessment by RMS;

This report would need to address the following key issues:

- i) The impact of excavation/rock anchors on the stability of General Holmes Drive and detailing how the carriageway would be monitored for settlement; and
- ii) The impact of the excavation on the structural stability of General Holmes Drive;

The report and any enquires should be forwarded to:

Project Engineer, External Works  
The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973

## Parramatta CBD NSW 2124

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

- e) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate;
- f) Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre-development discharge; and
- g) All works regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

15. The following conditions are imposed by the NSW Police Service:Surveillance

- a) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS4806-2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- b) The system needs to consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
  - i) Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
  - ii) One or more cameras should be positioned at the entry and exit points to monitor these areas (car park, foyer entrance);
- c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment need to be checked and maintained on a regular basis;
- d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site;
- e) A monitor intruder alarm system which complies with the Australian Standard AS2001-1998 Systems installed within Clients Premises, should be installed within the premises to enhance the physical security and assist in the detection of unauthorised entry to the premises. This standard specifies the minimum requirements for intruder alarm equipment and installed system. It shall apply to intruder alarms systems in private premises, commercial premises and special installations. The system should be checked and tested on a regular (at least monthly) basis to ensure that it is operating effectively. Staff should be trained in the correct use of the system;

- f) The light emitting diodes (LED red light) within the detectors should be deactivated, to avoid offenders being able to test the range of the system;
- g) Consideration should also be given to incorporating duress facility into the system to enable staff to activate the system manually in the event of an emergency, such as robbery NB Duress devices should only be used when it is safe to do so;
- h) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced;
- i) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting;
- j) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces;
- k) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are used or sporadically used after hours and unsupervised should not be accessible to the public;
- l) Uneven building alignments, inset doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences;
- m) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime; and
- n) Where views from the counter are restricted, the installation of convex mirrors to improve visibility from the console. Ensure the location of advertising does not impede the view from the console operator or surveillance cameras. Consideration should be given to the width, height and location of the counter areas. The counter should be designed to reduce the opportunity for assaults upon staff and unauthorised public access behind counters. It is advised that the minimum console width should be 900mm and height minimum 1000mm.

#### Lighting

- o) Lighting (lux) levels for this development must be commensurate with a MEDIUM crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS1158;
- p) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens);
- q) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis;
- r) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business; and
- s) The floors should be finished with a suitable non slip glossy texture which will provide maximum light reflection.

#### Territorial Reinforcement

- t) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with *Local Government Act 1993* Section 124(8). Failure to comply with any such order is an offence under Section 628 of the *Local Government Act 1993*. Offences committed under Section 628 of the *Local Government Act 1993* attract a maximum penalty of 50 penalty units (currently \$5,500.00) for an individual and 100 penalty units (currently \$11,000.00) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm;
- u) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime. These signs included:
  - i) Warning, trespasser will be prosecuted;
  - ii) Warning, these premises are under electronic surveillance;
  - iii) Don't leave valuables in the car;
  - iv) Warning, these premises are under electronic surveillance;
- v) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders;
- w) A Fire Safety Statement must be prominently displayed within the development to comply with the *Environmental Planning & Assessment Regulations 1994* Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building;
- x) Signage needs to be provided at fire exits to assist customers to identify exits in emergency situations;
- y) Signage needs to be provided to assist staff and customers to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.;
- z) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours;
- aa) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development;
- bb) The exterior walls of the car park and commercial building must be constructed of materials that do not encourage graffiti. Solid concrete walls are an easy target as a canvass for graffiti offenders. Consider other materials and designs or even the use of vegetation to restrict the opportunities for graffiti. (Vegetation that covers solid plain walls).

#### Space/Activity Management

- cc) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace AS3745-2002 should be prepared and maintained by the development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>; and

- dd) Maintenance policies need to be developed and implemented for the proposed development to deal with rubbish collection and disposal, damage and repairs to property, e.g. Lighting and structures as quickly as possible.

Access Control

- ee) The door and door frames to these premises should be of solid construction;
- ff) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, Australian Standard AS4145-1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (e.g. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units;
- gg) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor;
- hh) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard AS4145 Mechanical Locksets for windows in buildings <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms);
- ii) As your business may deal in cash a robbery prevention program needs to be established to ensure that management and staff are aware of their responsibilities in the event of such an event taking place. Establish clear cash-handling procedures within your business to reduce opportunities for crime. Staff should be trained in cash handling procedures to reduce opportunities for crime. Limit the amount of money carried in the cash drawer at any time (\$200.00 float). Lock cash drawers when not in use and clear money from the cash drawer on a regular basis, e.g. to a safe. Avoid counting cash in view of public. Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money. Avoid wearing uniform or identification when transferring money. Don't use conspicuous bank-bags when transferring money, as this can be a clear indication to the thief;
- jj) Entrance doors to commercial premises should include an electronically operated lock, which can be locked after hours to control access to the development. Staff could

release this lock electronically from the safety of the counter area once the customer has been identified. This locking mechanism should be activated during the hours of darkness;

- kk) Any cash safe should be secured to the floor and placed away from view of the public. Staff should be trained in safe cash handling practices to minimise the loss of monies in the event of a robbery;
- ll) There needs to be a limit to how many exit and entry points are available to the car park;
- mm) Vertical fencing/barriers are required around the car park to restrict access and reduce the opportunity for offenders to climb the exterior; and
- nn) Pedestrian access over Joyce Drive to the airport.

16. The following conditions are imposed by the Australian Rail Track Corporation Ltd (ARTC):
- a) Though the development is not for residential use, the hotel may be noise and vibration sensitive. Therefore the consent authority must be satisfied that appropriate measures will be taken to ensure that the following  $L_{Aeq}$  levels are not exceeded:
    - i) in any bedroom in the building : 35dB(A) at any time 10prn-lam
    - ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time.
  - b) If any cranes, concrete pumping or other equipment needs to enter rail corridor or its airspace, the process will need to be strictly managed and must not occur without written approval from ARTC.
  - c) As the southern wall of the development is close to the rail corridor boundary fence i.e. 1 - 1.2 m, the building design needs to take into consideration that future maintenance will be undertaken safely including cleaning, painting and building repairs and whether rail corridor access will be required. Any rail corridor access will be subject to an agreement with ARTC.
  - d) Discharge of stormwater during and after construction can potentially impact on rail operations. The drainage system needs to be designed so it directs water way from the rail corridor.
  - e) The proposed development is within 20m of the nearest rail and needs to comply with the relevant sections of BCA and AS-5100 including AS5100.1.11. A risk assessment will need to be undertaken to determine the level of protection required.
  - f) During construction, provision needs to be made to prevent damage to the rail corridor fencing.
  - g) Minimal construction methodology including likely excavation was detailed in the supplied documentation but the ARTC also notes the preliminary geotechnical assessment was silent on possible excavation impacts on the rail corridor. Therefore as the subject site is within 25 m of the rail corridor and is likely to involve excavation greater than 2m, ARTC needs to review and comment on a future geotechnical assessment undertaken by a suitably qualified geotechnical engineer.

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

17. The City of Botany Bay being satisfied that the proposed development will increase demand for services and facilities within the area. Therefore, the Section 94 Contributions are required to be paid in accordance with Council's *Section 94 Contribution Plans 2005-2010* a sum of **\$126,633.49** listed below towards the provision of services is to be paid to Council prior to the issuing of a Construction Certificate.

a) Community Facilities	\$12,650.00
b) Administration	\$2,100.00
c) Shopping Centre Improvements	\$9,400.00
d) Open Space & Recreation	\$87,250.00
e) Transport Management	\$14,933.49

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fees applicable at that time.

18. Prior to the issue of a Construction Certificate and subject to the approval of the Civil Aviation Safety Authority (CASA), the applicant is to provide roof-mounted solar collector panels below a height of RL 36.6m AHD to the rooftop are of the building. The collectors shall collect sufficient electricity to supply at least 20% of the building's energy requirements. Details of the panel system are to be provided with the Construction Certificate, including the approval of CASA.
19. Prior to the issue of a Construction Certificate the illuminated signage must be designed in conjunction CASA's document "lighting in the vicinity of Aerodromes" Details of the compliance and approval of CASA must be provided to the Principal Certifying Authority.
20. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
21. A Construction Management Plan (CMP) shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
- 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;
  - The proposed phases of construction works on the site and the expected duration of each construction phase;



- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
- i) Proposed protection for Council and adjoining properties; and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

22. A detailed Traffic Management Plan (TMP) for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
  - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police,
  - c) during construction, if access from O'Riordan St is required, the applicant is to submit documentary evidence to the Principle Certifying Authority that the required Section 138 Consent under the *Roads Act 1993* has been issued by the New South Wales Roads and Maritime Services, and
  - d) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

**Note:** Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

23. Prior to the issue of the Construction Certificate, the followings must be complied with:
- a) A concept plan of the cul-de-sac shall be submitted to Council together with a Traffic Management Plan prepared in accordance with RMS and Council's Guidelines;

- b) A detailed construction plan of the cul-de-sac, incorporating Local Traffic Committee's recommendations, should be submitted to Council for approval.
24. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the Council's Stormwater Management Technical Guidelines (STMG);
  - b) All service vehicles shall enter the property front in front out;
  - c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck;
  - d) Swept path analysis shall be provided for manoeuvring of commercial vehicles; and
  - e) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
  - f) A bicycle way shall be incorporated into the design to shuttle bus set-down/pick-up area along Baxter Road.
25. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
26. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
27. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - b) Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system; and
    - ii) The relocation and/or adjustment of the services affected by the construction.
  - c) As part of this development, the Ausgrid power and lighting poles along Baxter Road and O'Riordan Street, will need to be decommissioned and new underground and above ground infrastructure shall be provided as specified by Ausgrid and any other

affected service provider. The location of the new electrical pillars and new lighting poles shall be confirmed with Council prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

28. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Stormwater Management Technical Guidelines (SMTG), AS/NSZ 3500 – Plumbing and Drainage Code and the Building Code of Australia. All drawings shall correspond with the approved architectural plans.

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

- a) Provision of an On-site Infiltration system in accordance with but not limited to Part 5 of the SMTG. A part infiltration, part OSD system may be considered in exceptional circumstances when it can be demonstrated to Council that all other options to regulate the discharge from the site have been exhausted;
  - b) Infiltration rates shall be determined by a suitably qualified geotechnical engineer and shall be part of the geotechnical report submitted to Council or alternatively the rate of 0.25L/m<sup>2</sup>/s shall be used;
  - c) Provision of a minimum 10kL rainwater tank collection system for internal reuse in accordance with Section 4 of the SMTG;
  - d) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of the SMTG;
  - e) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
  - f) Any proposed discharge to Council and/or RMS Kerb and Gutter shall be limited to 10L/s. If a higher rate is proposed, a connection shall be made to RMS/Council's underground stormwater drainage system. Any connection to a Sydney Water or RMS stormwater system will require specific approval from the relevant organisation; and
  - g) The submission of detailed calculations including computer modelling where required to support the proposal.
29. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
30. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the issue of the Construction Certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations.

31. The applicant shall submit to Council details of the construction and fit out of the food premises. Such details must demonstrate compliance with the following requirements:
  - a) the *Food Act 2003*,
  - b) *Food Regulations 2004*;
  - c) the Food Standards Code as published by Food Standards Australia and New Zealand; and
  - d) the Australian Standard *AS 4674-2004: Construction and fit out of food premises*.

Details to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

32. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

33. The measures required in the acoustical assessment report prepared by Renzo Tonnin, dated 20 September 2013, shall be undertaken in accordance with the provisions of Australian Standard *AS2021-2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing as per Table 6 of the report to all stated windows and doors. Acoustic seals should be provided to all windows. Greater glazing thicknesses may be required for structural and wind loading.
  - b) External walls shall have a sound isolation rating of at 15dB higher acoustic performance than that of the acoustic glazing specified in Table 6 above.
  - c) Roof/ceiling constructions shall have a sound isolation rating  $R_w$  of at least 10dB higher than that of the acoustic glazing on the façade walls.
  - d) Acoustically treated mechanical ventilation – the ductwork connecting the plant room and western façade be encased in 13mm plasterboard to prevent noise penetration into the office area via the external louvre.
34. A public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape Development Control Plan and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. The plan shall include the following improvements:
  - a) after formwork installation and to prior pouring the concrete blinding slab;
  - b) at the commencement of paving works; and
  - c) at final completion.

35. Prior to the issue of the Construction Certificate, the landscape plan prepared by Taylor Brammer, LA01, Issue E, dated July 2014 shall be amended to show the *Corymbia Maculata* instead of the *Eucalyptus Robusta*.
36. A swept path diagram which shows the longest vehicle entering and existing the subject site as well as manoeuvrability through the site from O'Riordan Street in accordance with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) shall be submitted for Council's approval prior to the release of the Construction Certificate. It is noted that all vehicles must be able to enter and leave the subject site in a forward direction.
- 36A. ***The street awning(s) must be setback 600mm from the kerb line, minimum fascia height 600mm, minimum soffit height 3.3m. for sloping sites maximum step of 900mm. The awnings must be entirely self-supporting. Posts are not permitted.***
- (a) ***All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure;***
- (b) ***The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load;***
- (c) ***If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material;***
- (d) ***Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005;***
- (e) ***Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed. (DA-2013/197/05)***

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

37. The development is to be constructed to meet the requirements detailed in the approved acoustic report (Renzo Tonin Associates Pty Ltd dated 20 September 2013), the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997* as detail as below:
- a) Construction period of 4 weeks and under:  
the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).
- b) Construction period greater than 4 weeks and not exceeding 26 weeks:  
the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

- c) Time Restrictions
    - i) Monday to Friday 07:00 am to 06:00 pm
    - ii) Saturday 07:00 am to 04:00 pm
    - iii) No Construction to take place on Sundays or Public Holidays.
  - d) All possible steps should be taken to silence construction site equipment.
38. All management measures recommended and contained within the approved Soil and Water Management Plan prepared by Donnelley Simpson Cleary Consulting Engineers shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4<sup>th</sup> Edition (2004)*. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.
39. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
- 40.
- a) The applicant shall arrange with NSW Road and Maritime Services (RMS) for any required Road Occupancy Licence prior to commencement of any road works; and
  - b) The applicant shall submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the *Roads Act 1993* has been issued by the Roads and Maritime Service (RMS).
41. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
42. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
43. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993* as appropriate:
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
  - c) Permit for roads and footways occupancy (long term/ short term);
  - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;

- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever;
  - f) Permit to place skip/waste bin on footpath and/or nature strip;
  - g) Permit to use any part of Council's road reserve or other Council lands;
44. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) Erection of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
  - b) Each toilet provided:
    - i) must be standard flushing toilet; and,
    - ii) must be connected:
      - 1 to a public sewer; or
      - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
      - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
  - c) The provisions of toilet facilities in accordance with this clause must be completed before any other work is commenced.
45. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
  - c) the Development Approval number;
  - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
  - e) any such sign is to be removed when the work has been completed.
46. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - b) Prior to placement of concrete (kerb and gutter and footpath);
  - c) Prior to construction and placement of road pavement materials; and
  - d) Final inspection.

**Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

47. The approved Waste Management Plan (WMP) for the site prepared by Construction Assignments Pty Ltd shall be complied with at all times during demolition works and construction works.
48. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.

#### **DURING WORKS**

49. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
50. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
51. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Erosion and Sediment Control Plan;
  - b) 'Managing Urban Stormwater – Soils and Construction'(2004) Landcom ('The Blue Book'); and
  - c) *Protection of the Environment Operations Act 1997*.
52. During demolition, excavation, construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road related areas, Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
53. The following shall be complied with at all times:
  - a) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department;
  - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other



- locations, which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer; and
  - e) Shaker pads shall to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
54. During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
55. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures;
  - e) If the soil conditions required it:
    - i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
    - ii) Adequate provision must be made for drainage.
56. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved TMP and CMP at all times.

57. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
58. The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles;
  - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas;
  - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions;
  - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources;
  - e) All loads entering or leaving the site are to be covered;
  - f) The use of water sprays to maintain dust suppression;
  - g) Keeping excavated surfaces moist.
- 59.
- a) All imported fill shall be validated in accordance with Department of Environment and Conservation approved guidelines to ensure that it is suitable for the proposed development from a contamination perspective. Imported fill shall be accompanied by documentation from the supplier, which certifies that the material is suitable for the proposed residential/recreational land use and not contaminated based upon analyses of the material;
  - b) Any soil disposed of off-site shall be classified in accordance with the procedures in the *Department of Environment and Climate Change Waste Classification Guidelines 2008*, prior to being disposed of to a NSW approved landfill or to a recipient site;
  - c) Any material containing asbestos found on site during excavation shall be removed and disposed of in accordance with:
    - i) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
    - ii) *Protection of the Environment Operations Act 1997*;
    - iii) *Protection of the Environment Operations (Waste) Regulation*; and
    - iv) *DECC Waste Classification Guidelines 2008*.
60. Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

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

61. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
62. All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
63. Prior to the issue of the Occupation Certificate:
  - a) Replace all the existing above ground electricity and telecommunication cables to underground cables that adjoin the site and road reserve area fronting Baxter Road in accordance with the guidelines and requirements of the relevant utility authorities and Ausgrid. The applicant shall bear all the cost of the construction and installation of the below ground cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate; and
  - b) Provide appropriate and suitable street lighting to a high decorative standard to both street frontages of the site together with those internally publicly accessible paths, spaces and corridors, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
64. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
65. Prior to the issue of the Occupation Certificate the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.
66. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustical assessment report prepared by Renzo Tonin Associates Pty Ltd, received by Council 25 September 2013 have been carried out and certify that the construction meets Australian Standards AS2021-2000 and AS3671-1989 and specified indoor sound levels. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
67. Prior to the issue of the Occupation Certificate, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading dock, pick-up/drop-off zone, car parking areas (including queuing area, turning area and disabled parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with Australian Standards AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

68. Prior to the issue of the Occupation Certificate, minimum of **two (2)** accessible off-street car parking bays and **one (1)** medium rigid vehicle (MRV) loading and unloading bay shall be provided within the property boundary in accordance with the approved architectural plans.
69. Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
70. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
  - a) On Baxter Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications;
  - b) On Baxter Road, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications;
  - c) On Baxter Road, adjacent to development, reconstruct full width of road asphalt, in accordance with Council's Infrastructure Specifications; and
  - d) On O'Riordan St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications.
71. Prior to the issue of the Occupation Certificate a sign shall be erected within or adjacent to the garbage room encouraging residents to recycle and not place recyclables into waste bins. The sign shall be a minimum of A3. Details of an acceptable wording for the sign are available from Council's Internet site at <http://www.botanybay.nsw.gov.au>.
72. The public domain improvements works shall be completed prior issue of Occupation Certificate and in accordance with the public domain improvements plans which was approval in Condition No. 34 of the consent.
73.
  - a) Landscaping shall be installed in accordance with the amended landscape plan submitted and approved by Council in accordance with Condition No. 35 of the consent.

The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times.

    - i) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

- ii) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
- b) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- c) Concrete wheel stops shall be installed in all car spaces adjoining garden beds in accordance with Council specifications and Australian Standard AS/NZS 2890.1:2004 prior to the issue of an Occupation Certificate to prevent overhang and damage to garden beds.
- d) The applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of **\$10,000.00** for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.

The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

The Applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of **\$550.00** (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

- e) The applicant is to submit payment for a Street Tree Maintenance Bond of **\$10,000.00**. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If a tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
- f) The Applicant is to submit payment for a Public Works Defects Liability Bond of **\$25,000.00**. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

74. Prior to the issue of the Occupation Certificate the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.
75. Positive Covenant and Restriction on the Use of Land on the Title under Section 88B/88E(3) of the *Conveyancing Act 1919* shall be created for the following items:
- Register the constructed rainwater re-use and OSD/absorption system will be adequately maintained, in favour of Council as the benefiting authority for the as-built system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council.
  - ~~Register a minimum of ninety-eight (98) off-street car parking bays shall be provided within the adjoining lot known as Lot 51 in accordance with the draft Head of Agreement submitted to Council on 7 May 2014 in favour of Lot 41 DP1097376 as the benefiting authority and burdening Lot 51 DP1097377 for the car park. (DA13/197/02)~~
- The relative location of the OSD/absorption system and car park in relation to the building footprint shall be shown on a scale sketch, attached as an annexure to the plans/ forms. Proof of registration shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
- 75A Prior to the issue of any Occupation Certificate, the applicant shall provide evidence to the Council of the execution by the owner of the subject land and the owner of Part Lot 51 DP1097377 (as marked in yellow on PLANX10231-98LS – Location Plan) (Car Park Lots) of an Agreement for Lease for a term (inclusive of any options for renewal) of not less than 40 years, allowing the owner/occupier of the subject land to park 98 standard passenger vehicles of hotel guests and/or hotel staff on the Car Park Lots. The Lease attached to the Agreement for Lease, need not locate the required car parking in positions adjacent to or adjoining one another. (DA13/197/02) (DA13/197/03)
76. Prior to the issue of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
77. Prior to the issue of the Occupation Certificate the applicant is responsible for the installation and protection of all regulatory/parking/street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
78. At the completion of landscaping on the site and public domain areas, the applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of an Occupation Certificate and to address the following:
- To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with

no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

- b) Any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
  - c) New street trees shall be maintained by the Owner for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
  - d) Upgrade the public domain by the reconstruction of the road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the street frontage Baxter Road and O'Riordan Street of the site, at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections, the approved civil works construction plans and landscape plans of this Consent.
79. All construction works for the cul-de-sac must be undertaken and completed in accordance with the approved Engineers design as identified in Condition No. 23 and if necessary, compliance with any matters that may arise following the consideration by the Local Traffic Committee of the Baxter Road cul-de-sac requirement.
- 80.
- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the *Environmental Planning and Assessment Act 1979*;
  - b) Condition Numbers 61 to 79 (inclusive) of this consent are pre-conditions to the issue of the Occupation Certificate.

**CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

- 81. All vehicles entering and exiting the subject site shall be in accordance with the swept path diagram approved in Condition No. 36 of the consent.
- 82. A shuttle bus required to service the Hotel must be provided to transport occupants to and from the development site to the Sydney Airport and to the Sydney City. Should the shuttle bus no longer be provided, for whatever reason a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the use.

83. The bus zone and pick-up/drop-off zone shown on the approved architectural plans shall be set aside for bus and pick-up/drop-off purpose only and shall not be used for other purposes. No vehicles shall be permitted to park in these areas.
84. The Food Business must appoint at least one trained Food Safety Supervisor. The person nominated must obtain a Food Safety Supervisor Certificate that is current (by completing Food Safety Supervisor training with a registered training organisation (RTO) approved by the NSW Food Authority or by submitting an FSS certificate request form). The certificate must be kept on the premises at all times.

In the event that the person appointed as Food Safety Supervisor leaves the business another person within the organisation must be appointed as a Food Safety Supervisor and must undertake all required training to gain certification.
85. The operations of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
86. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997* and shall be controlled in accordance with the requirements of this Act.
87. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA<sub>90</sub> level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

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

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
88. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:
  - a) Where waste and recycling containers need to be moved to the street;
  - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
  - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
  - d) Refuse containers are not to be left on the street for longer than 24 hours;



- e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
  - f) Providing and maintaining signage and information to uses to encourage recycling.
89. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 90.
- a) The approved WMP for the site prepared by Construction Assignment Pty Ltd dated September 2014 shall be complied with at all times during demolition works, construction works, and use of the premises; and
  - b) The building owner shall be provided with at least one copy of the waste management plan. The approved WMP shall be complied with at all times.
91. The operation of the development and movements of vehicles shall comply with the following requirements:
- a) The largest size of vehicle accessing the development shall be restricted to MRV;
  - b) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the loading dock;
  - c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses to the loading dock;
  - d) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (e.g. footpath, nature strip, road shoulder, road reserve etc.);
  - e) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
  - f) Maximum number of delivery vehicles on-site shall be limited to one (1).
- 92.
- a) The operations of the site must at all times fully comply with the requirements of the approved Plan of Management for the site; and
  - b) At all times the approved Workplace Travel Plan shall be fully complied with.
93. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the

graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

94. New street trees shall be maintained by the Applicant/Owner/Operator for 12 months after planting. Maintenance includes twice weekly watering to sustain adequate growth and fertilising but does not include trimming or pruning the trees under any circumstances.
95. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/197 dated as 25 September 2013 *and amended by subsequent Section 96 applications and on 25 July 2014 and as amended by Section 96(1A) application (DA13/197/02) a request for modification pursuant to Section 80A(1)(b) and Section 80A(5) of the Environmental Planning & Assessment Act 1979 received by Council on 28 October 2015 22 December 2016* and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council. (DA13/197/03)

## ETHOS URBAN

9 November 2018

17103

Meredith Wallace  
General Manager  
Bayside Council  
141 Coward Street, Mascot NSW 2020

Dear Ms Wallace,

**SECTION 4.55(1A) MODIFICATION APPLICATION: 40 – 54 Baxter Road, Mascot**

This application has been prepared by Ethos Urban on behalf of Well Smart Investment Holdings (SYD Airport) PTY LTD, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent 13/197/04 relating to 40-54 Baxter Road Mascot (the site).

The modification relates to a number of minor alternations and amendments to the approved scheme including:

- Reduction in the total number of hotel rooms;
- Reconfiguration of internal layout across all levels;
- Installation of canopy at ground floor entrance;
- Minor changes to the external façade;
- Reconfiguration of plant equipment on the rooftop;
- Relocation of bicycle spaces;
- Installation of plant service outbuildings within the ground floor;
- Installation of natural air ventilation in fire staircase; and
- Reduction in landscaping.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- A completed Application to Modify a Development Consent form;
- Architectural Plans prepared by Well Smart Architects (**Attachment A**);
- Landscape Plan prepared by Taylor Brammer Landscape Architects (**Attachment B**);
- Access Report prepared by Accessible Building Solutions (**Attachment C**);
- Building Services Statement, prepared by WSP (**Attachment D**);
- Building Code Australia Report, prepared by Blackett Maguire Goldsmith (**Attachment E**); and
- A copy of Development Consent DA 13/197 and 13/197/04 (**Attachment F**).

Smart People,  
People Smart

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Sydney NSW 2000

ABN.  
13 615 087 931

## 1.0 Consent proposed to be modified

Development consent DA 13/197/01 was originally granted by Bayside Council on 9 December 2014 for the demolition of the existing two storey building structure on the site, preparation and remediation works, construction of a new eight storey hotel building, new driveway crossing and landscape works. Due to constraints of the land, consent was also provided for the use of the adjoining site under the same ownership as car parking for 98 cars within an approved private car park on Lot 51 DP 1097377 (D 14-002/02). No changes to this arrangement are proposed as part of this application.

## 2.0 Proposed modifications to the consent

Development consent DA 2013/197/04 was granted by Bayside Council on 11 September 2018 for minor alterations and amendments to the approved scheme, including modifications to the external façade, increase of building height, reduction of total number of rooms, reconfiguration of internal layout, provision of bicycle spaces and amendments to the landscape design. This application has previously been modified four times and this proposal represents the fifth modification. No works on the site have been undertaken to date.

The proposed modifications are described in more detail below.

### 2.1 Modifications to the development

The following modifications are proposed to the approved development.

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**Table 1** Level by level description of the proposed modifications

Level	Description of Proposed Modifications	Comment
<b>Ground</b>	<ul style="list-style-type: none"> <li>• New canopy over the hotel entrance;</li> <li>• Relocation of bicycle parking spaces to the western side of the hotel;</li> <li>• Minor internal reconfigurations within the hotel lobby area;</li> <li>• New outbuildings associated with plant and servicing equipment to the ground floor (external); and</li> <li>• Relocation of MEP switch room, water pump and sprinkler room to external ground area and reduction in landscaping area.</li> </ul>	<p>A number of minor modifications to the internal configurations are required to improve the function and efficiency of the lobby and to create a more welcoming main entrance including the installation of a canopy above the entrance to protect hotel guests from weather occurrences upon arrival or departure.</p> <p>Relocation of bicycle parking spaces to the western side of the hotel will allow for the provision of outbuildings associated with the services and plant equipment on the ground floor.</p> <p>Several outbuildings are proposed to be constructed to the east of the hotel building to accommodate the building's services. This includes the MEP switch room, water pump and sprinkler room.</p>
<b>Level 1 - 7</b>	<ul style="list-style-type: none"> <li>• Relocation of gym from level 1 to level 4;</li> <li>• Revision in number of rooms from 235 to 230;</li> <li>• Increase in the size of accessible rooms;</li> <li>• Reconfiguration of layout in guest rooms;</li> <li>• Installation of natural air ventilation within the fire staircase; and</li> <li>• New vertical screening element to be included within the northern façade;</li> </ul>	<p>Larger accessible hotel rooms will be provided in accordance with relevant legislative requirements. This will result in a slight reduction in the total number of hotel rooms across the building by five rooms.</p> <p>Other minor modifications to the internal layout such as the relocation of the gym and refinements to the guest rooms will improve the functionality and efficiency of internal spaces.</p> <p>Natural air ventilation within the fire staircase will improve the safety standards.</p>
<b>Roof Level</b>	<ul style="list-style-type: none"> <li>• Reconfiguration M&amp;E equipment on roof.</li> </ul>	<p>Minor modifications to the layout and arrangement of the mechanical and servicing equipment on the roof are proposed.</p> <p>No modifications to building height are proposed.</p>

## 2.2 Modifications to conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**.

### GENERAL CONDITIONS

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

Drawing No.	Plan Description	Issue	Author	Date Received by Council
<b>SP01</b> <b>Rev.C</b> <b>ID001.1.1.0</b>	<b>Master</b> Site Plan	-		
<b>FP01</b> <b>Rev.C</b> <b>ID001.2.1.0</b>	Ground Level Plan	-		
<b>FP02</b> <b>Rev.C</b>	<b>Typical Level Plan 2nd, 4th 5th and 7th Level</b>	-		
<b>FP03</b> <b>Rev.C</b>	<b>Typical Level Plan – 3rd and 6th Level</b>			
<b>ID001.2.2.0</b>	<b>1st Level Plan</b>			
<b>ID001.2.3.0</b>	<b>2nd Level Plan</b>			
<b>ID001.2.4.0</b>	<b>3rd Level Plan</b>			
<b>ID001.2.5.0</b>	<b>4th Level Plan</b>			
<b>ID001.2.6.0</b>	<b>5th Level Plan</b>			
<b>ID001.2.7.0</b>	<b>6th Level Plan</b>			
<b>ID001.2.8.0</b>	<b>7th Level Plan</b>	-		
<b>FP03</b> <b>Rev.B</b> <b>ID001.2.9.0</b>	Roof <b>Level</b> Plan	-		
<b>SE01</b> <b>Rev.C</b> <b>ID001.3.1.0</b>	North Elevation	-	<b>FDAT Architects</b>	<b>5 June 2018</b>
<b>SE02</b> <b>RevC</b> <b>ID001.3.2.0</b>	South Elevation	-	<b>Wells Smart</b>	
<b>SE03</b> <b>RevC</b> <b>ID001.3.3.0</b>	East Elevation	-		
<b>SE04</b> <b>RevC</b> <b>ID001.3.4.0</b>	West Elevation	-		
<b>ID001.4.1.0</b>	<b>Section A-A'</b>			
<b>ID001.4.2.0</b>	<b>Section B-B' &amp; Section C-C'</b>			
<b>ID001.4.3.0</b>	<b>Section D-D'</b>			

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Drawing No.	Plan Description	Issue	Author	Date Received by Council
	Landscape Plan	LL	Taylor Brammer Landscape Architects Pty Ltd	Date 18 September 213 and received by Council on 25 July 2014
SW1	Stormwater Drainage Project Information	1	Donnelley Simpson Cleary	Date 17 September 2013 and received by Council on 25 September 2013
SW2	Stormwater Drainage Site Plan	1	Consulting Engineers	
ES1	Erosion & Sediment Control Plan Project Information	1		
ES2	Erosion & Sediment Control Plan Site Plan	1		

Document(s)	Author	Date Received by Council
Statement of Environmental Effects	JBA Urban Planning Consultants Pty Ltd	Date July 2014 and received by Council on 25 July 2014
Energy Efficiency Report	Donnelley Simpson Cleary Consulting Engineers	Date 16 September 201 and received by Council on 25 September 2013
Transport Assessment	Henson Consulting	Dated July 2014 and received by Council on 25 July 2014
Initial Geotechnical Site Assessment	Coffey Geotechnics Pty Ltd	Dated 30 August 2013 and received by Council on 25 September 2013
State 1 Preliminary Contamination Assessment		
Acoustic Report	Renzo Tonin Associates (NSW) Pty Ltd	14 <sup>th</sup> February 2018
Access Report	Accessible Building Solutions	Dated 23 March 2018 and received by Council on 17 <sup>th</sup> April 2018.
BCA Assessment Report, <b>Revision 2</b> <b>Revision 5</b>	Blackett Maguire + Goldsmith (DA-2013/197/04)	Dated 23 March 2018 and received by Council on 17 April 2018.
Waste Management Plan	Construction Assignments	Dated September 2013 and received by Council on 25 September 2013
Construction Management Plan		Dated 10 September 2013 and received by Council on 25 September 2013

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

18. Prior to the issue of a Construction Certificate and subject to the approval of the Civil Aviation Safety Authority (CASA), the applicant is to provide roof-mounted solar collector panels below a height of RL ~~36.6m~~ **39.35** AHD to the rooftop ~~are~~ of the building. The collectors shall **be provided in accordance with the recommendations contained within the Building Services Statement, dated 2 August 2018 collect enough electricity to supply at least 20% of the buildings energy requirements.** Details of the panel system are to be provided with the Construction Certificate, including approval of CASA.

#### **Comment:**

In accordance with the existing Condition, the spatial requirement required on the roof to install solar panels that can satisfy this condition is impractical. Assuming 2sqm to 2.2sqm per panel, the physical space requirement would be in the order of 1,200-1,300sqm which is beyond foot print of the building roof space (around 1000sqm).

As currently written, the condition requires solar panels to be below 36.6m. The approved building height in accordance with DA 13/197/04 is RL 39.35 and therefore updates to this condition is required. It is to be noted, no

increase in height is proposed as part of this modification application. Further discussion of this modification is provided in **Section 4.2**.

### 3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *"it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)"*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The approved land use remains unchanged;
- The height of the building remains unchanged;
- The land use has not intensified and will not result in additional traffic or vehicle movements;
- The modifications to the external façade will result in a more refined and elegant hotel building that makes positive contributions to the streetscape;
- The approved Hotel will still operate in accordance with development consent 13/197 and existing lease agreements and car parking arrangements will remain unchanged and in accordance with D14/002/02;
- The proposed internal and external amendments are proposed to improve the efficiency of the internal spaces and enhance the building's appearance within the public domain and does not substantially alter the built form of the overall development;
- The building will maintain a high level of energy efficiency and environmental sustainability; and
- The modifications will not result in any adverse environmental impacts and will improve the design quality and functionality of the development.

### 4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *"it is satisfied that the proposed modification is of minimal environmental impact"*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under Section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

#### 4.1 Compliance with Statutory Plans

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

The development as proposed to be modified, remains generally consistent with the following statutory plans and policies:

- Botany Bay Local Environment Plan 2013
- Botany Bay Development Control Plan 2013



The Statement of Environmental Effects (SEE) submitted with the original DA addressed the proposed development's level of compliance against relevant planning instruments. Given the nature of the proposed changes, the modified development will not alter the level of compliance of the original development with the identified planning instruments. The following matters however warrant further assessment.

#### 4.1.1 Building Services

Since lodgement of the original development application (DA 13/197), there have been several design refinements both internally and externally to optimise the layout and efficiency of the building. As part of this modification application, it is proposed to construct a number of outbuildings to accommodate the hotel's utilities and servicing requirements. These outbuildings will be located to the east of the hotel building in addition to the installation of a small gas meter to the west of the hotel (refer to **Figures 1**). The need for these outbuildings to be located on the ground level rather than within the hotel building are outlined below.

#### Height and proximity to Sydney Airport Operations

The total height of the building is currently 33.05m (remains unchanged from approved height). The site's maximum height as permitted by the *Botany Bay Local Environment Plan (BBLEP) 2013* is 44m, however given the height sensitivities associated with the site's proximity to Sydney Airport, locating the services wholly on the rooftop is undesirable. Furthermore, the scale and size of the service infrastructure required to support the ongoing operation of the hotel would exceed the available space on the rooftop and require additional height.

#### Access

The site is extremely constrained with the maximum width of the lot no greater than 16.5m and this restricts the ability to provide adequate services space within the main hotel building. Locating the services on the roof would compromise the ability for the hotel to install the quantum of solar panels required to achieve high levels of energy efficiency. Furthermore, the narrow width of the roof (15.75m) presents impracticalities with regard to ongoing access and maintenance.

#### Impacts

As a result of this new configuration, a small area of landscaping to the east of the hotel will be reduced and the bicycle parking spaces relocated to the western boundary. To ensure that the services outbuildings maintain a positive relationship with the streetscape, a green-wall canopy is proposed to be installed on the northern frontage of these buildings. The provision of a green-wall canopy on two of the service building façade's will result in the following benefits:

- Provide high quality visual amenity when viewed from the streetscape and avoid exposed, blank walls;
- Create a welcoming entrance to guests arriving via the port cochere;
- Soften the building's appearance improve the integration of the outbuildings into the site;
- Provide screening and separation of the services buildings when viewed from Baxter Road; and
- Enhance the overall appearance of the site through the provision of vertical greenery.

For the reasons cited above, the reduction of landscaping area is considered acceptable in the context of the site and its existing development parameters. The reduction of horizontal landscaping will be replaced with proportionate vertical greenery and landscaping to improve the overall appearance of the buildings.

For further details refer to the Architectural Plans and Landscaping Plans provided at **Attachment A and B** respectively.

40-54 Baxter Street Mascot | Section 4.55(1A) | 9 November 2018



**Figure 1** Services buildings to the east of the hotel (highlighted in red)

Source: Well Smart

#### 4.1.2 Accessible rooms

This proposal seeks to increase the size of the accessible rooms provided throughout Levels 1 – 7 of the hotel to enable greater internal accessibility and mobility for guests. The increased room sizes satisfy the relevant accessibility criteria including the Australian Standards.

Due to the enlarged rooms, a reduction of five rooms across the hotel will be required to accommodate the additional internal space requirements. This will result in a total decrease from 235 rooms to 230 hotel rooms as per approved DA 13/197/04. A total of 10 accessible rooms are provided as part of this application, consistent with relevant accessibility requirements (see **Figure 2**).

An accessibility statement has been prepared by Accessible Building Solutions (see **Attachment C**) which presents an assessment of the proposed development with regard to relevant access provisions of the BCA, Council's DCP requirements and relevant Australian Standards.

40-54 Baxter Street Mascot | Section 4.55(1A) | 9 November 2018

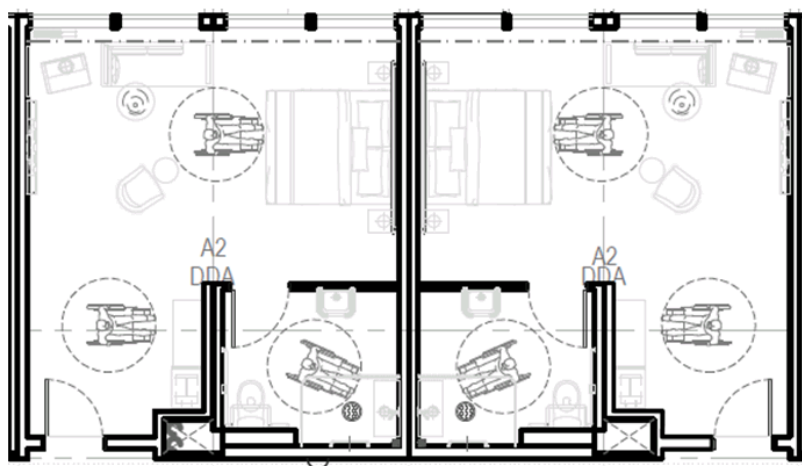


Figure 2 Typical layout of two accessible rooms (side by side)

#### 4.2 Energy efficiency

The proposal seeks to modify existing energy efficiency requirements within the approved consent to ensure that the hotel can practically provide and maintain a high level of sustainability. An assessment undertaken by WSP has identified the inability for the development to achieve the existing energy requirement to provide solar panels that contribute to 20% of the building's energy consumption. This requirement is impractical given that the spatial requirement to achieve this energy target (i.e. 1,200 – 1,300sqm) exceeds the available floor area on the existing rooftop (approximately 1,000sqm).

In order to maintain a high level of energy efficiency, WSP suggest that either of the following two options could be achieved:

- Solar PV contribution of 30kWp to the common lighting facilities of the hotel (i.e. corridors, lobbies)
- 10% Solar thermal contribution to the domestic hot water system.

Both of these requirements would still demand a high number of solar panels to be installed on the roof while still lowering the ongoing operational energy demand of the building. A Building Services Statement has been provided at **Attachment D**.

#### 4.3 Building Code Compliance

A Building Code of Australia (BCA) Review has been undertaken Blackett Maguire and Goldsmith and is included at **Attachment E**. This BCA Review undertakes a preliminary analysis of the proposal as modified against the Deemed-to-Satisfy Provisions and the Performance Requirements of the National Construction Code Series (Volume 1) Building Code of Australia 2016. Following this assessment Blackett Maguire and Goldsmith conclude that compliance with the BCA is readily achievable subject to the recommendations of the report regarding fire safety, access and design, being implemented.

#### 4.1 Site Suitability

Having regard to the characteristics of the site and its location, the site is considered suitable for the development of the nature proposed in that:

- The proposed development is permissible within the B5 Business Development Zone;
- The site is of a sufficient size and dimension to accommodate the proposal;
- The proposed use for a hotel is compatible with the existing surrounding uses;
- It is in close proximity to Kingsford Smith Airport and will support the ongoing functions of the airport in providing short stay tourist and visitor accommodation;
- Existing utility services are of sufficient capacity to service the proposed development; and
- It does not contain any environmental constraints that would impede the development.

#### 5.0 Conclusion

The proposed modifications to DA 13/197/04 seek minor modifications to the façade, internal space reconfigurations, relocation of bicycle spaces and reduction in landscaping, development of service outbuildings and a reduction in the total number of hotel rooms to 230. The modifications are required to improve the overall spatial efficiency and functionality and enhance the building's presentation to the public domain. The modifications will result in improved internal and external amenity for hotel guests and the general public. No modifications to existing agreements relating to the provision of car parking are proposed as part of this application and the subdivision for lease relating to D14/002/02 will continue to apply.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



**Danai Fadgyas**  
Senior Urbanist  
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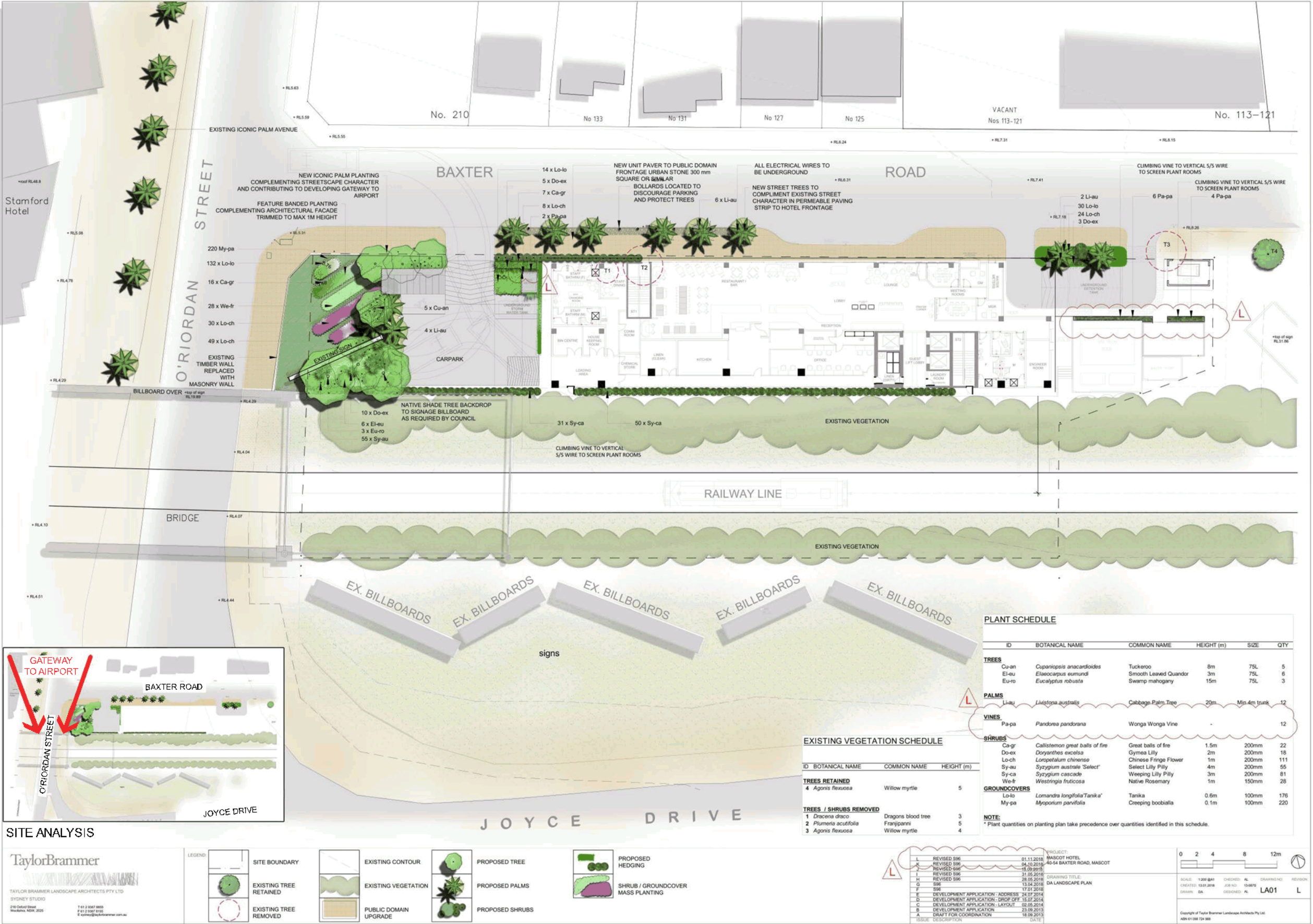
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## BCA ASSESSMENT REPORT

**40-54 BAXTER ROAD  
MASCOT NSW**

Revision 6

Date: 20 February 2019

Project No.: 180402



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REPORT STATUS				
DATE	REVISION	STATUS	AUTHOR	REVIEWED
11/01/2018	0	Draft for client review – S96 Application	DG	TH
24/01/2018	1	Final – S96 Application	DG	TH
23/03/2018	2	Updated drawings	DG	TH
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30/10/2018	4	Updated s.4.55 drawings	DG	TH
30/10/2018	5	Updated s.4.55 drawings	DG	TH
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## A. INTRODUCTION

### A.1 BACKGROUND / PROPOSAL

Blackett Maguire + Goldsmith Pty Ltd (BM+G) have been commissioned by Well Smart Investment Holdings (Syd Airport) Pty Ltd to undertake a Building Code of Australia (BCA) 2016 Amendment 1 assessment for the proposed serviced hotel development located at 40-54 Baxter Rd, Mascot, pursuant to the provisions of clause 145 of the *Environmental Planning & Assessment Regulation 2000* and clause 18 of the *Building Professionals Regulation 2007*.

It is noted that the proposed project includes the construction of new 8 storey hotel building. The proposed building will contain 230 rooms, with ancillary restaurant/bar, reception/lobby, meeting rooms, loading dock and external parking spaces on the ground floor.

### A.2 AIM

The aim of this report is to:

- + Undertake an assessment of the proposed hotel building against the Deemed-to-Satisfy (DtS) Provisions of the BCA 2016.
- + Identify any BCA compliance issues that require resolution/attention for the proposed development as part of the Construction Certificate Application.

### A.3 PROJECT TEAM

The following BM+G team members have contributed to this report:

- + Dean Goldsmith (Director)
- + Tony Heaslip (Director)

### A.4 DOCUMENTATION

The following documentation has been reviewed, referenced and/or relied upon in the preparation of this report:

- + NCC BCA 2016
- + Guide to the NCC BCA 2016.
- + Architectural plans prepared by Well Smart Group:

Drawing No.	Revision	Date	Drawing No.	Revision	Date
AR001.1.1.0	-	07.02.2019	AR001.2.7.0	-	07.02.2019
AR001.2.1.0	-	07.02.2019	AR001.2.8.0	-	07.02.2019
AR001.2.2.0	-	07.02.2019	AR001.2.9.0	-	07.02.2019
AR001.2.3.0	-	07.02.2019	AR001.3.1.0	-	07.02.2019
AR001.2.4.0	-	07.02.2019	AR001.3.2.0	-	07.02.2019
AR001.2.5.0	-	07.02.2019	AR001.3.3.0	-	07.02.2019
AR001.2.6.0	-	07.02.2019	AR001.3.4.0	-	07.02.2019

### A.5 REGULATORY FRAMEWORK

Pursuant to clause 145 of the Environmental Planning and Assessment (EPA) Regulation 2000 all new building work must comply with the current BCA.

### A.6 LIMITATIONS & EXCLUSIONS

The limitations and exclusions of this report are as follows:

- + The following assessment is based upon a review of the architectural documentation.



- + No assessment has been undertaken with respect to the Disability Discrimination Act (DDA) 1992, other than the Access to Premises Standards that are equivalent to the BCA specified minimum standard of compliance in Parts D3 and F2 and AS1428.1-2009.
- + The Report does not address matters in relation to the following:
  - i. Local Government Act and Regulations.
  - ii. NSW Public Health Act 1991 and Regulations.
  - iii. Occupational Health and Safety (OH&S) Act and Regulations.
  - iv. Work Cover Authority requirements.
  - v. Water, drainage, gas, telecommunications and electricity supply authority requirements.
  - vi. DDA 1992.
- + BM+G Pty Ltd do not guarantee acceptance of this report by Local Council, NSW Fire & Rescue or other approval authorities.
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## A.7 TERMINOLOGY

### *Alternative Solution*

A Building Solution which complies with the Performance Requirements other than by reason of satisfying the DTS Provisions.

### *Building Code of Australia (BCA)*

Document published on behalf of the Australian Building Codes Board. The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia and is adopted in New South Wales (NSW) under the provisions of the EPA Act and Regulation. Building regulatory legislation stipulates that compliance with the BCA Performance Requirements must be attained and hence this reveals BCA's performance based format.

### *Construction Certificate*

Building Approval issued by the Certifying Authority pursuant to Part 4A of the EP&A Act 1979.

### *Construction Type*

The construction type is a measure of a buildings ability to resist a fire. The minimum type of fire-resisting construction of a building must be that specified in Table C1.1 and Specification C1.1, except as allowed for—

- (i) certain Class 2, 3 or 9c buildings in C1.5; and
- (ii) a Class 4 part of a building located on the top storey in C1.3(b); and
- (iii) open spectator stands and indoor sports stadiums in C1.7.

*Note: Type A construction is the most fire-resistant and Type C the least fire-resistant of the types of construction.*

### *Climatic Zone*

Is an area defined in BCA Figure A1.1 and in Table A1.1 for specific locations, having energy efficiency provisions based on a range of similar climatic characteristics.

### *Deemed to Satisfy Provisions (DTS)*

Provisions which are deemed to satisfy the Performance Requirements.

### *Effective Height*

The vertical distance between the floor of the lowest storey included in the calculation of rise in storeys and the floor of the topmost storey (excluding the topmost storey if it contains only heating, ventilating, lift or other equipment, water tanks or similar service units)

### *Fire Resistance Level (FRL)*

The grading periods in minutes for the following criteria-

- (a) structural adequacy; and
- (b) integrity; and
- (c) insulation,



and expressed in that order.

*Fire Source Feature (FSF)*

The far boundary of a road which adjoins the allotment; or a side or rear boundary of the allotment; or an external wall of another building on the allotment which is not a Class 10 building.

*National Construction Code Series (NCC)*

The NCC was introduced 01 May 2011 by the Council of Australian Governments. The BCA Volume One (Class 2 to 9 Buildings) is now referenced as the National Construction Code Series Volume One — BCA.

*Occupation Certificate*

Building Occupation Approval issued by the Principal Certifying Authority pursuant to Part 4A of the EPA Act 1979.

*Open Space*

A space on the allotment, or a roof or other part of the building suitably protected from fire, open to the sky and connected directly with a public road.

*Performance Requirements of the BCA*

A Building Solution will comply with the BCA if it satisfies the Performance Requirements. A Performance requirement states the level of performance that a Building Solution must meet.

Compliance with the Performance Requirements can only be achieved by-

- (a) complying with the DtS Provisions; or
- (b) formulating an Alternative Solution which-
  - (i) complies with the Performance Requirements; or
  - (ii) is shown to be at least equivalent to the DtS Provisions; or
- (c) a combination of (a) and (b).

*Sole Occupancy Unit (SOU)*

A room or other part of a building for occupation by one or joint owner, lessee, tenant, or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier and includes a dwelling. In the case of a Class 3 building each room that is separately keyed is deemed to be a single/separate sole occupancy unit.



## B. BUILDING CHARACTERISTICS

### B.1 BUILDING CLASSIFICATION

The following table presents a summary of relevant building classification items of the proposed hotel building:

▪ <b>BCA Classification:</b>	Class 3 (Hotel) Class 6 (Restaurant/Bar) Class 9b (Meeting Rooms & Reception) Class 10a (Pump Rooms & Switch Room)
▪ <b>Rise in Storeys:</b>	The building has a rise in storeys of eight (8).
▪ <b>Effective Height:</b>	The building has an effective height of 27.0m
▪ <b>Type of Construction:</b>	Type A Construction
▪ <b>Climate Zone:</b>	Zone 5

### B.2 FIRE SOURCE FEATURE

The distances from the nearest Fire Source Features are:

BOUNDARY	DISTANCE TO FIRE SOURCE FEATURE
North Boundary	Greater than 3m (Far Boundary of Baxter Rd)
South Boundary	1.15m
East Boundary	Approx. 15m at closest point (Side Allotment Boundary)
West Boundary	Greater than 3m (Far Boundary of O'Riordan St)

## BCA ASSESSMENT

### C.1 BCA DEEMED-TO-SATISFY COMPLIANCE ISSUES:

The following comments have been made in relation to the relevant BCA provisions relating to the compliance issues associated with the proposed hotel building located at 40-54 Baxter Rd, Mascot.

**Note:** The following is a précis of the provisions and should be read in conjunction with the BCA.

#### SECTION B - STRUCTURE

##### 1. Part B1 – Structural Provisions

Structural engineering details prepared by an appropriately qualified structural engineer to be provided to demonstrate compliance with Part B1. This will include the following Australian Standards (where relevant):

1. AS 1170.0 – 2002 General Principles
2. AS 1170.1 – 2002, including certification for balustrades (dead and live loads)
3. AS 1170.2 – 2011, Wind loads
4. AS 1170.4 – 2007, Earthquake loads
5. AS 3700 – 2001, Masonry code



6. AS 3600 – 2009, Concrete code
7. AS 4100 – 1998, Steel Structures and/or
8. AS 4600 – 2005, Cold formed steel.
9. AS 2159 – 2009, Piling Design & Installation
10. AS 1720 – 2010, Design of Timber Structure
11. AS/NZS 1664.1 & 2 – 1997, Aluminium Structures
12. AS 2047 – 1999, Windows in buildings.
13. AS 1288 – 2006, Glass in buildings.
14. AS 3660.1 – 2000, Termite control (or confirmation no primary building elements are timber).

*Comments: Structural design and certification will be required at CC application stage.*

## **SECTION C – FIRE RESISTANCE**

### **Part C1 Fire Resistance and Stability**

#### **2. Clause C1.1 – Type of Construction Required**

The minimum type of fire-resisting construction of a building must be that specified in Table C1.1 and Specification C1.1 except as allowed for in this clause.

*Comments: Type A construction applies to this building as it has a rise in storeys of more than 3. Refer to comments under Spec. C1.1 below and Appendix 1.*

#### **3. Clause C1.9 – Non-Combustible Building Elements**

In a building of Type A or Type B Construction a number of building elements are required to be non-combustible including external walls & common walls (including elements incorporated in them including the façade covering, framing and insulation), lift pit flooring and floor framing, services risers, load-bearing internal walls and fire walls.

C1.9(e) provides a list of materials that may be deemed as non-combustible without the need for verification testing per AS 1530.1.

*Comments: The external walls, fire walls and the internal services risers in the proposed Building are required to be of non-combustible construction in accordance with C1.9 (a) & (b). Details and design certification will be required to be provided at CC Application stage to demonstrate compliance. Note: Particular attention is drawn to any proposed use of Aluminium Composite Panel Cladding (or other Bonded Laminate type materials) to the external walls – which may not achieve compliance with the above requirements.*

#### **4. Clause C1.10 – Fire Hazard Properties**

The fire hazard properties of the following linings, materials and assemblies in a Class 2 to 9 building must comply with **Specification C1.10** and the additional requirements of the **NSW Provisions** of the Code.

*Comments: Architect to note. Details for compliance will be required at the Occupation Certificate stage.*

#### **5. Clause C1.14 – Ancillary Elements**

An ancillary element must not be fixed, installed or attached to the internal or external parts of a non-combustible wall unless it is one of the concession items listed in items (b) – (m).

*Comments: Any proposed structure attached to the external wall, including signage panels, sunshades, or decorative elements are required to be "non-combustible" materials by definition per C1.9 or tested in accordance with AS 1530.1. Details demonstrating compliance are to be submitted with the CC Application.*

### **Part C2 Compartmentation and Separation**

#### **6. Clause C2.2 – General Floor Area and Volume Limitations**

Sets out the parameters for the area and volume of Class 5, 6, 7, 8 & 9 buildings as required by sub-clauses (a), (b) & (c).

*Comments: The proposed compartmentation in the new building will comply with Type A Construction requirements of Table C2.2. Note: Floor area and volume limitations of Table C2.2 do not apply to the Class 3 areas. The Class 6/9b part proposed to the ground floor will not exceed the maximum floor area/volume of 5,000m<sup>2</sup> and 30,000m<sup>3</sup>.*



#### 7. Clause C2.6 – Vertical Separation of Openings in External Walls

If in a building of Type A construction, any part of a window or other opening in an external wall is above another opening in the storey next below and its vertical projection falls no further than 450 mm outside the lower opening (measured horizontally), the openings must be separated by a horizontal or vertical spandrel with an FRL of 60/60/60, and for the purposes of C2.6, window or other opening means that part of the external wall of a building that does not have an FRL of 60/60/60 or greater.

*Comments:* As the building is required to be sprinkler protected, spandrel separation to external facades between floors is not required.

#### 8. Clause C2.7 – Separation by Fire Walls

Separation of Fire Compartments must be constructed in accordance with the following:

- FRL to be continuous and extend to the underside of a floor with the same FRL, or to the underside of a non-combustible roof covering.
- Any openings in a fire wall must not reduce the, except where permitted by the Deemed-to-Satisfy Provisions of Part C3 (i.e. fire doors; protection of services).
- Building elements, other than roof battens with dimensions of 75 mm x 50 mm or less or sarking-type material, must not pass through or cross the fire wall unless the required fire resisting performance of the fire wall is maintained.

*Comments:* See Clause C2.8 below - Any proposed fire wall on ground floor level must be designed in accordance with C2.7(a) and (c).

#### 9. Clause C2.8 – Separation of Classifications in the Same Storey

If a building has parts of different classifications located alongside one another in the same storey, each element must have the required higher FRL for the classifications concerned.

Alternatively, the parts must be separated by a fire wall having the higher FRL for the classifications prescribed in Table 3 or 4 of BCA Specification C1.1 (for Type A or Type B Construction), or Table 5 for Type C Construction.

*Comments:* The Ground Floor Level contains two separate classifications within the same storey (being Class 6 & 9b). Given the proposed design, the higher FRL's applicable to these two classifications are to be applied to the whole of the Ground Floor per C2.8(a), i.e. 3hrs for the Class 6 (for all building elements on that storey per Table 3 of Spec. C1.1 per Appendix 1 below, including external walls, internal load-bearing elements, fire stairs, lift shafts, services risers, etc.). If this is not be practical consideration may need to be given to a fire wall to separate the Class 6 bar/restaurant areas OR a performance solution by the Fire Engineer for a rationalisation of the FRL requirements on this storey.

#### 10. Clause C2.9 – Separation of Classification in Different Storeys

This clause specifies the required separation between parts of a building which are of a different classification, situated one above another, to minimise the risk of a fire in one classification causing the failure of building elements in another classification in a different storey.

*Comments:* The floor slab above the Ground Floor Class 6 Bar/Restaurant is to achieve an FRL of 180/180/180 or consideration may need to be given to a performance solution by the Fire Engineer for a rationalisation of the FRL requirements. Details demonstrating compliance are to be included on the CC Application plans.

#### 11. Clause C2.10 – Separation of Lift Shafts

Applies to all classes of buildings and specifies the protection requirements for openings for lift shafts and lift landing doors. The requirements are set out in sub-clauses (a), (b) (c) & (d) which relate to openings in Type A, B and C construction. Also note the Deemed to Satisfy Provisions of Part C3.

*Comments:* The lifts are required to be enclosed in a fire rated shaft achieving an FRL in accordance with Table 3 of Specification C1.1.

#### 12. Clause C2.12 – Separation of Equipment

Equipment as listed below must be separated from the remainder of the building with construction that achieves an FRL of 120/120/120 and doorways being self-closing -/120/30 fire doors:

- + Lift motors and lift control panels; or
- + Emergency generators used to sustain emergency equipment operating in the emergency mode; or
- + Central smoke control plant; or





- + Boilers; or
- + A battery or batteries installed in the building that have a voltage exceeding 24 volts and a capacity exceeding 10 ampere hours.

Separation of on-site fire pumps must comply with the requirements of AS 2419.1.

*Comments: Architect to note. Details are to be provided at CC application stage.*

### 13. Clause C2.13 – Electricity Supply System

To ensure certain types of electrical equipment to operate during an emergency the requirements of sub-clauses (a), (b) (c), (d) & (e) must be complied with relating to sub-stations, sub-mains and main switchboards.

- (a) An electricity substation located within a building must –
    - (i) Be separated from any other part of the building by construction having an FRL of not less than 120/120/120; and
    - (ii) Having any doorway in that construction protected with a self-closing fire door having an FRL of not less than -/120/30
  - (b) A main switchboard located within the building which sustains emergency equipment operating in the emergency mode must –
    - (i) Be separated from any other part of the building by construction having an FRL of not less than -/120/30.
    - (ii) Have any doorway in that construction protected with a self-closing fire door having an FRL of not less than -/120/30.
  - (c) Electrical conductors located within a building that supply –
    - (i) A substation located within the building which supplies a main switchboard covered by (b); or
    - (ii) A main switchboard covered by (b),
- Must –
- (iii) Have a classification in accordance with AS/NZS 3013 of not less than –
    - (A) If located in a position that could be straight to damage by motor vehicles – WS53W; or
    - (B) Otherwise – WS52W; or
  - (iv) Be enclosed or otherwise protected by construction having an FRL of not less than 120/120/120

*Comments: Confirmation is to be provided for the respective fire rating on the CC plans, and also for the design of the required electrical services with the construction certificate application documentation. Particular attention is drawn to the proposed main switchroom on the Ground Floor level.*

### 14. Clause C2.14 – Public Corridors in Class 2 & 3 Buildings

In a Class 2 or 3 building, a public corridor more than 40m in length, must be divided at intervals of not more than 40m with smoke-proof walls complying with Clause 2 of Specification C2.5.

*Comments: The proposed corridors serving the Class 3 SOU's on Level 1 to Level 7 exceed 40m and as such a smoke doors (installed in accordance with Clause 2 of Spec. C2.5) will be required within the corridor on each level to reduce the total width down to 40m or less – details of the design of the smoke doors are to be included on the CC plans. Note: This requirement is NOT currently addressed on the architectural plans.*

## PART C3: PROTECTION OF OPENINGS

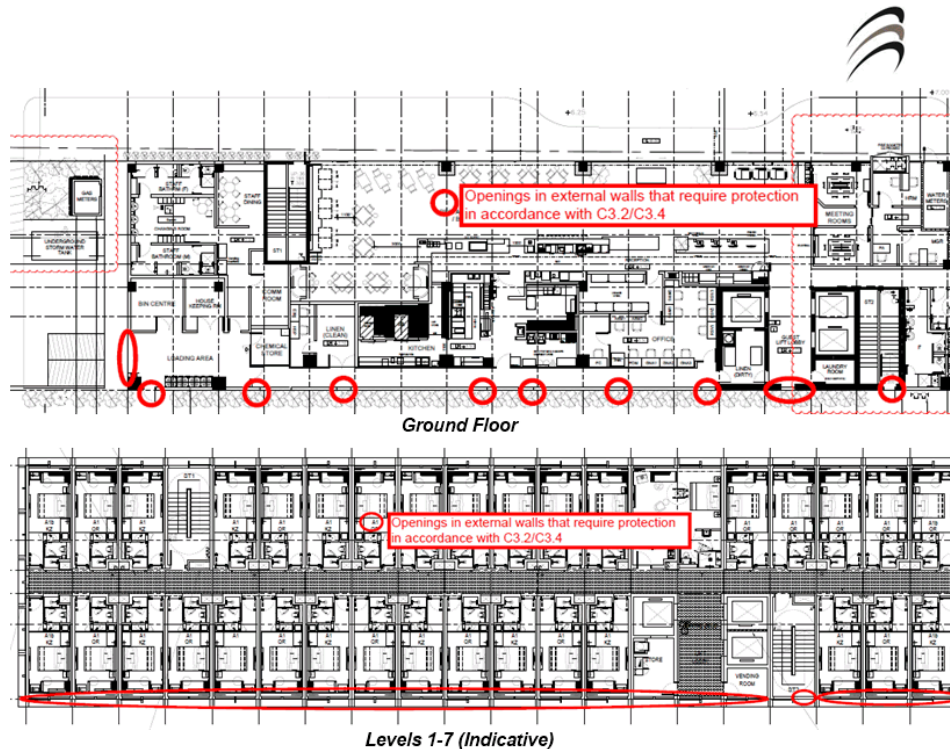
### 15. Clause C3.2 – Protection of Openings in External Walls

Openings in external walls that are required to have an FRL, which are to be exposed to a fire-source feature, are required to be protected in accordance with C3.2(a) & C3.2(b).

Openings in an external wall that is required to have an FRL must –

- (a) If the distance between the opening and the fire-source feature to which it is exposed is less than –
  - (i) 3 m from a side or rear boundary of the allotment; or
  - (ii) 6 m from the far boundary of a road, river, lake or the like adjoining the allotment, if not located in a storey at or near ground level; or
  - (iii) 6 m from another building on the allotment that is not a Class 10, be protected in accordance with C3.4 and if wall-wetting sprinklers are used, they are located externally; and
- (b) If the required to be protected under (a), not occupy more than 1/3 of the area of the external wall of the storey in which it is located unless they are in a Class 9b building used as an open spectator stand.

*Comments: There are openings in the external walls within 3m of a fire source feature (being the southern allotment boundaries) which are detailed on the mark-up plans below. The openings circled in green below will require protection per C3.4 OR consideration may be given to an alternative solution from the Fire Engineer to demonstrate compliance with Performance Requirement CP2.*



#### 16. Clause C3.4 – Acceptable Methods of Protection

- (a) Where protection is required, doorways, windows and other openings must be protected as follows:
- (i) Doorways –
    - (A) Internal or external wall- wetting sprinklers as appropriate used with doors that are self-closing or automatic closing; or
    - (B) -/60/30 fire doors that are self-closing or automatic closing.
  - (ii) Windows –
    - (A) Internal or external wall-wetting sprinklers as appropriate used with windows that are automatic closing or permanently fixed in the closed position; or
    - (B) -/60/- automatic closing fire shutters.
  - (iii) Other openings –
    - (A) Excluding voids – internal or external wall-wetting sprinklers, as appropriate; or
    - (B) Construction having FRL not less than -/60/-.

- (b) Fire doors, fire windows and fire shutters must comply with **Specification C3.4**.

*Comments:* See comments under C3.2 above regarding the required protection of openings on the Ground Floor and Levels 1-7 – details demonstrating compliance are to be included on the CC Application plans.

#### 17. Clause C3.5 – Doorways in Fire Walls

Openings in fire walls, that are not part of a horizontal exit, must be protected in accordance with one of the methods set out in this clause.

Fire shutters installed to openings in fire walls must be self-closing or automatic in accordance with the requirements set out in this clause.

*Comments:* Any openings in required fire walls (as referenced in C2.8 above) are required to be protected with fire doors that achieve a corresponding fire rating to the walls in which they are located.





#### 18. Clause C3.8 – Openings in Fire-isolated Exits

Specifies that the doorways that open into fire-isolated exits must be protected by -/60/30 fire doors that are self-closing or automatic. This clause also details the deemed-to-satisfy methods of activation. This does not apply to doors opening to a road or open space.

A window in the external walls of fire-isolated exits must be protected in accordance with C3.4 if it is within 6m of and exposed to a window or other opening in a wall of the same building other than in the same fire-isolated enclosure.

*Comments:* Details of the proposed fire door locations are to be provided with the CC application plans in accordance with this requirement.

#### 19. Clause C3.9 – Service Penetrations in Fire-isolated Exits

Fire isolated exits must not be penetrated by any services other than electrical wiring as permitted by D2.7(e), ducting associated with a pressurisation system or water supply pipes for fire services.

*Comments:* Architect/Services Consultants to note and ensure compliance with regards to restriction of services penetrating the fire isolated stairs and passageway.

#### 20. Clause C3.10 – Openings in Fire-isolated Lift Shafts

If lift shafts are required to be fire-isolated an entrance doorway must be protected by -/60- fire doors and the lift indicator panels must be backed by construction having an FRL of not less than -/60/60 if it exceeds 35,000mm<sup>2</sup>

*Comments:* Certification from the lift consultant to confirm compliance is to be provided with the construction certificate application.

#### 21. Clause C3.11 – Bounding Construction: Class 2, 3 & 4 Buildings

Protection is required to the bounding walls of sole-occupancy units or public corridors in Class 2 & 3 buildings and Class 4 portions of buildings of Types A, B & C Construction. Namely:

- + Doorways must be protected if providing access from an SOU to a:
  - o Public corridor;
  - o A room not within an SOU; or
  - o The landing of an internal non-fire isolated stairway that serves a required exit; or
  - o Another SOU
- + A doorway must be protected if it provides access from a room not within an SOU to a public corridor or the like; or to the landing on a non-fire isolated stairway that serves as a required exit.
- + Protection of the doorway must be -/60/30 self-closing fire door in Type A Construction, and a self-closing tight fitting solid core door in Type B or Type C Construction.

*Comments:* Compliance with the above bounding construction provisions are to be detailed on the construction certificate application plans/documentation. *Note:* In addition to the Class 3 hotel rooms, the fire rated bounding construction provisions of C3.11 and Spec. C1.1 apply to the Store Room & Vending Room on Levels 1-7 and the Gymnasium on Level 4.

#### 22. Clause C3.12 – Openings in Floors & Ceilings for Services

This clause applies to the floors and ceilings in buildings of Types A, B & C Construction and sets out the methods required to limit the spread of fire through openings in these building elements, required to resist the spread of fire.

*Comments:* Certification will be required at OC application stage.

#### 23. Clause C3.13 – Openings in Shafts

This clause specifies that in buildings of Type A Construction, openings in shafts must be protected (generally with 1 hour fire rated shafts and doors).

*Comments:* Compliance is to be demonstrated with the construction certificate application documentation.

#### 24. Clause C3.15 – Openings for Service Installations

The clause details the requirements for protection of service openings in building elements that have an FRL, to prevent the spread of fire. C3.15 only applies only to an element required to have an FRL with respect to integrity or insulation.



Specification C3.15 prescribes materials and methods of installation for services that penetrate walls, floors and ceilings required to have an FRL. Where the mechanical ventilation system penetrates floors or walls that require an FRL the installation is to comply with AS/NZS 1668.1.

*Comments:* Compliance is to be demonstrated with the construction certificate documentation.

#### **SPECIFICATIONS.**

#### **25. Specification C1.1 – Fire Resisting Construction**

The new building works are required to comply with the requirements detailed under Table 3 of Specification C1.1 for Type A Construction. (See Appendix 1)

*Comments:* Compliance is readily achievable for the requirements of Type A construction. (See Appendix 1 at the end of the report for the required FRL's applicable to the building). Further and as identified under C3.2 above, the south façade is located directly adjacent to the allotment boundaries which forms a fire source feature – see extract from [www.sixmaps.nsw.gov.au](http://www.sixmaps.nsw.gov.au) that details the allotment boundary locations on the site.



#### **SECTION D – ACCESS & EGRESS**

#### **Part D1 Provision for Escape**

#### **26. Clause D1.2 – Number of Exits Required**

This clause requires the provision of sufficient exits to enable safe egress in case of an emergency. D1.2 provides that all buildings must have at least one exit from each storey and sets out circumstances in which more than one exit may be required (particularly in relation to Class 9B buildings).

*Note:* Not less than 2 exits must be provided from each storey if the building has an effective height of more than 25m.

*Note:* Not less than 2 exits must be provided from any storey that involves a vertical rise within the building of more than 1.5m unless the floor area of the storey is not more than 50m<sup>2</sup> and the distance of travel from any point on the floor to a single exit is not more than 20m.

*Comments:* The current configuration is compliant with the requirements of this clause. however, it is noted that to achieve compliance the rear passageway from the Loading Dock on the ground floor level is a required exit via the front of house areas and as such a compliant egress path through the Kitchen or Offices from the Loading Dock side will be required.

#### **27. Clause D1.3 – When Fire-isolated Stairways & Ramps are Required**

This clause indicates when fire isolated stairways and ramps are required to enable safe egress from a building in the case of a fire, setting out the limits to which non-fire isolated exits can be used in Class 2, 3, 5, 6, 7, 8 and 9 buildings. Particular exceptions apply to Class 9a patient care and also class 9c aged care buildings.



Class 3 – an exit stair must be fire isolated when it connects or passes by more than 2 consecutive storeys. An extra storey of any classification can be included if it is only for the accommodation of motor vehicles, etc; the building has a sprinkler system throughout; or if the stair is not providing access from or egress to the additional storey, and is separated by construction achieving an FRL of 60/60/60, and is smoke proof.

Class 9b & 6 – every stairway must be fire isolated if it connects more than 2 consecutive storeys. Concessions apply to inclusion of an additional storey, or sprinklers, as per the above.

*Comments: The exit stairs from the building are required to be fire isolated as they connect more than 2 levels in the Class 3 residential storeys. Note: see comments under D1.7 below.*

## 28. Clause D1.4 – Exit Travel Distances

This clause specifies the permitted travel distances allowable from Class 2 to Class 9 buildings, specifying the maximum distances to be taken into account for the various uses in each Class of building.

The following applies:

- + In a Class 2 or 3 building
  - + The entrance of any SOU must be not more than:
    - 6m from an exit or from a point which travel in 2 different directions to 2 exits is available; or
    - 20m from a single exit serving the storey at the level of egress to a road or open space.
  - + No point on the floor of a room which is not within a SOU must be more than 20m to an exit, or a point from which travel in different directions to 2 exits is available.
- + In a Class 5, 6 and 7a building:
  - No point on the floor must be more than 20m to an exit, or a point from which travel in different directions to 2 exits is available, in which case the maximum distance to one of those exits must not exceed 40m;
  - For the Class 5 and 6, the distance to a single exit serving a storey at the level of access to a road or open space may be increased to 30m.

*Comments: The exit travel distances within the residential floors from Level 1 & 2 do not comply with the above requirements. In this regard, the following non-compliances are noted:*

- + Levels 1-7 (Class 3) - Approx. 12.5m to a point of choice to alternative exits;

*These non-compliances will need to be addressed via a performance solution from an accredited Fire Safety Engineer addressing Performance Requirement DP4 & EP2.2.*

## 29. Clause D1.5 – Distances Between Alternative Exits

This clause specifies the minimum and maximum permitted distances between alternative exits. Class 5, 7a and 9b and 9c allows a maximum 60m between alternative exits when measured back through the designated point of choice (and to be no closer than 9m apart, and not converge so as to be less than 6m apart).

Exits required as alternative exits must be –

- (a) distributed as uniformly as practicable within or around the storey served and in positions where unobstructed access to at least 2 exits is readily available from all points on the floor including lift lobby areas; and
  - i. not less than 9m apart; and
  - ii. not more than –
    - in a Class 2 or 3 building - 45m apart; or
    - In a Class 9a health-care building, if such required exit serves a patient care area – 45m apart; or
    - In all other cases, i.e. the non-patient care areas – 60m apart.
- (b) Located so that the alternative paths of travel do not converge such that they become less than 6m apart.

*Comments: The travel distances between the alternative exits within the building comply with the requirements of this clause.*



### 30. Clause D1.6 – Dimensions of Exits

This clause specifies the minimum dimensions such as height and width of paths of travel from Class 2 to 9 buildings. It also specifies the minimum dimensions of doorways from the various compartments and the width of exit doors from buildings depending on the uses and functions carried out within them.

*Comments:* Exit corridors and stairs and other paths of travel are to be a minimum 1m in width and 2m in height clear of any obstructions. The unobstructed height of any doorway may be reduced to not less than 1980mm. The proposed total available exit width on each storey is considered adequate to achieve compliance with D1.6 (b) & (c). *Note 1:* See items further into the report in relation to the minimum ceiling heights for habitable and non-habitable spaces. *Note 2:* See population numbers listed under D1.13 below.

### 31. Clause D1.7 – Travel via Fire Isolated Exits

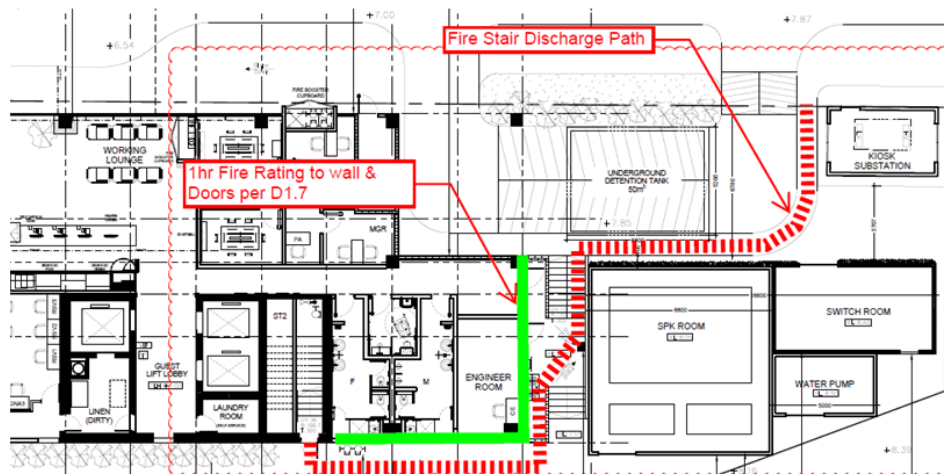
Sets out the requirements for safe discharge from various compartments and areas within a building, into a fire isolated stairway or passageway or ramp.

*Note:* a ramp for changes of level in a fire isolated passageway is required in a Class 9 building.

Where a path of travel from the point of discharge of a fire isolated exit necessitates passing within 6m of any part of an external wall of the same building, measured horizontally at right angles to the path of travel, that part of the wall must have –

- + an FRL of not less than 60/60/60; and
- + Any openings protected internally in accordance with BCA Clause C3.4,
- + For a distance of 3m above or below, as appropriate, the level of the path of travel, or for the height of the wall, whichever is the lesser.

*Comments:* The discharge from the East Fire Stair 1 on Ground Floor will necessitate passing within 6m of the external wall of the building to reach the adjoining roadway/footpath. The parts of the external wall of the building required to be passed within 6m to reach the road must achieve an FRL of not less than 60/60/60 for a minimum height of 3m above the egress path. Details of the fire rating shall be provided with the construction certificate plans/documentation.



### 32. Clause D1.10 – Discharge From Exits

This clause requires that an exit must not be blocked at the point of discharge. Barriers such as bollards must be installed to prevent vehicles from blocking the discharge from exits.

This clause also provides the methods of construction, location and separation, at exit discharge points for all building Classes.

*Comments:* The pathways from the exit discharge points around the site to the public road are required to be unobstructed and protected from being blocked by storage or parked vehicles.





### 33. Clause D1.13 – Number of Persons Accommodated

Clause D1.13 and Table D1.13 are used to calculate the anticipated number of people in particular types of buildings so that minimum exit widths and the required number of sanitary and other facilities can be calculated. This clause and table are not to be used for non-BCA purposes.

*Comments: The proposed population numbers for each level of the building have been calculated per Table D1.13 as listed below (for the purposes of D1.6 assessment and the amenities calculations – see F2.3 below).*

- + Ground Floor (Class 6 & 9b) – Restaurant/Bar = 113 persons, Meeting Rooms = 14 persons, Staff = 20 persons (TOTAL = 147 persons);
- + Level 1-3 & 5-7 (Class 3) – Hotel Rooms = 48 persons per floor;
- + Level 4 (Class 3 & 9b) – Hotel Rooms & Gym = 112 persons

### 34. Clause D1.17 – Access to Lift Pits

This clause provides the requirements for access to lift pits not more than 3m deep and the requirements of construction of access for lift pits that are more than 3m deep. The requirement for signage to lift pits is also set out.

*Comments: Lift Contractor to note. Details are to be provided with the construction certificate documentation.*

## PART D2 CONSTRUCTION OF EXITS

### 35. Clause D2.2 – Fire-Isolated Stairways & Ramps

A stairway or ramp, including landings that are required to be within a fire-resisting shaft must be constructed of non-combustible materials to protect the structural integrity of the shaft.

*Comments: Certification will be required at CC application stage.*

### 36. Clause D2.7 – Installations in Exits & Paths of Travel

This clause restricts the installation of certain services in fire-isolated exits, non-fire-isolated exits and certain paths of travel to exits. It prescribes which services shall not be installed as well as the circumstances in which certain services may be installed in fire-isolated and non-fire-isolated exits.

If installed in a path of travel to an exit, electrical distribution boards, communication cupboards and the like containing motors, etc are to be enclosed with non-combustible construction, and doors are to be provided with smoke seals to the perimeter.

*Comments: Architect to note. Details are to be provided with the construction certificate documentation.*

### 37. Clause D2.10 – Pedestrian Ramps

A fire-isolated ramp may be substituted for a fire-isolated stairway if the construction enclosing the ramp and the dimensions comply with the requirements for a fire-isolated stairway. The ramp must also comply with the access requirements of D3 and AS1428.1, not have a gradient steeper than 1:8 and have a non-slip finish.

*Comments: Details of slip resistance for the ramp finish to be provided with the occupation certificate documentation.*

### 38. Clause D2.13 – Goings & Risers

This clause sets out the detailed requirements for the construction and geometry of the goings and risers in required stairways. These details are set out in sub-clauses (a) to (c) and Table D2.13 Riser and Going Dimensions.

*Comments: All stairs are to have dimensions in accordance with Table D2.13 and where required to be accessible are to have solid risers, and are to have contrasting nosings, slip resistant surfaces throughout in accordance with clause 11 of AS1428.1-2009. (See diagrams in Part D3 below also).*

*Note: Refer to the slip resistance requirements for stairs below under Clause D2.14.*

Riser and Going Dimensions (mm)			
	Riser (R)	Going (G)	Quantity (2R + G)
Maximum	190	355	700
Minimum	115	250	550

**39. Clause D2.14 – Landings**

The dimensions and gradients of landings in stairways are set out in this clause; the configuration will depend on the proposed use of a building. Landing surfaces must be slip resistant surfaces OR slip resistant nosing not less than that listed in Table D2.14 when tested in accordance with AS4586.

**Table D2.14 SLIP-RESISTANCE CLASSIFICATION**

Application	Surface conditions	
	Dry	Wet
Ramp steeper than 1:14	P4 or R11	P5 or R12
Ramp steeper than 1:20 but not steeper than 1:14	P3 or R10	P4 or R11
Tread or landing surface	P3 or R10	P4 or R11
Nosing or landing edge strip	P3	P4

*Comments:* Details to be confirmed with the occupation certificate documentation.

**40. Clause D2.15 – Thresholds**

The threshold of a doorway must not incorporate a step or ramp at any point closer to the doorway than the width of the door leaf unless –

- (a) In patient care areas in a class 9a health-care building, the door sill is not more than 25mm above the finished floor level to which the doorway opens; or
- (b) In a Class 9c aged care building, a ramp is provided with a maximum gradient of 1:8 for a maximum height of 25mm over the threshold.

*Comments:* There are no steps or ramps permitted within the door thresholds, except at the discharge from the fire stairs on the ground floor level.

**41. Clause D2.16 – Balustrades or Other Barriers**

This clause details where balustrades are required to be provided and sets out in specific detail the construction requirements for different building uses.

- + Balustrades are required where the fall to the level below is more than 1m in height. The minimum height of a balustrade is 1m above the floor of the landing, walkway or the like; and 865mm above the floor of a stairway or a ramp.
- + For a fall of more than 4m to the surface level below, a window sill must be a minimum of 865mm in height above the height of the floor surface.
- + Where the floor is more than 4m above the surface beneath the balustrade any horizontal or near horizontal members between 150mm and 760mm above the floor must not could facilitate climbing.
- + Balustrades must be constructed so as to not permit a sphere of 125mm diameter to pass through. The exception to this is within fire isolated exits within the building, or within a class 7 or 8 building, where the rails can be positioned a maximum of 460mm apart, so long as a bottom rail is located so a sphere of 150mm cannot pass through the opening between the nosing of the stair treads and the rail or between the floor of the landing, balcony or the like.

*Comments:* Details of the proposed balustrades to the stairs are to be provided with the application for the construction certificate for assessment.

**42. Clause D2.17 – Handrails**

This Clause sets out the requirements regarding the location, spacing and extent of handrails required to be installed in buildings. Handrails are required both sides of a public corridor in a Class 9c building.

This Clause sets out the requirements regarding the location, spacing and extent of handrails required to be installed in buildings. A Class 9a building must be provided along at least one side of every passageway or corridor used by patients and must be:

- + Fixed not less than 50mm clear of the wall; and
- + Where practicable, continuous for their full length.



*Comments:* Details of the proposed handrails are to be provided for assessment with the application for the construction certificate. See also Part D3 requirements below - for additional provisions for handrails associated with accessible compliant stairways. In addition, AS 1428.1-2009 compliant handrails are required on at least one side of the fire stairs in the building.

#### 43. Clause D2.19 – Doorways & Doors

This clause applies to all doorways and refers to the types of doors that cannot be used in buildings of prescribed uses, the use of power operated doors and the force required to operate sliding doors.

If the door is also power operated, it must be opened manually under a force of not more than 110N if there is a malfunction or failure to the power source; or upon the activation of a fire or smoke alarm anywhere in the fire compartment served by the door.

*Comments:* Applicable to the Class 6 & 9b areas on ground floor level. Certification will be required at CC application stage.

#### 44. Clause D2.20 – Swinging Doors

A swinging door in a required exit or forming part of a required exit must swing in the direction of egress and must not otherwise impede egress. In addition, the door must not encroach at any part of its swing by more than 500mm on the required width of the exit (with the exception of airlocks and sanitary compartments, and with the exception of buildings or building parts that are less than 200m<sup>2</sup>).

*Comments:* Current configuration is compliant with the requirements of this clause.

#### 45. Clause D2.21 – Operation of Latch

A door in a required exit or forming part of a required exit and in a path of travel to a required exit must be readily openable without a key from the side that faces a person seeking egress, by a single downward action or pushing action on a single device which is located between 900mm & 1100mm from the floor. This clause prohibits the use of devices such as deadlocks and knobs (rather, lever latches are required). D2.21 also sets out exceptions in relation to buildings where special security arrangements are required in relation to the uses carried out.

Where fitted with a fail-safe device which automatically unlocks the door upon the activation of a sprinkler system or detection system, the above need not apply.

*Comments:* Architect to note. Compliance must be demonstrated at OC application stage.

#### 46. Clause D2.23 – Signs on Doors

This clause requires the use of signs to alert persons that the operation of certain doors, that are required for evacuation in an emergency, must not be impaired and must be installed where they can be readily seen.

Sub-clauses (a) & (b) provide the requirements for the installation of such signs, the detail contained in them.

Doors of a fire-isolated exit must not be locked from the inside in a Class 9a health-care building, a Class 9c aged care building and in a fire-isolated exit serving a storey above 25m effective height, throughout the exit.

This clause details the exceptions to the above requirements if the doors are fitted with an automatic failsafe device or where sub-clauses (i) & (ii) apply

*Comments:* Certification will be required at OC application stage.

Any new self-closing fire and/or smoke doors leading into the fire stair or forming part of a Horizontal Exit or smoke compartment are to be provided with signage as follows:

**FIRE SAFETY DOOR**  
DO NOT OBSTRUCT  
DO NOT KEEP OPEN

Any new automatic closing fire and/or smoke doors which are held on hold open devices that leads into the fire stair or forming part of a Horizontal Exit or smoke compartment are to be provided with signage as follows:

**FIRE SAFETY DOOR**  
DO NOT OBSTRUCT





#### 47. Clause D2.24 – Protection of Openable Window

This clause relates to the protection of openable windows in a class 9b early childhood centre, or openable windows in a bedroom in a class 2 or 3 building or a class 4 part of a building, where the floor level is more than 2m above the surface level beneath. The intent of this clause is to limit the risk of a person (especially a young child) falling through an openable window, however it does not apply to such a window where the lowest level of its window opening is less than 1.7m above the floor. Details for protection include the following:

- + Openable portion of the window must have a device to restrict the window opening; or
- + Be fitted with a screen with secure fittings;
- + Not permit a sphere of 125mm to pass through;
- + Resist outward horizontal action of 250N;
- + Have a child resistant release mechanism if the screen or device is able to be removed, unlocked or overridden.

In addition to the above, and for floors that are more than 4m above the surface level below, a barrier with a height not less than 865mm above the floor is required for all openable windows. The barrier must permit a sphere of 125mm to pass through, and must not have any horizontal or near horizontal elements between 150mm and 760mm above the floor that facilitate climbing.

*Comments: Details are to be provided with the construction certificate documentation.*

#### ACCESS FOR PEOPLE WITH A DISABILITY

#### 48. Clause D3.1 – General Building Access Requirements.

The extent of access required depends on the classification of the building. Buildings and parts of buildings must be accessible as set out in Table D3.1 unless exempted by Clause D3.4.

Class 3 Residential parts: In a building required to be accessible, access for persons with disabilities must be provided from a pedestrian entrance required to be accessible to a minimum of 1 floor and to the entrance doorway of each SOU on that level and any other common room used by the residents. Notwithstanding, where a passenger lift is installed, access must be provided to every level served by the lift. In addition, as there are 60 sole occupancy units proposed a minimum of 3 compliant accessible SOU's must be provided.

Class 6 & 9b parts: Access is required to and within all areas normally used by the occupants.

*Comments: The proposed building is required to be accessible throughout including all areas within the ground floor, the common areas and Meeting Rooms and throughout the Common Areas on Levels 1-7. In addition, a minimum of ten (10) accessible compliant hotel rooms/sole occupancy units must be provided. The current design complies with this requirement, and details demonstrating compliance with AS 1428.1-2009 in the accessible areas and rooms must be provided with the CC Application plans.*

#### 49. Clause D3.2 – General Building Access Requirements for People with Disabilities

This part requires accessways to be provided to accessible buildings from the main points of pedestrian entry at the allotment boundary and any accessible car parking space or accessible associated buildings connected by a pedestrian link.

Access must be provided to and within all areas normally used by occupants (as required by Clause D3.1) within this building from the main points of pedestrian entry at the allotment boundary; from another accessible building connected by a pedestrian link; and any accessible car parking space.

Accessways are to be provided to accessible buildings from the main points of pedestrian entry at the allotment boundary and any accessible car parking space or accessible associated buildings connected by a pedestrian link.

Access must be provided through the principal pedestrian entrance and through not less than 50% of all pedestrian entrances (including the principal pedestrian entry).

In addition, as the building is greater than 500m<sup>2</sup>, the non-accessible entrance must not be greater than 50m from an accessible entrance.

The minimum width of an accessible doorway must have a clear opening width of not less than 850mm in accordance with AS1428.1.

*Comments: It is noted that the proposed entry directly from the footpath to the Reception/Lobby on Ground Floor includes stairs is capable of being accessible compliant and as such this proposed arrangement is considered compliant with D2.2, subject to the provision of details at the CC Application stage.*



#### 50. Clause D3.3 – Parts of the Building to be Accessible

This part specifies the requirements for accessways within buildings which must be accessible and compliant with the requirements of AS 1428.1-2009.

In accordance with Clause D3.3; the non-fire-isolated stairways must comply with Clause 11 of AS 1428.1-2009 and the passenger lift must comply with Clause E3.6.

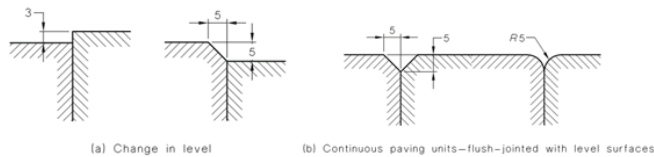
Clause D3.3(g) and (h) requires that the pile height or pile thickness shall not exceed 11mm and the carpet backing thickness shall not exceed 4mm. Moreover, the carpet pile height or pile thickness dimension shall not exceed 11mm, the carpet backing thickness dimension shall not exceed 4mm and their combined dimension shall not exceed 15mm.

*Comments:* The following is a summary of some of the key matters which need to be considered in all areas required to be accessible/compliant with AS 1428.1-2009:

- + Access for persons with disabilities must be provided, at a minimum, to and within all areas normally used by the occupants. This includes to and within all common areas.

##### Accessways and Doors

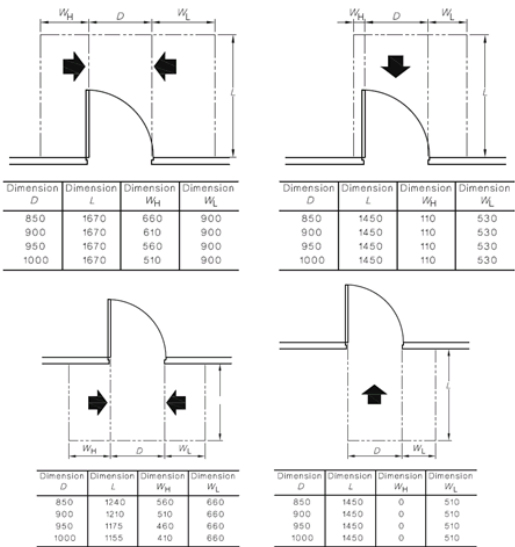
- + The minimum width of an accessible doorway must have a clear opening width of not less than 850mm in accordance with AS1428.1.
- + All doorways on a continuous path of travel (i.e. throughout all new parts of the Club and the accessible pathways in the existing areas) shall have a minimum luminance contrast of 30% provided between: door leaf and door jamb; or door leaf and adjacent wall; or architrave and wall; or door leaf and architrave; or door jamb and adjacent wall. The minimum width of the area of luminance contrast shall be 50mm.
- + New Internal surfaces are to comply with Section 7 of AS1428.1-2009.
- + New Internal tiles or internal vinyls are to comply with AS 4586.
- + All finished floor surfaces are to be trip free, the following details demonstrate the tolerance level for floor finishes:



- + Any proposed carpets within the building are to have a pile height or pile thickness not exceeding 11mm and the carpet backing thickness shall not exceed 4mm (total thickness shall not exceed 15mm).

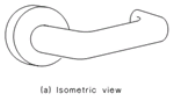


- + Circulation space to the new doorways that are required to be accessible are to comply with Section 13 of AS1428.1-2009, examples of requirements below.

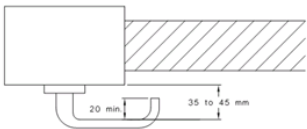


Circulation space requirements at doorways

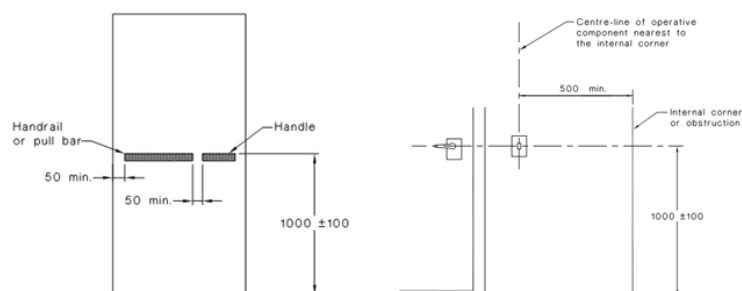
- + Turning Spaces and Passing Spaces in Common Corridors are required to be provided on each level in accordance with Clauses 6.4 & 6.5 of AS 1428.1-2009.
- + All frameless glass panels or fully glazed doors on an accessway are to be clearly marking in accordance with AS 1428.1. In this instance, all frameless glass panel or fully glazed doors, including glazing capable of being mistaken for a doorway or opening, shall be marked with a full width solid non-transparent contrast line not less than 75mm wide is required to be located between 900mm and 1000mm above floor level.
- + All door handles and related hardware to new doorways required to be accessible shall be of a type that allows the door to be unlocked and opened with one hand in accordance with AS1428.1-2009:



(a) Isometric view

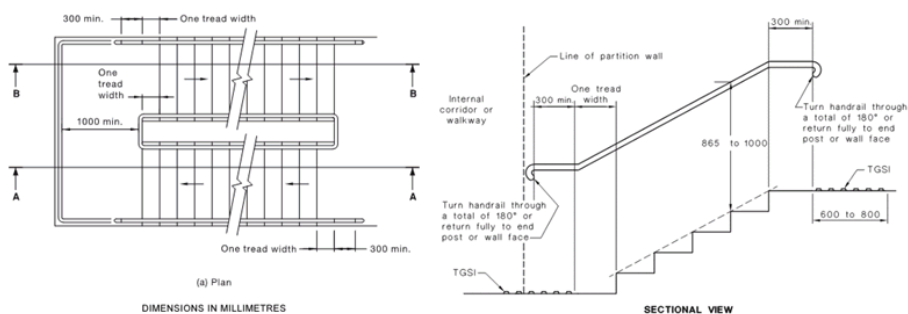


- + All switches and controls, other than general purpose outlets, shall be located not less than 900 mm nor more than 1,100 mm above the FFL and not less than 500 mm from internal corners except where on the architrave on the latch side as shown in Figure 37:



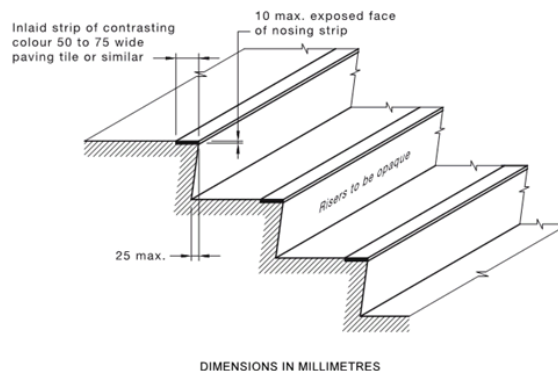
#### Stairways & Ramps

- + Every stairway must be constructed in accordance with Clause 11 of AS1428.1, except if they are within a fire isolated exit. As such, the stairways must be designed to comply with the accessibility requirements of Clause 11 of AS1428.1-2009 and details will need to be confirmed on the plans for CC. This should be reviewed prior to submission.



#### Stairway and handrail requirements

- + Stairs shall have opaque risers (i.e. Solid) and Stair nosing's shall comply with the following diagram, which achieve a colour contrast luminance of 30% to the background (tread):



#### Stairway nosing requirements

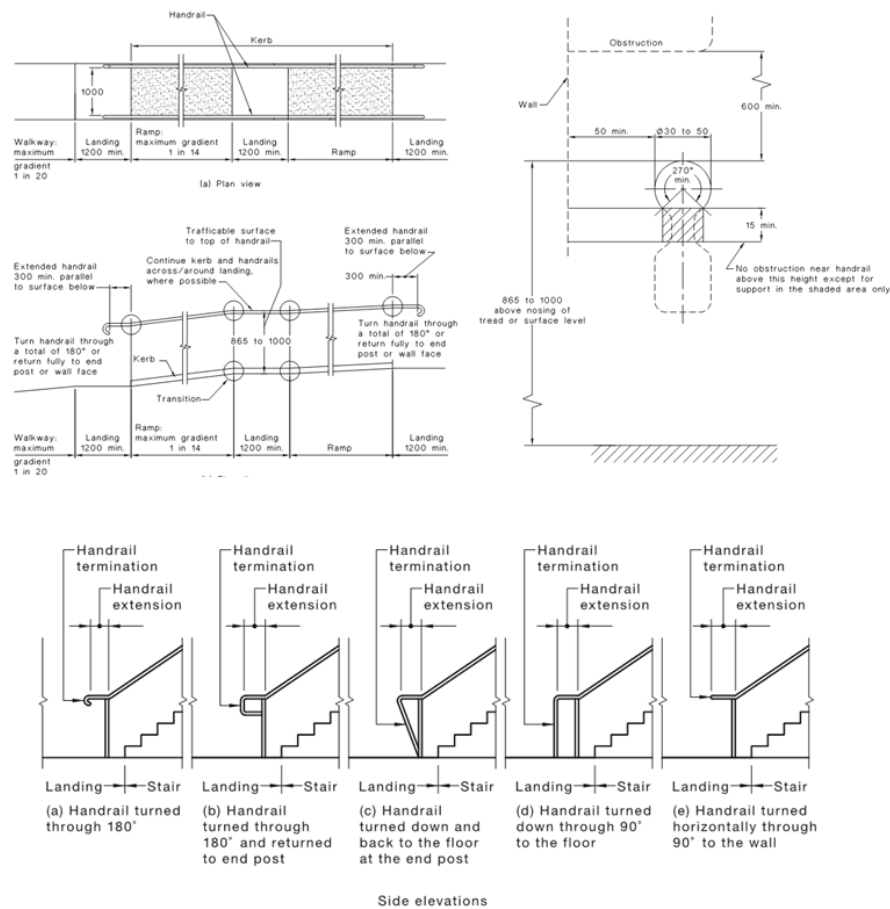
- + Stairways (and 1:14 accessible ramps) are to be served by Tactile Ground Surface Indicators in accordance with AS1428.4.1, except if they are within a fire isolated exit.



- + Ramps must be designed in accordance with Clause 10.3 of AS 1428.1-2009 with a maximum gradient of 1:14, landing at 9m intervals, compliant handrails/kerb rails and appropriate circulation space at landings where there is a change of direction and at the discharge level per Figure 14.

#### Handrails

- + Handrails shall be installed along stairways as follows:
  - o Shall be continuous through the flight and where practicable, around landings and have no obstruction on or above up to a height of 600mm,
  - o Installed along both sides of the stairway (giving consideration also to 1m unobstructed width),
  - o See Clause D2.17 for requirements applicable to handrails in Fire Stairs.



#### Accessible & Ambulant Toilets

- + The size and scale (including the fixtures contained therein) of unisex accessible sanitary facility is required to comply with Section 15 of AS1428.1-2009
- + The configuration and fixtures contained therein the ambulant sanitary facilities are required to comply with Section 16 of AS1428.1-2009.





#### Signage

Signage, including Braille & tactile signage where appropriate, is required to comply with BCA clause D3.6 and Section 8 of AS 1428.1-2009 for sanitary facilities, ambulant facilities and disabled car parking spaces. In addition, the signage to the accessible toilet facilities is to also identify the facility for left and right-handed use.

#### **51. Clause D3.5 – Accessible Carparking**

This part provides details of the number of accessible carparking spaces required in a carpark depending on the classification of the building.

Comments: Accessible compliant carparking is required to be provided at the following rates:

- + Class 3 Hotel – by multiplying the total number of carparking spaces by 5%
- + Class 6 & 9b – 1 accessible compliant space per 50 parking spaces provided on site.

Note: Compliance is readily achievable – details demonstrating compliance are to be provided at the CC Application stage.

#### **52. Clause D3.6 – Signage**

Braille and tactile signage must be provided to required accessible sanitary facilities, spaces with hearing augmentation, ambulant sanitary facilities, pedestrian entrances that are not accessible, **and** to each door required by Clause E4.5 to be provided with an exit sign. The latter is to state EXIT and state the level eg. LEVEL 1.

Comments: Architect to note – compliant braille signage required at ground floor building entries, to accessible WC's, gymnasium, Meeting Rooms and exits on all levels.

#### **53. Clause D3.8 – Tactile Indicators**

This clause provides for the installation of tactile indicators in buildings required to be accessible and must be provided to warn people who are blind or have a vision impairment that they are approaching a stairway, escalator, passenger conveyor, ramp, overhead obstruction or an accessway meeting a vehicular way, except for areas exempted by D3.4.

Comments: Stairways and ramps serving the building, and any overhead obstruction within 2m of the floor level will need to be provided with Tactile Ground Surface Indicators in accordance with AS1428.4.

#### **54. Clause D3.12 – Glazing on an Accessway**

This part requires the provision of a contrasting strip, chair rail, handrail or transom across all frameless or fully glazed doorways and surrounding glazing capable of being mistaken for an opening.

Comments: Architect to note.

### **SECTION E – SERVICES AND EQUIPMENT**

#### **PART E1 FIRE FIGHTING EQUIPMENT**

#### **55. Clause E1.3 - Fire Hydrants**

A fire hydrant system must be provided to serve a building having a total floor area greater than 500m<sup>2</sup> and where a fire brigade is available to attend a building fire, installed in accordance with the provisions of AS2419.1-2005.

The hydrant booster assembly and any external fire hydrants are required to be located greater than 10 metres from an external wall of the building, or affixed to the external wall and protected by a radiant heat shield that has an FRL of 90/90/90 located 2 metres either side and 3 metres above the outlets.

Any gas meter must be located a minimum of 10 metres from the hydrant booster outlet.

A required fire services pump room is required to be accessible directly from the road or open space, or from a door opening from a fire isolated exit.

Comments: Detailed plans showing the location of the hydrants (and booster assembly) providing coverage to all areas of the building and a design certificate to AS2419.1-2005 is to be provided with the application for a construction certificate. Hydrant booster (and sprinkler booster) assemblies are required to be protected from the adjoining parts of the building with fire rated construction per Clause 7.3(c) AS2419.1-2005 – the current design does not appear to be compliant with this provision and may require a Performance Solution from a Fire Engineer.



*In addition, as the effective height of the building exceeds 25m a ring main will be required to be provided as part of the hydrant system design in accordance with AS 2419.1-2005.*

*Note: Attention is drawn to the requirements of Clause E1.9 for the provision of a compliant hydrant system during construction of the building after the effective height of the structure is greater than 12m builder to note.*

#### **56. Clause E1.4 – Fire Hose Reels**

A fire hose reel system must be provided to serve a building where one or more internal fire hydrants are installed or in a building with a floor area greater than 500m<sup>2</sup>.

Fire Hose Reels are to be located within 4m of an exit, or located adjacent to an internal hydrant (other than one within a fire isolated exit). Where system coverage is not achieved by the above, additional FHR may be located in paths of travel to an exit.

We note that BCA 2014 does not require the installation of Fire Hose Reels to service the Class 3 parts of the building subject to compliance with the requirements of Clause E1.6 relating to the installation of portable fire extinguishers.

A fire hose reel system must be provided to serve a building where one or more internal fire hydrants are installed or in a building with a floor area greater than 500m<sup>2</sup> and for the purposes of this clause, a sole-occupancy unit in a Class 2, 3 building or a Class 4 part is considered to be a fire compartment.

*Comments: A plan shall be provided with the construction certificate documentation together with a design certificate to AS2441-2005 that details the coverage provided by the fire hose reels required in the Class 6 and 9b portions of the building. Note: No fire hose reels are required to serve the Class 3 areas on Levels 1-7.*

#### **57. Clause E1.5 – Sprinklers**

A sprinkler system must be installed in a building or part of a building when required by Table E1.5 and comply with Specification E1.5.

Sprinkler alarm valves must be located in a secure room or enclosure which has direct egress to a road or open space.

Table E1.5 sets out which types of building occupancies and Classes which require having sprinkler systems installed in them.

*Comments: As the building has effective height of greater than 25m, the building must be provided with a sprinkler system throughout with a Grade 1 water supply in accordance with AS 2118.1-1999. Note: The hydrant booster assembly provisions outlined under E1.3 above are also applicable to the sprinkler booster assembly under the new AS 2118.1-2017 provisions.*

#### **58. Clause E1.6 – Portable Fire Extinguishers**

Portable fire extinguishers must be provided as listed in Table E1.6 and must be selected, located and distributed in accordance with Sections 1, 2, 3 and 4 of AS 2444.

In Class 2 or 3 building, portable fire extinguishers must be provided where internal fire hydrants are installed or where the fire compartment size is greater than 500m<sup>2</sup>. Installation of the portable fire extinguishers required in a Class 2 or 3 building must comply with the following criteria

- + Must be an ABE type fire extinguisher,
- + Must have a minimum size of 2.5L
- + Must be installed on the storey to which they serve, within 10m of all entrance doorways of the SOU's on that storey.

*Comments: In the Class 3 component of the building portable extinguishers are required to be installed in accessible enclosures (or equivalent) in locations that are no greater than 10m from the entry door of each SOU/Hotel Room. Details demonstrating compliance are to be included on the CC Application plans.*

#### **59. Clause E1.8 Fire Control Centres**

Where the Effective Height of a building exceeds 25m or the floor area of a Class 6, 7, 8, or 9 building exceeds 18,000m<sup>2</sup> a Fire Control Centre is required that complies with Clauses 2-5 of Spec. E1.8. Where the Effective Height of a Building exceeds 50m a Fire control Room is required that complies with Clauses 2-12 of Spec. E1.8.

*Comments: As the Effective Height of the Building exceeds 25m a compliant Fire control Centre is required. Details demonstrating compliance are to be included on the CC Application plans.*





## Part E2 Smoke Hazard Management

### 60. Clause E2.2 – General Requirements

Class 2 to 9 buildings must comply with the provisions of this Clause to remove smoke during a fire, to control the operation of air handling systems and to prevent the spread of smoke between compartments.

Buildings must comply with the provisions of **Table E2.2a**, as applicable to Class 2 to 9 buildings and **Table E2.2b** as applicable to Class 6 and 9b buildings. It deals with the design and construction of air handling systems that are part of a smoke hazard management system and air handling system that are not part of a smoke hazard management system.

The details relating to the installation and operation of the systems are set out in **Specifications E2.2a, E2.2b and E2.2c**.

*Comments: As the effective height of the building exceeds 25m the following smoke hazard management requirements apply:*

- + Zone Pressurisation System in accordance with AS/NZS 1668.1-2015 (only required on Ground Floor if multiple fire compartments are proposed to address C2.8 compliance).
- + Stair Pressurisation System in accordance with AS/NZS 1668.1-2015 (Note: As fire stairs to the basement connect less than 3 levels below ground they are not required to be pressurised – this only applies to the fire stairs serving the upper levels).
- + Smoke Detection and Alarm System in accordance with Spec. E2.2a and AS 1670.1-2005 and AS/NZS 1668.1-2015.

*Design certification shall be provided with the documentation submitted with the construction certificate application. It is noted that if an alternative solution is proposed for deletion of the zone smoke control system to the Ground Floor the relevant Performance Requirement is EP2.2.*

## PART E3 LIFT INSTALLATIONS

### 61. Clause E3.2 – Stretcher Facility in Lifts

Stretcher facilities, complying with this clause, must be provided in lifts in at least one emergency lift as required by E3.4 or in a storey above an effective height of 12m.

A stretcher facility must accommodate a raised stretcher with a patient lying on it horizontally by providing a clear space not less than 600mm wide x 2000mm long x 1400mm high above the floor level.

*Comments: The lifts within the building serve storeys above an effective height of 12m and as such one of the lifts is required to be provided to accommodate a stretcher in accordance with the requirements of the clause above. A design certificate from the lift supplier shall be provided with the documentation submitted with the construction certificate application.*

### 62. Clause E3.3 – Warning Against use of Lifts in Fire

Warning signs required be provided must be displayed where they can be readily seen and must comply with the details and dimensions of **Figure 3.3**.

*Comments: Compliance is readily achievable. Details to be confirmed with the documentation provided with the construction certificate application.*

### 63. Clause E3.4 – Emergency Lifts

An emergency lift (complying with AS1735.2 or Appendix A of AS1735.1) must be installed in:

- + A building that exceeds 25m in effective height; and
- + A Class 9a building which has patient care areas located on a level that does not have direct egress to a road or open space.

The emergency lift must be contained within a fire resisting shaft; and have minimum internal dimensions in accordance with the Stretcher Lift requirements of E3.2.

In addition, a minimum of two emergency lifts must be provided where more than one lifts serves each floor and emergency lifts must be included in each bank of lifts where more than one bank of lifts serves the building.



*Comments: A minimum of two emergency lifts must serve each level of the building, with at least one emergency lift being provided to each bank of lifts located within separate shafts. Design certification will be required in this regard at CC Application stage.*

**64. Clause E3.5 – Landings**

Access and egress to and from lift well landings must comply with the Deemed-to-Satisfy Provisions of Part D.

*Comments: Design certification from the lift supplier shall be provided with the documentation submitted with the construction certificate application.*

**65. Clause E3.6 – Passenger Lifts**

In an accessible building, every passenger lift must be one of the types identified in **Table E3.6a**, have accessible features in accordance with **Table E3.6b** and not rely on a constant pressure device for its operation if the lift car is fully enclosed.

*Comments: The passenger lifts are required to be designed to comply with AS1735.2 and AS1735.12. Design documentation shall be provided with the application for the construction certificate.*

**66. Clause E3.7 – Fire Service Controls**

In passenger lifts designed in accordance with AS 1735 Parts 1 and 2, all lift cars serving any storey above an effective height of 12m must be provided with fire service controls.

*Comments: Design certification from the lift supplier shall be provided with the documentation submitted with the construction certificate application.*

**67. Clause E3.9 – Fire Service Recall Operations Switch**

Each group of lifts must be provided with one fire service control switch (required by Clause E3.7 above) that activates the fire service recall operation. This clause details the switch, the labelling, the key and operation procedures for a fire service recall operation.

*Comments: Design certification from the lift supplier shall be provided with the documentation submitted with the construction certificate application.*

**68. Clause E3.10 – Lift Car Fire Service Drive Control Switch**

The lift car fire service drive control switch required by E3.7 must be activated from within the lift car. This clause details the switch, the initiation, the labelling and operation for the fire service drive control switch.

*Comments: Design certification from the lift supplier shall be provided with the documentation submitted with the construction certificate application.*

**EMERGENCY LIGHTING, EXIT SIGNS AND WARNING SYSTEMS**

**69. Clause E4.2 – Emergency Lighting Requirements**

This clause details when emergency lighting must be installed in Class 2 to 9 buildings. The requirements for buildings and parts of buildings are detailed in sub-clauses (a) to (i) and each sub-clause must be considered as more than one may apply to any single building

*Comments: Design details shall be provided with the documentation provided with the occupation certificate application.*

**70. Clause E4.5 – Exit Signs**

An exit sign must be clearly visible to persons approaching the exit and must be installed on, above or adjacent to each door providing egress from a building. Sub-clauses (a) to (d) set out the situations where exit signs are required to be installed.

*Comments: Design details shall be provided with the documentation provided with the occupation certificate application.*

**71. Clause E4.6 – Direction Signs**

If an exit is not readily apparent to persons occupying or visiting the building then exit signs must be installed in appropriate positions in corridors, hallways, lobbies, and the like, indicating the direction to a required exit.



*Comments:* Design details shall be provided with the documentation provided with the occupation certificate application.

**72. Clause E4.8 – Design & Operation of Exit Signs**

Every required exit sign must comply with AS/NZS 2293.1 and be clearly visible at all times when the building is occupied by any person having the legal right of entry into the building.

*Comments:* Design details shall be provided with the documentation provided with the occupation certificate application.

**73. Clause E4.9 – Sound System and Intercom Systems for Emergency Purposes**

This clause sets out the types of buildings requiring the installation of a sound system and intercom system to assist with the emergency evacuation of occupants. This clause specifies that sound and intercom systems must comply with AS 1670.4 and is to be provided within certain Class 3, Class 9a and Class 9b buildings, and also is to be installed in every building with an effective height greater than 25m, or where there is an atrium.

*Comments:* The subject building exceeds 25m in effective height and as such is required to be served by a sound system and intercom system for emergency purposes (SSISEP) in accordance with AS 1670.4. Design certification will be required at CC Application in this regard.



## **SECTION F – HEALTH & AMENITY**

### **Part F1 Damp and Weatherproofing**

#### **74. Performance Requirement FP1.4**

A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause

- a) Unhealthy or dangerous conditions, or loss of amenity for occupants; and
- b) Undue dampness or deterioration of building elements.

Note 1: There are no Deemed-to-Satisfy provisions for this Performance Requirement in respect to External Walls.

Note 2: Refer to Clause F1.5 for roof coverings.

Comments: Design statement and a documented Performance Solution is to be provided with the Construction Certificate application, either by using:

- + The Verification Methods in Clause FV1; or
- + Other verification methods deemed acceptable by the Certifier; or
- + Evidence to support that the use of the material or product, form of construction or design meets the Performance Requirements or the DTS provisions, such as a Certificate of Conformity (e.g. CodeMark); or
- + By way of Expert Judgement.

#### **75. Clause F1.1 – Stormwater drainage**

Stormwater drainage must comply with AS/NZ 3500.3.

Comments: Design statements to be provided with the construction certificate application.

#### **76. Clause F1.7 – Waterproofing of Wet Areas**

This clause requires that wet areas in Class 2 to 9 buildings must be waterproofed. It prescribes the standards to which the work must be carried on the construction of rooms containing urinals and their installation.

Comments: Details to be provided with the application for the construction certificate.

#### **77. Clause F1.11 – Provision of Floor Wastes**

In a Class 2 or 3 building or Class 4 part of a building, the floor of each bathroom and laundry located above a sole-occupancy unit or public space must be graded to permit drainage to a floor waste.

Comments: Details to be provided with the application for the construction certificate.

### **PART F2 SANITARY AND OTHER FACILITIES**

#### **78. Clause F2.1 – Facilities in Residential Buildings**

Sanitary and other facilities for Class 2 and 3 buildings and Class 9c aged care buildings and for Class 4 parts of buildings must be provided in accordance with **Table F2.1**. This Table details the facilities required to be provided in residential buildings.

Comments: Final Design Details of the Class 3 Hotel Rooms will be required to be submitted at CC Application Stage – compliance is readily achievable.

#### **79. Clause F2.2 – Calculation of Number of Occupants & Facilities**

This clause sets out the requirements for the calculation of the number of occupants and the number of sanitary facilities required to be installed in Class 2 to 9 buildings. The parameters for the calculation are set out in sub-clauses (a) to (d).

Comments: See D1.13 above – further details required.

#### **80. Clause F2.3 – Facilities in Class 3 to 9 Buildings**

This clause provides the requirements for sanitary facilities to be installed in Class 3, 5, 6, 7, 8 and 9 buildings in accordance with Table F2.3.

When accessible sanitary facilities are provided, they account once for each sex.

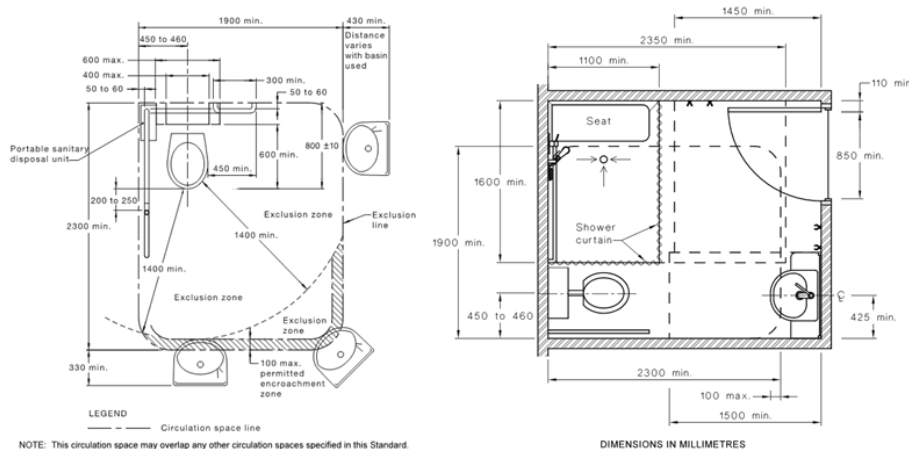


*Comments:* The proposed sanitary facility numbers on all levels are considered compliant with the provisions of Table E2.3

## 81. Clause F2.4 – Accessible Sanitary Facilities

Accessible unisex sanitary compartments must be provided, in accordance with **Table F2.4(a)** and unisex showers must be provided in accordance with **Table F2.4(b)**, in buildings or parts that are required to be accessible. The details for the provision of disable facilities and the standard, AS 1428.1, are set out in sub-clauses (a) to (i).

Comments: The accessible sanitary facilities provided to the Ground Floor and the accessible Hotel Rooms on Levels 1-7 are required to comply with the requirements of AS1428.1-2009. Details and design certification shall be provided with the documentation submitted with the construction certificate application. In addition, ambulant compliant WC pans are to be provided in the Male and Female bathrooms on the Ground Floor adjacent to the accessible WC (but will not be required in the staff toilets). Details demonstrating compliance are to be included in the CC Application plans – minimum required dimensions are detailed in the diagram from AS 1428.1-2009 below



## 82. Clause F2.5 – Construction of Sanitary Compartments

Other than in an early childhood centre, sanitary compartments must have doors and partitions that separate adjacent compartments and extend –

- + from floor level to the ceiling in the case of a unisex facility; or
- + a height of not less than 1.5m above the floor if primary school children are the principal users; or
- + 1.8m above the floor in all other cases.

The door to a fully enclosed sanitary compartment must open outwards; or slide; or be readily removable from the outside of the sanitary compartment, unless there is a clear space of at least 1.2m, measured in accordance with Figure F2.5 between the closet pan within the sanitary compartment and the doorway.

*Comments: Details to be provided at CC application stage.*

### PART F3 ROOM HEIGHTS

### 83. Clause F3.1 Height of Rooms and other spaces

The ceiling heights in Class 2 to 9 buildings must not be less than required in sub-clauses (a) to (f) of this clause.

The ceiling heights are prescribed and should be checked for all classes and parts during assessment or the design process.

The ceiling minimum heights for a Class 6 building are as follows:

- + Corridor or passage – 2.1m





- + Bathroom, storeroom, etc – 2.1m
- + Remainder – 2.4m.

The ceiling minimum heights for a Class 9b building (under 100 persons) are as follows:

- + Corridor or passage – 2.4m
- + Bathroom, storeroom, etc – 2.1m
- + Remainder – 2.4m.

The ceiling minimum heights for a Class 2 or 3 building are as follows:

- + Kitchen, laundry or the like – 2.1m
- + Corridor, passageway or the like – 2.1m
- + Habitable rooms excluding the kitchen – 2.4m.

*Comments:* Architect to ensure compliance with the above criteria. Details demonstrating compliance are to be provided with CC Application plans.

#### **PART F4 LIGHT AND VENTILATION**

##### **84. Clause F4.1 – Provision of natural Light**

Natural lighting must be provided in:

- + Class 2 buildings and Class 4 parts of buildings – to all habitable rooms.
- + Class 3 buildings – all bedrooms and dormitories

*Comments:* Detailed plans to be reviewed with the construction certificate application and certification provided.

##### **85. Clause F4.2 - Methods & Extent of Natural Lighting**

Sub-clauses (a), (b) & (c) set out the requirement that natural light must be provided by windows and the size and location of such windows. Natural light can also be provided by the use of rooflights in accordance with the provisions of this Clause.

**Note:** the Guide to the BCA, as part of the commentary under **F4.2**, contains an example for determining proportional combination of windows and rooflights. **Figure F4.2(1)** in the Guide to the BCA contains an elevation showing method of measuring distance of window from boundary. **Figure F4.2(2)** contains an illustration of window sill in aged care building.

*Comments:* Detailed plans to be reviewed with the construction certificate application and certification is to be provided at CC application stage.

##### **86. Clause F4.4 – Artificial Lighting**

Artificial lighting is required where it is necessary to minimise the hazard to occupants during an emergency evacuation. Sub-clauses (a), (b) & (c) sets out the places where artificial lighting is always required in all classes of buildings and the standard to which it must be installed.

*Comments:* Compliance is readily achievable. Design documentation shall be provided with the construction certificate application.

##### **87. Clause F4.5 – Ventilation of Rooms**

A habitable room, office, shop, factory, workroom, sanitary compartment, bathroom, shower room, laundry and any other room occupied by a person for any purpose must have natural ventilation complying with F4.6 or a mechanical or air-conditioning system complying with AS1668.2 and AS/NZS 3666.1.

*Comments:* Detailed review of any window openings to be used for natural ventilation is to be undertaken with the application for the construction certificate. Design documentation shall be provided from the mechanical consultant for all ventilation to the building with the construction certificate documentation.

##### **88. Clause F4.6 – Natural Ventilation**

Natural ventilation provided in accordance with F4.5(a) must consist of permanent openings, windows, doors or other devices which can be opened in accordance with sub-clauses (a), (b) & (c).



*Comments:* Detailed review of any window openings to be used for natural ventilation is to be undertaken with the application for the construction certificate. Design documentation shall be provided from the mechanical consultant for all ventilation to the building with the construction certificate documentation.

#### 89. Clause F4.11 – Carparks

Every storey of a carpark except an open-deck carpark must have-

- (a) A system of ventilation complying with AS 1668.2; or
- (b) An adequate system of permanent natural ventilation.

*Comments:* It is noted that the main driveway area and carparking on ground floor are proposed to be naturally ventilated – verification of compliance is to be provided by the Mechanical Engineer with their design statement at the CC Application stage.

### **PART F5 SOUND TRANSMISSION AND INSULATION**

#### 90. Clause F5.4 – Sound Insulation Rating of Floors

The sound rating of floors in a Class 2 or 3 building must be calculated in accordance with the requirements of sub-clause (a) and the floors in a Class 9c aged care building must be calculated in accordance with sub-clause (b). The deemed-to-satisfy construction requirements are set out in **Specification F5.2. Table 3A** of the Specification prescribes Acceptable Forms of Construction for Floors.

*Comments:* Details to be provided with the construction certificate documentation. It is recommended that an Acoustic Consultant be engaged to confirm compliance with the requirement of this clause have been achieved.

#### 91. Clause F5.5 – Sound Insulation Rating of Walls

The sound rating required for walls in Class 2 and 3 buildings and Class 9c aged care buildings is set out in sub-clauses (a) to (f). The deemed-to-satisfy construction requirements are set out in **Specification F5.2. Table 2A** of the Specification prescribes Acceptable Forms of Construction for Walls.

*Comments:* Details to be provided with the construction certificate documentation. It is recommended that an Acoustic Consultant be engaged to confirm compliance with the requirement of this clause have been achieved.

#### 92. Clause F5.6 – Sound Insulation Rating of Services

This clause details the separation requirements for services. The requirements only apply to services which pass through more than one sole-occupancy unit or are located in a wall or floor cavity which separates sole-occupancy units. F5.6 does not apply if the pipe is only located in a single unit or any part of a Class 2, 3 or 9c building which is not part of a sole-occupancy unit.

*Comments:* Details to be provided with the construction certificate documentation. It is recommended that an Acoustic Consultant be engaged to confirm compliance with the requirement of this clause have been achieved.

#### 93. Clause F5.7 – Sound Isolation of Pumps

A flexible coupling must be used at the point of connection between the service pipes in a building and any circulating or other pump.

*Comments:* Details to be provided with the construction certificate documentation. It is recommended that an Acoustic Consultant be engaged to confirm compliance with the requirement of this clause have been achieved.

### **SECTION J – ENERGY EFFICIENCY**

#### 94. Part J1 – Building Fabric

The provision of insulation of the building envelope will be required in the proposed Building, in accordance with **Clauses J1.0 to J1.6**, and the **Tables therein**, including Thermal Construction General, Roof and Ceiling Construction, Rooflights, Walls, and Floors. Design details and/or certification of design will be required to be provided in this regard.

*Comments:* Refer to ESD/Section J Consultant's Report.





**95. Part J2 – Glazing**

Glazing within the external building envelope will be required to be assessed/designed to achieve compliance with **Clauses J2.0 to J2.5**, including the **Tables therein**, having regard to the maximum aggregate air-conditioning energy attributable to each façade of the proposed building. A calculation demonstrating that the proposed design of the building complies with the requirements of **Part J2** is required to be provided in this regard.

*Comments:* Refer to ESD/Section J Consultant's Report.

**96. Part J3 – Building Sealing**

The proposed building envelope will be required to be sealed to prevent air infiltration in accordance with the requirements of **Clauses J3.0 to J3.6**. Details or certification that the proposed building design complies with the requirements of **Part J3** is required to be provided.

*Comments:* Refer to ESD/Section J Consultant's Report.

**97. Part J5 – Air-Conditioning & Ventilation Systems**

Details and/or design certification which confirm that any proposed air-conditioning system or unit within the proposed building achieves compliance with the relevant requirements of **Part J5** will be required to be provided from the mechanical engineer.

*Comments:* Refer to ESD/Section J Consultant's Report.

**98. Part J6 – Artificial Lighting & Power**

Details and/or design certification which confirm that all artificial lighting, power control, and boiling/chilled water units within the proposed building achieves compliance with the relevant requirements of **Part J6** will be required to be provided from the electrical engineer.

*Comments:* Refer to ESD/Section J Consultant's Report.

**99. Part J7 – Heated Water Supply & Swimming Pool & Spa Pool Plant**

Details and/or design certification which confirm that any proposed hot water supply system within the proposed building achieves compliance with the relevant requirements of **Part J7** (Section 8 of AS 3500.4) will be required to be provided from the hydraulic engineer.

*Comments:* Refer to ESD/Section J Consultant's Report.

**100. Part J8 – Facilities for Energy Monitoring**

Provision for monitoring of energy consumption must be provided to a building where the floor area exceeds 500m<sup>2</sup>, and must be capable of recording the consumption of gas and electricity. In addition, where the floor area of the building exceeds 2,500m<sup>2</sup> the energy monitoring facilities must be capable of individually recording air-conditioning, lighting, appliance power, central hot water supply, lifts/escalators, and other ancillary plant.

*Comments:* Refer to ESD/Section J Consultant's Report.



### C. CONCLUSION

This report contains an assessment of the referenced architectural documentation for the proposed hotel building at 40-54 Baxter Rd, Mascot against the Deemed-to-Satisfy Provisions of the BCA 2016 Amendment 1. Arising from the review, it is considered that the proposed development can readily achieve compliance with the relevant provisions of the BCA.

The following fire safety measures are required for the proposed building, however, the following list may change as a result of the Alternative Solutions referenced above:

Essential Fire and Other Safety Measures	Standard of Performance
Access Panels, Doors & Hoppers	BCA Clause C3.13 & AS 1530.4 - 2005
Alarm Signaling Equipment	AS1670.3 – 2004
Automatic Fire Detection & Alarm System	BCA Spec. E2.2a & AS 1670.1 - 2015.
Automatic Sprinkler System	BCA Spec. E1.5 and AS 2118.1-2017 (and AS 2118.6-2012 if a combined hydrant and sprinkler system is proposed)
Emergency Lighting	BCA Clause E4.4 & AS 2293.1 - 2005
Emergency Lift	BCA Clause E3.5 & AS 1735.12-1999
Exit Signs	BCA Clauses E4.5, E4.6 & E4.8 and AS 2293.1 – 2005
Fire Dampers	BCA Clause C3.15, AS 1668.1 - 2015 & AS 1682.1 & 2 – 1990
Fire Doors	BCA Clause C2.12, C2.13, C3.2, C3.4, C3.5, C3.7, C3.8, C3.11 and AS 1905.1 – 2005
Fire Hose Reels	BCA Clause E1.4 & AS 2441 – 2005
Fire Hydrant Systems	Clause E1.3 & AS 2419.1 - 2005
Fire Seals	BCA Clause C3.15 & AS 1530.4 – 2005 & AS 4072.1 – 2005
Fire Shutters (TBC)	BCA Spec. C3.4 & AS 1905.2 – 2005
Fire Windows (TBC)	BCA Spec. C3.4
Lightweight Construction	BCA Clause C1.8 & AS 1530.3 – 1999
Mechanical Air Handling Systems	BCA Clause E2.2, AS/NZS 1668.1 - 2015 & AS 1668.2 – 2012
Paths of Travel	EP & A Regulation Clause 186
Portable Fire Extinguishers	BCA Clause E1.6 & AS 2444 – 2001
Wall wetting sprinklers (TBC)	BCA Clause C3.4 & AS 2118.2 – 1995
Smoke Hazard Management Systems, incl. Exit Stair Pressurisation and Zone Pressurisation Systems**	BCA Table E2.2a & AS 1668.1-2015
Sound System & Intercom System for Emergency Purposes (SSISEP)	BCA Clause E4.9 & AS 1670.4-2015
Stretcher Lift	BCA Clause E3.2
Warning & Operational signs	Section 183 of the EP & A Regulations 2000, AS 1905.1 - 2005, BCA Clause C3.6, D2.23, E3.3

*Note 1: The measures included and the standards of performances nominated above may vary as a result of any proposed fire engineered alternative solutions.*

*Note 2: \*\*Zone Pressurisation is only required if the Ground Floor Level is divided into multiple fire compartments.*



## D. APPENDIX 1

TABLE 3 TYPE A CONSTRUCTION: FRL OF BUILDING ELEMENTS

Building element	Class of building — FRL: (in minutes)		
	<u>Structural adequacy/ Integrity/ Insulation</u>		
	2, 3 or 4 part	5, 7a, 9b	6
<b>EXTERNAL WALL</b> (including any column and other building element incorporated therein) or other external building element, where the distance from any <u>fire-source feature</u> to which it is exposed is—			
For <u>loadbearing</u> parts—			
less than 1.5 m	90/ 90/ 90	120/120/120	180/180/180
1.5 to less than 3 m	90/ 60/ 60	120/ 90/ 90	180/180/120
3 m or more	90/ 60/ 30	120/ 60/ 30	180/120/ 90
For non- <u>loadbearing</u> parts—			
less than 1.5 m	—/ 90/ 90	—/120/120	—/180/180
1.5 to less than 3 m	—/ 60/ 60	—/ 90/ 90	—/180/120
3 m or more	—/—/—	—/—/—	—/—/—
<b>EXTERNAL COLUMN</b> not incorporated in an <u>external wall</u> , where the distance from any <u>fire-source feature</u> to which it is exposed is—			
less than 3 m	90/—/—	120/—/—	180/—/—
3 m or more	—/—/—	—/—/—	—/—/—
<b>COMMON WALLS and FIRE WALLS—</b>	90/ 90/ 90	120/120/120	180/180/180
<b>INTERNAL WALLS—</b>			
<u>Fire-resisting</u> lift and stair <u>shafts</u> —			
<u>Loadbearing</u>	90/ 90/ 90	120/120/120	180/120/120
Non- <u>loadbearing</u>	—/ 90/ 90	—/120/120	—/120/120
Bounding <u>public corridors</u> , public lobbies and the like—			
<u>Loadbearing</u>	90/ 90/ 90	120/—/—	180/—/—
Non- <u>loadbearing</u>	—/ 60/ 60	—/—/—	—/—/—



Building element	Class of building — FRL: (in minutes)		
	<u>Structural adequacy/ Integrity/ Insulation</u>		
	2, 3 or 4 part	5, 7a, 9b	6
Between or bounding <u>sole-occupancy units</u> —			
<u>Loadbearing</u>	90/ 90/ 90	120/—/—	180/—/—
Non- <u>loadbearing</u>	—/ 60/ 60	—/—/—	—/—/—
Ventilating, pipe, garbage, and like <u>shafts</u> not used for the discharge of hot products of combustion—			
<u>Loadbearing</u>	90/ 90/ 90	120/ 90/ 90	180/120/120
Non- <u>loadbearing</u>	—/ 90/ 90	—/ 90/ 90	—/120/120
<b>OTHER LOADBEARING INTERNAL WALLS, INTERNAL BEAMS, TRUSSES</b>			
<b>and COLUMNS—</b>	90/—/—	120/—/—	180/—/—
<b>FLOORS</b>	90/ 90/ 90	120/120/120	180/180/180
<b>ROOFS</b>	90/ 60/ 30	120/ 60/ 30	180/ 60/ 30

## Document Control

Job No: 213335

Principal Author: Howard Moutrie	Issue.	Revision	Date
	-	original	16-09-2013
	A	DA submission	19-09-2013
	B	S96	08-01-2018
	C	S455	11-09-2018

report**Statement of Compliance  
Access For People With A  
Disability****Hotel - 36 Baxter Rd Mascot****Accessible Building Solutions**124 Upper Washington Drive  
Bonnet Bay NSW 2226

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Howard Moutrie ACAA No 177



accessible  
building  
solutions

## Report

**Report Type:** BCA Access Provisions – Statement of Compliance  
**Development:** 36 Baxter Rd Mascot

### Introduction:

This report has been prepared to accompany a S96 Application and has been based on the following drawings prepared by FDAT Architects:

ID001.1.1.0	Site Plan
ID001.2.1.0	Ground Floor Plan
ID001.2.2.0	Plan Level 1
ID001.2.3.0	Plan Level 2
ID001.2.4.0	Plan Level 3
ID001.2.5.0	Plan Level 4
ID001.2.6.0	Plan Level 5
ID001.2.7.0	Plan Level 6
ID001.2.8.0	Plan Level 7

The report is not to be used for any other purpose than its original intention.

### Assessment:

#### Assessment Criteria

This assessment has been undertaken to the extent necessary to issue a development consent under the Environmental Planning and Assessment Act. Generally, assessment has been in regard to the capability of the proposal to achieve the spatial requirements to provide access for people with a disability and it is assumed that assessment of the detailed requirements will occur at CC stage.

Compliance is required with the following:

- The access provisions of the BCA
- The Access To Premises Standard
- The Council's DCP relating to Access for People with a Disability.
- AS 1428 suite of Standards
- AS 2890.6 for car parking

#### Assessment

The building is a hotel with some ground level parking, support facilities on the ground floor and 7 levels of rooms over. Under the BCA the building is classified as a Class 3 building with the bar/restaurant area considered as Class 6 and the meeting rooms Class 9b.

The changes to the proposal include changes to the internal room layout and the total number of rooms.

The following tables assess compliance with the relevant parts of the BCA and Standards

BCA & The Premises Standard Compliance

<b>D3 Access &amp; Egress</b>	
<b>Requirement</b>	<b>Class 3</b> <b>Common Areas</b> To at least 1 floor containing units, and any floor accessed by a lift or ramp, and to the entry door of all units on that floor  To and within not less than 1 of each type of common use facility  <b>Sole occupancy units</b> Not more than 2 sole occupancy units may be located adjacent to each other. They must represent a range of rooms available.  <b>Provide accessible sole occupancy units:</b> <ul style="list-style-type: none"> <li>(i) for 1 to 10 units to and within 1 unit</li> <li>(ii) for 11 to 40 units to and within 2 units</li> <li>(iii) for 41 to 60 units to and within 3 units</li> <li>(iv) for 61 to 80 units to and within 4 units</li> <li>(v) for 81 to 100 units to and within 5 units</li> <li>(vi) for 101 to 200 units to and within 5 + 1/25 units</li> <li>(vii) for 201 to 500 units to and within 9 + 1/30 units</li> <li>(viii) &gt; 500 to and within 19 units + 1/</li> </ul>
<b>Compliance</b>	Yes
<b>Comment</b>	230 rooms = 10 accessible rooms – 10 provided
<b>Requirement</b>	<b>Class 5,6, 7b &amp; 8</b> To all areas normally used by the occupants
<b>Compliance</b>	Yes
<b>Requirement</b>	<b>Class 9b</b> An assembly Building not being a School and early childhood centres Schools and early childhood centres  To wheelchair seating spaces To all other areas normally used by the occupants, except not to tiers and platforms that do not contain wheelchair seating
<b>Compliance</b>	
<b>Comment</b>	
<b>Requirement</b>	Required external access must be provided from <ul style="list-style-type: none"> <li>(i) The main pedestrian entry points at the allotment boundary</li> <li>(ii) from any other accessible building connected by a pedestrian link</li> <li>(iii) accessible carparking space</li> </ul>
<b>Compliance</b>	Yes
<b>Comment</b>	Direct access from Baxter St It is noted that access from the carpark to the entry is via the street footpath



<b>Requirement</b>	In a building required to be accessible an entry must be: (i) Through the principal entry (ii) Not less than 50% of all pedestrian entries (iii) In a building >500sqm a non accessible entry must be <50m from an accessible entrance (iv) If the doorways are separated by more than the width of a door leaf they will be considered as separate entrances
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	Where an accessible entry has more than 1 doorway, 50% of the doors shall be accessible if there are >3 doors
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	Where a doorway has multiple door leafs, unless it is auto opening, at least 1 leaf must have a clear opening of 850mm
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	In areas required to be accessible: (i) Every ramp or stairway which is not fire isolated must comply with AS 1428.1 (ii) Every lift must comply with E3.6 (iii) Passing bays must be provided at max 20m intervals (iv) Turning spaces must be provided at max 20m intervals and within 2m of a dead end passage (v) Carpet pile height shall comply with Clause D3.3 g & h
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	In a Class 5,6,7b or 8 building a ramp or lift need not be provided to a storey other than the entry level in a building containing: (i) Not more than 3 storeys (ii) Where the floor area of each floor, other than the entry floor is not more than 200sqm.
<b>Compliance Comment</b>	N/A
<b>Requirement</b>	It is not necessary to provide access to a. An area which would be inappropriate because of its particular use b. An area that would pose a health or safety risk for people with a disability c. a path of travel to a space exempted in (a) or (b).
<b>Compliance Comment</b>	Yes Some back of house areas may be excluded
<b>Requirement</b>	Class 1b and 3 Boarding house etc. – Number of spaces proportional to the number of accessible units or accessible bedrooms  Residential portion of school, health care building etc - Carparking @ 1 space per 100 spaces or part thereof
<b>Compliance Comment</b>	Yes 2 accessible provided

3/7

**Accessible Building Solutions**  
124 Upper Washington Drive,  
Bonnet Bay NSW 2226

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<b>Requirement</b>	<b>Class 6 &amp; 9b Carparking</b> a. up to 1000 spaces 1 per 50 b. in excess of 1000 1 per 100
<b>Compliance Comment</b>	N/A
<b>Requirement</b>	<b>Every building required to be accessible shall provide Braille and tactile signage to identify sanitary facilities, a space with hearing augmentation, where an entry is not accessible the location of the nearest accessible facility.</b>
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	<b>Signage must be provided within a room with hearing augmentation identifying:</b> i. the type of hearing augmentation ii. the area covered within the room iii. if receivers are being used and where they are obtained
<b>Compliance Comment</b>	Yes Verify at CC if required
<b>Requirement</b>	<b>For sanitary facilities signage must:</b> • identify the handling • identify on the door, if a facility is ambulant accessible • identify at a bank of facilities which does not contain an accessible facility, where the nearest accessible facility is located
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	<b>Hearing augmentation must be provided in a 9b building a judicial room, an auditorium, a ticket booth, reception counter etc which is screened</b>
<b>Compliance Comment</b>	Yes Verify at CC if required
<b>Requirement</b>	<b>A hearing augmentation system must:</b> i. be provided to >80% of the floor area ii. If receivers are used provided to >95% of the floor area and receivers provided at the ratio of 1/25 (min 2) up to 500 people, 500-100 people 20+ 1/33, 1000 to 2000 people 35 + 1/50 and >2000 people 55 + 1/100
<b>Compliance Comment</b>	Yes Verify at CC if required
<b>Requirement</b>	<b>Tactile indicators required at stairs other than a fire isolated stair, escalators, travelator, ramp other than a kerb or step ramp, a fire isolated ramp or a swimming pool ramp</b>
<b>Compliance Comment</b>	Yes External stair only
<b>Requirement</b>	<b>Tactile indicators or other suitable barrier is required to warn of overhead obstruction less than 2m above floor or a pathway meeting a vehicle accessway adjacent to a pedestrian entrance, if there is no kerb or kerb ramp at that point.</b>
<b>Compliance Comment</b>	N/A

4/7

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<b>Requirement</b>	On an accessway, where there is no chair rail, handrail or transom, all fully glazed or frameless doors, sidelights and any glazing capable of being mistaken for a doorway or opening must be clearly marked in accordance with AS 1428.1
<b>Compliance</b>	Yes
<b>Comment</b>	Verify at CC if required. May apply to entry glazing
<b>Requirement</b>	On an accessway: <ul style="list-style-type: none"> <li>a. A series of connected ramps must not have a combined vertical rise of &gt; 3.6m</li> <li>b. A landing for a step ramp must not overlap a landing for another ramp or step ramp</li> </ul>
<b>Compliance</b>	N/A
<b>Comment</b>	
<b>Requirement</b>	In areas required to be accessible, the following are to be considered: <ul style="list-style-type: none"> <li>• Width of access ways min 1m clear, and be increased for door circulation, turning areas and passing areas as required by AS 1428.1</li> <li>• Doors shall provide a clear opening of 850mm</li> <li>• Doors to provide circulation space, hardware and luminance contrast as required by AS 1428.1</li> <li>• Door mats, floor grates and the abutment of different finishes shall comply with BCA and AS 1428.1</li> <li>• In sole occupancy units the light switches shall be 30x30mm min size at a height to match the door handles. GPOs shall be located between 600 and 1100mm above the floor and 500mm from an internal corner.</li> <li>• Fire isolated stairs to have contrasting nosing strips to AS 1428.1</li> </ul>
<b>Compliance</b>	Yes
<b>Comment</b>	Verify at CC

<b>F2 Sanitary Facilities</b>	
<b>Requirement</b>	<p>A unisex accessible toilet must be provided on a storey required to be accessible, and</p> <ul style="list-style-type: none"> <li>Where there is more than 1 bank of M+F toilets, at 50% of those banks of toilets</li> <li>where there is more than 1 toilet in addition to an accessible toilet, a toilet suitable for a person with ambulant disabilities must be provided, and</li> <li>Where male and female facilities are provided at separate locations the accessible facility need only be provided at one of the locations.</li> <li>Be accessible without crossing an area reserved for one sex only</li> <li>Provide even distribution of left and right hand facilities where more than 1 facility is provided</li> </ul>
<b>Compliance Comment</b>	Yes
<b>Requirement</b>	<p>An accessible sanitary compartment must contain:</p> <ul style="list-style-type: none"> <li>A closet pan &amp; backrest</li> <li>A basin</li> <li>A shelf or bench</li> <li>A means of disposal of sanitary towels.</li> </ul>
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	<b>Layout to comply with AS 1428.1</b>
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	<p><b>Class 3 and 9c</b> To every sole occupancy unit – a closet pan, basin &amp; shower To common areas: At every bank of male and female sanitary compartments and 1/10 showers.</p>
<b>Compliance Comment</b>	Yes Verify at CC
<b>Requirement</b>	<p><b>Class 5,6,7, 8 &amp; 9 (except ward area of 9a)</b></p> <ul style="list-style-type: none"> <li>At least 1 on every storey containing sanitary compartments</li> <li>Where a storey has more than 1 bank of compartments at not less than 50% of those banks</li> <li>Where showers are reqd by F2.3 then 1/10 to be accessible</li> </ul>
<b>Compliance Comment</b>	Yes Verify at CC

F3.6 Lifts	
<b>Requirement</b>	<b>In an accessible building every lift must comply with Table E3.6a &amp; b</b>
<b>Compliance</b>	Yes
<b>Comment</b>	Verify at CC
<b>Requirement</b>	<b>Where the lift travels more than 12m above the floor providing access to the road or open space then at least 1 lift must be a stretcher lift</b>
<b>Compliance</b>	Yes
<b>Requirement</b>	<b>If the car is fully enclosed it must not rely on a constant pressure device</b>
<b>Compliance</b>	Yes
<b>Comment</b>	

**Statement of Compliance**

On the basis of the above assessment, I am satisfied that the proposal can achieve compliance with the access provisions of the BCA.


**Howard Moutrie**

ACAA Accredited Access Consultant No 177

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**Bayside Local Planning Panel**

**5/03/2019**

Item No	6.6
Application Type	Development Application
Application No	DA-2018/223/A
Lodgement Date	14/01/2019
Property	<b>29-31 Campbell Street, Ramsgate</b>
Ward	Rockdale
Owner	Shane Youssef & Rose Change
Applicant	Youssef Corp 2 Pty Ltd
Proposal	Section 4.55 (1) Application to modify Development Consent No. 2018/223 to correct Section 7.11 Contributions
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

That the Local Bayside Planning Panel approve Section 4.55 (1) Application to modify Development Consent No. 2018/223 to correct Section 7.11 Contributions, as follows:

Amend Condition No. 39 to read:

39. A Section 7.11 contribution of \$322,399.77 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space \$49,612.38  
Community Services & Facilities \$8,793.65  
Town Centre & Streetscape Improvements \$4,478.76  
Pollution Control \$12,846.24  
Local Infrastructure and Facilities \$246,484.96  
Plan Administration & Management \$183.78

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.

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## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Previous Planning Assessment Report for BLPP 18-12-2018 [↓](#)
- 3 Previous Minutes of BLPP Meeting of 18/12/2018, Item No 6.4 - 29-31 Campbell Street Ramsgate [↓](#)
- 4 Original Notice of Approval - issued 18 December 2018 [↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2018/223/A
<b>Date of Receipt:</b>	14 January 2019
<b>Property:</b>	29 Campbell Street, RAMSGATE (Lot B DP 165453) 31 Campbell Street, RAMSGATE (Lot C DP 165453)
<b>Owner(s):</b>	Mrs Rose Kam Fung Chiu Chang Youssef Corp 2 Pty Ltd
<b>Applicant:</b>	Youssef Corp 2 Pty Ltd
<b>Proposal:</b>	29 & 31 Campbell Street, RAMSGATE NSW 2217 - Modification to correct section 7.11 contributions
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	NIL
<b>Author:</b>	Sumeet Badhesha
<b>Date of Report:</b>	16 January 2019

### Key Issues

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Section 4.55(1) Application to modify Development Consent No. 2017/1224 to correct error in Section 7.11 contributions.

The key issue with this application relates to the calculation of Section 7.11 Contributions. The contribution amount stipulated in Condition 39 has been calculated based on 14 x 2 bedroom apartments and 4 x 1 bedroom apartments. However the proposed development provides 12 x 2 bedroom apartments and 6 x 1 bedroom apartments. This error in the calculation occurred due to the incorrect unit mix stipulated within the applicant's Statement of Environmental Effects and Council's Contributions Planner relying on this information solely. Accordingly, Condition 39 has been modified to reflect the S7.11 contributions based on the correct unit mix.

### Recommendation

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That Development Application No DA-2018/223/A, being a Section 4.55(1) application to amend Development Consent Number DA-2018/223, for the modification to correct error in Section 7.11 Contributions at 29 & 31 Campbell Street, Ramsgate be APPROVED and the consent amended in the following manner:

A. By amending condition no. 39 to read:

39. "A Section 7.11 contribution of \$322,399.77 shall be paid to Council. Such contributions are only

used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space \$49,612.38  
Community Services & Facilities \$8,793.65  
Town Centre & Streetscape Improvements \$4,478.76  
Pollution Control \$12,846.24  
Local Infrastructure and Facilities \$246,484.96  
Plan Administration & Management \$183.78

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."

## Background

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### History

DA-2018/223 was approved by the Bayside Local Planning Panel on 18 December 2018 for the demolition of existing structures and construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two levels of basement parking.

### Proposal

The proposed modification seeks to amend Condition 39 to correct an error in the calculation of the S7.11 Contributions. The contribution amount stipulated in Condition 39 has been calculated based on 14 x 2 bedroom apartments and 4 x 1 bedroom apartments. However the proposed development provides 12 x 2 bedroom apartments and 6 x 1 bedroom apartments. This error in the calculation occurred due to the incorrect unit mix stipulated within the applicant's Statement of Environmental Effects and Council's Development Contributions Officer relying on this information solely. Condition 39 has been modified to reflect the S7.11 contributions based on the correct unit mix.

Open Space \$49,612.38  
Community Services & Facilities \$8,793.65  
Town Centre & Streetscape Improvements \$4,478.76  
Pollution Control \$12,846.24  
Local Infrastructure and Facilities \$246,484.96  
Plan Administration & Management \$183.78

**Total Contributions: \$322,399.77**

### Site location and context

The subject site comprises of two allotments, being 29 and 31 Campbell Street Ramsgate. The site has three frontages, the primary frontage to Campbell Street and secondary frontages to Dillon Street and Ramsgate Road. The site has a surveyed frontage of 36.42m to Campbell Street, a frontage of 25.91m to Ramsgate Road and Dillon Street, and a rear boundary width of 36.42m. The total area of the site is

943.60sqm and with a cross fall of 1.24m from the north western to south eastern corners of the site. The site is currently occupied by two detached dwellings. Numerous vegetation exists both on the site and within Council's road reserve.

## Statutory Considerations

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### *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 (1) - Modification**

##### **S4.55(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

The proposed modification has been assessed in accordance with Section 96(1) of the EP&A Act - "Modifications involving minor error, misdescription or miscalculation", which 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 granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5), (6), (6A) and (7) do not apply to such a modification".*

Council supports the proposed modification to amend Condition 39 to reflect the correct contributions amount. Accordingly the condition has been modified.

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

No relevant proposed instruments are applicable to this proposal.

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

The relevant matters pertaining to the likely impacts of the development have been assessed under the original proposal. There are no further matters raised in this application that would alter the conclusions reached in the original assessment

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

The relevant matters pertaining to the suitability of the site for the development have been considered under the original proposal.

#### **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 under the original proposal. As such it is considered that the proposed development is in the public interest.

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

A Section 7.11 Contribution Payment of \$322,399.77 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

## Schedule 1 - Draft Conditions of consent

### General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site Analysis Plan Dwg. No. DA 01, Issue A	Cornerstone Design	20/08/2018	03/09/2018
Lower basement plan Dwg. No. DA 02, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Upper basement plan Dwg. No. DA 03, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Site/Ground floor plan Dwg. No. DA 04, Issue B	Cornerstone Design	4/11/2018	7/11/2018
First floor plan Dwg. No. DA 05, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Second floor plan Dwg. No. DA 06, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Third floor plan Dwg. No. DA 07, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Fourth floor plan Dwg. No. DA 08, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Roof Plan Dwg No. DA 09, Issue B	Cornerstone Design	4/11/2018	7/11/2018

South Elevation & East Elevation Dwg No. DA 10, Issue B	Cornerstone Design	4/11/2018	7/11/2018
North Elevation & West Elevation Dwg No. DA 11, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Section A-A Dwg No. DA 12, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Driveway Profile and Demolition Plan, Dwg No. DA 17, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Schedule of Finishes	-	-	31/08/2018
Landscape Plan, Sheet 1 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018
Landscape Plan, Sheet 2 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 952297M and dated 21 August 2018 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. A separate development application shall be submitted for the specific use/uses of the commercial tenancies. Additional conditions may be imposed on any such consent.  
**Note:** Parking and loading provisions in a mixed use development may preclude certain uses.
7. Balconies shall not be enclosed at any future time without prior development consent.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
10. Parking spaces shall be allocated to residential apartments / non-residential units in

the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

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

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

Commercial Units 1 space per 40m<sup>2</sup> gross floor area

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

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

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

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

11. Lot B DP 165453 and Lot C DP 165453 shall be consolidated.
12. All relevant lighting, including under awning 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. Such lighting to be maintained at all times for the lifetime of the development.

**Development specific conditions**

The following conditions are specific to the Development Application proposal.

13. Safer by Design

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

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
- b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- d) Graffiti resistant materials shall be used to ground level external surfaces.
- e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

- f) The front window of the ground floor tenancies must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancies.
14. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
15. 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.
16. 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.
17. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the water treatment devices.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;



- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
- 18. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
- 19. 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.
- 20. 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.
- 21. Temporary dewatering of the site to construct the subsurface structure is not permitted.
- 22. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
- 23. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS 2890.1 and AS 2890.6.  
(For parking with people with disabilities any vehicular path of travel to have a clearance of 2.3m minimum and clearance above the parking bay shall be 2.5m minimum).
- 24. Hot and cold water hose cocks shall be installed to the garbage room.
- 25. (a) In order to ensure the design quality excellence of the development is retained:
  - i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
- 26. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
- 27. Receptacles are to be provided in commercial development for the disposal of

cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.

28. The design and construction of the off street parking facilities shall:
- (i) Comply with Australian Standards, as follows:
    - AS/NZS 2890.1:2004
    - AS 2890.2:2002
    - AS 2890.3:1993
    - AS/NZS2890.6:2009
  - (ii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
29. General landscape Conditions:
- (a) All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation.
  - (b) All landscape areas on slab shall be automatic irrigated. Irrigation system shall be linked to the stormwater drainage system.
30. Trees located within the footprint of the proposed buildings may be removed.
31. The proposed carwash bay must be graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
32. The approved Landscape Concept Plans prepared by Zenith Landscape Design (Drawing numbers 18-3785L02 and L01, Revision A, dated 6th November 2018) shall comprise detailed landscape documentation to be submitted to and approved by Bayside Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
- a) At least three (3) native or ornamental trees of at least 45 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in First Floor RL 13.90. Trees shall be located in planter box of a minimum depth of 800mm.
  - b) A minimum soil depth of 800mm is required for planted areas with trees on common open space of fourth level, RL 23.20 and on first floor level, RL 13.90. Minimum soil depth of 600mm for small feature shrubs on podiums or roof-tops or any other concrete slab.
  - c) Landscape planting on ground level frontage setbacks shall not impede the views to Public Street. (CPTED principle). Shrubs and feature plants between private and public domain should remain under 900mm to assist with the natural surveillance.
  - d) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.
33. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction

Certificate. As per Rockdale Street Tree master Plan Dillon Street shall be planted with two (2) Callistemon 'Dawson River Weeper', and Campbell Street with three (3) Angophora floribunda. All street trees shall be supplied in a minimum pot size supplied shall be not less than 200 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.

34. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.

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

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

35. 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 \$37,678.48. 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.
36. 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.
37. 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.
38. The connection of stormwater drainage pipes to the existing kerb inlet pit in Ramsgate Road must be inspected by Council prior to backfilling. Payment is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is unsatisfactory, each additional inspection will incur an extra charge .
39. *A Section 7.11 contribution of \$322,399.77 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current*

*Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:*

*Open Space \$49,612.38  
Community Services & Facilities \$8,793.65  
Town Centre & Streetscape Improvements \$4,478.76  
Pollution Control \$12,846.24  
Local Infrastructure and Facilities \$246,484.96  
Plan Administration & Management \$183.78*

*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.*

*[Amendment A - S4.55(1) amended on 5/03/2019]*

40. Prior to the issue of the Construction Certificate the sum of \$1100.00 is payable to Council for removal and replacement of the street tree. 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.
41. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i. the footings of the proposed structure;
  - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii. all reinforced concrete floor slabs;
  - iv. all reinforced concrete stairs;
  - v. the piers to natural ground or rock, detailing the size and position of the piers;
  - vi. the proposed retaining wall;
  - vii. the work required to stabilise the excavation;
  - viii. the work required to stabilise the footpath area;
  - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x. all structural steel work;
  - xi. first floor joists;
  - xii. fire rated ceilings/fire protective ceilings.
42. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.

43. 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.

44. Where the front fence is greater than 1200mm in height, the vehicular entry gates are to be set back a minimum of 1 car space from the boundary and may only open inwards. The return fences on each side are to be splayed at an angle of 45 degrees to the boundary. Details of the gates to be included in the documentation accompanying the Construction Certificate.
45. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

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

46. The applicant shall confer with Ausgrid to determine if any of the following:

- a) If an electricity distribution substation is required;
- b) if installation of electricity conduits in the footway is required; and
- c) if satisfactory clearances to any existing overhead High Voltage mains will be affected.

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

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole within the road reserve at Dillon Street is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

47. 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.
48. 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>

49. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
50. Detailed plans of the proposed access driveway on Dillon Street and onstreet parking along Dillon Street, Campbell Street and Ramsgate Road associated with the subject development (onstreet parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.

i) That the driveway off Dillon Street is construction with a 90degree angle to the boundary line with a maximum width of 5.5m at the boundary.

ii) That the existing parking limit is retained.

Where a Private Certifier issues the Construction Certificate the plans shall be submitted to Council's Traffic Committee for approval prior to Construction Certificate being issued.

51. 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.

52. Geotechnical - Adjoining buildings founded on loose foundation materials

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must;

- (a) All recommendations contained in the report prepared by Eswnman Pty Ltd., Ref: ESWANPR2018262, Dated 15 August 2018 shall be implemented.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm that the proposed construction methodology  
To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted 4 of 9 with the application for a Construction Certificate **for the relevant stage of works.**
- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued **for the relevant stage of works.**

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

53. Any subsurface structure within the highest known groundwater table/rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s).



Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate **for the relevant stage of works.**

54. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
55. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
56. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Notes:

1. The detailed plans are required to incorporate an oil interceptor for the driveway and basement carpark surface runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.
  2. To implement any required drainage measures on the base of Geotechnical Engineer's advice on the drainage under the floor slab and basement walls.
  3. Recheck and clearly define proposed Rain Tank location and headroom below.
57. Prior to the issue of a Construction Certificate, an application is to be made for Property Address Allocation and payment of associated fees is required to be made to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.

[http://www.gnb.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Fina](http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina)

58. Prior to the issue of a Construction Certificate, the following design changes are to be made:
  - a) The aluminium cladding on the external of the building is to be replaced with a

simpler painted finish.

b) The windows off the living room (facing the common open space) within Units 1.01, 1.06, 4.01 and 4.02 are to have a minimum sill height of 1.7m.

59. Prior to the issue of the Construction Certificate, details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
  1. The street awning(s) must be setback 600mm from the kerb line, minimum Fascia height 600mm, minimum soffit height 3.3m. for sloping sites maximum step of 900mm. The awnings must be entirely self-supporting; posts are not permitted.
  2. All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
  3. The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
  4. If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
  5. Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

### **Prior to commencement of works**

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

60. 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.
61. 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.

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

63. 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.
64. 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.
65. 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 from the trunks of each street tree 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.
66. 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.
67. 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.
68. 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.
69. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
- i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
70. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

**During demolition / excavation / construction**

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

71. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
72. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
73. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. after excavation for, and before the placement of, any footing, and
  - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - iii. prior to covering any stormwater drainage connections, and
  - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

74. 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.
75. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
76. 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.

77. 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.

78. 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.
79. 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.

80. 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.
81. 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.
- 82. 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.
  - 83. The existing Callistemon street trees located at the front of the property in Campbell Street and Ramsgate Road are not to be removed or pruned, including root pruning, without the written consent of Council.
  - 84. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
  - 85. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
  - 86. There are existing underground electricity network assets in Dillon St. Special care should be taken to ensure that driveways and any other construction activities within the footpath do not interfere with the existing cables in the footpath. It is recommended that the assets be located and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safe work Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.
  - 87. 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 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 an NSW approved landfill or to a recipient site.
  - 88. 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.

### **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.

- 89. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 90. 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.
- 91. 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.
- 92. 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.
- 93. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
- 94. 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.

95. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
96. 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.
97. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
98. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
99. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
100. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
101. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
102. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
103. The width of the double driveway off Dillon Street at the boundary shall be a maximum of 6 metres and a minimum of 5.5m. The driveway is to be constructed with a 90 degree angle to the boundary line.
104. In relation to safe egress, a warning system and speed humps will be provided proposed to ensure pedestrian safety in lieu of splayed walls.

"Giveaway to Pedestrians" at both driveway locations upon exit and a speed hump within the exit lane for the northern access point.

OR

The eastern (exit) side of the driveway shall be replaced by a see-through screen

(mesh or similar material) for a distance of 3.5 metres from the property boundary. The driveway is set back 2.0 metres from the eastern boundary with a landscape zone between the driveway and boundary. Low-level landscaping shall be provided in this zone (less than 1.0 metres high). Thus a 3.5 x 2.0metre sight line splay will be provided for vehicles exiting the site.

105. The dedication to Council of 1.5m X 1.5m corner splay at the intersection of Dillon Street and Ramsgate Road with Campbell Street.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

106. Suitable vehicular bollards shall be provided at shared areas of adaptable parking spaces to have suitable vehicular bollards.
107. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

108. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
109. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
110. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
111. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation, a chartered professional engineer shall certify that the 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.
114. 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.

115. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability Gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
116. 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.
117. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
118. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

119. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
120. Acoustic Attenuation  
Prior to the issue of an Occupation Certificate, the following is to be prepared, undertaken and submitted to Council:

A. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

B. Acoustic recommendations in relation to traffic contained in the report prepared by Noise and Sound Services dated August 2018 and acoustic recommendations in relation to floors and walls contained in the report prepared by Noise and Sound Services dated August 2018 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.

## Roads Act

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

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

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

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

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

- i) construction of a concrete footpath along the frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance/s;
- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
- v) construction of paving between the boundary and the kerb;
- vi) removal of redundant paving;
- vii) construction of kerb and gutter.

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

- i) That the existing parking limit is retained.
- ii) On street, car parking spaces shall be sealed and lined marked.
- iii) Road and Parking signs shall be installed.

**Note:** Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.

124. 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.
125. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with

Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

126. 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.
127. 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.
128. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

### Development consent advice

- a. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- 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. *Dial Before You Dig*

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

- 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. 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.

- g. 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.
- 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. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.
- k. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all roadworks/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.
- l. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2018/223
<b>Date of Receipt:</b>	31 August 2018
<b>Property:</b>	29 Campbell Street, RAMSGATE (Lot B DP 165453) 31 Campbell Street, RAMSGATE (Lot C DP 165453)
<b>Owner(s):</b>	Mrs Rose Kam Fung Chiu Chang Mr Phillip Elgemeie Ms Vivianne Elgemeie
<b>Applicant:</b>	Cornerstone Design
<b>Proposal:</b>	29 & 31 Campbell Street, RAMSGATE NSW 2217 - Demolition of existing structures, construction of a 5 storey residential flat building comprising of 20 apartments and 4 retail tenancies with basement parking
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Four (4)
<b>Author:</b>	Sumeet Badhesha
<b>Date of Report:</b>	10 December 2018

### Key Issues

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The subject site is zoned B4 Mixed Use under the provisions of the Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed shop top housing development is permissible with consent.

The proposed development seeks to vary the maximum height limit on site by 0.2m - 1.06m (1.25% - 6.63%). The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The development application has been notified in accordance with Council's Development Control Plan 2011. A total of four (4) submissions were received in relation to the proposed development. The concerns raised within these submissions have been addressed within this report.

The proposed development is recommended for approval subject to the conditions attached to this report.

## Recommendation

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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 be satisfied that the variation will result in consistency with the objectives of the height standard and the objectives of the B4 Mixed Use zone and it is therefore in the public interest to vary the control.
2. That the Development Application No. 2018/223 for the proposed demolition of existing structures, construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking at 29-31 Campbell Street, Ramsgate 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.
3. That the objector(s) be advised of the Bayside Local Planning Panel's decision.

## Background

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### History

Subject Site: Council's records do not show any recent or relevant applications for the subject site.

Adjoining Site: Council's records show Development Application DA-2016/205 granted approval for the construction of a five (5) storey mixed use development comprising 20 residential apartments, four (4) commercial tenancies, basement parking and 12 public car parking spaces off Clelland Lane. The approved development via DA-2016/205 was assessed against the proposed development and Council is of the opinion the proposal results in a development which respects the surrounding development and positively contributes to the streetscape, without comprising the amenity of surrounding development.

### Proposal

The proposed development seeks development consent for the demolition of existing structures and construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two levels of basement parking. Specifically, the proposed development comprises of the following:

Demolition: Demolition of two existing dwellings and associated ancillary structures

Vegetation removal: Removal of eight (8) trees on the site and one street tree

Construction of a shop top housing development comprising the following:

#### *Lower Basement*

17 car spaces (incorporating 2 accessible), 2 motorbike spaces, 2 bicycle spaces, 2 store rooms, a lift, 2 fire exit stairs, meter room, and associated pedestrian and vehicular circulation.

#### *Upper Basement*

16 car spaces (incorporating 1 car wash bay and 1 loading/unloading bay), 1 motorbike space, a lift, 2 fire exit stairs, stormwater on-site detention room, cleaners room, and associated pedestrian and

vehicular circulation.

#### *Ground Floor*

Four individual retail tenancies, plant and garbage rooms, 2 fire exit stairs and a lift accessed via the residential foyer. The main entrance to the building is off Campbell Street, with secondary pedestrian access points from both Ramsgate Road and Dillon Street.

Vehicular access to the basement level car parking is via a single driveway off Dillon Street.

#### *First Level*

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Both of the 1 bedroom units are adaptable units. Each apartment has access to a private balcony. One of the two communal open space areas is located on this level. The communal open space area is centrally located within this level and adjoins the communal open area of the adjoining development.

#### *Second Level*

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Each of these apartments have access to their own private balcony. The central portion of the building contains a void above the first level elevated communal open space/landscape courtyard having dimensions of approximately 12m x 7.57m.

#### *Third Level*

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Each of these apartments have access to their own private balcony. The central portion of the building contains a void above the first level elevated communal open space/landscape courtyard having dimensions of approximately 12m x 7.57m.

#### *Fourth Level*

This level contains a total of 2 residential units (2 x 3 bedroom units). Both units have spacious balconies for the entire length of the units. This level contains the second communal open space area which consists of a common toilet, BBQ facility, landscaping and both roofed and open form areas.

Site Consolidation: It is also proposed to consolidate two existing sites into one allotment, providing a total site area of 943.60sqm.

### **Site location and context**

The subject site comprises of two allotments, being 29 and 31 Campbell Street Ramsgate. The site has three frontages, the primary frontage to Campbell Street and secondary frontages to Dillon Street and Ramsgate Road. The site has a surveyed frontage of 36.42m to Campbell Street, a frontage of 25.91m to Ramsgate Road and Dillon Street, and a rear boundary width of 36.42m. The total area of the site is 943.60sqm and with a cross fall of 1.24m from the north western to south eastern corners of the site. The site is currently occupied by two detached dwellings. Numerous vegetation exists both on the site and within Council's road reserve.



To the north of the site are single storey dwellings and a five storey residential flat building:

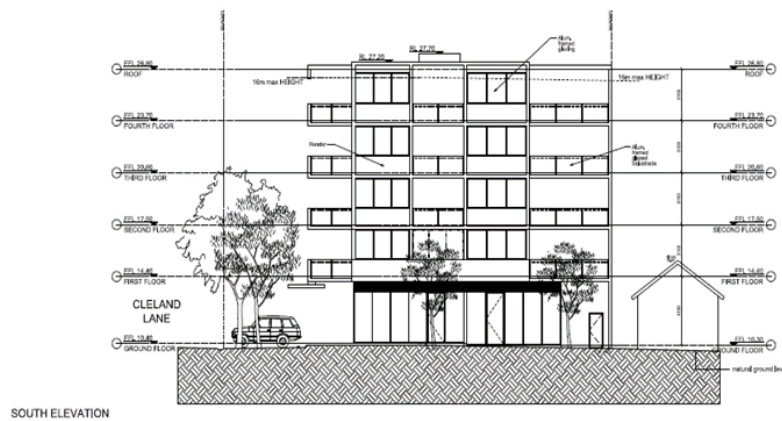


To the east and south of the site is low density residential development:

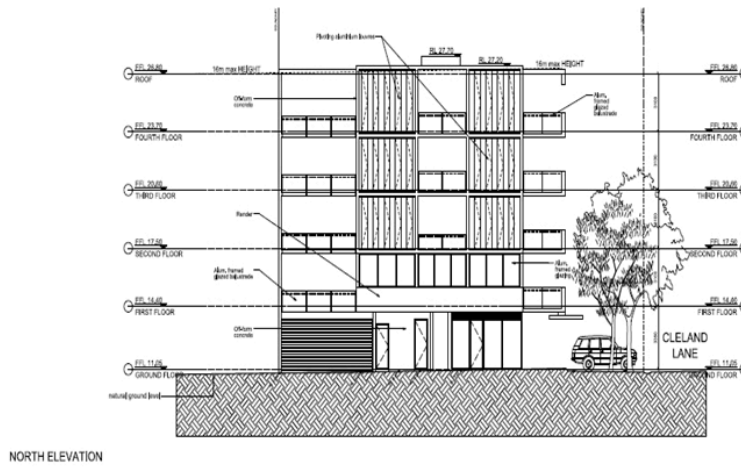
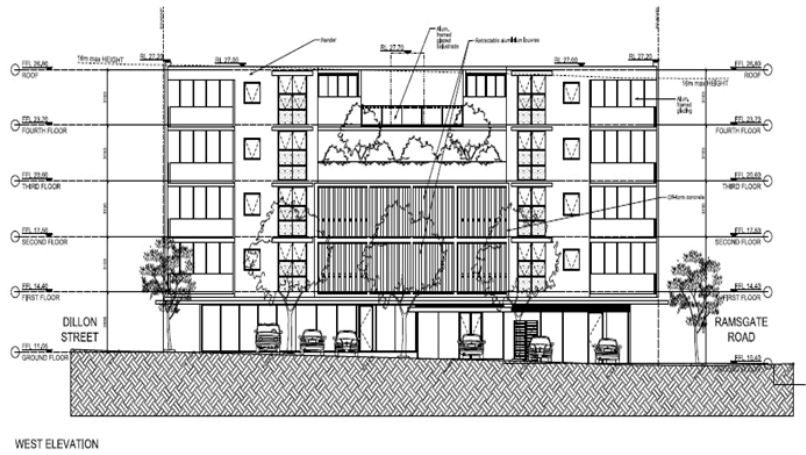




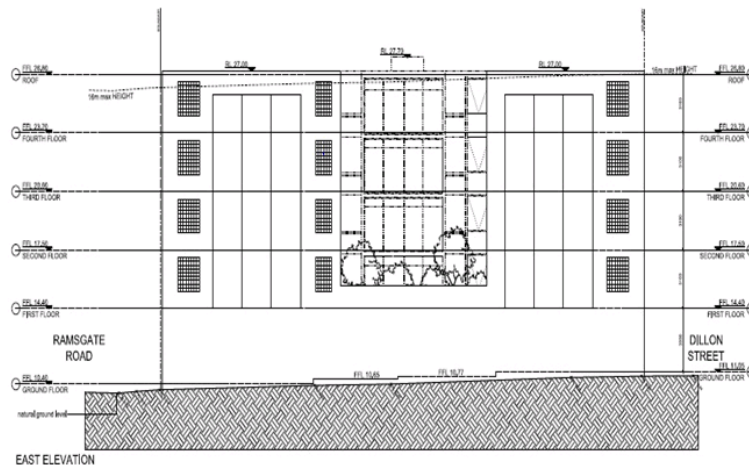
To the west of the site is a currently a dwelling, however the following shop top housing development (comprising of five storeys with retail on ground floor, and 2 levels of basement parking) has been granted approval via DA-2016/205:











## Statutory Considerations

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

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

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

##### **S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

##### **Greater Metropolitan REP No. 2 – Georges River Catchment**

The proposal is consistent with Council's requirements for the disposal of stormwater in the catchment. Therefore, it is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies. The proposal is consistent with the aims and objectives of the Georges River Catchment Deemed (SEPP).

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 952297M and dated 21 August 2018. The commitments made result in reductions in energy and water consumption. A condition has been imposed on the consent to ensure that these requirements are adhered to.

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

###### **Clause 101 - Development with frontage to classified road**

The proposed development is located on land with a frontage to a classified road i.e. Ramsgate Road. In this regard, clause 101 - Development with frontage to a classified road, of the SEPP must be

considered before consent can be granted. However, the proposed development involves access to and from the site from Dillion Street, with no vehicular access proposed from Ramsgate Road.

The proposed development is for a residential use that is in proximity to the road corridor for a road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of the RMS), being Rocky Point Road and is potentially adversely affected by road noise or vibration. Accordingly, Clause 102 Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment. In accordance with clause 102, the consent authority must not grant consent to the development for a residential use unless it is satisfied that appropriate measures will be taken to ensure that the following noise levels are achieved:

L<sub>Aeq</sub> levels are not exceeded:

- (a) in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.

The proposal was accompanied by an Acoustic Report, prepared by Noise and Sound Services and dated August 2017, which considered the potential impact of road noise on the proposed development. The report incorporates recommendations to ensure the proposed development complies with the acceptable internal noise levels. A condition of consent is recommended requiring the recommendations to be incorporated into the Construction Certificate plans for the development.

Further, the proposal is not for a traffic generating development. As such, the application has been considered in respect to the SEPP and no additional conditions of development consent are required to be imposed in this regard.

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

The application and submitted documentation has been reviewed by Council's Environmental Scientist who has raised no concerns regarding potential contamination of the site. Council's records indicate the site, and surrounding sites, have a long history of residential use, with no indication of other uses which may have the potential for land contamination. Nonetheless, precautionary conditions have been imposed in the development consent should any new information be discovered during the demolition, excavation and construction stages of the development.

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

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

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

The proposal was referred to the Design Review Panel on 19 October 2018. The DRP raised a few concerns with the proposal, and these were regarding the proposed driveway arrangement, setback of the fourth level from the east side frontage, landscaping modifications, location of garbage areas, and the absence of a signage strategy. No other major concerns were raised by the DRP and the proposal was supported subject to the above minor changes being made.

Revised plans were submitted to Council in November 2018, and these plans addressed the concerns

raised by the DRP. Due to the nature of changes required, the application was not required to be reconsidered by the DRP.

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

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

#### Principle 1 – Context and Neighborhood Characters

The subject site is zoned B4 Mixed Use and located within the Ramsgate Town Centre, of which a large number of similarly zoned properties remain undeveloped to their full potential. Current planning controls permit shop top housing developments up to a height of 16m, this can accommodate 5 storey developments. Properties to the north of the subject site are zoned R4 High Density Residential and can facilitate redevelopment up to a maximum height of 14.5m. To the south of the site are properties zoned B4 Mixed Use and can facilitate redevelopment up to a maximum height of 16m. To the east of the site are properties zoned R2 Low Density Residential with a maximum height of 8.5m. Five storey residential flat buildings exist to the north of the site and a five storey mixed use development has been approved via DA-2016/205 which is to be attached to the western side wall of the proposed development.

The proposed development provides adequate setbacks from all boundaries, with the 5th level recessed further from the eastern side frontage to manage the interface between the higher density development to the west and low density development to the east. The increased setback on the 5th level also reduces visual prominence, bulk and scale of the development and minimises adverse impacts to the eastern neighbours.

The proposal is deemed contextually appropriate as it does not result in unreasonable adverse impacts to neighbours as discussed in this report and provides an appropriate interface with the R2 zone to the east. The proposal is consistent with both established and emerging building forms and the future desired character of the Ramsgate area.

The DRP raised no objection to the proposal with respect of context and neighbourhood character. The proposal is satisfactory with regards to this principle.

#### Principle 2 – Built Form and Scale

*The DRP noted "that the design achieves an appropriate scale, bulk and height. In particular the Panel notes that the internal courtyard space corresponds to the courtyard of the approved development adjoining the boundary. The height also matches that of the adjacent approved development, and is supported by the Panel despite a minor breach of the height control. The Panel recommends that the roof form to the fourth level be set back a further 1 metre or more from the east in order to achieve a more satisfactory interface with the lower density residential built form to the east."*

Comment: The applicant has provided an increased setback from the 5th level as per the recommendation by the DRP. As discussed above within Principle 2, the proposal is found to be of appropriate bulk and scale and respects the surrounding context and development. The proposal has

also taken into consideration the recently approved mixed used development which is to be attached to the western side of the building.

#### Principle 3 – Density

The DRP raised no objection to the proposal with respect of density. The proposal complies with this requirement and is deemed to be satisfactory with regards to this principle.

#### Principle 4 - Sustainability

The DRP noted that *"there are further opportunities for including sustainability initiatives such as solar energy generation, rainwater harvesting, etc. In particular, the roof to Level 4 offers excellent opportunities for the incorporation of solar PV"*.

Comment: Energy efficiency is appropriately addressed by the BASIX certificate requirements accompanying the application. The passive solar design of the proposal is appropriate with solar access maximised to the proposed dwellings, their balconies and communal open spaces given the north, east and west aspect of the site, building design and orientation.

#### Principle 5 – Landscape

The DRP was generally supportive of the proposed landscape design subject to minor modifications to enhance amenity. The recommendations provided by the panel have been incorporated within the revised plans submitted by the applicant.

The proposed landscape design as revised on the ground floor of the development, allows for visual connectivity and passive surveillance between the footpath and retail tenancies. On the first floor of the development, the proposal provides sufficient planting within planter boxes and the consistency of the planter boxes has been improved within the revised design. The landscaping as proposed results in good amenity for the residents and positively contributes to the streetscape.

The panel noted the absence of deep soil planting on the site and is supportive of this due to the site being constrained by three active street frontages and satisfactory greening provided around the site within planter boxes.

The proposal is therefore considered to be satisfactory in relation to this principle.

#### Principle 6 – Amenity

The DRP noted that "the design generally achieves appropriate amenity outcomes. The Panel recommends that the garbage stores should be relocated away from the front entry and notes that there are large storage areas available in the basement."

The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.

Solar access & cross ventilation to apartments is maximised, with dwellings oriented to the north, east and west. Appropriate levels of privacy are provided to dwellings on site, with privacy to northern,

eastern and southern neighbours. Refer to discussion on visual privacy below.

Unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces & rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary storage at basement level. Security parking is provided at basement level with direct lift access.

Sufficient and well designed communal open space areas are provided within the development which will encourage social interaction and maximise amenity for future occupants. The proposal is satisfactory in regards to this principle.

#### Principle 7 - Safety

The DRP recommended additional measures to improve safety and security within the development and the public domain. These included the simplifying the driveway by providing a single driveway, providing a security barrier in the basement between the retail and residential car spaces, and relocating accessible parking bays closer to the lifts.

The above recommended changes have been implemented in the revised design.

The development provides for an easily identifiable, prominent & generous residential lobby entry from Campbell Street, with commercial tenancies comprising individual distinguishable pedestrian entries. Residential apartments & car parking areas on site will be accessible via a secure electronic system and are separated by a barrier. Common areas will be well lit with clearly defined legible pathways. Planting within the planter boxes on the ground floor are of appropriate species and height so as to maximise surveillance. The proposal is satisfactory with regards to this principle.

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

The design of the development and proposed unit mix provides for varied housing choice for a variety of household types. The development is designed to provide two appropriate communal facilities at the first level and rooftop level with various spaces which will encourage and provide opportunities for social interaction between future occupants.

The DRP was supportive of the proposal in regards to this principle.

#### Principle 9 – Aesthetics

The DRP provided the following comments regarding compliance is generally supportive of the design's aesthetics: *"The Panel is concerned about the use of aluminium cladding, as it may undermine the design intent in referencing mid twentieth century architecture, and notes that a simpler painted finish may be more appropriate. The Panel recommends that the applicant should provide a signage strategy for the building in order to avoid visual clutter. The Panel recommends that this strategy reflects the horizontal banding that is a dominant feature of the design."*

The proposal includes a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed but are not limited to white rendered upper level masonry walls, dark grey rendered masonry walls to the ground floor, planter boxes, columns and walls, glass

balustrades, and metallic copper moulding cladding to window and balcony edges. These materials will provide a modern, contemporary, high quality and visually appealing development on site. To further improve the aesthetics of the building, as raised by the Panel, a condition has been included in the development consent requiring a simpler painted finish to be provided instead of aluminium cladding as originally proposed.

The design appropriately responds to be compatible in its overall bulk, scale, character and context of the recent developments in the area, including the recently approved adjoining development to the west. The building design and materials are appropriate, providing a suitable level of articulation for the scale of the development. The design appropriately articulates both corners and the access to the basement garage is appropriately integrated into the design such that it is not visually dominant. The building has been designed with a high level of casual surveillance. Therefore the proposal provides an appropriate streetscape response as required by the provisions of this clause.

Additionally, periphery planters are provided at the ground, first and fifth levels (along the eastern frontage on the fifth level), incorporating planting capable of growing to a height of 1-1.5m, which will assist in further softening the façade of the development.

*c. the Apartment Design Guide*

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

The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3B - Orientation	<p>Designed to optimise solar access and minimise overlooking.</p> <p>Shadow impact upon adjoining properties to be considered and when it does not currently receive the required amount of solar access it should not be further reduced by more than 20%.</p>	<p>The site has three frontages, including north and east as such orientation should not impact solar access.</p> <p>The proposed development will result in additional shadowing of the adjoining properties to the east in the afternoon in midwinter, however this is only limited to the front of the sites. During morning, some overshadowing is</p>	Yes

		<p>expected over the site to the west however this site has development approval for a similar mixed use building attached to the western side of the proposed development. Due to the corner location of the site, majority of the overshadowing during all other times of the day is limited to on the road.</p> <p>Therefore the proposed development will not prevent the surrounding properties from achieving a minimum of 3 hours of solar access during midwinter.</p>	
3C - Public Domain Interface	<p>Direct street entry to ground floor apartments.</p> <p>Balconies/windows orientated to overlook the public domain</p> <p>Opportunities for concealment minimised</p> <p>Services concealed</p> <p>Access ramps minimised</p>	<p>The proposal does not contain ground floor apartments.</p> <p>Balconies overlook the public domain.</p> <p>All services are appropriately screened from the public domain.</p> <p>The entry is well considered providing equitable and safe entry.</p>	Yes



3D - Communal and Public Open Space	<p>25% (235.90sq/m) site area as COS</p> <p>50% (117.95sq/m) COS to receive min 2 hours direct sunlight in midwinter 9am - 3pm</p> <p>Equitable Access</p>	<p><u>COS:</u> 110.15sqm first floor COS 132.735sqm fourth floor COS Total = 242.88sqm</p> <p>Achievable</p> <p>Equitable access is provided via a lift and an accessible WC is provided adjacent to the upper level communal open space.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3E - Deep Soil Zones	<p>Min. 7%, but may not be achievable on sites where non-residential ground floor is proposed. Where compliance is not achieved appropriate stormwater management should be provided.</p>	<p>Nil. However sufficient planting is proposed within planter boxes throughout the site.</p> <p>Council's engineer is satisfied with the stormwater management proposed.</p>	<p>No - discussed above within Principle 5 assessment.</p>
3F Visual Privacy	<p>5-8 Storeys:</p> <ul style="list-style-type: none"> <li>4.5m - non habitable rooms</li> <li>9m habitable rooms</li> </ul>	<p>Achieved</p>	<p>Yes</p>
3G - Pedestrian Access and Entries	<p>Entry addresses public domain</p> <p>Clearly identifiable</p> <p>Steps and ramps integrated into building design</p>	<p>The entry is clearly identifiable and faces Campbell Street. Steps and access ramps have been integrated within the design of the building.</p>	<p>Yes</p>

3H - Vehicle Access	Integrated into façade Visual impact minimised Entry behind the building line or from secondary frontage. Clear sight lines. Pedestrian and vehicle access separated	Vehicular entry ramp is integrated into the building and from the secondary frontage. Good sight lines will be provided subject to conditions required by Council's engineer. Separate vehicle and pedestrian entries are provided.	Yes - subject to conditions								
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.  Parking provided off street.	Please refer to Section 4.6 under the RDCP 2011 assessment section of this report	Yes								
4A - Solar and Daylight Access	Min. 70% (14 units) receive 2 hours solar access  Max 15% (3 units) have no solar access	70% (14) apartments receive 2 hours of solar access.  15% (3) apartments receives no solar access.	Yes  Yes								
4B – Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.  Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	70% (14 Units) are cross ventilated  Complies.	Yes								
4C – Ceiling heights	<table><tr><th colspan="2">Minimum ceiling heights:</th></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Mixed use area</td><td>3.3m for ground and first floor</td></tr></table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Mixed use area	3.3m for ground and first floor	Residential - 2.7m Basement (non-habitable) - 2.8m Mixed use area (ground floor) - 3.3m	Yes
Minimum ceiling heights:											
Habitable	2.7m										
Non-habitable	2.4m										
Mixed use area	3.3m for ground and first floor										

4D – Apartment size and layout	<p>Minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50M<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m<sup>2</sup> each.</p> <p>Further bedrooms increase minimum internal area by 12m<sup>2</sup> each.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50M <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	1 bed - 52.07sqm - 53.62sqm 2 bed - 80.18sqm - 84.56sqm 3 bed - 106.26sqm  All master bedrooms are a minimum of 10sqm and other bedrooms are a minimum of 9sqm.	Yes		
Apartment type	Minimum internal area														
Studio	35m <sup>2</sup>														
1 bedroom	50M <sup>2</sup>														
2 bedroom	70m <sup>2</sup>														
3 bedroom	90m <sup>2</sup>														
4E – Private open space and balconies	<p>Primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>1 bed</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bed</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bed</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m<sup>2</sup> and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	1 bed	8m <sup>2</sup>	2m	2 bed	10m <sup>2</sup>	2m	3+ bed	12m <sup>2</sup>	2.4m	1 bed - 8.62sqm - 10.02sqm 2 bed - 11.15sqm - 25.60sqm 3 bed - 81sqm	Yes
Dwelling type	Minimum area	Minimum depth													
1 bed	8m <sup>2</sup>	2m													
2 bed	10m <sup>2</sup>	2m													
3+ bed	12m <sup>2</sup>	2.4m													
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.	Max 6 apartments off a circulation core	Yes												
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td></tr><tr><td>1 bed</td><td>6M<sup>2</sup></td></tr><tr><td>2 bed</td><td>8m<sup>2</sup></td></tr><tr><td>3 bed</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m <sup>2</sup>	1 bed	6M <sup>2</sup>	2 bed	8m <sup>2</sup>	3 bed	10m <sup>2</sup>	Appropriate inter unit storage provision with additional provided within basement levels.	Yes		
Dwelling type	Storage size volume														
Studio	4m <sup>2</sup>														
1 bed	6M <sup>2</sup>														
2 bed	8m <sup>2</sup>														
3 bed	10m <sup>2</sup>														

4H - Acoustic Privacy	Orientate building away from noise sources Party walls limited or insulated, like rooms together Noise sources (e.g. garage doors, driveways) located at least 3m from bedrooms	Acoustic report provided, and recommended conditions will require compliance with the report. In addition, Council's standard condition is proposed requiring adequate acoustic separation between units.	Yes
4J - Noise and Pollution	Site building to maximise noise insulation Noise attenuation utilised where necessary	Acoustic report provided. See above comment.	Yes
4K - Apartment Mix	Variety of apartment types Appropriate apartment mix Different apartments distributed throughout the building	Reasonable mixture of 1, 2 and 3 bedroom units distributed throughout the building.	Yes
4M - Facades	Composition of building elements Defined base, middle and top Building services integrated into the façade	Variety of materials utilised to articulate and define the building. Conditions require services to be integrated into the façade.	Yes
4N - Roof Design	Roof design integrated into the building Incorporates sustainability features May include common open space	Roof design integrated into the building design with simple parapet treatment.	Yes
4O - Landscape Design	Responsive to streetscape Viable and sustainable	Landscape design for roof top terrace and first and ground floor levels landscaped area is acceptable.	Yes

4P - Universal Design	Adaptable housing to be provided  Flexible design solutions	Provided as per requirements  All apartments are larger than required and which as a result offer more open plan and usable living space options.	Yes  Yes
4S - Mixed Use	Provided within appropriate locations  Residential circulation areas clearly defined  Landscaped communal open space should be provided at podium or roof levels	The subject site is located within the Ramsgate Town Centre and is bound by active street frontages. The development appropriately addresses this.  Achieved  The development proposes a communal open space on the first floor and another on the roof level (fifth floor)	Yes  Yes  Yes

4T - Awnings and Signage	<p>Awnings along streets with high pedestrian activity and active frontages</p> <p>Signage should be integrated into the building design</p>	<p>Awnings have been provided around the building over the footpath as the site fronts active street frontages. Awning provided over entry.</p> <p>The revised plans show signage below the awning on the ground floor. The proposed signage is appropriate in terms of size and siting and do not have any negative impacts on the streetscape.</p>	<p>Yes</p> <p>Yes</p>
4U - Energy Efficiency	<p>Adequate natural light to habitable areas</p> <p>Adequate natural ventilation</p> <p>Screened areas for clothes drying</p> <p>Shading on northern and western elevations</p>	<p>Adequate natural lighting and natural ventilation provided.</p>	Yes
4V - Water Management and Conservation	<p>Efficient fixtures/fittings</p> <p>WSUD integrated</p> <p>Rainwater storage and reuse</p>	<p>Council's Development Engineer is satisfied with the proposed management and conservation of water information supplied.</p>	Yes

4W	Discreetly located away from the front of the development or in the basement car park	The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.	Yes
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#### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	No - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### 2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed development is for shop top housing as it will comprise ground floor retail premises and four levels of residential dwellings above. The aforementioned proposed use is permissible within the subject zoning and is consistent with the below listed objectives of the B4 zone:

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



#### 4.3 Height of buildings

As per the RLEP 2011, the maximum permissible height of building for the subject site is 16m.

Given the above and following a manual assessment of the plans, the proposed development comprises a height as follows:

Roof - 15.625m - 16.86m (max. 0.86m or 5.375% variation)

Lift Overrun - 17.06m (1.06m or 6.625% variation)

As evident from the above, the proposed development illustrates both compliance and variations to the height limit applicable. This is a direct result of the natural topography of the site and the design of the proposed development. The above represents a 5.37% - 6.625% variation to the height standard, for a small portion of the development as proposed.

In support of the breach of the height control the applicant has submitted a clause 4.6 variation which was found to demonstrate that the breach of the height control can be supported in these circumstances as compliance with the control is unnecessary and unreasonable and a better planning outcome will result from the proposed breaches of the control. Refer to detailed discussion in response to clause 4.6 below.

#### 4.4 Floor space ratio

The maximum permissible FSR in accordance with this Clause is 2:1 (1,887.20sqm).

Below is a breakdown of GFA per each level of the proposed development:

Lower Basement: Excluded from GFA

Upper Basement: Excluded from GFA

Ground Floor: 298.10sqm

First Floor: 457.60sqm

Second Floor: 454.00sqm

Third Floor: 454.00sqm

Fourth Floor: 221.70sqm

Total GFA = 1,885.40sqm or 2:1

Thus complying with the provisions of this clause.

#### 4.6 Exceptions to development standards

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

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

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

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

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

The proposed height variation has been assessed below.

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

As stated within Clause 4.3 Height of Buildings, the proposal seeks to vary the 16m height standard applicable to the subject site. The height non-compliance on the eastern (Campbell Street) elevation ranges from 0.275m to 0.8m, the southern (Ramsgate Road) elevation ranges from 0.365m to 0.86m, the northern (Dillon Street) elevation ranges from 0.2m to 0.375m, and the western (rear boundary) elevation non-compliance ranges from 0.22m to 0.33m. The centrally located lift overrun exceeds the maximum 16m height limit by 1.06m.

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the height development standard are as follows;

"

- *The additional height, (above the height allowed under the control) is positioned on the site in a manner that is unlikely to result in significant adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss and privacy impacts.*
- *The level of non-compliance with the building height control is consistent with the degree of variations contemplated and accepted by the consent authority with respect to development in similar situations. This is most evident upon review of the development approval to the sites immediate west (DA-2016/205). In this instance, the proposed development proposed maximum height of 16.17m measured at the Dillon Street frontage, 16.9m measured at the Ramsgate Road frontage and 17.13m at the lift overrun, breaching the standard by 170mm, 900mm and 1130 mm respectively.*
- *The proposed development will result in a better urban design outcome compared to a compliant development and one which better responds to the site's constraints and prominent location compared to a compliant development.*
- *The proposed scale and massing of the building is consistent with the desired future character of the locality resulting in the provision of a high quality building form.*
- *The objectives of the building height standard remain relevant and the proposal is consistent with, or at least is not antipathetic to the objectives of the building height standard, notwithstanding the numerical variation.*
- *The additional height, above the height limit will visually accentuate the subject building (even if only incrementally) and will present a well-considered building of high architectural merit when viewed from the public domain.*
- *The proposal will not set an undesirable precedent in terms of density or height for development.*

- *The proposal satisfies the objectives of the B4- Mixed Use Zone and the objectives of the building height standard. The proposed building height is considered appropriate within the strategic planning context of the zone.*
- *The development as proposed is consistent with the provisions of orderly and economic development."*

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the height variation as proposed is acceptable for the following reasons:

- The natural topography of the site is as such that the site falls to the south up to 1.22m across the property. The ground floor level of the development has been designed so as to be as close to natural existing ground level as possible. Notwithstanding, in certain locations the ground floor level is raised up to 0.3m to accommodate the ground floor slab, which has further been stepped to minimise building height on site.
- The proposed height of the building is consistent with the height of the recently approved building which is to be attached to the western elevation.
- Given the above, and as a result of the natural topography of the site the flexible application of the height standard is not inappropriate in this instance.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011, in that the development is a high quality urban form & retains appropriate sky exposure and solar access on site and to neighbouring properties.
- The additional height proposed does not result in detrimental environmental planning outcomes, 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 the zone, providing redevelopment in an accessible location. The proposed development has been designed to appropriately transition with existing building forms and the R2 Low Density residential zone to the front of the site, and minimising adverse impact upon the character and amenity of the surrounding local area. The proposal is consistent with the future desired character of the area as envisaged by the current planning controls.
- The proposal is consistent with the objectives of clause 4.6 and the B4 Mixed Use Zone.
- The height exceedance within the central part of the development is due to the lift overrun. The lift overrun forms an integral part of the proposed development as it is directly related to the functioning and use of the rooftop communal open space area and access to the two units. The structure services the rooftop communal open space area which has been provided to benefit the future occupants of the site. The non compliance relates to feature of the property which will significantly improve the amenity of the occupants. Rooftop elements that depart from the height standard account for a limited portion of the building footprint and are significantly recessed into the site i.e. 9.7m from the western rear boundary, 13.225m from the Campbell Street frontage, 15.66m from the Ramsgate Road frontage and 18.34m from the Dillon Street frontage. In general a 3m high structure is required for a lift cart with approximately 0.6m-1m additional height to permit the installation of the lift overrun which consists of cables / bolts and beams to pull the lift up and down the rails on the back wall. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.

The written submission provided by the applicant in relation to the proposed height variation is satisfactory in the context of Clause 4.6. The height variation does not create an undesirable outcome, the objectives of clause 4.3 and 4.6 have been met and the proposal is deemed to be in the public interest, given the public benefit of orderly development of the site outweighs strict adherence to the

numeric standards presented by the height control of RLEP 2011. The height development standard is deemed unreasonable and unnecessary in this instance for the reasons noted above and there are sufficient environmental planning grounds in which to justify the contravention of the height standard for the site.

#### 5.10 Heritage conservation

The proposed development is located in the vicinity of a local heritage item listed under Schedule 5 of the RLEP 2011 at 107 Ramsgate Road, Ramsgate, item No. I205. The proposed development is sympathetic to the heritage item in terms of building design, materials and streetscape. In this regard, the proposed development does not affect the integrity or character of the heritage item.

Therefore the qualities that makes the heritage item and it's setting significant will not be diminished.

#### 6.1 Acid Sulfate Soil - Class 5

The site is located in a Class 5 area for acid sulfate soils however as the site is not within 500m of Class 1-4 land, the provision does not require any further assessment of the proposed development.

#### 6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 80 metres to Australian Height Datum (AHD). The proposed building height is at 17.06 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

#### 6.7 Stormwater

The application has been assessed by Council's engineer as providing appropriate stormwater disposal subject to recommended conditions that have been included in the draft Notice of Determination.

#### 6.11 Active Street Frontages

The subject site is land identified as Active Street Frontage in RLEP 2011 Active Street Frontage Map, and accordingly is subject to clause 6.11. The ground floor of the premises with frontage to Ramsgate Road and Dillon Street have been designed to comprise commercial / retail space, with direct access to the public footpath. Thus, the proposal is considered to satisfy the requirements of clause 6.11.

#### 6.12 Essential services

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

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

**Rockdale Development Control Plan 2011**

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Mixed Use	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	Yes
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes
4.4.3 Natural Lighting and Ventilation - Mixed Use	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Storage Areas	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB Front Setback	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	Yes - see discussion
5.2 RFB - Apartment Size	Yes	Yes - see discussion
5.2 RFB - Building Design	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Front Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Side Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Rear Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	Yes - see discussion
5.3 Mixed Use - Building Design	Yes	Yes - see discussion
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes

#### 4.1.1 Views and Vista

The site and adjoining properties are relatively flat and contain minimal views out over the curtilage of each parcel of land and the adjacent properties.

The development complies with all relevant requirements except for the maximum height. The non-compliance with the height control is considered acceptable as discussed within Clause 4.6 of the RLEP 2011 section of this report, and does not contribute to view loss. It is acknowledged there is a fixed solid screen to the boundary off Units 1.01 and 1.06 (on the second level) which separates the subject development and recently approved development to the west, however these walls will not have any impacts on the views from the adjoining residential units as the topography of the surroundings is relatively flat and any new two storey development has the potential to block any views from the first floor. Further, the proposed development is set back in further from the side boundaries from the third level and above.

As such, the siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents and future residents of the development to the west.

#### 4.1.7 Tree Preservation

The application seeks consent for the removal of 8 trees on site and 1 street tree within Council's road reserve. The application was referred to Council's Tree Management Officer for assessment and no objection was raised to the proposed removal of trees. Council's Tree Management Officer's recommended conditions have been included in the development consent, and which require the retention and protection of street trees (apart from the removal of one tree along the Dillon Street frontage).

#### 4.1.9 Lot size and Site Consolidation - Mixed use

As per the requirements of this clause, for mixed use development with a height of 4 storeys or greater, a minimum frontage width of 18m is required. The subject site comprises a three frontages, all of which are greater than 18m (Ramsgate Road - 25.19m, Campbell Street - 36.42m, Dillon Street - 25.91m) in width and hence and complies with the provisions of this clause.

#### 4.1.9 Lot size and Site Consolidation - isolated sites

The proposed development does not result in the isolation of any adjoining sites. The subject site abuts roads to the northern, eastern and southern boundaries, and No. 80 Ramsgate Road to the western boundary, which has approval for the construction of a mixed use building. The proposal is satisfactory with regards to the requirements and objectives of this clause.

#### 4.2 Streetscape and Site Context - General

The proposed development has been aligned and sited to physically connect to the approved adjoining mixed use building development upon 78-80 Ramsgate Road to the west. The proposed development continues a street wall periphery form of development on the Dillon Street and Ramsgate Road elevations, maintains a central podium courtyard and recesses the top floor of the development which fronts Campbell Street, to allow for an appropriate transition between two land use zones.

The proposal includes a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed but are not limited to white rendered upper level masonry walls, dark grey rendered masonry walls to the ground floor, planter boxes, columns and walls, glass balustrades, and metallic copper moulding cladding to window and balcony edges. These materials will provide a modern, contemporary, high quality and visually appearing development on site.

The design appropriately responds to be compatible in its overall bulk, scale, character and context of the recent developments in the area, including the recently approved adjoining development to the west. The building design and materials are appropriate, providing a suitable level of articulation for the scale of the development. The design appropriately articulates both corners and the access to the basement garage is appropriately integrated into the design such that it is not visually dominant. The building has been designed with a high level of casual surveillance. Therefore the proposal provides an appropriate streetscape response as required by the provisions of this clause.

#### 4.3.1 Open Space and Landscape Design - Mixed Use

An appropriate landscape plan has been provided which shows landscaping to the communal open space areas and the public domain. Conditions of consent are recommended to ensure appropriate landscaping and paving is provided within the public domain. The application was referred to Council's Landscape Architect for assessment and no objections were raised subject to recommended conditions being imposed in the consent.

The proposal provides a total of 17% or 160.50sqm of landscaping on the site throughout the



development, which is greater than the minimum 10% (or 94.36sqm) required.

The relevant provisions of this clause are satisfied.

#### 4.3.3 Communal Open Space

A minimum communal open space area of 5m<sup>2</sup> per dwelling is required. With 20 dwellings proposed a minimum 100m<sup>2</sup> of communal open space is to be provided. Each of the 20 dwellings incorporate private open spaces in the form of balconies and terraces. The proposal provides a first level communal open space area of 110.15sqm and a top level area of 132.735sqm, a total of 242.88sqm, complying with the control. Both spaces are appropriately designed and will receive reasonable solar access, notwithstanding the communal open area on level 1 is not oriented to the north.

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

Please refer to SEPP 65 assessment section of this report above.

#### 4.4.4 Glazing - General Controls

The proposed development provides appropriate sun protection/shading devices during summer for glazed areas facing north and east, including the use of eaves.

#### 4.4.5 Visual privacy

The proposed development has been designed and sited to minimise the overlooking of adjoining properties. Due to the site being a corner allotment and consisting of three frontages, all units within the building face towards a street/road.

Privacy to Ramsgate Road properties:

A total of 6 two bedrooms units (2 per floor) and 1 three bedroom unit face towards Ramsgate Road. Bedroom and bathrooms windows face towards this elevation and are setback by a minimum distance of 24m from the boundaries of the dwellings located on the other side of Ramsgate Road. The living room windows are setback further. The edge of the balconies on this elevation are setback by a minimum of 21m and are off bedrooms and living rooms. Further, the units from this elevation will not be fronting the private open space areas of the dwellings on Ramsgate Road. There is greater than required building separation provided in order to maintain privacy.

Privacy to Dillon Street properties:

A total of 6 two bedrooms units (2 per floor) and 1 three bedroom unit face towards Dillon Street. Bedroom and bathrooms windows face towards this elevation and are setback by a minimum distance of 23m from the boundaries of the dwellings located on the other side of Dillon Street. The living room windows are setback further. The edge of the balconies on this elevation are setback by a minimum of 20m and are off bedrooms and living rooms. Further, the units from this elevation will not be fronting the private open space areas of the dwellings on Dillon Street. There is greater than required building separation provided in order to maintain privacy.

Privacy to Campbell Street properties:

A total of 6 one bedrooms units (2 per floor), 6 two bedroom units (2 per floor) and 1 three bedroom unit face towards Campbell Street. Living room windows face towards this elevation and are setback by a minimum distance of 20m from the boundary of the dwelling located on the other side of Campbell Street. The edge of the balconies on this elevation are setback by a minimum of 20m and are off bedrooms and living rooms. The units from this elevation will be fronting the private open space area of the dwelling at 82 Ramsgate Road and properties further along to the east, however there is greater

than required building separation provided between the windows and the property boundary of the nearest dwelling (No. 82 Ramsgate Road), which will help maintain adequate privacy. Further, the top floor of the building is setback further in and there is the provision of planter boxes along the edge. The planter boxes and landscaping will further help maintain privacy.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties.

#### 4.4.5 Acoustic privacy

Acoustic Reports prepared by Noise and Sound Services for inter tenancy acoustics and road and aircraft traffic noise both dated August 2018 confirm that the proposed development can be designed to achieve appropriate internal acoustic levels in order to mitigate both inter tenancy noise and road and aircraft traffic noise for future occupants.

Given the above, the proposal is considered to be consistent with the objectives and requirements of this clause.

#### 4.4.6 Noise Impact

An acoustic report has been prepared for the application and a condition has been imposed within the consent requiring the recommendations made within the report to be implemented.

#### 4.4.7 Wind Impact

The proposal was accompanied by a Wind Assessment Report, prepared by Windtech and dated 10 August 2018. The report provides wind mitigation measures to be implemented on site for the proposed development.

The proposal will be conditioned to ensure compliance with the recommendations of the report. The proposal complies with the requirements and objectives of this clause.

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

The proposal is required to provide the following unit mix as per the provisions of this clause.

<i>Control</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Complies</i>
10%-30% Studio - 1 bed	2-6	6 x 1 bed (30%)	Yes
50%-75% 2 bed	10-15	12 x 2 bed (60%)	Yes
10% - 20% 3 bed and/or more	2-4	2 x 3 bed (10%)	Yes

As the proposed development consists of 20 dwellings, a minimum of 2 adaptable dwellings are required to be provided. The proposal includes 2 adaptable dwellings on the first floor.

The proposal is therefore considered to satisfy the requirements of Part 4.5 of RDCP 2011 subject to inclusion of recommended conditions.

#### 4.5.2 Social Equity - Equitable Access

A minimum of 2 of the units within the development are to be provided as adaptable dwellings. Documents submitted indicate that a minimum of 2 units within the development are provided as

adaptable dwellings i.e First floor Unit 1.03 and Unit 1.04, which complies with the requirements of this clause.

Additionally plans indicate the provision of ramps, lifts and level pathways on site to ensure appropriate access is provided. The proposal has been conditioned accordingly to ensure access for persons with a disability / mobility impairment is provided on site. The proposal is satisfactory in this regard and complies with the provisions of this clause.

#### 4.6 Parking Rates - Shop-top Housing

The proposed development incorporates 6 x 1 bedroom / 12 x 2 bedroom / 2 x 3 bedroom units, in addition to four shops comprising a total commercial floor area of 270.10sqm.

Given the above, 35 car spaces are required to service the proposed development, being 22 residential / 4 visitor / 7 commercial, 1 dedicated carwash bay and 1 dedicated loading/unloading bay. A total of 2 bicycle and 1 motorcycle spaces are also required.

Plans indicate the provision of 35 spaces incorporating a dedicated car wash bay and dedicated loading / unloading bay. 4 bicycle and 3 motorcycle spaces have also been provided.

#### 4.6 Vehicles Enter and Exit in a Forward Direction

The basement has been designed to enable forward entry and exit on site. The proposal is considered to satisfy the requirements of this clause.

#### 4.6 Design of Loading Facilities

Plans indicate the provision of a dedicated van loading / unloading space within the upper basement level. The proposal facilitates loading and unloading on site and as such satisfies the objectives of this clause.

#### 4.6 Pedestrian Access and Sustainable Transport

As per the provisions of this clause 2 bicycle and 1 motorbike spaces are required to be provided for the development. Plans indicate the provision of 4 bicycle and 3 motorbike spaces on site. The proposal complies with the requirements of this clause.

#### 4.7 Air Conditioning and Communication Structures

Details on the location of TV antennas/air conditioning units etc have not been provided. A condition of consent would be required to ensure the proposal achieves compliance with this clause.

#### 4.7 Waste Storage and Recycling Facilities

The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.

#### 4.7 Laundry Facilities and Drying Areas

Internal laundries are depicted upon submitted plans within residential units. The proposed development complies with the provisions and objectives of this clause.

#### 4.7 Letterboxes

Letterboxes have been provided within the main foyer of the building. The letter boxes are easily accessible from the street.

#### 4.7 Storage Areas

Residential dwellings within the development have been provided with appropriate inter unit storage provision. Additional supplementary storage is proposed at basement level. The proposal is satisfactory in this regard.

#### 4.7 Hot Water Systems

Plans illustrate the provision of central gas hot water plant proposed within the ground floor of the development. The proposal has further been conditioned to ensure that should individual instantaneous gas hot water systems be required for residential units, that they be recessed into the built form and designed to blend into the building. The proposal is therefore consistent with the requirements of this clause.

#### 5.2 RFB Front Setback

This clause requires the front street setback to be consistent with the prevailing setback along the street within the range of 3.9m.

The submitted plans indicate the following front street setbacks along Campbell Street:

Lower basement level - nil - acceptable  
Upper basement level - nil - acceptable  
Ground floor - nil (verandah) / 2.1m - 3.705m (wall)  
First floor-Third floor - nil  
Fourth floor - nil (balcony) - 2.1m (wall)

The proposed street setbacks are considered appropriate for the site and are consistent with the prevailing setbacks of adjoining development, particularly the recently approved mixed use building to the west.

#### 5.2 RFB - Side Setbacks

As per the requirements of this clause a minimum 3m side setback is required for buildings up to three storeys, with 4.5m side setbacks for all levels above the third storey.

Plans illustrate the following:

Lower basement level - nil - acceptable  
Upper basement level - nil - acceptable  
Ground floor - nil (verandah) / 3.14m - 3.89m (wall)  
First floor - nil (balcony) / 3m - 3.13m (wall)  
Second floor - 3.09m - 3.1m  
Third floor - 3.09m - 3.1m  
Fourth floor - 3.09m - 3.1m (balcony) / 5.7m - 7.5m (wall)

The side setbacks as proposed provide consistency in built form with the development approved on the site to the west and reduce the mass and bulk of the development. The setbacks as proposed are deemed to be satisfactory and satisfy the objectives of this clause.

#### 5.2 RFB - Rear Setbacks

The development proposed a nil party wall setback from the rear boundary as the building is to be

attached to the recently approved mixed use building to the western elevation. This is considered acceptable.

#### 5.2 RFB - Apartment Size

Please refer to SEPP 65 assessment section of this report above.

#### 5.2 RFB - Building Design

Please refer to SEPP 65 assessment section of this report above.

#### 5.2 RFB - Building Entry

Plans illustrate the provision of a main entrance to the building from Campbell Street. The proposed residential entry is spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the development and the public domain. The proposal satisfies the requirements and objectives of this clause.

#### 5.2 RFB - Lift Size and Access

The development proposes a centrally located lift and stairs which are easily accessible by all occupants within the building. The lift is accessible from all levels of the building including the basement levels.

The submitted plans indicate the provision of minimum 2m wide communal corridors and breezeways.

#### 5.3 Mixed Use - Front Setbacks

Plans illustrate the following front street setbacks from Campbell Street:

Lower basement level - nil

Upper basement level - nil

Ground floor - nil (verandah) / 2.1m - 3.705m (wall)

First floor-Third floor - nil

Fourth floor - nil (balcony) - 2.1m (wall)

The proposal as designed is satisfactory given appropriate acoustic attenuation is capable of being provided to residential dwellings and the proposed development provides consistency with the existing established building forms surrounding the site. The proposed street setbacks are considered appropriate for the site and are consistent with the setbacks of the recently approved mixed use development on the adjoining site to the west. The development also provides greater setbacks (from the building wall) along the corners of the building to accentuate the street corners.

The proposal is satisfactory in this regard given the above and satisfies the objectives of this clause.

#### 5.3 Mixed Use - Side Setbacks

The matter of side setbacks has been previously discussed within Clause 5.2 RDCP 2011 assessment section of this report.

#### 5.3 Mixed Use - Rear Setbacks

The matter of side setbacks has been previously discussed within Clause 5.2 RDCP 2011 assessment section of this report.

#### 5.3 Mixed Use - Ground Level Uses

The development proposed four retail tenancies which appropriately address all three street frontages. No residential uses are proposed on the ground floor.

#### 5.3 Mixed Use - Retail

As per the provisions of this clause, a minimum of 10% (188.54sqm) of the gross floor area of a mixed use development is to be for retail and/or commercial uses.

Plans illustrate the provision of 272.50sqm (14.45%) of retail floor space within the development in the form of four retail tenancies fronting all three street frontages (Campbell Street, Dillon Street, Ramsgate Road).

The proposal is deemed satisfactory with respect to the objectives of this clause.

#### 5.3 Mixed Use - Building Design

The matter of building design has been previously discussed within this report.

#### 5.3 Mixed Use - Awnings

The development provides awnings along all three street frontages and the design and siting of the awnings is considered appropriate for the site.

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

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

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

#### Safety & Security

The development provides for a clearly identifiable and legible building entrance from Campbell Street. The residential entry comprises direct pedestrian access and a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure system. Common areas are to be well lit with clearly defined pathways. The proposal is considered to be satisfactory in this regard.

#### Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport and the proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking. The proposal further provides well designed and located communal areas with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

#### Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been

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

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and a total of four (4) submissions were received. The issues raised in the submission are discussed below:

**Issue 1: Construction of the solid privacy walls on the outer edge of the balconies off Units 1.01 and 1.06.**

An assessment of the above raised issue has been carried out and the current siting of the balconies is considered appropriate. The protrusion of the balconies positively contributes to the streetscape and overall design of the building. Due to the orientation of the site, the solid privacy walls will not reduce the amount of natural light received to the unit on the adjoining development. The walls positively contribute to maintaining privacy between both developments.

**Issue 2: Traffic and Car Parking**

The matter of car parking has been previously addressed in this report. The proposal complies with the parking requirements of RDCP 2011. There are not expected to be any adverse impacts in terms of traffic congestion and generation as the proposed development is not listed as a traffic generating development. Concerns have been raised regarding lack of existing infrastructure and road upgrades, however this is a matter outside the scope of the application.

**Issue 3: Tree removal and impact on natural fauna**

The application was referred to Council's Tree Management Officer and no objection to the removal of the trees was raised. Council's maps and records do not indicate threatened native fauna within or surrounding the site of which may be impacted.

**Issue 4: Empty shops on Rocky Point Road and more shops being built**

The subject site is zoned for shop top housing and which encourages retail uses on the ground floor. There is no evidence to suggest the scale of the development will have any negative economic impacts on surrounding shops.

**Issue 5: Overlooking and Privacy**

The matter of visual privacy has been discussed previously within this report. The proposal is satisfactory with respect of visual privacy.

**Issue 6: Height of proposed development and number of storeys**

The proposal has been assessed against the relevant planning legislation and on its merits. The height proposed is commensurate with recently approved development and anticipated by the height control for the site. Therefore the proposed 5 storeys height is considered appropriate.

#### **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.

Whilst the proposal seeks a minor variation to the height limit on site, it is considered that the final



design scheme for the site is satisfactory and that amenity impacts on site and to surrounding properties as a result of the proposed non compliance are not unreasonable.

The proposal is permissible in the zone and provides a mix of residential and commercial tenancies, which will support the future character of the Ramsgate Town Centre.

The proposal will allow the development of the site in accordance with its environmental capacity & will provide for a high quality building that will add architectural value to the existing streetscape. As such it is considered that the development application is in the public interest.

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

A Section 7.11 Contribution Payment of **\$388,148.53** is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

#### *Civil Aviation Act, 1988*

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

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

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

#### Section 6 Prohibition of the construction of buildings of more than 150 feet in height in certain areas

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations, however the proposed building height at 17.06m will have minimal impact upon the height requirement in the regulations.

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

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### **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
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Site Analysis Plan Dwg. No. DA 01, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Lower basement plan Dwg. No. DA 02, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Upper basement plan Dwg. No. DA 03, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Site/Ground floor plan Dwg. No. DA 04, Issue B	Cornerstone Design	4/11/2018	7/11/2018
First floor plan Dwg. No. DA 05, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Second floor plan Dwg. No. DA 06, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Third floor plan Dwg. No. DA 07, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Fourth floor plan Dwg. No. DA 08, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Roof Plan Dwg No. DA 09, Issue B	Cornerstone Design	4/11/2018	7/11/2018
South Elevation & East Elevation Dwg No. DA 10, Issue B	Cornerstone Design	4/11/2018	7/11/2018
North Elevation & West Elevation Dwg No. DA 11, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Section A-A Dwg No. DA 12, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Driveway Profile and Demolition Plan, Dwg No. DA 17, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Schedule of Finishes	-	-	31/08/2018
Landscape Plan, Sheet 1 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018
Landscape Plan, Sheet 2 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 952297M and dated 21 August 2018 other than superseded by any further amended consent and BASIX certificate.

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

- (a1) that the plans and specifications for the building include such matters as

each relevant BASIX certificate requires.

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

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

6. A separate development application shall be submitted for the specific use/uses of the commercial tenancies. Additional conditions may be imposed on any such consent.

**Note:** Parking and loading provisions in a mixed use development may preclude certain uses.

7. Balconies shall not be enclosed at any future time without prior development consent.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
10. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

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

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

Commercial Units 1 space per 40m2 gross floor area

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

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

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

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

11. Lot B DP 165453 and Lot C DP 165453 shall be consolidated.
12. All relevant lighting, including under awning 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. Such lighting to be maintained at all times for the lifetime of the development.

**Development specific conditions**

The following conditions are specific to the Development Application proposal.

13. Safer by Design

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

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
  - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
  - d) Graffiti resistant materials shall be used to ground level external surfaces.
  - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - f) The front window of the ground floor tenancies must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancies.
14. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
  15. 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.
  16. 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.
  17. The existing and future owners (Registered Proprietor) of the property will be

responsible for the efficient operation and maintenance of the water treatment devices.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
18. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
  19. 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.
  20. 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.
  21. Temporary dewatering of the site to construct the subsurface structure is not permitted.
  22. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
  23. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS 2890.1 and AS 2890.6.  
(For parking with people with disabilities any vehicular path of travel to have a clearance of 2.3m minimum and clearance above the parking bay shall be 2.5m minimum).
  24. Hot and cold water hose cocks shall be installed to the garbage room.

25. (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.
26. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
27. Receptacles are to be provided in commercial development for the disposal of cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.
28. The design and construction of the off street parking facilities shall:
- (i) Comply with Australian Standards, as follows:
    - AS/NZS 2890.1:2004
    - AS 2890.2:2002
    - AS 2890.3:1993
    - AS/NZS2890.6:2009
  - (ii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
29. General landscape Conditions:
- (a) All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation.
  - (b) All landscape areas on slab shall be automatic irrigated. Irrigation system shall be linked to the stormwater drainage system.
30. Trees located within the footprint of the proposed buildings may be removed.
31. The proposed carwash bay must be graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
32. The approved Landscape Concept Plans prepared by Zenith Landscape Design (Drawing numbers 18-3785L02 and L01, Revision A, dated 6th November 2018) shall comprise detailed landscape documentation to be submitted to and approved by Bayside Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
- a) At least three (3) native or ornamental trees of at least 45 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in First Floor RL 13.90. Trees shall be located in planter box of a minimum depth of 800mm.

- b) A minimum soil depth of 800mm is required for planted areas with trees on common open space of fourth level, RL 23.20 and on first floor level, RL 13.90. Minimum soil depth of 600mm for small feature shrubs on podiums or roof-tops or any other concrete slab.
  - c) Landscape planting on ground level frontage setbacks shall not impede the views to Public Street. (CPTED principle). Shrubs and feature plants between private and public domain should remain under 900mm to assist with the natural surveillance.
  - d) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.
33. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. As per Rockdale Street Tree master Plan Dillon Street shall be planted with two (2) Callistemon 'Dawson River Weeper', and Campbell Street with three (3) Angophora floribunda. All street trees shall be supplied in a minimum pot size supplied shall be not less than 200 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.
34. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.

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

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

35. 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.

36. 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 \$37,678.48. 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.
37. 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.
  38. 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.
  39. The connection of stormwater drainage pipes to the existing kerb inlet pit in Ramsgate Road must be inspected by Council prior to backfilling. Payment is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is unsatisfactory, each additional inspection will incur an extra charge .
  40. A Section 7.11 contribution of \$388,148.53 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space	\$47,712.26
Community Services & Facilities	\$9,213.77
Town Centre & Streetscape Improvements	\$4,695.48
Pollution Control	\$13,467.84
Local Infrastructure and Facilities	\$312,866.56
Plan Administration & Management	\$192.62

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.



41. Prior to the issue of the Construction Certificate the sum of \$1100.00 is payable to Council for removal and replacement of the street tree. 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.
42. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i. the footings of the proposed structure;
  - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii. all reinforced concrete floor slabs;
  - iv. all reinforced concrete stairs;
  - v. the piers to natural ground or rock, detailing the size and position of the piers;
  - vi. the proposed retaining wall;
  - vii. the work required to stabilise the excavation;
  - viii. the work required to stabilise the footpath area;
  - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x. all structural steel work;
  - xi. first floor joists;
  - xii. fire rated ceilings/fire protective ceilings.
43. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
44. 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.

45. Where the front fence is greater than 1200mm in height, the vehicular entry gates are to be set back a minimum of 1 car space from the boundary and may only open inwards. The return fences on each side are to be splayed at an angle of 45 degrees to the boundary. Details of the gates to be included in the documentation accompanying the Construction Certificate.
46. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

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

47. The applicant shall confer with Ausgrid to determine if any of the following:
  - a) If an electricity distribution substation is required;
  - b) if installation of electricity conduits in the footway is required; and
  - c) if satisfactory clearances to any existing overhead High Voltage mains will be affected.

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

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole within the road reserve at Dillon Street is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

48. 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.
49. 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](#)

50. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
51. Detailed plans of the proposed access driveway on Dillon Street and onstreet parking along Dillon Street, Campbell Street and Ramsgate Road associated with the subject development (onstreet parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.
  - i) That the driveway off Dillon Street is construction with a 90degree angle to the boundary line with a maximum width of 5.5m at the boundary.
  - ii) That the existing parking limit is retained.

Where a Private Certifier issues the Construction Certificate the plans shall be submitted to Council's Traffic Committee for approval prior to Construction Certificate being issued.

52. Geotechnical - Adjoining buildings founded on loose foundation materials

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must;

- (a) All recommendations contained in the report prepared by Eswnman Pty Ltd., Ref: ESWANPR2018262, Dated 15 August 2018 shall be implemented.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm that the proposed construction methodology
 

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted 4 of 9 with the application for a Construction Certificate **for the relevant stage of works.**
- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued **for the relevant stage of works.**

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

53. Any subsurface structure within the highest known groundwater table/rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s).  
Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate **for the relevant stage of works.**
54. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
55. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
56. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Notes:

1. The detailed plans are required to incorporate an oil interceptor for the driveway and basement carpark surface runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.
  2. To implement any required drainage measures on the base of Geotechnical Engineer's advice on the drainage under the floor slab and basement walls.
  3. Recheck and clearly define proposed Rain Tank location and headroom below.
57. Prior to the issue of a Construction Certificate, an application is to be made for Property Address Allocation and payment of associated fees is required to be made to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.  
[http://www.gnb.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Fina](http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina)

58. Prior to the issue of a Construction Certificate, the following design changes are to be made:
- a) The aluminium cladding on the external of the building is to be replaced with a simpler painted finish.
  - b) The windows off the living room (facing the common open space) within Units 1.01, 1.06, 4.01 and 4.02 are to have a minimum sill height of 1.7m.
59. Prior to the issue of the Construction Certificate, details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
- 1. The street awning(s) must be setback 600mm from the kerb line, minimum Fascia height 600mm, minimum soffit height 3.3m. for sloping sites maximum step of 900mm. The awnings must be entirely self-supporting; posts are not permitted.
  - 2. All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
  - 3. The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
  - 4. If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
  - 5. Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

### **Prior to commencement of works**

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

60. 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.

61. 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.

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

63. 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.
64. 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.
65. 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 from the trunks of each street tree 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.
66. 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.
67. 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.
68. 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.
69. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
70. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense.

Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

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

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

71. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
72. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
73. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. after excavation for, and before the placement of, any footing, and
  - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - iii. prior to covering any stormwater drainage connections, and
  - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

74. 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.
75. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
76. 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.

77. 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.

78. 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.
79. 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.
80. 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.
81. 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.
- 82. 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.
- 83. The existing Callistemon street trees located at the front of the property in Campbell Street and Ramsgate Road are not to be removed or pruned, including root pruning, without the written consent of Council.
- 84. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 85. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 86. There are existing underground electricity network assets in Dillon St. Special care should be taken to ensure that driveways and any other construction activities within the footpath do not interfere with the existing cables in the footpath. It is recommended that the assets be located and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safe work Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.
- 87. 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 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 an NSW approved landfill or to a recipient site.
- 88. 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.

### **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.

- 89. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 90. 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.
- 91. 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.
- 92. 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.
- 93. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
- 94. 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.

95. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
96. 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.
97. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
98. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
99. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
100. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
101. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
102. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
103. The width of the double driveway off Dillon Street at the boundary shall be a maximum of 6 metres and a minimum of 5.5m. The driveway is to be constructed with a 90 degree angle to the boundary line.
104. In relation to safe egress, a warning system and speed humps will be provided proposed to ensure pedestrian safety in lieu of splayed walls.

"Giveaway to Pedestrians" at both driveway locations upon exit and a speed hump within the exit lane for the northern access point.

OR

The eastern (exit) side of the driveway shall be replaced by a see-through screen (mesh or similar material) for a distance of 3.5 metres from the property boundary. The driveway is set back 2.0 metres from the eastern boundary with a landscape zone between the driveway and boundary. Low-level landscaping shall be provided in

this zone (less than 1.0 metres high). Thus a 3.5 x 2.0metre sight line splay will be provided for vehicles exiting the site.

105. The dedication to Council of 1.5m X 1.5m corner splay at the intersection of Dillon Street and Ramsgate Road with Campbell Street.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

106. Suitable vehicular bollards shall be provided at shared areas of adaptable parking spaces to have suitable vehicular bollards.
107. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

108. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
109. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
110. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
111. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation, a chartered professional engineer shall certify that the 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.
114. 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.

115. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability Gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
116. 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.
117. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
118. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

119. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
120. Acoustic Attenuation  
Prior to the issue of an Occupation Certificate, the following is to be prepared, undertaken and submitted to Council:

A. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

B. Acoustic recommendations in relation to traffic contained in the report prepared by Noise and Sound Services dated August 2018 and acoustic recommendations in relation to floors and walls contained in the report prepared by Noise and Sound Services dated August 2018 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.

## Roads Act



121. Construction related activities must not take place on the roadway without Council approval.
- Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.
- Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.
- Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
122. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
123. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Dillon Street will be required to be undertaken at the applicant's expense:
- i) That the existing parking limit is retained.
  - ii) On street, car parking spaces shall be sealed and lined marked.
  - iii) Road and Parking signs shall be installed.
- Note:** Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.
124. 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.
125. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council.



Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

126. 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.
127. 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.
128. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

### Development consent advice

- a. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- 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. *Dial Before You Dig*

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

- 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. 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.

- g. 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.
- 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. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.
- k. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all roadworks/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.
- l. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.

**6.4 DA-2018/223 - 29-31 Campbell Street, Ramsgate**

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

The following people were present:

- Mr Bernard Moroz, Town Planner
- Mr Shane Youssef, Project Manager
- Mr William Karavelas, applicant

**Determination**

- 1 That the panel has considered the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and is satisfied that the variation will result in consistency with the objectives of the height standard and the objectives of the B4 Mixed Use zone and it is therefore in the public interest to vary the control.
- 2 That the Development Application No. 2018/223 for the proposed demolition of existing structures, construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking at 29-31 Campbell Street, Ramsgate is APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 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"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for the Panel's Determination**

The Panel agrees with the reasons in the officer's report.

18 December 2018

Our Ref: DA-2018/223  
Contact: Sumeet Badhesha 9562 1666



Cornerstone Design  
Suite 1a 22 Belgrave St  
KOGARAH NSW 2217

## NOTICE OF DETERMINATION

Issued in accordance with section 4.18(1a) of the *Environmental Planning and Assessment Act, 1979*

<b>Application Number:</b>	DA-2018/223
<b>Property:</b>	29 Campbell Street, RAMSGATE (Lot B DP 165453) 31 Campbell Street, RAMSGATE (Lot C DP 165453)
<b>Proposal:</b>	29 & 31 Campbell Street, RAMSGATE NSW 2217 - Demolition of existing structures, construction of a 5 storey residential flat building comprising of 20 apartments and 4 retail tenancies with basement parking
<b>Authority:</b>	Delegated to Bayside Planning Panel
<b>Determination:</b>	Approved
<b>Date of determination:</b>	18 December 2018
<b>Date consent commences:</b>	18 December 2018
<b>Date consent lapses:</b>	18 December 2023

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 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.

**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](mailto:council@bayside.nsw.gov.au)  
W [www.bayside.nsw.gov.au](http://www.bayside.nsw.gov.au)

Postal address: PO Box 21, Rockdale NSW 2216



Telephone Interpreter Services - 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνείας

بخدمه الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

1 of 27

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site Analysis Plan Dwg. No. DA 01, Issue A	Cornerstone Design	20/08/2018	03/09/2018
Lower basement plan Dwg. No. DA 02, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Upper basement plan Dwg. No. DA 03, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Site/Ground floor plan Dwg. No. DA 04, Issue B	Cornerstone Design	4/11/2018	7/11/2018
First floor plan Dwg. No. DA 05, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Second floor plan Dwg. No. DA 06, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Third floor plan Dwg. No. DA 07, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Fourth floor plan Dwg. No. DA 08, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Roof Plan Dwg No. DA 09, Issue B	Cornerstone Design	4/11/2018	7/11/2018
South Elevation & East Elevation Dwg No. DA 10, Issue B	Cornerstone Design	4/11/2018	7/11/2018
North Elevation & West Elevation Dwg No. DA 11, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Section A-A Dwg No. DA 12, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Driveway Profile and Demolition Plan, Dwg No. DA 17, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Schedule of Finishes	-	-	31/08/2018
Landscape Plan, Sheet 1 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018
Landscape Plan, Sheet 2 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 952297M and dated 21 August 2018 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for

building work unless it is satisfied of the following matters: -

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

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

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

6. A separate development application shall be submitted for the specific use/uses of the commercial tenancies. Additional conditions may be imposed on any such consent.

**Note:** Parking and loading provisions in a mixed use development may preclude certain uses.

7. Balconies shall not be enclosed at any future time without prior development consent.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
10. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

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

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

Commercial Units 1 space per 40m<sup>2</sup> gross floor area

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

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

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

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

11. Lot B DP 165453 and Lot C DP 165453 shall be consolidated.
12. All relevant lighting, including under awning 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. Such lighting to be maintained at all times for the lifetime of the development.

**Development specific conditions**

The following conditions are specific to the Development Application proposal.

13. Safer by Design

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

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
  - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
  - d) Graffiti resistant materials shall be used to ground level external surfaces.
  - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - f) The front window of the ground floor tenancies must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancies.
14. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
15. 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.
16. 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.



17. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the water treatment devices.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
18. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
19. 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.
20. 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.
21. Temporary dewatering of the site to construct the subsurface structure is not permitted.
22. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
23. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS 2890.1 and AS 2890.6.  
(For parking with people with disabilities any vehicular path of travel to have a clearance of 2.3m minimum and clearance above the parking bay shall be 2.5m minimum).
24. Hot and cold water hose cocks shall be installed to the garbage room.

25. (a) In order to ensure the design quality excellence of the development is retained:
- i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
26. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
27. Receptacles are to be provided in commercial development for the disposal of cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.
28. The design and construction of the off street parking facilities shall:
- (i) Comply with Australian Standards, as follows:
    - AS/NZS 2890.1:2004
    - AS 2890.2:2002
    - AS 2890.3:1993
    - AS/NZS2890.6:2009
  - (ii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
29. General landscape Conditions:
- (a) All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation.
  - (b) All landscape areas on slab shall be automatic irrigated. Irrigation system shall be linked to the stormwater drainage system.
30. Trees located within the footprint of the proposed buildings may be removed.
31. The proposed carwash bay must be graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
32. The approved Landscape Concept Plans prepared by Zenith Landscape Design (Drawing numbers 18-3785L02 and L01, Revision A, dated 6th November 2018) shall comprise detailed landscape documentation to be submitted to and approved by Bayside Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
- a) At least three (3) native or ornamental trees of at least 45 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in First Floor RL 13.90. Trees shall be located in planter box of a minimum depth of 800mm.

b) A minimum soil depth of 800mm is required for planted areas with trees on common open space of fourth level, RL 23.20 and on first floor level, RL 13.90. Minimum soil depth of 600mm for small feature shrubs on podiums or roof-tops or any other concrete slab.

c) Landscape planting on ground level frontage setbacks shall not impede the views to Public Street. (CPTED principle). Shrubs and feature plants between private and public domain should remain under 900mm to assist with the natural surveillance.

d) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.

33. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. As per Rockdale Street Tree master Plan Dillon Street shall be planted with two (2) Callistemon 'Dawson River Weeper', and Campbell Street with three (3) Angophora floribunda. All street trees shall be supplied in a minimum pot size supplied shall be not less than 200 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.
34. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.

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

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

35. 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.

36. 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 \$37,678.48. 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.
37. 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.
38. 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.
39. The connection of stormwater drainage pipes to the existing kerb inlet pit in Ramsgate Road must be inspected by Council prior to backfilling. Payment is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is unsatisfactory, each additional inspection will incur an extra charge .
40. A Section 7.11 contribution of \$388,148.53 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space	\$47,712.26
Community Services & Facilities	\$9,213.77
Town Centre & Streetscape Improvements	\$4,695.48
Pollution Control	\$13,467.84
Local Infrastructure and Facilities	\$312,866.56
Plan Administration & Management	\$192.62

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.

41. Prior to the issue of the Construction Certificate the sum of \$1100.00 is payable to Council for removal and replacement of the street tree. 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.
42. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i. the footings of the proposed structure;
  - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii. all reinforced concrete floor slabs;
  - iv. all reinforced concrete stairs;
  - v. the piers to natural ground or rock, detailing the size and position of the piers;
  - vi. the proposed retaining wall;
  - vii. the work required to stabilise the excavation;
  - viii. the work required to stabilise the footpath area;
  - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x. all structural steel work;
  - xi. first floor joists;
  - xii. fire rated ceilings/fire protective ceilings.
43. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
44. 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.

45. Where the front fence is greater than 1200mm in height, the vehicular entry gates are to be set back a minimum of 1 car space from the boundary and may only open inwards. The return fences on each side are to be splayed at an angle of 45 degrees to the boundary. Details of the gates to be included in the documentation accompanying the Construction Certificate.
46. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

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

47. The applicant shall confer with Ausgrid to determine if any of the following:
  - a) If an electricity distribution substation is required;
  - b) if installation of electricity conduits in the footway is required; and
  - c) if satisfactory clearances to any existing overhead High Voltage mains will be affected.

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

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole within the road reserve at Dillon Street is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

48. 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.
49. 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

50. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
51. Detailed plans of the proposed access driveway on Dillon Street and onstreet parking along Dillon Street, Campbell Street and Ramsgate Road associated with the subject development (onstreet parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.
  - i) That the driveway off Dillon Street is construction with a 90degree angle to the boundary line with a maximum width of 5.5m at the boundary.
  - ii) That the existing parking limit is retained.

Where a Private Certifier issues the Construction Certificate the plans shall be submitted to Council's Traffic Committee for approval prior to Construction Certificate being issued.

52. Geotechnical - Adjoining buildings founded on loose foundation materials

As the basement floor are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must;

- (a) All recommendations contained in the report prepared by Eswnman Pty Ltd., Ref: ESWANPR2018262, Dated 15 August 2018 shall be implemented.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm that the proposed construction methodology
 

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted 4 of 9 with the application for a Construction Certificate **for the relevant stage of works.**
- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued **for the relevant stage of works.**

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

53. Any subsurface structure within the highest known groundwater table/rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s).  
Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate **for the relevant stage of works.**
54. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
55. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
56. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Notes:

1. The detailed plans are required to incorporate an oil interceptor for the driveway and basement carpark surface runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.
  2. To implement any required drainage measures on the base of Geotechnical Engineer's advice on the drainage under the floor slab and basement walls.
  3. Recheck and clearly define proposed Rain Tank location and headroom below.
57. Prior to the issue of a Construction Certificate, an application is to be made for Property Address Allocation and payment of associated fees is required to be made to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>



Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.  
[http://www.gnb.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Fina](http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina)

58. Prior to the issue of a Construction Certificate, the following design changes are to be made:
- a) The aluminium cladding on the external of the building is to be replaced with a simpler painted finish.
  - b) The windows off the living room (facing the common open space) within Units 1.01, 1.06, 4.01 and 4.02 are to have a minimum sill height of 1.7m.
59. Prior to the issue of the Construction Certificate, details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
- 1. The street awning(s) must be setback 600mm from the kerb line, minimum Fascia height 600mm, minimum soffit height 3.3m. for sloping sites maximum step of 900mm. The awnings must be entirely self-supporting; posts are not permitted.
  - 2. All stormwater is to be collected and connected to Council's street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure.
  - 3. The awning(s) must be designed by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load.
  - 4. If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material.
  - 5. Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

#### **Prior to commencement of works**

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

60. 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.

61. 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.

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

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

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

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

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

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

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

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

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

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

63. 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.
64. 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.
65. 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 from the trunks of each street tree 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.
66. 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.
67. 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.
68. 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.
69. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
  - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
  - ii) where the erection of gates or fences has restricted access to metering equipment.
70. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense.

Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

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

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

71. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
72. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
73. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i. after excavation for, and before the placement of, any footing, and
  - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - iii. prior to covering any stormwater drainage connections, and
  - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.
74. 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.
75. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
76. 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.

77. 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.

78. 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.

79. 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.
80. 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.
81. 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.
- 82. 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.
- 83. The existing Callistemon street trees located at the front of the property in Campbell Street and Ramsgate Road are not to be removed or pruned, including root pruning, without the written consent of Council.
- 84. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 85. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 86. There are existing underground electricity network assets in Dillon St. Special care should be taken to ensure that driveways and any other construction activities within the footpath do not interfere with the existing cables in the footpath. It is recommended that the assets be located and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safe work Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

- 87. 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 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 an NSW approved landfill or to a recipient site.
- 88. 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.

#### **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.

- 89. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 90. 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.
- 91. 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.
- 92. 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.
- 93. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
- 94. 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.



95. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
96. 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.
97. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
98. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
99. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
100. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
101. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
102. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
103. The width of the double driveway off Dillon Street at the boundary shall be a maximum of 6 metres and a minimum of 5.5m. The driveway is to be constructed with a 90 degree angle to the boundary line.
104. In relation to safe egress, a warning system and speed humps will be provided proposed to ensure pedestrian safety in lieu of splayed walls.

"Giveaway to Pedestrians" at both driveway locations upon exit and a speed hump within the exit lane for the northern access point.

OR

The eastern (exit) side of the driveway shall be replaced by a see-through screen (mesh or similar material) for a distance of 3.5 metres from the property boundary. The driveway is set back 2.0 metres from the eastern boundary with a landscape zone between the driveway and boundary. Low-level landscaping shall be provided in

this zone (less than 1.0 metres high). Thus a 3.5 x 2.0metre sight line splay will be provided for vehicles exiting the site.

105. The dedication to Council of 1.5m X 1.5m corner splay at the intersection of Dillon Street and Ramsgate Road with Campbell Street.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

106. Suitable vehicular bollards shall be provided at shared areas of adaptable parking spaces to have suitable vehicular bollards.

107. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

108. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
109. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
110. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
111. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation, a chartered professional engineer shall certify that the 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.
114. 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.

115. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability Gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
116. 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.
117. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
118. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

119. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
120. Acoustic Attenuation  
Prior to the issue of an Occupation Certificate, the following is to be prepared, undertaken and submitted to Council:

A. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

B. Acoustic recommendations in relation to traffic contained in the report prepared by Noise and Sound Services dated August 2018 and acoustic recommendations in relation to floors and walls contained in the report prepared by Noise and Sound Services dated August 2018 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.

## Roads Act

121. Construction related activities must not take place on the roadway without Council approval.
- Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.
- Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.
- Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
122. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
123. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Dillon Street will be required to be undertaken at the applicant's expense:
- i) That the existing parking limit is retained.
  - ii) On street, car parking spaces shall be sealed and lined marked.
  - iii) Road and Parking signs shall be installed.
- Note:** Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.
124. 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.
125. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council.

Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

126. 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.
127. 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.
128. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).

#### Development consent advice

- a. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- 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. *Dial Before You Dig*

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

- 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. 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.

- g. 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.
- 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. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.
- k. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all roadworks/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.
- l. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.

#### **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.

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Should you have any further queries please contact Sumeet Badhesha on 9562 1666

A handwritten signature in black ink, appearing to read 'L. Melim', with a long horizontal stroke extending to the right.

Luis Melim  
Manager Development Services